



**Mayor & City Council
Regular Meeting Agenda**

Monday, September 11, 2023, 7:00 PM

Tucker City Hall

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

Members:

Frank Auman, Mayor

Roger W. Orlando, Council Member District 1, Post 1

Cara Schroeder, Council Member District 2, Post 1

Alexis Weaver, 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/89338334026> or Phone: 888 788 0099 (Toll Free) Webinar ID: 893 3833 4026

Pages

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

The pledge will be led by Scout Troop 129.

D. MAYOR'S OPENING REMARKS

E. PUBLIC COMMENTS

F. APPROVAL OF THE AGENDA

- Motion to approve/amend the agenda

G. CONSENT AGENDA

G.1	Special Called Meeting Minutes - August 5, 2023	4
G.2	Regular Meeting Minutes - August 14, 2023	6
G.3	Work Session Minutes - August 28, 2023	12
G.4	Contract Amendment for MARTA Bus Pads and Pedestrian Connectivity C2023-019-AMD-001	16

H. STAFF REPORTS

I. OLD BUSINESS

I.1	Resolution R2023-09-18	63
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Courtney.Smith

- A Resolution for the purpose of extending a temporary emergency moratorium on the acceptance or processing of applications for certain specified parcels along Lawrenceville Highway between Cooledge Road and Brockett Road.

I.2 Ordinance O2023-08-13 69
Courtney.Smith

- Second Read and Public Hearing of an Ordinance for text amendments to the Tucker Code Chapter 46 Zoning, including the creation of a new zoning district with various tiers for Lawrenceville Hwy. (TA-23-0003)

I.3 Ordinance O2023-08-14 Julie.Martin 104

- Second Read and Public Hearing of an Ordinance for Special Land Use Permit (SLUP-23-0002) for a personal care home at 2553 Sandpiper Drive for Georgia Clay Properties, LLC (c/o Battle Law).

I.4 Ordinance O2023-08-15 Julie.Martin 169

- Second Read and Public Hearing of an Ordinance for Special Land Use Permit (SLUP-23-0003) for alcohol sales at 5960 East Ponce de Leon Avenue for Gas Express, LLC.

J. NEW BUSINESS

J.1 Ordinance O2023-09-16 343
Courtney.Smith

- First Read and Public Hearing of an Ordinance for text amendments to the Tucker Code Chapter 46 Zoning, including changes to Comprehensive Plan references. (TA-23-0004)

J.2 Ordinance O2023-09-17 Ted.Baggett 422

- First Read of an Ordinance to amend the Tucker Code to create Chapter 6 Animals.

J.3 C2023-025-PO24-568 approved by Resolution R2023-09-19 432
Ken.Hildebrandt

- Consideration of a contract award for the bid on Brockett Road Sidewalk Construction Project (ITB 2023-025)

J.4 Resolution R2023-09-20 Beverly.Hilton 528

- A Resolution to amend the Fiscal Year 2024 Budget

J.5 Electric Franchise Agreement with City of Norcross Ted.Baggett 531

- An Electric Facilities Franchise Agreement Between The City of Norcross, Georgia, Norcross Power and The City of Tucker, Georgia

K. MAYOR AND COUNCIL COMMENTS

L. EXECUTIVE SESSION

- As required for personnel, real estate and litigation

M. ACTION AFTER EXECUTIVE SESSION (As Needed)

N. ADJOURNMENT



MAYOR & CITY COUNCIL

SPECIAL CALLED MEETING MINUTES

**Saturday, August 5, 2023, 9:00 AM
Planning Retreat
5100 Lavista Road Tucker, GA 30084**

Members Present: Frank Auman, Mayor
Roger W. Orlando, Council Member District 1, Post 1
Cara Schroeder, Council Member District 2, Post 1
Alexis Weaver, 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

A. CALL TO ORDER

Mayor Auman called the meeting to order at 9:01 AM.

B. ROLL CALL

The above were in attendance for a quorum.

C. MAYOR'S OPENING REMARKS

D. BUSINESS

D.1 Capital Projects Discussion

9:00 AM - 12:00 PM

The Mayor and Council discussed the Fund 300 Capital Projects List, the SPLOST Capital Project List, SPLOST Wishlist of Projects by Departments, ARPA Allocations, 2023 SPLOST Referendum Revenue Projects, Tucker SPLOST Accomplishments, Parks and Recreation Projects, and SPLOST Project List 2018-2023. Other discussion on potential need for a Community Center, new City Hall, and other funding sources such as a Park Bond.

E. ADJOURNMENT

Councilmember Schroeder exited the meeting at 10:30 AM and was not present to vote for adjournment.

MOVER: N. Monferdini

SECONDER: V. Rece

Motion to adjourn meeting at 11:03 AM passed unanimously.

AYES: (6): F. Auman, R. Orlando, A. Weaver, V. Rece, N. Monferdini, and A. Lerner

ABSENT: (1): C. Schroeder

APPROVED (6 to 0)

APPROVED: Frank Auman, Mayor

ATTEST: Bonnie Warne, Clerk

Date Approved



**MAYOR & CITY COUNCIL
REGULAR MEETING MINUTES**

**Monday, August 14, 2023, 7:00 PM
Tucker City Hall
1975 Lakeside Pkwy, Ste 350B, Tucker, GA 30084**

Members Present: Frank Auman, Mayor
Roger W. Orlando, Council Member District 1, Post 1
Cara Schroeder, Council Member District 2, Post 1
Alexis Weaver, Council Member District 3, Post 1
Noelle Monferdini, Council Member District 2, Post 2
Anne Lerner, Council Member District 3, Post 2

Members Absent: Virginia Rece, Council Member District 1, Post 2

ZOOM Link: <https://us02web.zoom.us/j/89338334026>

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. Councilmember V. Rece was absent due to medical reasons. Motion by Councilmember A. Lerner with a Second by Councilmember C. Schroeder to excuse her absence passed unanimously.

C. PLEDGE OF ALLEGIANCE

The pledge was led by the Tucker Citizen of the Month and Girl Scout Abigail Heizer.

D. MAYOR'S OPENING REMARKS

Mayor Auman mentioned that since the July 10th meeting 31 new Occupational Tax Certificate applications were received, and to sign up for the In Tucker Magazine.

Proclamation P23-05 In Recognition of and Gratitude to Donna S. Mann

Mayor Auman read the proclamation into the minutes and presented it to Donna Mann.

E. PUBLIC COMMENTS

Public comments were heard from five citizens on the non-discrimination ordinance, the Tucker Civic Association Annual Membership Meeting, the CH 46 text amendment agenda item, the SLUP-23-0003 agenda item, and on Peter & Paul's Place upcoming events.

F. APPROVAL OF THE AGENDA

MOVER: N. Monferdini
SECONDER: C. Schroeder

Motion to approve the agenda as presented passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

G. CONSENT AGENDA

MOVER: N. Monferdini
SECONDER: C. Schroeder

Motion to approve the consent agenda items G.1 - G.2 passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

G.1 Regular Meeting Minutes - July 10, 2023

G.2 Contract Amendments for Purchase Orders for Public Works

H. STAFF REPORTS

H.1 Public Works Update

Ishri Sankar, Public Works Director, stated that as of July 01, 2023 the City of Tucker has taken over ownership and maintenance of the rights of ways including roadways, sidewalks, signs, signals, and stormwater infrastructure. Since then the City and it's partnered contractors have been busy repairing existing and newly reported issues across the City.

Work Orders Completed (101 Total)

- TriScapes Right of Way Maintenance – 45
- TriScapes Roads and Drainage – 23
- Sunbelt Signs, Signals, and Striping – 33

Utilities: Utility companies working within the City right of way have been notified of our permitting process. This process allows us to review their plans, ensure safe and complete traffic control measures are being implemented, and gives us a resource to manage the right of way for warranty claims against utility companies for poor workmanship.

Stormwater: Our team continues to receive complaints of stormwater related issues. As we research, various projects are being developed from these. Thus far, defined projects include pipe cleaning/inspections, inlining of existing pipes, and structure repairs.

In a previous contract with Atlas, the City committed to collecting an inventory and assessment database of all the stormwater infrastructure within the City. This includes conduits, structures, and ponds. At the close of July, Atlas has collected data from just over 1,000 structures, 900 pipes, and 28 ponds. This information is critical to meeting State MS4 criteria as well as building a foundation for accessing stormwater networks and ultimately stormwater modeling to proactively generate stormwater capital improvement projects.

Other Public Works related tasks include:

- Working with the Community Development and Code Enforcement to develop a rip-rap program to deliver rip-rap rock to residents to aid with erosion control in waterways across the City.
- Coordinating with the City's GIS staff to implement tools for data collection and research.

I. OLD BUSINESS - None

J. NEW BUSINESS

J.1 Resolution for SPLOST II Referendum Language and IGA

Mayor Auman gave a review of the current SPLOST I six-year program that will be ending in March of 2024 was passed in 2017. The funding consisted of 65% Roads and Drainage, 20% Sidewalks, Paths & Bikeways, and 15% Parks & Recreation and Citywide Safety Equipment. So far, the City collected \$29 Million, and spent \$19 Million. The City in conjunction with the County and other DeKalb County municipalities will need to vote to continue this significant funding source on a referendum this November to start SPLOST II in 2024. The project category percentages/estimated amounts are:

46% (\$18M) Capital Road Improvement & Resurfacing

31% (\$12M) Expansion and Capital Improvements of Trails, Sidewalks and Bikeways

15% (\$6M) Parks Capital Outlay

8% (\$3M) Capital Projects for Stormwater Infrastructure

J.2 Resolution R2023-08-16

Mayor Auman stated that in September the City expanded the Zoning Board of Appeals to seven members, and presented the appointments of Josh Wallace and Terry Grandison for a two year term.

MOVER: F. Auman

SECONDER: A. Lerner

Motion to approve Resolution R2023-08-16 to appoint the two members to the Zoning Board of Appeals passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

J.3 Ordinance O2023-08-13

Courtney Smith, Community Development Director, and Rosie Mafe, Pond and Company, spoke on the Ordinance for text amendments to the Tucker Code Chapter 46 Zoning, including the creation of a new zoning district with various tiers for Lawrenceville Hwy.

Mayor Auman opened a public hearing. Two citizens spoke in favor. Five citizens spoke in opposition. The public hearing was closed.

Motion by Councilmember Monferdini to table the ordinance. Motion failed for lack of a second.

Second read scheduled on September 11, 2023.

FIRST READ

J.4 Ordinance O2023-08-14

Courtney Smith, Community Development Director, spoke on the Ordinance for Special Land Use Permit SLUP-23-0002 for a personal care home at 2553 Sandpiper Drive for Georgia Clay Properties, LLC.

Mayor Auman opened a public hearing. The representative for the applicant spoke in favor and nobody spoke in opposition. The public hearing was closed.

Second read scheduled on September 11, 2023.

FIRST READ

J.5 Ordinance O2023-08-15

Courtney Smith, Community Development Director, spoke on the Ordinance for Special Land Use Permit SLUP-23-0003 for alcohol sales at 5960 East Ponce de Leon Avenue for Gas Express, LLC.

Mayor Auman opened a public hearing. The applicant and the applicant representative spoke in favor. Three citizens spoke in opposition. The public hearing was closed.

Second read scheduled on September 11, 2023.

FIRST READ

J.6 Contract C2023-021-PO24-553

Ken Hildebrandt, City Engineer, spoke on bid for the South Fork Peachtree Greenway, identified as Segments 3A and 3B on the Trail Master Plan, which extends from the intersection of Idlewood Road @ Lawrenceville Highway, parallels the South Fork Peachtree Creek, and terminates at Peters Park. The scope of work includes concept validation, survey, environmental permitting, design, and easement acquisition plats. Five responses were received and the recommendation from the evaluation committee is to award the contract to Heath & Lineback in the amount of \$799,608.12.

MOVER: N. Monferdini

SECONDER: C. Schroeder

Motion to approve contract C2023-021-PO24-553 to Heath & Lineback passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

J.7 Contract C2023-016-TO1-PO24-549

Ishri Sankar, Public Works Director, spoke on the Stormwater Repair Task Order #1 for the cleaning and video collection of pipe systems at 10 locations. Recommendation to award contract to Utility Asset Management Inc for \$72,884.83 based on the contracted unit proposed in response to 2023-016 RFP.

MOVER: A. Weaver

SECONDER: C. Schroeder

Motion to approve contract C2023-016-TO1-PO24-549 to Utility Asset Management Inc. passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

J.8 Contract C2023-016-TO2-PO24-550

Ishri Sankar, Public Works Director, spoke on the Stormwater Repair Task Order #2 for stormwater structure inlining and siphon hole repair and cleaning of pipe systems at 4 locations. Recommendation to award contract to Cajenn Construction for \$96,971.68 based on the contracted unit proposed in response to 2023-016 RFP.

MOVER: A. Lerner

SECONDER: C. Schroeder

Motion to approve contract C2023-016-TO2-PO24-550 to Cajenn Construction passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

K. MAYOR AND COUNCIL COMMENTS

The Mayor and Council thanked everyone for attending, congratulated Micah Seibel for being selected for Class of 2024 Leadership DeKalb 10-month leadership development program in DeKalb County, to slow down with school back in session, that the Parks & Recreation Master Plan Update Community Meeting will be at the Rec Center, and that Qualifying for Office starts Monday August 21st thru August 24th.

L. EXECUTIVE SESSION

MOVER: F. Auman

SECONDER: N. Monferdini

Motion to enter into Executive Session for the purpose of personnel, real estate and litigation at 9:39 PM passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

MOVER: A. Weaver

SECONDER: N. Monferdini

Motion to exit Executive Session and return to the regular meeting at 10:20 PM passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

M. ACTION AFTER EXECUTIVE SESSION - None

N. ADJOURNMENT

MOVER: N. Monferdini

SECONDER: C. Schroeder

Motion to adjourn meeting at 10:21 PM passed unanimously.

AYES: (6): F. Auman, R. Orlando, C. Schroeder, A. Weaver, N. Monferdini, and A. Lerner

ABSENT: (1): V. Rece

APPROVED (6 to 0)

APPROVED: Frank Auman, Mayor

ATTEST: Bonnie Warne, Clerk

Date Approved



MAYOR & CITY COUNCIL

WORK SESSION MINUTES

Monday, August 28, 2023, 7:00 PM

Tucker City Hall

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

Members Present: Frank Auman, Mayor
Roger W. Orlando, Council Member District 1, Post 1
Cara Schroeder, Council Member District 2, Post 1
Alexis Weaver, 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/89338334026>

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. Councilmembers Weaver, Schroeder, Orlando, Monferdini, and Rece were present at the meeting. Mayor Auman and Councilmember Lerner attended via zoom due to being out of district.

C. MAYOR'S OPENING REMARKS

The pledge was led by Communications Director Sonja Szubski.

Mayor Auman mentioned that UGA Tucker starts on September 19 and congratulated the 8 Qualified Candidates running in the Nov 7th Election.

D. APPROVAL OF THE AGENDA

MOVER: N. Monferdini

SECONDER: C. Schroeder

Motion to approve the agenda as presented passed unanimously.

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V. Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

E. MONTHLY REPORT

E.1 Interim July 2023 Financials

F. NEW BUSINESS

F.1 Presentation on Draft Housing Study

Courtney Smith, Community Development Director, introduced KB Advisory who gave a presentation on the housing study. The consultants looked at household characteristics, housing characteristics, peer city housing comparison, affordability assessment, and residential capacity. They also studied the livability of existing multifamily and extended stay hotels/motels.

F.2 Presentation on Stormwater Condition Assessment

Ishri Sankar, Public Works Director, introduced Atlas Consultants who gave a presentation and update on the data collected and inventory of all of the stormwater infrastructure, excluding state owned infrastructure, such as those along GDOT maintained right of way (LaVista Rd, Lawrenceville Highway, etc.). In June of 2023, Atlas has deployed 2-crews to Tucker to collect field data on this infrastructure. Under the direction of Tucker's Public Works Department, Atlas has completed their first drainage basin, and work in the second basin is underway.

F.3 Presentation on Johns Homestead Park Dam and Park Improvement

Carlton Robertson, Parks and Recreation Director, introduced Root Design Studio who gave a presentation update on the status of the Johns Homestead Park (JHP) Park and Dam Improvement project and timeline for bid and construction. They developed a plan for the replacement of both dams, parking, access, and trail improvements within Johns Homestead Park (JHP). These plans will be submitted to the required state and federal agencies for approval and permitting. This project will restore proper drainage from the lakes heading downstream, which will provide an improved environment for the wildlife in and around this historic park. It will also provide exciting new features for the surrounding communities as well as the whole of Tucker. The dam replacement/rebuild portion of this project will also protect surrounding homes and property from possible dam breaches, lake failures (channel) and flooding.

F.4 Presentation on Fellowship Road Safety Improvements

Ken Hildebrandt, City Engineer, gave a presentation on the Fellowship Road Safety Improvement project. There is a safety concern at Fellowship Road and Lavista Road due to the absence of a northbound left turn lane and signal indication. The City has contracted with VHB to conduct an analysis. VHB has reviewed the traffic count and accident data. They've run computer models to determine alternatives to providing a short-term safety improvement at this intersection. There is also an opportunity to provide minor landscape enhancements.

Designed improvements will include:

- Restripe northbound approach to provide a dedicated left turn lane with left turn signal

- Reduce northbound lanes from 2 to 1 on Fellowship Road between Lavista Rd and the railroad bridge
- Eliminate left turns at the 2nd Street intersection
- Left turn lane onto 1st Avenue
- Install a planted median between 1st Avenue and the railroad bridge

F.5 Presentation on Proposed Landscape Improvements

Ken Hildebrandt, City Engineer, gave a presentation of recommended right-of-way landscape projects on Fellowship Road and at the I-285 / Lawrenceville Highway Interchange. Improvements on Fellowship Road will improve aesthetics as well as mitigate sight distance issues at the 1st Avenue intersection. The I-285 and Lawrenceville Highway landscape design has been done by Winter Design and was funded by the Tucker-Northlake CID. The CID has committed to fund the ongoing maintenance after the City constructs the project.

F.6 Presentation of the North/South Connectivity Study

Ken Hildebrandt, City Engineer, gave a presentation of the North/South Connectivity Study to provide safer and more efficient roadways for drivers, cyclists, and pedestrians, and to encourage more connectivity within the City of Tucker. Kimley Horn was contracted to analyze the corridors of Montreal Road, Cooledge Road, Brockett Road, Idlewood Road, and Fellowship Road. Factors considered in the analysis included traffic volumes, accidents, congestion, speeding, transit, and pedestrian improvements. The study lists a total of 115 recommended improvements, which can be broken down into 35 projects ranging from minor upgrades to significant intersection improvements. Staff recommends moving forward with some short-term maintenance issues as well as engineering design of some more significant projects.

FY24: \$1M budgeted in Capital account for these projects and additional funding is available in SPLOST Quick Response and Sidewalk accounts

Recommended Engineering Design:

- Idlewood Rd @ Fellowship Rd Roundabout
- Brockett Rd @ Lawrenceville Hwy / Moon St Improvements
- Cooledge Rd / Northlake Pkwy @ Lawrenceville Hwy Improvements
- Idlewood Rd @ Sarr Pkwy Roundabout
- Montreal Rd @ Lawrenceville Hwy

Recommended Construction:

- 5 Striping Improvements
- 4 Pedestrian Improvements
- E Ponce de Leon Ave Sidewalk
- Brockett Rd Sidewalk
- Fellowship Rd Safety Improvements
- Montreal Rd @ Montreal Industrial Circle

G. EXECUTIVE SESSION - None

H. ACTION AFTER EXECUTIVE SESSION - None

I. ADJOURNMENT

MOVER: N. Monferdini

SECONDER: C. Schroeder

Motion to adjourn meeting at 9:45 PM passed unanimously.

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V. Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

APPROVED: Frank Auman, Mayor

ATTEST: Bonnie Warne, Clerk

Date Approved



MEMO

To: Honorable Mayor and City Council Members
From: Ken Hildebrandt, City Engineer
CC: Tami Hanlin, City Manager
Date: September 11, 2023
RE: Memo for Contract Amendment for MARTA Bus Pads and Pedestrian Connectivity

Description for on the Agenda:

Contract Amendment for MARTA Bus Pads and Pedestrian Connectivity

Issue:

Contract Amendment for MARTA Bus Pads and Pedestrian Connectivity

Recommendation:

Staff recommends the approval of the attached contract amendment to allow for the expenditure of ARPA funds.

Background:

In June of 2023, Council awarded a contract to DAF Concrete in the amount of \$97,150 for the installation of MARTA pads, benches, and sidewalk connections at various locations. With the recent clarification of ARPA guidelines, it has been determined that a portion of the project can be paid for with ARPA funds. The construction of the project is now substantially complete.

Summary:

This attached contract amendment will allow for the expenditure of approximately \$60,000 in ARPA funds.

Financial Impact:

There is no additional funding request for this project. The contract amendment will allow for the expenditure of approximately \$60,000 in ARPA funds, with the remainder being funded from the capital projects account.



CONTRACT AMENDMENT AGREEMENT 2023-019-AMD-001

This CONTRACT AMENDMENT AGREEMENT (“Amendment”) is dated _____ day of _____, in the year 20____ (the “effective Date”), by and between the City of Tucker, GA located at 1975 Lakeside Parkway, Suite 350, Tucker, GA 30084, and DAF CONCRETE INC located at 9160 TURNER ROAD, JONESBORO, GA 30236 (collectively, the “Parties”).

WHEREAS the Parties entered into ITB #2023-019 agreement on 6/23/2023 (date of original contract).

WHEREAS the Parties hereby agree to amend the Original Contract in accordance with the terms of the Original Contract as well as the terms provided herein.

In consideration of the mutual covenants contained herein, the Parties mutually covenant and agree as follows:

- * A new funding source (American Rescue Plan Act (“ARPA”),) has been identified for the project and, as such, the Original Contract, which is attached hereto, must be revised to reflect additional terms and conditions and certifications by the Contractor.
- * Appendix A – Certification Regarding lobbying, which is attached hereto, must be signed by the Contractor.
- * Appendix B – Additional Contract Terms, which is attached hereto, amends section 15.1 – FEDERAL REQUIREMENTS of the original contract.
- * The Parties agree to amend the Original Contract as noted in the attached documentation and agrees to sign Appendix A as required.
- * The amendment binds and benefits both Parties and any successors or assigns. This document, including the attached Original Contract, is the entire agreement between the Parties.

All other terms and conditions of the Original Contract remain unchanged. This agreement shall be signed by:

City of Tucker

DAF CONCRETE INC

Name

Name

Title

Title

Date

Date

Attested by:

Ted Baggett, City Attorney

APPENDIX A
44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
City of Tucker
ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer\ or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, , certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Print Name and Title of Contractor's Authorized Official

Date_____

APPENDIX B
City of Tucker
Additional Contract Terms for Projects Utilizing Federal Funds
ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

Notice: The contract or purchase order to which this addendum is attached is made using federal assistance provided to the City of Tucker by the US Department of Treasury under the American Rescue Plan Act (“ARPA”), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021).

The following terms and conditions apply to you, the contractor or vendor, as a contractor of the City of Tucker, according to the City’s Award Terms and Conditions; by ARPA and its implementing regulations; and as established by the Treasury Department.

I. Federally Required Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

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The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

II. Compliance with the Federal Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any

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moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clause set forth in paragraphs (b)(1) through (4) of this section.

III. Federal Clean Air Act Compliance

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 33 U.S.C. 1251 et. seq.
2. The contractor agrees to report each violation to the City of Tucker and understands and agrees that the City of Tucker will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funds.

IV. Federal Water Pollution Control Act Compliance

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the City of Tucker and understands and agrees that the City of Tucker will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funds.

V. Federal Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the City of Tucker. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R.

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pt. 3000, subpart C, in addition to remedies available to the City of Tucker, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

VI. Compliance with the Federal Solid Waste Disposal Act

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;

2. Meeting contract performance requirements; or

3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

VII. Buy USA - Domestic Preference for certain procurements using federal funds.

Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

VIII. Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)

Contractor is prohibited from obligating or expending federal funds to:

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(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

IX. Compliance with the Federal Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

If applicable, contractors must sign and submit to the City of Tucker the following certification:

Signature of Contractor's Authorized Official

Print Name and Title of Contractor's Authorized Official

Date



CONTRACT AGREEMENT

2023-019 ITB Marta Bus Pads and Pedestrian Connectivity

This Agreement made and entered into this 20th day of June, in the year 2023 by and between The City of Tucker, Georgia, having its principal place of business at 1975 Lakeside Parkway, Suite 350, Tucker, Georgia and ("Contractor") DAF CONCRETE INC located at 9160 TURNER ROAD, JONESBORO, GA 30236.

WHEREAS, the City of Tucker is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Tucker; and

WHEREAS, the City of Tucker has caused **Invitation to Bid #2023-019** to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the **ITB #2023-019**; and

WHEREAS, the Contractor's submittal was deemed by the City of Tucker to be the lowest reliable bidder qualified per the scope of services.

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

That the Contractor has agreed and by these present does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "**Exhibit A**" (**Scope of Services**) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A - SCOPE OF SERVICE

EXHIBIT B - COST PROPOSAL

EXHIBIT C- W-9

EXHIBIT D - CERTIFICATE OF INSURANCE

**EXHIBIT E – E-VERIFY AFFIDAVIT
EXHIBIT F- CONTACT INFORMATION
EXHIBIT G - ADDENDUMS**

2.0 Key Personnel

The City of Tucker enters into this Agreement having relied upon Contractor's providing the services of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

- 3.1. Pricing.** The Contractor will be paid for the services sold pursuant to the Contract in accordance with the RFP and final pricing documents as incorporated into the terms of the Contract. All prices are firm and fixed and are not subject to variation. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as **Exhibit "B" (Cost Proposal)** and incorporated herein, shall be firm throughout the term of this Contract. The maximum costs owed by the City, unless otherwise agreed to in writing, shall not exceed **\$97,150.00**

Billings. If applicable, the Contractor shall submit, on a regular basis, an invoice for services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

Invoices are to be emailed to invoice@tuckerga.gov and must reference the PO# (see top of contract). A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted "**Exhibit C" (W-9)**.

- 3.2. Delay of Payment Due to Contractor's Failure.** If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.
- 3.3. Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the

City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

- 4.1. **Contract Term.** The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal. The term of this contract shall align with the City's fiscal year from July 1 to June 30 and shall be from commencement of services and until all services are rendered. All invoices postmarked by the City during said term shall be filled at the contract price.
- 4.2. **Contract Extension.** In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay.

This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

- 5.1. The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Tucker. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Tucker Representative within ten (10) day after issuance.
- 5.2. Inasmuch as the City of Tucker and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Tucker without

the express knowledge and prior written consent of the City.

6.0 Indemnification

- 6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors, contractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.
- 6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City of Tucker Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have thirty (30) days to remedy the situation.

If requirements are not remedied City of Tucker has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- i. Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- ii. Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
- iii. Acceptance of final payment by Contractor, or any subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such subcontractor for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with

the procedures, including the time limits, set forth in section 8.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Insurance

- 10.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.
- 10.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. **"Exhibit D" (Certificate of Insurance).**

11.0 Termination

- 11.1. Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - (ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or

safety to be jeopardized;

- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification which is materially false, deceptive, incorrect or incomplete.

11.2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:

- (i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- (ii) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- (iii) The Contractor fails to make substantial and timely progress toward performance of the contract;
- (iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- (v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- (vi) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- (vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

11.3. Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- (i) Immediately terminate the Contract without additional written notice; and/or
- (ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- (iii) Enforce the terms and conditions of the Contract and seek any legal or equitable

remedies.

- 11.4. Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the

City shall pay Contractor for work performed to date in accordance with Section herein. The City shall have no further liability to Contractor for such termination.

- 11.5. Payment Limitation in the event of Termination. In the event termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.
- 11.6. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:
- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
 - (ii) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
 - (iii) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
 - (iv) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
 - (v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

12.0 Claims and Dispute Resolution

12.1 Claims Procedure

- (i) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City- directed work as provided in section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- (ii) Contractor shall file its Claim within the earlier of: 120 Days from City's final instructions in accordance with section 8; or the date of Final Acceptance,
- (iii) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- (iv) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- (v) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- (vi) After Contractor has submitted a fully-documented Claim, the City shall respond, in writing, to Contractor with a decision within sixty (60) days of the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

12.2 Arbitration

- i) If Contractor disagrees with City's decision rendered in accordance with section 12. If, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim, failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its subcontractors.
- ii) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:
 - 1. Disputes involving \$30,000 or less shall be conducted in accordance with the

Southeast Region Expedited Commercial Arbitration Rules; or

2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
 - All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of DeKalb County.
 - If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
 - Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within DeKalb County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
 - All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

13.0 Confidential Information

- 13.1. Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:
 - (i) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
 - (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal,

written, and electronic formats;

(iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and

(iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

13.2. No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

13.3. Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

13.4. Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

13.5. Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

14.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the RFP, as amended, and the Contractor's submittal, the language in the former shall govern.

14.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

15.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

15.1 Federal Requirements.

15.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Tucker contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

1. **Equal Employment Opportunity** - (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

2. Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded.
3. Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive, and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - a. Any patent that shall result under this contract; and
 - b. Any patent rights to which the Contractor purchases ownership with grant support
4. Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - a. The copyright in any work developed under this contract; and
 - b. Any rights of copyright to which the Contractor purchases ownership with grant support.
5. Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States, or any of their duly authorized representatives; and
6. Retention of all required records for three years after the City makes final payment and all other pending matters are closed.
7. Contractor shall comply with Section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act. These requirements include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR part 247 that contain the highest percentage of recovered materials practicable consistent

with maintaining a satisfactory level of competition, where the purchase price exceeds \$10,000.

8. As appropriate and to the greatest extent practicable, Contractor shall purchase, acquire and use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

15.2 Georgia Security and Immigration Compliance Act

- a. The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "**Exhibit E**" (**E-VERIFY Affidavit Form**) and incorporated herein by reference and made a part of this contract.
- b. The Contractor further certifies that any subcontractors employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c. Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

16.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Tucker's prior written consent.

17.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

18.0 Drug-Free and Smoke-Free Workplace

- 18.1 A drug-free and smoke-free workplace will be provided for the Contractor's employees during the performance of this Agreement; and
- 18.2 The Contractor will secure from any sub-Contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

18.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

18.3.1 The Contractor has made false certification herein; or the Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

19.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, Invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

20.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Tucker all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Tucker pursuant hereto.

21.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a quarterly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

22.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

23.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

24.0 Special Terms and Conditions

24.1 Contractor shall comply with copyright law and bear all responsibility for doing so.

24.2 All written work product designed for the City shall be jointly owned by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF TUCKER:

CONTRACTOR: DAF CONCRETE INC

By: [Signature]

By: Antonio Sanchez

Title: Mayor

Title: President

Name: Frank Auman

Name: Antonio Sanchez

Date: 6/20/2023

Date: 6/15/2023

Attest:

[Signature]
Bonnie Warne, City Clerk



Approved as to form:

[Signature]
Ted Baggett, City Attorney

Exhibit A:
Project Specifications / Scope of Work
ITB #2023-019 TUCKER BUS PADS AND PEDESTRIAN CONNECTIVITY

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Tucker (City), requests that interested parties submit formal electronic bids for the construction of concrete pads at seven (7) locations, and sidewalk improvements at three (4) locations. MARTA shelters, or City benches, are to be installed at a total of the eight (9) pad locations. All MARTA shelters are to be installed by MARTA, and therefore should not be included in this bid. Some pads may require the relocation of existing signs and trash receptacles. The location of the concrete pads and sidewalk improvements can be found on the location map provided in **ATTACHMENT 1**.

The complete scope, plans, and other relevant information for ITB 2023-019 Tucker Bus Pads and Pedestrian Connectivity Project is available for download on the City of Tucker website: https://www.tuckerga.gov/government/rfp_rfq/index.php or request via email to procurement@tuckerga.gov.

GENERAL CONDITIONS

The contractor shall execute the work according to and meet the requirements of the following:

- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work, plans, and specifications;
- City of Tucker ordinances and regulations;
- OSHA standards and guidelines
- MUTCD Guidelines
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. This is a unit price bid. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including any to be taken from the finished work have been completed and evaluated. Standard Specification 106 – Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. Bidder shall provide at least three examples and reference information (including company name, project name, contact name, phone number and email address) demonstrating experience successfully completing projects of similar scope.

10% retainage will be withheld from the total amount due the contractor until Final Acceptance of work is issued by the City. The City will inspect the work as it progresses.

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed within 120 days of Notice to Proceed. The contractor will be considered substantially complete when all work required by this contract has been completed (excluding final punch list work).

Upon Notice of Award, the Contractor will be required to submit a Progress Schedule.

Normal workday for this project shall be 7:00AM to 7:00PM and the normal workweek shall be Monday through Friday. Lane closures are limited to the hours of 9:00AM to 4:00PM. The City will consider extended workdays or workweeks upon written request by the Contractor on a case by case basis. No work will be allowed on national holidays (i.e. Memorial Day, July 4th, Labor Day, etc.). Hours of operation for subdivision streets shall be 8:00AM to 7:00PM.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon substantial completion of the work. The contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the contractor at contractor's expense prior to issuance of Final Acceptance.

The contractor shall be assessed liquidated damages in the amount of \$200.00 per calendar day for any contract work (excluding punch list items) that is not completed within 120 days of Notice to Proceed. Liquidated damages shall be deducted from the 10% retainage held by the City. The contractor will also be assessed liquidated damages in the amount of \$200.00 per calendar day for not completing any required Punch List work within 45 calendar days.

The contractor shall provide all material, labor, and equipment necessary to perform the work without delay until final completion.

The contractor shall provide a project progress schedule prior to or at the preconstruction meeting. This schedule should accurately represent the intended work and cannot be vague or broad such as listing every road in the contract.

The contractor shall submit a two-week advance schedule every **Friday by 2:00p.m.**, detailing scheduled activities for the following week.

PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

BONDING AND INSURANCE REQUIREMENTS

No bid may be withdrawn for a period of forty-five (45) days after the time has been called on the date of opening.

All bids must be accompanied by a Bid Bond of a reputable bonding company authorized to do business in the State of Georgia, in an amount equal to at least five percent (5%) of the total amount of the bid.

Upon Notice of Award, the successful contractor shall submit a Performance Bond payable to the City of Tucker in the amount of 100% of the total contract price. The successful contractor shall also submit a Payment Bond in the amount of 100% pursuant to O.C.G.A. § 36- 91-70 and 90.

Upon Notice of Award, the successful contractor shall procure and maintain a General Liability Insurance Policy with minimum limits of \$1,000,000 per person and \$1,000,000 per occurrence.

MATERIALS

The City will provide a Construction Engineering & Inspections (CEI) Consultant to inspect the work and provide materials testing. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications. Contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing lane closure and construction signage per MUTCD guidelines. Payment for this will be included in the item for Traffic Control.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

All information given in this ITB concerning quantities, scope of work, existing conditions, etc. is for information purposes only. It is the Contractor's responsibility to inspect the project site to verify existing conditions and quantities prior to submitting their bid. This is a Unit Price bid and no payment will be made for additional work without prior written approval from the City. At no time will Contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

The City reserves the right to add, modify, or delete quantities. The City may also elect to add or eliminate certain work locations at its discretion. The Contractor will not be entitled to any adjustment of unit prices or any other form of additional compensation because of adjustments made to quantities and/or work locations. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work" and included in the bid prices for items on the Bid Schedule.

TRAFFIC CONTROL

The contractor shall, at all times, conduct his/her work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

Traffic whose origin and destination are within the limits of the project shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress include entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

Two-way traffic shall be maintained at all times, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the MUTCD and DOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the contractor's expense, except as otherwise called for in the plans. At no time will contractor remove regulatory signing which may cause a hazard to the public.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The contractor shall correct all disturbed areas before retainage will be released.

ADJUSTING UTILITY STRUCTURES TO GRADE

All sewer manholes and water valves are to be adjusted by the DeKalb County Department of Watershed Management. The contractor shall coordinate required utility adjustments with the CEI inspector.

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time. Asphalt and other debris shall be removed from gutters, sidewalks, yards, driveways, etc. Failure to perform clean-up activities may result in suspension of the work.

SAFETY

Beginning with mobilization and ending with acceptance of work, the contractor shall be responsible for providing a clean and safe work environment at the project site. The contractor shall comply with all OSHA regulations as they pertain to this project.

SPECIAL CONDITIONS

1. All disturbed or damaged grassing and landscaping on backside of sidewalk to match surrounding conditions. Cost to be included in Grassing Complete bid item.
2. All grassing strips between back of curb and front of sidewalk shall be Sod. Cost to be included in Grassing Complete bid item.
3. Contractor to call 811 for utility locates. Minor field adjustments may be necessary or directed by the City.
4. Construct concrete pads and sidewalks to meet minimum design and material specifications outlined on D-01 and D-02 or MARTA Detail.
5. Benches should be 6-foot length with a center armrest. See D-03 for more details.

MARTA Shelter Concrete Pads		
#	STOP ID NUMBER	STOP NAME
1	213177	GREER CIR @ MOUNTAIN INDUSTRIAL BLVD – PAD FOR FUTURE SHELTER AND SIDEWALK GAP
2	213195	HUGH HOWELL RD @ LAWRENCEVILLE HWY – PAD FOR FUTURE SHELTER AND SIDEWALK GAP
3	213576	RANCHWOOD DR @ WEEMS RD – SIDEWALK GAP AND BENCH
4	901612	E PONCE DE LEON AVE @ 5130 – PAD FOR FUTURE SHELTER
5	901736	JULIETTE RD @ TREE MTN PKWY – BENCH INSTALL
6	901883	E PONCE DE LEON AVE @ HAMBRICK RD – PAD AND BENCH
7	902115	MOUNTAIN INDUSTRIAL BLVD @ GREER CIR – SIDEWALK GAP
8	902221	MOUNTAIN INDUSTRIAL BLVD @ LEWIS RD – PAD AND BENCH
9	902329	MOUNTAIN INDUSTRIAL BLVD @ ROGER MARTEN WAY – PAD AND BENCH
10	906161	TUCKER NORCROSS RD @ BRITT RD – PAD AND BENCH

*Construction order is at the discretion of the contractor. No more than two (2) pads may be constructed simultaneously.

SUBCONTRACTOR

Any contractor utilizing a subcontractor must submit a proposed list of subcontractors and a Subcontractor Affidavit (Exhibit E-2).

BID DOCUMENT SUBMITTAL REQUIREMENTS:

11. Unit Price Bid Proposal Form (Exhibit B)
12. W-9 Form (Exhibit C)
13. Certificate of Insurance (Exhibit D)
14. Contractor Affidavit (Exhibit E-1)
15. Subcontractor Affidavit (Exhibit E-2)
16. Proposed List of Subcontractors
17. Bid Bond Form (Exhibit G)
18. Related Experience and References
19. Acknowledgement of Addendum issued with each Addendum

Exhibit B: Cost Proposal

ITB #2023-019 TUCKER BUS PADS AND PEDESTRIAN CONNECTIVITY					
ITEM NO.	UNITS	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
150-1010	LS	TRAFFIC CONTROL	1	\$20,000.00	\$20,000.00
210-0100	LS	GRADING COMPLETE	1	\$15,000.00	\$15,000.00
310-1101	TN	GR AGGR BS, INCL MATL	12	\$50.00	\$600.00
441-0104	SY	CONC SIDEWALK, 4 IN	460	\$50.00	\$23,000.00
500-3200	CY	CLASS B CONCRETE	4	\$400.00	\$1,600.00
511-1000	LB	BAR REINF STEEL	225	\$10.00	\$2,250.00
999-5200	EA	DETECTABLE WARNING SURFACE	2	\$250.00	\$500.00
	EA	NORTGATE BENCH AND INSTALL (LEISURE CRAFT, OR EQUIVALENT)	6	\$2,500.00	\$15,000.00
	EA	SIGN RELOCATION	5	\$200.00	\$1,000.00
	EA	ADJUST UTILITY BOX TO GRADE	1	\$200.00	\$200.00
	EA	RELOCATE FIRE HYDRANT	1	\$6,000.00	\$6,000.00
	EA	ADJUST MANHOLE TO GRADE	2	\$1,000.00	\$2,000.00
	LS	GRASSING COMPLETE	1	\$5,000.00	\$5,000.00
	LS	EROSION CONTROL INSTALLATION & MAINTENANCE	1	\$5,000.00	\$5,000.00
			TOTAL \$		\$97,150.00

Company Name: DAF Concrete, Inc.

Address: 9160 Turner Road, Jonesboro, GA, 30236

Contact Person: Antonio Sanchez

Phone Number: (404) 433-8824

Email Address: daf_concrete_inc@yahoo.com

Signature: Antonio Sanchez

*In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail, and the total price will be corrected.

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. DAF Concrete, Inc.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) See instructions. 212 Hicks Drive	Requester's name and address (optional)
6 City, state, and ZIP code Marietta, GA, 30060	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
			-			-		
or								
Employer identification number								
3	0	-	0	2	1	7	6	0 1

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Antonio Sanchez

Date ► *5-11-23*

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER		CONTACT NAME:	
Griffin Insurance Agency Inc		PHONE (A/C No. Ext): (770) 507-3200	FAX (A/C No): (770) 507-7967
P O Box 1768		E-MAIL ADDRESS: COI@GriffinInsure.com	
Stockbridge GA 30281		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Auto Owners Insurance	
		INSURER B: Hudson Insurance Co.	
		INSURER C: NorGuard Insurance	
		INSURER D:	
		INSURER E:	
		INSURER F:	
INSURED		NAIC #	
DAF CONCRETE INC		18988	
212 HICKS DR SE		31470	
MARIETTA GA 30060			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			80300719	5/5/2023	5/5/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			HST-000474-00	4/13/2023	4/13/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			48-999249-01	5/5/2023	5/5/2024	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	DAWC 410888	3/25/2023	3/25/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

LOWEN@TUCKERGA.GOV CITY OF TUCKER 1975 LAKESIDE PKWY SUITE 350 TUCKER, GA 30084	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Keith Griffin/PLS
---	--

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ACORD 25 (2014/01)
INS025 (201401)

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EXHIBIT E



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	DAF Concrete, Inc.
Solicitation/Bid number or Project Description:	

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

390540

Federal Work Authorization User Identification Number (EEV/E-Verify Company Identification Number)

DAF Concrete, Inc.

Name of Contractor

I hereby declare under penalty of perjury that the foregoing is true and correct

Antonio Sanchez

Printed Name (of Authorized Officer or Agent of Contractor)

Antonio Sanchez

Signature (of Authorized Officer or Agent)

2/16/2012

Date of Authorization

President

Title (of Authorized Officer or Agent of Contractor)

5/30/2023

Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

30 DAY OF May, 2023

Audrey Clyde
Notary Public

My Commission Expires: May 9th 2023



EXHIBIT F

Contact Information Form

Please fill out this sheet with the appropriate contact information for your company.

Full Legal Name of Company: **DAF Concrete, Inc.**

Contractor Information:

Primary Contact Person: **Antonio Sanchez**

Title: **President** Telephone Number: **(404)433-8824**

Secondary Contact Person: **Audrey Clyde**

Title: **Secretary** Telephone Number: **(470)651-8151**

Address: **9160 Turner Road**

City / State / Zip: **Jonesboro, GA, 30236**

Mailing Address (If different than above): **212 Hicks Drive**

City / State / Zip: **Marietta, GA, 30060**

E-mail Address: **daf_concrete_inc@yahoo.com**

Federal Employee ID Number (FEIN): **30-0217601**

CITY OF TUCKER

ACKNOWLEDGE RECEIPT OF ADDENDUM #1 FORM

2023-019 ITB

Marta Bus Pads and Pedestrian Connectivity

THERE WERE NOT QUESTIONS SUBMITTED.

Upon receipt, please print and add to your proposal.

I hereby acknowledge receipt of the supplement pertaining to the
above referenced bid.

COMPANY NAME: DAF Concrete, Inc.

CONTACT PERSON: Antonio Sanchez

ADDRESS: 212 Hicks Drive

CITY: Marietta STATE: GA ZIP: 30060

PHONE: (404) 433-8824 FAX:

EMAIL ADDRESS: daf_concrete_inc@yahoo.com

Antonio Sanchez 5/30/2023

SIGNATURE

DATE



City of Tucker

CITY COUNCIL

Frank Auman
Mayor

Roger W. Orlando
District 1, Post 1

Virginia Rece
District 1, Post 2

Cara Schroeder
District 2, Post 1

Noelle Monferdini
District 2, Post 2

Alexis Weaver
District 3, Post 1

Anne Lerner
District 3, Post 2

June 14, 2023

DAF Concrete
9160 Turner Road
Jonesboro, GA 30236

RE: ITB #2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

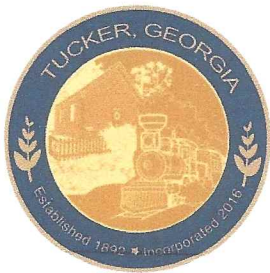
Dear ANTONIO SANCHEZ,

The City of Tucker congratulates DAF Concrete, Inc. on being the lowest responsive bidder for the ITB #2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY project. The project award is for \$97,150. This letter is provided as your Award Confirmation.

A Notice to Proceed will be issued once the contract has been fully executed. Starting the project prior to receipt of the Notice to Proceed may affect the contractor payment process.

If you have any questions, please contact us by email at procurement@tuckerga.gov.

Sincerely,
Procurement Department



NOTICE TO PROCEED

ITB# 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

You are hereby notified that you are authorized to begin work on the above referenced project beginning **JUNE 21, 2023**, in accordance with **ITB# 2023-019** the contract requirements and the scope of work, and all federal and state requirements.

The total amount is \$97,150.00 as stated in the contract.

Dated this Tuesday, June 20, 2023

Owner: City of Tucker

Project Manager: Ken Hildebrandt, City Engineer

ACKNOWLEDGEMENT OF NOTICE

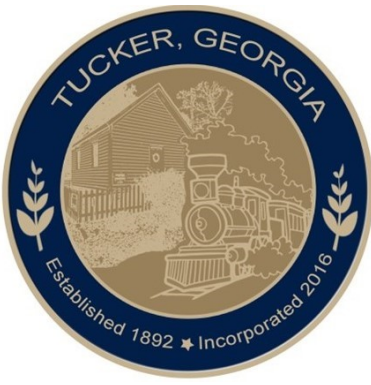
Receipt of this Notice to Proceed is hereby acknowledged.

Consultant: DAF Concrete, Inc.

By: Cecily Clyde

Title: Secretary

Date: 6/21/2023



PURCHASE ORDER
CITY OF TUCKER
1975 Lakeside Pkwy. Ste. 350
Tucker, GA 30084

DATE	P.O. No.
06/13/2023	23-00512

SUPPLIER:
VENDOR: 00414 DAF CONCRETE, INC 212 HICKS DRIVE Marietta, GA 30060 PH: (770) 629-4036

SHIP TO:
CITY OF TUCKER CITY HALL 1975 LAKESIDE PKWY TUCKER, GA 30084

QTY	Unit	Description	Unit Price	Amount
1.00	EACH	MARTA BUS PADS & PEDESTRIAN CONNECTIVITY	\$97,150.00	\$97,150.00

Total:	\$97,150.00
--------	-------------

Subject to the Terms and Conditions Set By the City of Tucker

- 1. Acceptance of this order includes acceptance of all terms, prices, delivery instructions, specifications and conditions.*
 - 2. Purchases may not exceed the total amount of this order without prior approval.*
 - 3. Invoices and Packages must bear the Purchase Order Number above.*
- Visit www.tuckerga.gov for more details.*

APPENDIX A
44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
City of Tucker
ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer\ or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, , certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor’s Authorized Official

Print Name and Title of Contractor’s Authorized Official

Date_____

APPENDIX B
City of Tucker
Additional Contract Terms for Projects Utilizing Federal Funds
ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

Notice: The contract or purchase order to which this addendum is attached is made using federal assistance provided to the City of Tucker by the US Department of Treasury under the American Rescue Plan Act (“ARPA”), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021).

The following terms and conditions apply to you, the contractor or vendor, as a contractor of the City of Tucker, according to the City’s Award Terms and Conditions; by ARPA and its implementing regulations; and as established by the Treasury Department.

I. Federally Required Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

II. Compliance with the Federal Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clause set forth in paragraphs (b)(1) through (4) of this section.

III. Federal Clean Air Act Compliance

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 33 U.S.C. 1251 et. seq.
2. The contractor agrees to report each violation to the City of Tucker and understands and agrees that the City of Tucker will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funds.

IV. Federal Water Pollution Control Act Compliance

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the City of Tucker and understands and agrees that the City of Tucker will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal funds.

V. Federal Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the City of Tucker. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R.

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

pt. 3000, subpart C, in addition to remedies available to the City of Tucker, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

VI. Compliance with the Federal Solid Waste Disposal Act

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

1. Competitively within a timeframe providing for compliance with the contract performance schedule;

2. Meeting contract performance requirements; or

3. At a reasonable price.

ii. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

VII. Buy USA - Domestic Preference for certain procurements using federal funds.

Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

VIII. Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)

Contractor is prohibited from obligating or expending federal funds to:

APPENDIX B

City of Tucker

Additional Contract Terms for Projects Utilizing Federal Funds

ITB 2023-019 MARTA BUS PADS AND PEDESTRIAN CONNECTIVITY

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

IX. Compliance with the Federal Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

If applicable, contractors must sign and submit to the City of Tucker the following certification:

Signature of Contractor's Authorized Official

Print Name and Title of Contractor's Authorized Official

Date



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Community Development Director
CC: Tami Hanlin, City Manager
Date: September 5, 2023
RE: Memo for Temporary Emergency Moratorium Extension

Description for on the Agenda:

A resolution of the Mayor and Council of the City of Tucker, Georgia for the purpose of extending a temporary emergency moratorium on the acceptance or processing of applications for certain specified parcels along Lawrenceville Highway between Cooledge Road and Brockett Road.

Issue:

City Council passed a moratorium (R2023-02-04) on February 27, 2023, that was anticipated to be in effect until September 26, 2023. While the 2nd read of the draft code is scheduled for September 11, 2023, Staff wanted to allow more time for the city initiated rezoning portion of the project to ensure ample review and public engagement occurs. Therefore, the moratorium needs to be extended.

Recommendation:

Approve a resolution to extend the temporary emergency moratorium to November 28, 2023.

Background:

Community Engagement:

Community Meeting: April 18, 2023

Online Survey: April 18, 2023 to May 2, 2023

Neighborhood Meeting: August 30, 2023

Public Hearing Dates for Code Adoption Process:

Planning Commission: July 20, 2023

City Council (1st Read): August 14, 2023

City Council (2nd Read): September 11, 2023

Public Hearing Dates for City Initiated Rezoning:

Planning Commission: September 21, 2023

City Council (1st Read): October 10, 2023

City Council (2nd Read): November 13, 2023

Summary:

The temporary moratorium would only apply to properties currently zoned M (Light Industrial), M-2 (Heavy Industrial), C-1 (Local Commercial), C-2 (General Commercial), and MZ (Multiple Zoning) that front Lawrenceville Highway and are located between the intersection of Cooledge Road and Northlake Parkway at Lawrenceville Highway and the intersection of Lawrenceville Highway and Brockett Road. It would prohibit staff from accepting, processing, or approving new applications for building permits, land disturbance permits, variances, rezonings, and special land use permits.

The city has previously enacted temporary emergency moratoriums for other similar projects such as the city initiated rezonings of the Richardson Street/Juliette Road properties (2021) and the creation of a new sign code (2019).

**STATE OF GEORGIA
CITY OF TUCKER**

RESOLUTION R2023-09-18

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF TUCKER, GEORGIA FOR THE PURPOSE OF EXTENDING A TEMPORARY EMERGENCY MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS FOR CERTAIN SPECIFIED PARCELS ALONG LAWRENCEVILLE HIGHWAY BETWEEN COOLEDGE ROAD AND BROCKETT ROAD.

WHEREAS, the Mayor and City Council of the City of Tucker, with the assistance of staff and the planning commission, wishes to consider potential updates to the City's official zoning ordinance and zoning map to address areas where the current districts may not be consistent with surrounding property uses and the City's comprehensive planning; and,

WHEREAS, the Mayor and City Council are particularly concerned about situations where properties are zoned light industrial and heavy commercial, but are located in close proximity to residential neighborhoods, such that new industrial or heavy commercial developments may not be appropriate, and would not be consistent with the City's comprehensive planning; and,

WHEREAS, while the amendments to the official zoning ordinance and zoning map are being drafted and considered by the planning commission and Mayor and City Council, the Mayor and Council wish to preserve the status quo and not allow applications for new construction to be accepted, processed or approved until such time as the potential amendments to the official zoning ordinance and zoning map can be completed and properly adopted in order to prevent any claims of vested rights being obtained; and,

WHEREAS, adopting this moratorium as an emergency provision is necessary to protect the public welfare and is further in accord with established Georgia Supreme Court decisions such as City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001); and,

WHEREAS, the proposed moratorium duration is extended until November 28, 2023, the day following the Mayor and City Council's second November meeting, which is necessary for the continued research, public engagement, and public hearings for the potential updates to the official zoning ordinance and zoning map;

NOW THEREFORE BE IT RESOLVED by virtue of the authority vested in the Mayor and City Council by law, that a moratorium is temporarily established as follows:

1. This moratorium is extended for temporary and emergency purposes only, and shall be in effect until November 28, 2023 or until it is repealed, whichever occurs first.
2. This moratorium applies to all properties currently zoned M (Light Industrial), M-2 (Heavy Industrial), C-1 (Local Commercial), C-2 (General Commercial), and MZ (Multiple Zoning) that front Lawrenceville Highway and are located between the

intersection of Cooledge Road and Northlake Parkway at Lawrenceville Highway and the intersection of Lawrenceville Highway and Brockett Road.

3. The City's staff shall not accept, process, or approve new applications for building permits, land disturbance permits, variances, rezonings, or special land use permits.
4. Nothing in this moratorium shall prevent or prohibit the continuance of any established lawful use on any property for which this moratorium applies.

SO ADOPTED this 11th day of September 2023, to be effective immediately, the public health, safety, and welfare demanding.

CITY OF TUCKER, GEORGIA

Frank Auman, Mayor

ATTEST:

Bonnie Warne, City Clerk

(SEAL)

**STATE OF GEORGIA
CITY OF TUCKER**

RESOLUTION R2023-02-04

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF TUCKER, GEORGIA FOR THE PURPOSE OF ENACTING A TEMPORARY EMERGENCY MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS FOR CERTAIN SPECIFIED PARCELS ALONG LAWRENCEVILLE HIGHWAY BETWEEN COOLEGE ROAD AND BROCKETT ROAD.

WHEREAS, the Mayor and City Council of the City of Tucker, with the assistance of staff and the planning commission, wishes to consider potential updates to the City's official zoning ordinance and zoning map to address areas where the current districts may not be consistent with surrounding property uses and the City's comprehensive planning; and,

WHEREAS, the Mayor and City Council are particularly concerned about situations where properties are zoned light industrial and heavy commercial, but are located in close proximity to residential neighborhoods, such that new industrial or heavy commercial developments may not be appropriate, and would not be consistent with the City's comprehensive planning; and,

WHEREAS, while the amendments to the official zoning ordinance and zoning map are being drafted and considered by the planning commission and Mayor and City Council, the Mayor and Council wish to preserve the status quo and not allow applications for new construction to be accepted, processed or approved until such time as the potential amendments to the official zoning ordinance and zoning map can be completed and properly adopted in order to prevent any claims of vested rights being obtained; and,

WHEREAS, adopting this moratorium as an emergency provision is necessary to protect the public welfare and is further in accord with established Georgia Supreme Court decisions such as City of Roswell v. Outdoor Systems, Inc., 274 Ga. 130 (2001); and,

WHEREAS, the proposed moratorium duration is until September 26, 2023, the day following the Mayor and City Council's second September meeting, which is deemed to be the earliest that the City staff can investigate potential updates to the official zoning ordinance and zoning map, give notice to affected property owners, conduct public hearings, obtain the recommendation of the planning commission; and conduct two reading at public meetings of the City Council;

NOW THEREFORE BE IT RESOLVED by virtue of the authority vested in the Mayor and City Council by law, that a moratorium is temporarily established as follows:

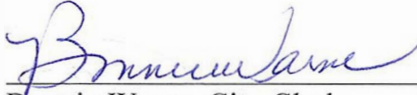
1. This moratorium is enacted for temporary and emergency purposes only, and shall be in effect until September 26, 2023 or until it is repealed, whichever occurs first.

2. This moratorium applies to all properties currently zoned M (Light Industrial), M-2 (Heavy Industrial), C-1 (Local Commercial), C-2 (General Commercial), and MZ (Multiple Zoning) that front Lawrenceville Highway and are located between the intersection of Cooledge Road and Northlake Parkway at Lawrenceville Highway and the intersection of Lawrenceville Highway and Brockett Road.
3. The City's staff shall not accept, process, or approve new applications for building permits, land disturbance permits, variances, rezonings, or special land use permits.
4. Nothing in this moratorium shall prevent or prohibit the continuance of any established lawful use on any property for which this moratorium applies.

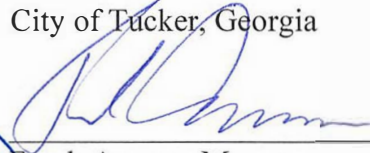
SO ADOPTED this 27th day of February, 2023, to be effective immediately, the public health, safety, and welfare demanding.

ATTEST:

City of Tucker, Georgia


Bonnie Warne, City Clerk




Frank Auman, Mayor

(SEAL)



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Community Development Director
CC: Tami Hanlin, City Manager
Date: August 9, 2023
RE: Memo for Lawrenceville Highway Code Adoption

Description for on the Agenda:

First Read and Public Hearing of an Ordinance for amendments to the City of Tucker City Code, Chapter 46, including the creation of a new zoning district with various tiers for Lawrenceville Highway.

Issue:

The City of Tucker, in partnership with Pond, has drafted a new special zoning district for Lawrenceville Highway, between Cooledge Road and Brockett Road. This code addresses redevelopment of existing parcels, an improved gateway into the city, and compliance with our existing plans and studies.

Recommendation:

Staff recommends approval.

Planning Commission recommends approval.

Background:

The proposed special zoning district is made up of four tiers:

- (a) LH-1 (Lawrenceville Highway Residential). The intent of the LH-1 district is to preserve existing residential character while allowing a wider variety of housing types for new development.
- (b) LH-2 (Lawrenceville Highway Neighborhood). The intent of the LH-2 district is to create a human-scale built environment that includes medium density residential uses like townhomes, two-family developments, and small-lot single family. This tier also permits neighborhood-scale commercial uses that serve the existing and future residents. In this tier, consideration should be given to those more intense uses and how they interact with the existing single-family homes.
- (c) LH-3 (Lawrenceville Highway Core). The intent of the LH-3 district is to allow high density housing options and innovative uses that may be compatible with adaptive reuse. Mixed use development is encouraged where Lawrenceville Highway intersects with Brockett Road to the east and Cooledge Road to the west.
- (d) LH-4 (Industry). The intent of the LH-4 district is to preserve the light industrial uses that serve as economic assets to the community, as well as those services uses that have been historically located along Lawrenceville Highway.

Summary:

The draft code includes provisions for use regulations, supplemental use regulations, dimensional requirements, site design, building form and design, adaptive reuse projects, redevelopment thresholds, incentives within the Lawrenceville Highway

Districts, Streets and streetscapes, parking, landscaping, outdoor lighting, and administrative variations.

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF TUCKER, GEORGIA, FOR THE PURPOSE OF AMENDING ARTICLE 3 OF THE CITY OF TUCKER CODE CHAPTER 46 ZONING TO ADD LANGUAGE TO SECTION 46-951 AND TO ADD DIVISION 5 - LAWRENCEVILLE HIGHWAY ZONING DISTRICTS.

WHEREAS, The Mayor and City Council desires to promote the public health, safety, morals 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 encourage economic development activities; 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, notice to the public regarding said amendment has been duly published in The Champion, the Official News Organ of Tucker; and

WHEREAS, a Public Meeting was held by the Mayor and City Council of Tucker on August 14, 2023 and September 11, 2023; and

WHEREAS, The Mayor and City Council is the governing authority for the City of Tucker, and;

WHEREAS, the Mayor and City Council wish to revise Article 3, Sec. 46-951 to add subsection c which shall state “where special district regulations do not address specific standards, the remainder of the zoning ordinance shall apply” as shown in Exhibit A, and;

WHEREAS, the Mayor and City Council wish to revise Article 3 to add Division 5 – Lawrenceville Highway Zoning Districts, as shown in Exhibit A, and;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on September 11, 2023 hereby ordains and approves the amendment of Chapter 46 Article 3 as shown in Exhibit A, which is attached to this ordinance.

So effective this 11th day of September 2023.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL

Sec. 46-951. Special districts generally.

- (a) Special districts are zoning district classifications other than those established in article II of this chapter that are intended to apply to specific areas of the city in accordance with the Comprehensive Plan and other officially adopted city plans.
- (b) If special district regulations conflict with other regulations contained in this chapter, the special district regulations shall prevail.
- (c) Where special district regulations do not address specific standards, the remainder of the zoning ordinance shall apply.

ARTICLE III. – SPECIAL AND OVERLAY DISTRICT REGULATIONS

DIVISION 5 – LAWRENCEVILLE HIGHWAY ZONING DISTRICTS

Sec. 46-1083. – Lawrenceville Highway zoning districts established.

- (a) The following "Lawrenceville Highway Zoning Districts" are established:
 - (1) LH-1 (Lawrenceville Highway Residential)
 - (2) LH-2 (Lawrenceville Highway Neighborhood)
 - (3) LH-3 (Lawrenceville Highway Core)
 - (4) LH-4 (Lawrenceville Highway Industry)
- (b) References in this zoning ordinance to "Lawrenceville Highway Zoning Districts or "LH" districts are references to these districts.

Sec. 46-1084. – Purpose and intent.

- (a) The intents of all LH districts are:
 - (1) To encourage the development of appropriately scaled commercial and service uses along the Lawrenceville Highway corridor;
 - (2) To offer a variety of housing types and promote mixed-income residential opportunities;
 - (3) To provide a variety of innovative uses that create destinations along the Lawrenceville Highway corridor, while maintaining access to the existing service industries;
 - (4) To promote building and site design that improves the community's usage of the corridor, with a focus on improving the pedestrian experience;
 - (5) To improve the aesthetics and pedestrian experience of the corridor through streetscape standards and landscape screening;
 - (6) To ensure a compatible relationship between building placement, building mass and scale, and street;
 - (7) To implement the policies and objectives of the Comprehensive Plan, the Zoning Ordinance, and other official policies and plans within the LH districts.
- (b) *LH-1 (Lawrenceville Highway Residential)*. The intent of the LH-1 district is to preserve existing residential character while allowing a wider variety of housing types for new development.
- (c) *LH-2 (Lawrenceville Highway Neighborhood)*. The intent of the LH-2 district is to create a human-scale built environment that includes a variety of housing types, including cottage homes, townhomes, two-family developments and three-family developments. This tier also permits neighborhood-scale commercial uses that serve the existing and future residents. In this tier, consideration should be given to those more intense uses and how they interact with the existing single-family homes.

- (d) *LH-3 (Lawrenceville Highway Core)*. The intent of the LH-3 district is to allow high density housing options and innovative uses that may be compatible with adaptive reuse. Mixed use development is encouraged where Lawrenceville Highway intersects with Brockett Road to the east and Cooledge Road to the west.
- (e) *LH-4 (Industry)*. The intent of the LH-4 district is to preserve the light industrial uses that serve as economic assets to the community, as well as those services uses that have been historically located along Lawrenceville Highway.

Sec. 46-1085. – Definitions.

Coworking Space. A facilitated environment which contains desks or other workspaces and is used by a recognized membership who share the site in order to interact and collaborate with each other as part of a community. Coworking spaces may host classes or networking events which are open either to the public or to current and prospective members.

Makers Space. A building that supports the development of products and works of art as well as space for hobbyists and inventors. Makers Space can include a workshop with woodworking tools, hand tools, glass studio, large format prints, design studio space, training, exhibition, performance and practice spaces, and similar areas and uses wholly within the building.

Sec. 46-1086. – Use of graphics.

Illustrations, photos, and graphics are included in this division to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustrations, photos, or graphics, the text governs.

Sec. 46-1087. – Use regulations.

Table 3.16 indicates the permitted uses within LH districts.

- (a) The uses listed in [Table 3.16](#) 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 LH district. [Table 3.16](#) 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.
- (b) Multiple uses are allowed in a single building and on a single site.
- (c) Any use not listed in [Table 3.16](#) 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 LH district other

than as provided in this section may file an appeal before the zoning board of appeals as provided in article VII.

- (d) 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 3.16: Lawrenceville Highway District Allowed Uses					
Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
AGRICULTURAL					
Agriculture and Forestry					
Commercial greenhouse or plant nursery				P	✓
Temporary or portable sawmill					
Urban, community garden, up to 5 ac.	SA	SA			✓
Urban, community garden, over 5 ac.	SA	SA			✓
Animal Oriented Agriculture					
Dairy					
Keeping of livestock	Pa [1]	Pa [1]			✓
Keeping of poultry/pigeons	Pa [1]	Pa [1]			✓
Livestock sales pavilion					
Riding academies or stables					
RESIDENTIAL					
Dwellings					
Dwelling, cottage home	P	P			✓
Dwelling, mobile home					
Dwelling, multi-family (24 units per acre or less)			P		
Dwelling, multi-family (over 24 units per acre)			SP		
Dwelling, multi-family (supportive living)			P		✓
Dwelling, townhouse	P	P	P		✓
High-rise apartment					
Dwelling, single-family (attached)	P	P			
Dwelling, single-family (detached)	P	P			
Dwelling, three-family		P			
Dwelling, two-family	P	P			
Dwelling, single-family, accessory (guesthouse, in-law suite)	Pa	Pa			✓
Home occupation, no customer contact	P	P	P		✓
Home occupation, with customer contact	SP	SP	SP		✓
Live/work unit		P [5]	P [5]		✓
Mobile home park					
Accessory uses or structures	Pa	Pa	Pa	Pa	✓
Housing and Lodging					
Bed and breakfast					
Boarding/rooming house					
Convents or monasteries		SP	SP		✓
Dormitory					

Table 3.16: Lawrenceville Highway District Allowed Uses

Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
Extended stay hotel					
Fraternity house or sorority house					
Hotel/motel			P	P	
Nursing care facility or hospice			P		
Personal care home, community, 7 or more persons			SP		✓
Personal care home, group, 4-6 persons	SP	SP			✓
Child caring institution, group, 4-6	SP	SP			✓
Child caring institution, community, 7 or more			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	P	
Coliseum or stadium/not associated with church or school			P	P	✓
Funeral home, mortuary			SP		
Golf course or clubhouse, public or private					
Government facilities	P	P	P	P	
Hospital					
Library or museum	P	P	P	P	
Cultural facilities		SP	SP	SP	
Recreation club	SP	SP	SP	SP	✓
Neighborhood or subdivision clubhouse or amenities	Pa	Pa	Pa	P	✓
Places of worship	SP	SP	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	
Private educational services, home occupation	Pa	Pa	Pa		✓
Private kindergarten, elementary, middle or high schools	SP	SP	SP		✓
Vocational schools			P	P	✓
Specialized schools		P	P		✓
COMMERCIAL					
Automobile, boat and trailer sales and service					
Automobile or truck rental or leasing facilities					
Automobile brokerage					
Auto recovery, storage					

Table 3.16: Lawrenceville Highway District Allowed Uses

Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
Automobile repair or maintenance, minor				P[7]	✓
Automobile repair, major				P[7]	✓
Automobile sales or truck sales				P[7]	✓
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	P		
Building or construction office		P	P	P	✓
Building, landscape, heavy construction contractor office (material, equipment, storage)			SP	P	✓
Coworking Space		P	P	P	
Engineering or architecture office		P	P	P	
Finance office or banking		P	P		
General business office		P	P		
Insurance office		P	P		
Legal office		P	P		
Medical office		P	P		
Real estate office		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		✓
Outdoor recreation (pickleball, miniature golf, batting cages, tennis, go-cart, and other outdoor activities)			P	P	
Special events facility			P		
Theaters with live performance, assembly or concert halls, or similar entertainment within an enclosed building			P		
Retail					
Alcohol outlet, retail sales, primary or accessory (excludes wine retailer)					

Table 3.16: Lawrenceville Highway District Allowed Uses

Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
Retail, 5,000 sf or less		P	P	P	
Retail, over 5,000 sf			P		
Apparel or accessories store		P	P		
Art gallery		P	P		
Book, greeting card, or stationery store		P	P		
Camera or photography		P	P		
CBD Shop					
Computer or computer software store		P	P		
Convenience store (see related uses e.g., alcohol outlet, fuel pumps accessory)					
Drive-through facilities (other than restaurants)		SP	SP	SP	✓
Farm or garden supply store		P	P	P	
Farmer's market, permanent		SP	P	P	
Farmer's market, temporary/seasonal		SA	SA	SA	✓
Florist		P	P		
Fortune telling					
Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet)		P	P	P	
Fuel dealers, manufacturers or wholesalers					
Fuel pumps, accessory		SP	SP	SP	✓
Gold buying, precious metals					
Grocery stores (see alcohol outlet)			P	P	
Hardware store or other building materials store			P	P	
Hobby, toy or game store		P	P		
Jewelry store		P	P		
Music or music equipment store (retail)		P	P		
News dealer or news store		P	P		
Office supplies and equipment store		P	P		
Outdoor display (not including seating)				P	✓
Pawn shop, title loan					
Pet supply store		P	P		
Pharmacy or drug store (see alcohol outlet)		P	P		
Radio, television or consumer electronics store		P	P		
Retail warehouses/wholesales providing sales of merchandise with no outdoor storage				P	
Shopping Center			P		
Sporting goods or bicycle sale		P	P		
Tattoo establishment and piercing studio					
Thrift, secondhand, antique store		P	P		
Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage				P	✓
Vape shop					
Wine retailer (< 5,000 sq. ft.)		P	P		

Table 3.16: Lawrenceville Highway District Allowed Uses

Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
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	P	
Catering establishments			P	P	
Food Truck Park			SP [6]	SP [6]	
Outdoor seating		P	P	P	✓
Restaurants (non-drive-thru)		P	P	P	
Restaurants with a drive-thru configuration			SP	SP	✓
Hookah/vapor bar or lounge					
Transportation and Storage					
Parking, commercial lot		Pa	Pa	Pa	✓
Parking, commercial garage			Pa	Pa	
Taxi, ambulance or limousine service, dispatching or storage					
Taxi, ambulance, limousine dispatch office only (no vehicle parking)					
Taxi stand					
Transit shelter					
Services					
Adult day care center - 7 or more persons			SP		✓
Adult day care facility - up to 6 persons		SP	SP		✓
Animal care specialist		P	P	P	
Animal hospitals, veterinary clinic		P	P	P	✓
Animal shelter/rescue center (4 or more)				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 center (in a place of worship)	P	P	P	P	✓
Child day care facility - up to 6 persons	SP	SP			✓
Coin laundry					
Pet daycare			P	P	✓
Pet grooming		P	P	P	✓

Table 3.16: Lawrenceville Highway District Allowed Uses					
Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
Dry cleaning agencies, pressing establishments, or laundry pick-up stations			SP	P	
Fitness center		P [2]	P	P	
Health spa		SP	SP		✓
Kennel, breeding or boarding					✓
Kennel, commercial					✓
Kennel, noncommercial					
Massage establishment		SP	SP		✓
Mini-warehouse					
Multi-warehouse					
Outdoor storage, commercial				P	✓
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	P	
Publishing or printing establishments		P	P	P	
Quick copy printing store			P	P	
Services, Medical and Health					
Health services clinic		P	P	P	
Home healthcare service		P	P	P	
Kidney dialysis center			P	P	
Medical or dental laboratories				P	
Services, Repair					
Furniture upholstery or repair; home appliance repair or service				P	
Personal service, repair (watch, shoes, jewelry)		P	P	P	
Service area, outdoor				SP	
INDUSTRIAL					
Alcohol Manufacturing (brewery)		P	P	P	
Alcohol Manufacturing (distilled spirits)		P	P	P	
All other industrial uses not listed					
Farm Winery		P	P	P	
Industrial, light				P	
Makers Space			P	P	
COMMUNICATION — UTILITY					
Amateur radio service or antenna	SP	SP	P	P	✓
Electric transformer station, gas regulator station or telephone exchange					
Radio or television broadcasting studio			P	P	
Radio or television broadcasting transmission facility			P	P	
Satellite television antennae	P	P	P	P	✓
WIRELESS TELECOMMUNICATION (cell tower)					

Table 3.16: Lawrenceville Highway District Allowed Uses					
Use	Lawrenceville Highway District				See Art. IV, Div. 2
	LH-1	LH-2	LH-3	LH-4	
Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential)			SP [4]	SP [4]	✓
Wireless Telecommunications (small cell structures)	P	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	SA	✓
COWs (declared emergency)	P	P	P	P	✓
Attached wireless telecommunication facility		P	P	P	✓
Monopole or attached facility in utility company's easements or rights-of-way					

Table 3.16 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] 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.
- [4] 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.
- [5] See [Sec. 46-1088\(a\)](#) for supplemental regulations.
- [6] See [Sec. 46-1091\(k\)](#) for building form standards.

Sec. 46-1088. – Supplemental Use Regulations.

(a) Food truck park

- (1) Food truck pads and associated facilities may be constructed with alternatives to asphalt and cement as approved by staff if the applicant demonstrates that the site will meet acceptable stormwater management practices and will not accumulate mud or debris on public right-of-way.
- (2) Food truck parks must provide connections to electric utility services.
- (3) Food truck parks must provide restroom facilities that are connected to water and sewer utility services in accordance with this chapter and the State of Georgia.
- (4) Food truck parks must provide one handwashing station, meeting any applicable state standards, per two food trucks or food truck pads.

- (5) Food trucks operating within a food truck park must not operate a generator at the site, except when necessary in the case of an emergency.
- (6) Food truck parks must provide central solid waste disposal areas and recycling facilities, in accordance with applicable standards. Where applicable, food truck parks must have grease interceptors in accordance with applicable regulations.
- (7) Alcoholic beverages. Food truck parks may include the sale or consumption of alcoholic beverages on premises if a license is obtained in accordance with Chapter 4 of this Code of Ordinances.
- (8) Accessory activity areas. Site plan must clearly designate all areas that will be used as accessory activity areas. The operation of such areas must comply with all applicable regulations, such as noise regulations.
- (9) Designated agent. Each food truck park must have, and register with the city, a designated agent or team with management responsibility and authority to address and resolve issues of permitting, code compliance, operations, and site maintenance.

Sec. 46-1089. – Dimensional requirements.

Table 3.17: Lawrenceville Highway District Dimensional Requirements				
Element	Lawrenceville Highway District			
	LH-1	LH-2	LH-3	LH-4
Overall Site Requirements				
Dwelling units per acre:	Controlled by lot size	Controlled by lot size and use regulations	Controlled by lot size and use regulations	Controlled by lot size and use regulations
Open space: (development with more than 10% of floor area as residential):	20% min.	20% min.	10% min.	15% min.
Individual Lot Dimensions by use				
Non-Residential, Multi-Family, or Mixed-Use				
Lot area:	N/A	5,000 sq. ft. min.	5,000 sq. ft. min.	30,000 sq. ft. min.
Lot width:	N/A	50 ft. min.	50 ft. min.	100 ft. min
Lot coverage:	N/A	80% max.	90% max.	85% max.
Townhouse dwellings				
Lot area:	1,000 sq. ft. min.	1,000 sq. ft. min.	1,000 sq. ft. min.	N/A
Unit width:	20 ft. min.	20 ft. min.	20 ft. min.	N/A
Lot coverage:	80% max.	80% max.	80% max.	N/A
Cottage Homes [1]				
Lot area (total):	8,000 sq. ft. min	8,000 sq. ft. min	N/A	N/A
Lot area (each unit)	2,000 sq. ft. min	2,000 sq. ft. min	N/A	N/A
Lot width:	N/A	N/A	N/A	N/A
Lot coverage:	See Sec. 46-1090(e)		N/A	N/A
Three-Family dwellings				
Lot area:	N/A	10,000 sq. ft. min.	N/A	N/A
Lot width:	N/A	90 ft. min.	N/A	N/A

Lot coverage:	N/A	80% max	N/A	N/A
Two-Family dwellings				
Lot area:	9,000 sq. ft. min.	7,000 sq. ft. min.	N/A	N/A
Lot width:	70 ft. min.	60 ft. min	N/A	N/A
Lot coverage:	80% max.	80% max.	N/A	N/A
Other residential uses				
Lot area:	8,000 sq. ft. min.	8,000 sq. ft. min.	8,000 sq. ft. min.	N/A
Lot width:	50 ft. min. (alley), 60 ft. min. (no alley)	50 ft. min. (alley), 60 ft. min. (no alley)	50 ft. min. (alley), 60 ft. min. (no alley)	N/A
Lot coverage:	80% max.	80% max.	80% max.	N/A
Setbacks				
Non-Residential, Multi-Family, or Mixed-Use				
Front	N/A	10 ft. min. / 20 ft. max.	10 ft. min. / 20 ft. max.	10 ft. min. / 30 ft. max.
Side:	N/A	10 ft.	10 ft.	10 ft.
Rear:	N/A	10 ft.	10 ft.	20 ft.
Townhouse dwellings				
Front	0' min. / 10 ft. max	0' min. / 10 ft. max	0' min. / 10 ft. max	N/A
Side:	N/A	N/A	N/A	N/A
Rear:	20 ft.	20 ft.	20 ft.	N/A
Cottage Homes				
Front	15 ft. on public street; 10 ft. on internal street	15 ft. on public street; 10 ft. on internal street	N/A	N/A
Side:	5 ft.	5 ft.	N/A	N/A
Rear:	10 ft.	10 ft.	N/A	N/A
Single-Family, Two-Family and Three-Family dwellings:				
Front	20 ft.	20 ft.	N/A	N/A
Side:	10 ft.	10 ft.	N/A	N/A
Rear:	20 ft.	20 ft.	N/A	N/A
Accessory structures in all districts must meet standards in Article IV of this chapter.				
Building Height				
Main Building Height by Use (min. / max.)				
Single-family, two-family, three-family, townhome:	No min. / 3 stories or 35 ft. max., whichever is less	No min. / 3 stories or 35 ft. max., whichever is less	No min. / 3 stories or 35 ft. max., whichever is less	N/A
Cottage Homes	20 ft.	20 ft.	N/A	N/A
Light Industrial Use	N/A	N/A	N/A	3 stories or 35 ft. max, whichever is less, unless otherwise permitted by fire department and rescue services
Other uses	No min. / 2 stories or 28 ft. max., whichever is less	No min. / 4 stories or 42 ft. max., whichever is less	No min. / 4 stories or 42 ft. max., whichever is less	3 stories or 35 ft. max, whichever is less, unless

				otherwise permitted by fire department and rescue services
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Table 3.17 Notes:

[1] Cottage homes shall be developed in clusters of a minimum of four (4) homes to a maximum of fifteen (15) homes.

Sec. 46-1090. – Site Design

(a) Vehicle access.

- (1) All parking must be accessed via shared alleys, private drives, or inter-parcel access.
- (2) Shared driveways between two parcels along a common property line is encouraged and may be required by the community development director during the land disturbance permitting process. In such cases, each property owner must grant an access easement to facilitate the movement of motor vehicles and pedestrians across the site. The property owner's obligation to comply with this requirement will be limited to the extent of legal permission to construct and utilize the required shared drive can be obtained from the neighboring property owner.
- (3) Driveway curb cuts may not exceed 24 feet in width. When a curb cut includes a median or one left turn lane, neither are included in the curb cut width.
- (4) Driveway curb cut intersection radii may not exceed 30 feet.
- (5) Driveways must be perpendicular to the adjacent street.
- (6) Circular driveways are not allowed.

(b) Inter-parcel access.

- (1) Applicability. The following applies to all new development, except the construction of detached single-family dwellings, two-family dwelling, and three-family dwellings when no street is proposed.
- (2) Inter-parcel access required. Inter-parcel access for vehicles between abutting and nearby properties must be provided so that access to individual properties can be achieved between abutting and nearby developments as an alternative to forcing all movement onto public roads, unless the community development director during the land disturbance permitting process determines that it is unnecessary to provide inter-parcel access due to the unlikelihood of patrons traveling among abutting or nearby sites, or due to inability after reasonable efforts by the property owner to obtain legal permission.

(c) Pedestrian access.

- (1) All commercial tenant spaces adjacent to a public street must provide a direct entrance from it, except when a common lobby is provided for office uses. The required pedestrian entrance must provide ingress and egress and must be operable to residents or customers at all times.

- (2) Additional entrances off another street, pedestrian areas, open space, or parking areas are allowed.
 - (3) Pathways with a minimum width of five feet must be provided from a public sidewalk to all required pedestrian entrances, parking areas, parking decks, and required open spaces.
 - (4) Required pathways must be continuous (except at vehicular crossings) and constructed of concrete, brick, stone, or similar durable paver materials.
- (d) Fences.
- (1) Barbed wire, razor wire, uncoated chain link fence and similar elements are not allowed.
 - (2) Chain link fence shall not be permitted in the front or side corner yard.
 - (3) Maximum height for fences not used to screen outdoor storage shall be 6 feet.
 - (4) Parcels in the LH-4 District shall be exempt from (2) and (3) above, and may include a maximum fence height of 10 feet if the following requirements are met:
 - a. The fence shall be setback 10 feet from the right of way;
 - b. The 10-foot setback shall be planted with a mix of evergreen shrubs and groundcover plant material;
 - c. Plant materials required or installed in the required 10-foot setback must be selected from the species and minimum sizes shown in Table 3.24.
- (e) Open space.
- (1) Open space required. New developments must incorporate open space as required in [Table 3.17](#) and this section.
 - (2) Open spaces used to satisfy open space requirements in LH-1, LH-2, and LH-3 districts must conform to enhanced open spaces types established in article V, division 5 of this chapter. Enhanced open space must also be directly accessible from a public sidewalk.
 - (3) Amenity open space. Amenity open space may also be used to satisfy open space requirements in LH-1 and LH-2 districts. Amenity open space is small covered or uncovered, unenclosed, outdoor areas. It is limited to at-grade hardscape or landscape areas improved for pedestrian enjoyment; rooftop decks; patios and porches; balconies; or yards, lawns, and gardens. Interior or exterior stairs or elevators may be used to provide access to rooftop decks, patios, porches, and balconies.
 - (4) Maintenance. Covenants or other legal arrangements must specify ownership of all open spaces, the method of and responsibility for maintenance, taxes, and insurance, compulsory membership and assessment provisions, and must be incorporated into legal instruments sufficient to ensure that the open space requirements of this section are maintained.
 - (5) Landscaping. In addition to the requirements referenced in subsection (e) above, required open spaces must include at least one tree within or directly adjacent to the open space for every 2,000 square feet of open space. The tree must conform to [Sec. 46-1097\(d\)](#).

- (6) Additional requirements for cottage homes:
- a. A minimum of four hundred (400) square feet per unit of common open space is required.
 - b. At least fifty (50) percent of the cottage units shall abut the common open space.
 - c. All of the cottage units shall be located within one-hundred (100) feet walking distance of the common open space.
 - d. The common open space shall have cottages abutting at least two (2) sides.
 - e. At least fifty (50) percent of the cottage home units shall be oriented around the common open space with their covered porches or main entry facing the common open space.
- (f) Neighborhood Compatibility
- (1) LH districts must conform to the transitional buffer requirements in section 46-1338 except as follows:
- a. There is no transitional buffer requirement between lots that are both within a LH district.
 - b. When a LH district abuts an RE, RLG, R-100, R-85, R-75, or R-60 district, a buffer class C (50 ft.) is required.
 - c. When multi-family development within the LH Districts abuts parcels zoned for detached single-family homes, a buffer of (75 ft.) is required.

Sec. 46-1091. – Building form and design.

- (a) *Applicability.* The following applies to all buildings, including parking decks, and is in addition to those building form and configuration standards contained in article V, division 7 of this chapter.
- (b) *Exterior materials.* Exterior walls of permitted buildings shall consist of a mix of the following materials based on building type. An x indicates a permitted material.

Table 3.18: Permitted Building Materials			
Material	Structure Type		
	Single-, Two-, or Three-family Residential Structure	Multi-Family, Mixed-Use, and Commercial Structures	Industrial Structure
Brick masonry	x	x	x
Stone masonry	x	x	x
Cement wood or fiber cement siding, including simulated half-timbering	x	x	x
Hard coat stucco	x	x	x
Textured face concrete block			x
Architectural concrete		x	x
Precast concrete or tilt-up panel			x
Glass	x	x	x

Translucent wall panels		x	x
Non-reflective glass		x	x
Glass block		x	x
Terra cotta	x	x	x
Wood	x	x	x
Cast stone	x	x	x
Cast-iron		x	x
Decorative architectural grade steel			x
Brick veneers		x	x
Stone veneers		x	x
Glass curtain walls		x	x
Architectural ceramic panels		x	x
Metal exterior wall cladding panels (not corrugated metal)			x
Materials not listed that may meet the intent of the zoning district when reviewed and approved by the community development director pursuant to Sec. 46-1099 .	x	x	x

- (1) Exterior finish materials may only be combined horizontally, with the visually heavier material below the lighter material. This does not apply to architectural accents.
 - (2) Awnings must be designed to last for at least five years, per manufacturer's warranty.
 - (3) Reflective roof finishes are allowed only on roofs sloped less than one inch per foot.
- (c) *Active ground floor uses.* The ground floor of all new buildings, including parking decks visible from the right-of-way, adjacent to a public street or as required around open spaces, must incorporate the following uses along a minimum of 50% of the street-facing or open space-facing facade:
- (1) The space must contain retail, restaurant/food establishment, service uses, or a residential use for a minimum depth of 10 feet, except at breaks for pedestrian pathways or parking access.
 - a. The minimum floor to ceiling height is 10 feet for all uses.
 - b. The space's primary use may not be storage, vehicular uses, equipment, coolers, computer servers, or computer/telecommunication exchanges.
 - c. The space must conform to fenestration requirements of this section.
 - d. Resident-only fitness centers and leasing centers shall not be used to meet this requirement.
- (d) *Fenestration.*
- (1) *Glass standards.* Glass used to satisfy fenestration requirements must be unpainted, must have a transparency (visible light transmission) higher than 70 percent, and must have an external reflectance of less than 15 percent. Transparency and external light reflectance must be established using the manufacturer's specifications.

- (2) *Measurement.* Fenestration is measured from the top of the finished floor to the top of the finished floor above. When there is no floor above, fenestration is measured from the top of the finished floor to the top of the wall plate.
- (3) *Minimum standards.* All new buildings must conform to the following along public streets or as required along certain open spaces:
 - a. Ground floors of all new commercial and mixed-use buildings must provide fenestration for at least 50% of the exterior façade area.
 - b. Ground floors of all new industrial buildings must provide fenestration for at least 30% of the exterior façade area.
 - c. All other floors for all new buildings must provide a minimum 20% fenestration.
- (e) Building massing.
 - (1) Street-facing building facades greater than 150 feet in length must be modulated with breaks in wall surfaces, materials, and rooflines at intervals not to exceed 150 feet (measured parallel to the street).
 - (2) Provide no more than 30 linear feet without fenestration or architectural detailing.
 - (3) Stories on street-facing building facades must be delineated up to and including the third story through the use of windows, belt courses, cornice lines, or similar architectural detailing.
 - (4) Parking decks visible from the right of way must comply with subsections (c) and (d) above, except that the number of stories used will be based on standard building story heights, not the actual height of the parking levels.
- (f) Roofs.
 - (1) Roof-mounted mechanical equipment and appurtenances must be located or screened so that they are not visible from the ground level.
 - (2) Screening must be of a material and design that match the building.
 - (3) Rooftop appurtenances must be painted to be compatible with the colors of the roof.
 - (4) Roofing materials for sloped roofs must have a minimum 25-year roof life (per manufacturer's warranty) and must have no visible roll roofing.
- (g) Additional two-family dwelling standards.
 - (1) Garages
 - a. A two-car garage is required for each unit within a two-family dwelling.
 - b. Garages shall be setback at least 3 feet from the façade of the dwelling unit.

- (2) Front porches or stoops shall extend at least 5 feet past the front façade of the dwelling unit.
 - (3) At least one unit shall have a main entrance with a door visible from the street. The main entrance of each unit shall include a covered porch. If one or more units have an entrance facing the street, the entrances of the adjacent units shall be offset from each other by a minimum of four feet.
 - (4) Two-family dwelling units shall not be shall not be arranged in two rows oriented perpendicular to the street with ground floor or second floor unit entry doors facing towards an unenclosed passageway or hallway:
 - c. If dwelling units are arranged in two rows oriented perpendicular to the street, the primary pedestrian entrances of the ground floor units closest to the street must face the street; and
 - d. Any passageway giving access to units located behind the street-facing ground floor units shall be fully enclosed.
- (h) Additional residential standards.
- (1) Mechanical equipment and other building service items may not be located between the public sidewalk and building facade.
 - (2) Individual townhouse units and ground floor multi-family units adjacent to a public street must provide a direct pedestrian entrance from it. They must also provide a front porch or a front stoop facing said street.
 - (3) Access to parking is only allowed via an alley or private drive located behind the units. Garages may not face a public street.
 - (4) Residential structures shall meet the architectural variability standards in Sec. 46-1417.
- (i) Additional cottage home standards.
- (1) Cottage homes shall be developed in clusters of a minimum of four (4) homes to a maximum of fifteen (15) homes.
 - (2) Cottage homes shall have a covered porch at least sixty (60) square feet in size.
 - (3) Cottage homes shall meet the dimensional requirements in [Sec. 46-1089](#).
 - (4) All units must be detached dwelling units. Units shall not be vertically mixed.
- (j) Additional commercial standards.
- (1) Dumpsters must be screened on three sides by a wall at least eight feet high and on the fourth side by a solid gate at least eight feet high.
 - (2) New and improved buildings in the LH-3 district that are within ¼ mile of the City's proposed trail system shall incorporate entrances, windows, outdoor seating, and other active design features so they are accessible from the trail.

(k) Additional auto use standards.

- (1) Auto repair and sales shall not be permitted on less than 3 acres.
- (2) New buildings used for auto repair shall utilize those exterior materials permitted for industrial buildings in [Table 3.18](#) and shall meet the fenestration requirements in [Sec. 46-1091\(d\)](#).
- (3) Service bays for automobile service and repair uses must be designed so that the openings of service bays are not visible from a public street.
- (4) Parking shall be located behind the building and will not be permitted between the building and the public street.
- (5) Designated and separate customer and employee parking spaces shall be provided and clearly marked.
- (6) Cars for sale on site shall not be parked in the designated customer and employee parking spaces and shall be subject to parking lot screening requirements in this section.
- (7) No parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any products, vehicles, or equipment.
- (8) All parking areas shall be landscaped in the following manner:
 - a. A minimum of ten percent of the total lot area of the parking lot shall be landscaped.
 - b. A continuous hedge or berm, not to exceed three feet in height, shall be required between surface parking and an adjacent public street right-of-way.
 - c. Landscape islands.
 1. A minimum of one island per eight parking spaces shall be provided.
 2. One tree shall be planted in each island. Newly planted trees in parking area landscaping shall be a minimum of two-inch caliper as measured at a height of six inches above ground level, shall be a minimum of ten feet in height at planting, shall have a 30-foot minimum mature height, and shall be drought tolerant. Trees shall be planted at least 30 inches from any barrier curb, so as to prevent injury to trees from vehicle bumpers. A minimum of 75 percent of the trees planted pursuant to these requirements shall be deciduous hardwood shade trees.
 3. Ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, ivy, liriop, pine bark mulch, or other similar landscaping material.
 4. All landscaped areas shall be properly maintained in accordance with landscape plans approved as part of the land-disturbance permit. In the event that a tree or any plant material dies, it shall be replaced within 12 months so as to meet all requirements of this section and to allow for planting in the appropriate planting season.

(l) Additional multi-family standards.

- (1) When a multi-family development abuts Lawrenceville Highway, the buildings fronting Lawrenceville Highway must provide a mix of uses on the first floor. This can include office, commercial, or retail uses as permitted in Table 3.16.

Sec. 46-1092. – Adaptive Reuse Projects.

(a) Applicability

- (1) To be considered an adaptive reuse project the proposed use shall be retail, restaurant/food establishment, services, co-working space, or makers space and a minimum of seventy-five (75) percent of the floor area of the entire project shall not consist of new construction or additions. This percentage does not preclude interior alterations within those areas. The retention of a minimum of seventy-five (75) percent of each previously existing exterior wall is required to include a structure in the previously existing floor area calculation.
- (2) Exclusions. Any buildings or structures not considered to be a part of a defined adaptive reuse project are required to comply with all the regulations of this zoning ordinance and may not follow the flexible provisions of adaptive reuse projects.
- (3) In no case shall any existing characteristics be made more deficient than previously existed prior to the redevelopment.

(b) Dimensional Standards

- (1) Applicable standards. The following outlines the regulations that apply to adaptive reuse projects as stated or amended herein.
- (2) The following dimensions of Table 3.19 states the required dimensions for adaptive reuse projects, as opposed to those identified by the zoning district:

Table 3.19: Dimensional Standards	
Regulation	Requirement for Adaptive Reuse
Maximum lot coverage ¹	95%
Minimum Open Space	None
Max building height ¹	40'
Lot size (min. in square feet)	None
Lot width (min. in feet)	None
Front yard	None
Side yard (min. in feet)	None
Rear yard (min. in feet)	None

¹Or not to exceed existing.

(c) Site and Building Standards

- (1) All developments shall comply with the streetscape requirements as outlined in [Sec. 46-1095](#), with the exception of the landscape strip if the applicant is able to verify that there is not enough room between the existing building and back of curb to accommodate it. To the extent practicable, walkways shall be constructed on the site to tie building entrances and/or pedestrian pathway systems into existing or proposed public sidewalk systems.

- (2) Any new construction or additions shall comply with the building material requirements of [Table 3.18](#). Unaltered portions of the existing structure are exempt from finish material requirements.
- (3) The applicable use regulations of [Sec. 1087](#) and [Table 3.16](#) shall apply.
- (4) Parking shall comply with [Sec. 46-1096](#).
 - a. If the minimum number of parking spaces required in [Sec 46-1096](#) is more than feasible for the site, the existing quantity of spaces shall be maintained, but the configuration may be altered as necessary.
- (5) All new fences shall comply with [Sec. 46-1090\(d\)](#).
- (6) All new dumpsters shall comply with [Sec. 46-1091\(i\)](#).
- (7) All new lighting shall comply with [Sec. 46-1098](#).
- (8) Procedures. Adaptive reuse projects shall comply with Article 7 of this chapter.
- (9) Signs. All signs shall conform to Chapter 34.
- (10) Adaptive reuse projects are exempt from [Sec. 46-1093](#).

Sec. 46-1093. – Redevelopment Thresholds.

- (a) Applicability.
 - (1) Renovations, alterations, adaptations, additions, restorations, repairs, or other redevelopment of a structure, or portions of a structure or site, that was in existence prior to the adoption of this Zoning Ordinance, shall be subject to the requirements of this Section.
 - (2) Redevelopment projects require compliance with standards for new construction in the Zoning Ordinance when the value of the proposed improvements exceeds the thresholds in [Table 3.20](#).
 - (3) Notwithstanding the above applicability, the added cost to construct the improvements shall not exceed 125 percent of the fair market value of the structure immediately prior to such redevelopment, or \$20,000.00, whichever is greater. In such cases, the provisions requiring completion shall be applied in the order listed in the table below until the 125 percent cap is met.
- (b) Exemptions.
 - (1) This section shall not apply to single-family attached or detached uses or projects developed in accordance with the standards in [Sec. 46-1092](#).
- (c) Method of Calculating Thresholds.
 - (1) Fair market value shall be determined by the DeKalb County Tax Assessor.
 - (2) The phrase "construction costs" in this Section shall encompass all costs, including phased project costs, for a cumulative period of 36 months after the date of the initial redevelopment application.

- (3) Construction costs shall be calculated based on uses listed in the ICC Building Valuation Data Construction Cost Table (latest published edition).

Table 3.20: Redevelopment Thresholds			
Applicable Standard	Construction costs as a percentage of the fair market value of the structure		
	40%-60%	61%-80%	80% or more
Dumpster Screening – Sec. 46-1091(i)	•	•	•
Fence Materials and Height - Sec. 46-1090(d)	•	•	•
Streetscape Standards – Sec. 46-1095	•	•	•
Fenestration Requirements – Sec. 46-1091(d)	-	•	•
Off-Street surface parking requirements (design and landscaping) – Sec. 46-1096	-	•	•
Compliance with Chapter 34: Signs	•	•	•
Remainder of standards in Chapter 46	-	-	•

Sec. 46-1094. – Incentives within the Lawrenceville Highway Districts

- (a) Applicability.

- (1) When an applicant agrees to design a site and/or building in a manner that enhances and promotes the overall vision for the Lawrenceville Highway, the City shall grant an incentive based upon Table 3.21.

Table 3.21: Incentives in the Lawrenceville Highway Districts	
Item Provided	Incentive
Direct connection to the identified city trail system	Residential: Up to ½ additional units per acre. Commercial: Up to 5% reduction in parking requirement.
Adaptive Reuse of existing building or structure in accordance with Sec. 46-1092 .	Waived City of Tucker permit fees.
Compliance with Redevelopment Thresholds	Waived City of Tucker permit fees.
Shared driveway access on commercial development resulting in the closure of a curb cut(s)	10% increase in lot coverage allowance, not to exceed 95%
Assemblages of at least two parcels in the LH-2 and LH-3 districts	Residential: Up to 10% increase in permitted units per acre. Commercial: Up to 10% increase in square footage allowance

Sec. 46-1095. – Streets and streetscapes.

(a) Street design.

- (1) *Applicability.* Public and private streets must comply with the requirements for public streets found in chapter 22, except as specifically otherwise provided for in this section.
- (2) *Travel lane width exception.* Eleven feet wide travel lanes are required on all streets except alleys and designated truck routes. Further lane reductions may also be approved by the community development director when the proposed width conforms to the published best practices of American Association of State Highway Transportation Officials (AASHTO) and/or the Institute of Transportation Engineers (ITE).
- (3) *Street dimensions.* All new or extended public or private streets must conform to Table 3.22, new street dimensions, unless modified by the community development director for the following public purposes:
 - a. To provide alternative bicycle facilities;
 - b. To provide wider streetscapes;
 - c. To provide turn lanes;
 - d. To provide traffic calming or pedestrian safety measures;
 - e. To serve truck routes; or
 - f. To increase lane width and right-of-way along state and federal facilities.
- (4) Medians.
 - a. Medians must be designed to provide for safe and convenient crossings for persons with disabilities and must provide refuge for pedestrians at crosswalks.
 - b. Medians must be landscaped with trees, shrubbery, landscaping, and other approved groundcover materials.

Table 3.22: New Street Dimensions					
Street Type	Number of Lanes	Median Width	Bicycle Facilities	Parallel Parking	Right-of-Way Width
Minor Collector	2	n/a	n/a	Required both sides, 9 ft.	80 ft.
Local Street	2	n/a	n/a	Required both sides, 9 ft.	60 ft.

- (5) Bicycle facilities must be incorporated in conformance with any plan that has been adopted by the City of Tucker or the Georgia Department of Transportation.

- (6) Bicycle lanes may not be less than five feet in width. Gutters may not be counted towards this requirement.
 - (7) Multi-use trails may not be less than ten feet in width.
 - (8) Bicycle facilities must incorporate signs and pavement markings as required by the latest version of the Manual for Uniform Traffic Control Devices.
- (b) Streetscape elements and dimensions.
- (1) Streetscapes must be installed on existing and new streets as required by section 46-1336 and in conformance with [Table 3.23](#), except when subsection (2) or subsection (3) below applies.
 - (2) A multi-use trail may be required instead of a sidewalk along any new or existing street when the location has been identified as a multi-use trail in any plan that has been adopted by the City of Tucker or the Georgia Department of Transportation.
 - (3) Streetscapes must match any ongoing or completed publicly-funded streetscape designs.

Table 3.23 Streetscape Dimensions for Existing and New Streets					
Street Type	Streetscape Zone			Landscape strip Elements	
	Total Width	Landscape Strip	Sidewalks	Street Light Spacing (max.)	Street Tree Spacing (max.)
Lawrenceville Highway	12 ft.	6 ft. [1]	6 ft.	80 ft. [2]	30 ft.
Brockett Road	12 ft.	6 ft.	6 ft.	80 ft. [2]	30 ft.
Cooledge Road	12 ft.	6 ft.	6 ft.	80 ft. [2]	30 ft.
All other existing and new streets	12 ft.	6 ft.	6 ft.	80 ft. [2]	30 ft.

Table 3.23 Notes:

- [1] Benches, trash receptacles, and bike racks may only be placed within the landscape strip.
 - [2] This requirement applies to street light poles only. Additional pedestrian light requirements apply.
- (c) Landscape strip design.
- (1) Street trees are required and must conform to [Sec. 46-1097\(d\)](#).
 - (2) Street trees must have a minimum planting area of four feet by eight feet. Tree-planting areas must provide porous drainage systems that allow for drainage of the planting area.
 - (3) Street tree species or planting patterns of varied species must be consistent for an entire block length. Similarly-shaped species may be changed on an individual block face due to: limited supply or concerns regarding disease or the health of existing and proposed trees with approval from the community development director and consultation from a certified arborist.
- (d) Sidewalk design.

- (1) Sidewalk paving materials must continue across driveways at the same prevailing grade and cross slope as the adjacent sidewalk area.
 - (2) Sidewalks must be broom finished poured-in-place concrete or pavers of brick, concrete, or stone. Other materials may be allowed by approval of the community development director.
 - (3) When new sidewalks abut existing sidewalks the new sidewalks must provide safe facilitation of pedestrian traffic flow to adjacent sidewalks. Any development that disturbs existing sidewalks on the adjacent property must replace disturbed areas to their pre-disturbance state and condition.
- (e) *Underground utilities required.* All utilities, except major electric transmission lines and sub-stations, must be buried unless the community development director determines that underground utilities are not feasible due to existing physical conditions, such as conflicting underground structures or utilities, shallow rock, high water table, or other similar geologic or hydrologic conditions.
- (f) Street lights and street furnishings
- (1) Street furnishings are required and must be reviewed and approved by the community development director during the permitting process.

Sec. 46-1096. – Parking.

- (a) Off-street parking ratios.
- (1) LH districts must conform to the off-street parking requirements contained in table 6.2, off street parking ratios unless otherwise reduced in this section.
 - (2) Cottage home developments that exceed six hundred fifty (650) square feet on main floor shall provide two (2) spaces. Units that do not exceed six hundred fifty (650) square feet on main floor: one and one half (1.5) spaces.
- (b) Shared parking.
- (1) Shared parking is encouraged in accordance with section 46-1453 or in accordance with subsections (2) through (5) below.
 - (2) Instead of using the steps identified in section 46-1453, applicants may submit a shared parking analysis using the Urban Land Institute (ULI) Shared Parking Model (latest edition).
 - (3) The study must be provided in a form established by the community development director.
 - (4) Reductions in the total number of required spaces for shared parking are not allowed unless the community development director determines a reduction is appropriate on a case-by-case basis through the use of the ULI Shared Parking Model (latest edition).
 - (5) Uses using shared parking must have either mutually exclusive or compatibly overlapping normal hours of operation. The community development director will determine whether hours of operation are compatibly overlapping on a case-by-case basis through the use of the ULI Shared Parking Model (latest edition).

(c) Off-street parking location and design.

- (1) Location. All off-street parking including surface lots and parking decks may only be located behind a street-fronting building, except as allowed for in this section.
- (2) Parking deck screening. Parking decks visible from the right-of-way must provide screening on all stories by providing a facade designed to resemble an office or residential building and conform to the applicable building form and design requirements of [Sec. 46-1091](#).
- (3) Landscape strips. The following applies around parking lots and parking decks:
 - a. Adjacent to a street. A six-foot-wide landscape strip with a minimum of ten shrubs per 35 linear feet, excluding driveway openings, is required. Shrubs must be 18 inches tall at the time of planting.
 - b. Not adjacent to a public or private street. A three-foot-wide landscape strip is required along all sides of the facility that are not adjacent to public or private streets.
 - c. Exceptions. Landscape strips are not required at driveways, walkways, pedestrian plazas, or where adjacent active ground floor uses are provided.
 - d. Planting. The landscape strips may contain no less than one understory or over story tree per 50 linear feet, ten shrubs per 50 linear feet, and a minimum of 90 percent living groundcover, sod, and/or annual or perennial color in the landscape strip surface area. Landscaping must conform to [Sec. 46-1097](#).

Sec. 46-1097. – Landscaping.

- (a) Plans required. Landscape planting and irrigation plans must be prepared by a landscape architect registered in the State of Georgia for each application for a land disturbance permit.
- (b) Maintenance. When a private property owner provides landscaping within the public right-of-way and the landscaping dies within one year of installation, it must be replaced within the earliest possible planting season.
- (c) Ground cover.
 - (1) Ground cover must be provided around all trees to protect tree roots, to prevent erosion, and as otherwise required by this division.
 - (2) Ground cover must consist of evergreen shrubs or groundcover plant material mulched with pine bark mulch or other similar landscaping material.
 - (3) Evergreen groundcover planting must be used on all slopes steeper than 2.5:1 to aid in erosion control.
- (d) Trees.
 - (1) Newly planted trees must be a minimum of 3.5 inches in caliper measured 12 inches above the ground, must be at least 16 feet high, and must have a minimum mature height of 30 feet.

- (2) No tree may be planted closer than 30 inches from the street or sidewalk, and no closer than eight feet from a fire hydrant, signpost, street light, utility pole, or similar structure.
- (e) *Irrigation.* All newly planted landscape areas (including parking lot islands) shall be irrigated by a fully automatic, commercial, underground irrigation system in accordance with the following:
- (1) All irrigation systems must be provided with backflow preventers approved by DeKalb County. Such devices shall be located or screened so that they are not visible or accessible to the public from adjacent sidewalks, streets, alleys, or parking lots.
 - (2) Spray heads must be located to provide 100 percent overlapping coverage. Overspray onto sidewalks and other paved areas should be minimized.
 - (3) Control boxes and panels shall be located inside buildings or where they will not be visible or subject to vandalism.
 - (4) All main and lateral lines shall be commercial grade PVC pipe.
 - (5) Irrigation systems are not required in undisturbed buffers or in areas where they would disrupt existing native vegetation.
- (f) *Plant materials.* Plant materials required or installed along or adjacent to streets must be selected from the species and minimum sizes shown in Table 3.24. Plant materials provided in other locations may be any species appropriate to the design and location, subject to the approval of the plan reviewer, provided that all trees must be native or adaptive to Tucker.

Table 3.24 Plant List	
Name	Min. Size.
Shade & Street Trees	
Willow Oak	3—3½" cal.
"Red Sunset" Maple	3—3½" cal.
Sugar Maple	3—3½" cal.
Pin Oak	3—3½" cal.
Overcup Oak	3—3½" cal.
Nuttall Oak	3—3½" cal.
Japanese Zelkova	3—3½" cal.
Lacebark Elm	3—3½" cal.
Smaller Deciduous Trees	
River Birch	10—12' ht.
Japanese Maple	6—8' ht.
Star Magnolia	6—8' ht.
Saucer Magnolia	6—8' ht.
Trident Maple	10—12' ht.
Golden Raintree	10—12' ht.
Evergreen Trees	
Tree Form Burford Holly	6—7' ht.
Virginia Pine	5—6' ht.
"East Palatka" Holly	10—12' ht.
Nellie R. Stevens Holly	10—12' ht.

Emily Brunner Holly	10—12' ht.
Loblolly Pine	5—6' ht.
Southern Magnolia	10—12' ht.
Tree Form Ligustrum	8—10' ht.
Foster Holly	10—12' ht.
Savannah Holly	10—12' ht.
Tree Form Wax Myrtle	6—7' ht.
Cryptomeria	10—12' ht.
Flowering Trees	
Yoshino Cherry	7—8' ht.
Redbud	7—8' ht.
Flowering Dogwood	7—8' ht.
Shrubs	
"Sherwood" Abelia	3 gal.
Parson's Juniper	1 gal.
"Carissa" Holly	3 gal.
"Helleri" Holly	3 gal.
Needlepoint Holly	3 gal.
Dwarf Burford Holly	3 gal.
Azalea (Kurume, Indica)	3 gal.
Wax Myrtle	3 gal.
Dwarf Japanese Acuba	3 gal.
Bearberry Cotoneaster	1 gal.
Dwarf Chinese Holly	3 gal.
Compacta Holly	3 gal.
"Anthony Waterer" Spirea	1 gal.
Parsoni Juniper	1 gal.
Zabel Laurel	3 gal.
Bearberry Cotoneaster	1 gal.
Dwarf Chinese Holly	3 gal.
Compacta Holly	3 gal.
"Anthony Waterer" Spirea	1 gal.
Dwarf Pfitzer Juniper	1 gal.
Parsoni Juniper	1 gal.
Zabel Laurel	3 gal.
Otto Luyken Laurel	3 gal.
Redleaf Japanese Barberry	1 gal.
Flowering Quince	3 gal.
Border Forsythia	3 gal.
Burning Bush	3 gal.
Ground Cover	
"Big Blue" Liriope	4" pot
Pachysandra	4" pot
Variegated Liriope	4" pot
Sargent's Juniper	1 gal.
Blue Rug Juniper	1 gal.
Carolina Jessamine	1 gal.
"Big Blue" Liriope	4" pot

Perennial/Seasonal Color	
Pennisetum	1 gal.

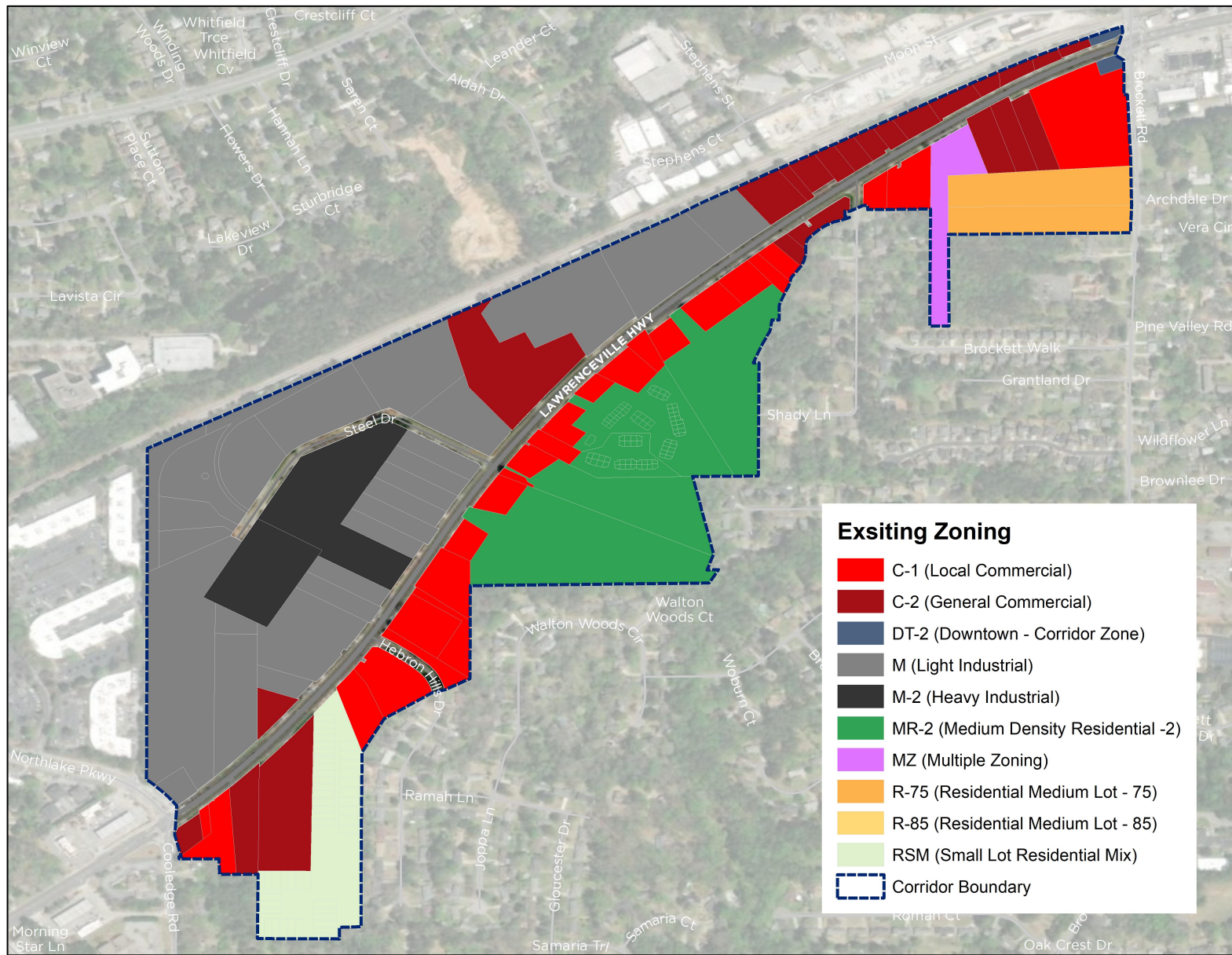
Sec. 46-1098. – Outdoor lighting.

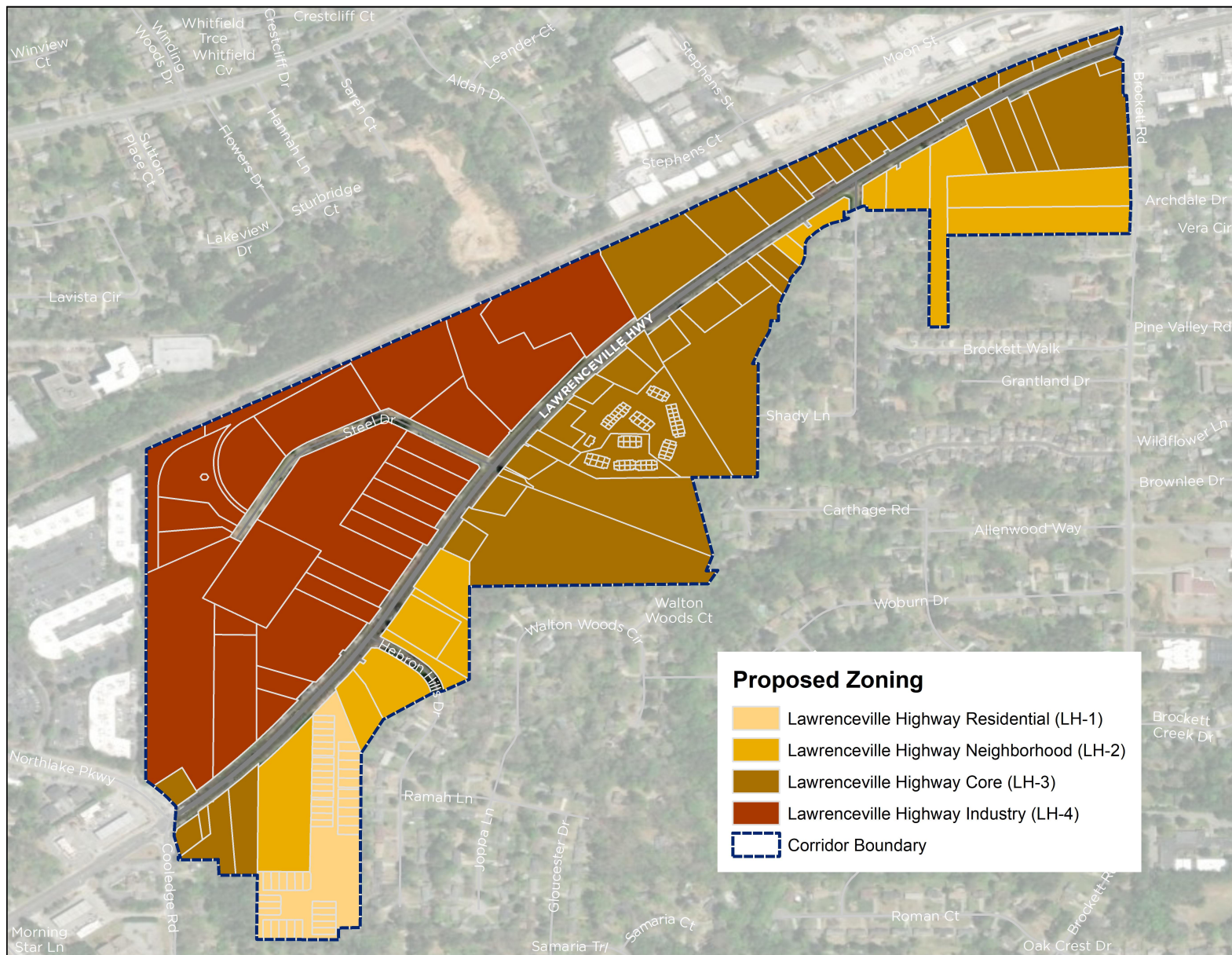
- (a) Linear lighting around windows, rooflines, doors, signs, or building structures is prohibited. Linear lighting may include, but is not limited to, neon tubes, rope lighting, and other similar lighting devices. Linear lighting devices that form letters or words are considered signs.
- (b) Light levels of 1.5 foot-candles are recommended for parking lots and four foot-candles at vehicular drives, entrances, and pedestrian and bicycle facilities.
- (c) Ground-mounted floodlights must be screened with planting or other means so that the light source is not visible.
- (d) The use of flashing, rotating, or oscillating lighting is not allowed in any manner that may be visible from the exterior of buildings.
- (e) After-hours security lighting must equal at least 25 percent of the normal parking lot lighting level for security.
- (f) Outdoor lighting must be of a type identified in Table 3.25, which includes specific products. The use of specific products is not required when similar designs from other manufacturers are available.

Table 3.25 Outdoor Lighting Specifications		
Location	Type	Specification
Pedestrian Light	Fixture type	King K445 — Sol Lux Acorn Luminaire
	Pole type	Hapco Granville Decorative Fluted Pole
Parking Lot Light	Fixture type	Gardco — CA-22-2-3-250MH-VTBS-BLA
	Pole type	Gardco — RA5-25H-TBS-TBS-BLA

Sec. 46-1099. – Administrative variations.

- (a) The community development director may grant administrative variances in addition to those allowed by article VII, division 6 of this chapter when the variance is used to permit a practice that is not consistent with a specific provision but is justified by the division's purpose and intent.
- (b) Administrative variances may not be used to:
 - (1) Provide relief from minimum or maximum parking ratios;
 - (2) Increase the allowed site density;
 - (3) Increase the allowed number of stories in a building; or
 - (4) Permit a use that is not allowed by district regulations.







MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Community Development Director
CC: Tami Hanlin, City Manager
Date: August 7, 2023
RE: Memo for SLUP-23-0002, 2553 Sandpiper Drive

Description for on the Agenda:

First Read and Public Hearing of an Ordinance for Special Land Use Permit SLUP-23-0002 for a personal care home at 2553 Sandpiper Drive for Georgia Clay Properties, LLC c/o Battle Law.

Issue:

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 2553 Sandpiper Drive to allow for a Personal Care Home (4-6) in the R-75 (Residential Medium Lot-75) zoning district. The subject property is 0.45 acres and is developed with a one-story, approximately 2,512 square foot single-family detached home.

Recommendation:

Staff recommends approval with conditions.

Planning Commission recommends approval with conditions.

Background:

Avondale Homes at Tucker, a Personal Care Home for six people, operated at 2553 Sandpiper Drive prior to Georgia Clay Properties purchasing the property in December of 2021. Upon purchasing the property, Georgia Clay Properties began renovating the home without a building permit. The renovations included converting the garage into an additional den space for the Personal Care Home. The City of Tucker was notified about the construction work by Dekalb Fire Department after a fire incident on the property. An Occupational Tax Certificate was issued on March 22, 2022, prior to the construction and expansion of the Personal Care Home.

Summary:

The proposed use complies with the criteria (standards and factors) for special land use permits provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The proposed use also complies with the Supplemental Regulations for Personal Care Homes (Section 46-1185).

AN ORDINANCE FOR SPECIAL LAND USE PERMIT (SLUP-23-0002) IN LAND LOT 256 OF THE 18th DISTRICT TO ALLOW FOR A PERSONAL CARE HOME, GROUP (4-6) AT 2553 SANDPIPER DRIVE FOR GEORGIA CLAY PROPERTIES, LLC.

WHEREAS: Notice to the public regarding said special land use permit 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 August 14, 2023 and September 11, 2023;

WHEREAS: The Mayor and City Council is the governing authority for the City of Tucker;

WHEREAS: The Mayor and City Council have reviewed the special land use request based on the criteria found in Section 46-1594 of the Zoning Ordinance of the City of Tucker;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on September 11, 2023 hereby ordains and approves Special Land Use Permit (SLUP-23-0002) to allow for a Personal Care Home, Group (4-6), subject to the following conditions.

1. The proposed use shall be limited to a group personal care home with no more than six residents, per the floor plan stamped "Received City of Tucker 06/13/2023."
2. The Personal Care Home shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility.
3. The applicant shall submit a Life Safety Plan to the DeKalb County Fire Rescue Department, within 30 days of approval.
4. The Personal Care Home shall maintain an exterior appearance of a single-family home.
5. There shall be no signs located on the subject property advertising the Personal Care Home.
6. The Special Land Use Permit shall not be transferred to another business without City Council approval.

7. The carport/gazebo structure and the portion of the driveway and fence that encroach upon the adjacent property to the south shall be removed within 90 days of approval.

SO EFFECTIVE this 11th day of September 2023.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL



Land Use Petition: SLUP-23-0002

Date of Staff Recommendation Preparation: July 10, 2023

Planning Commission: July 20, 2023

Mayor and City Council, 1st Read: August 14, 2023

Mayor and City Council, 2nd Read: September 11, 2023

PROJECT LOCATION:	2553 Sandpiper Drive
APPLICATION NUMBER	SLUP-23-0002
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 256
ACREAGE:	0.45 acres
EXISTING ZONING	R-75 (Residential Medium Lot-75)
EXISTING LAND USE	Residential
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	N/A
APPLICANT:	Georgia Clay Properties, LLC
OWNER:	Georgia Clay Properties, LLC
PROPOSED DEVELOPMENT:	Special Land Use Permit to allow a Personal Care Home, Group (4-6) in a residential zoning district.
STAFF RECOMMENDATION:	APPROVAL WITH CONDITIONS of SLUP-23-0002

BACKGROUND

The applicant is requesting a Special Land Use Permit (SLUP) for the property located at 2553 Sandpiper Drive to allow for a Personal Care Home (4-6) in the R-75 (Residential Medium Lot-75) zoning district. The subject property is 0.45 acres and is developed with a one-story, approximately 2,512 square foot single-family detached home.

PROJECT DATA

Personal Care Homes, Group (4 – 6 residents) are only allowed in single-family residential zoning districts (RE, R-100, R-85, R-75, R-60) with the approval of a Special Land Use Permit to ensure the operation of the facility will not be a detriment to the character of the residential neighborhood. The proposed Personal Care Home will be located in an existing single-family house and must maintain the exterior appearance of a residential structure. Pursuant to Section 46-1185, supplemental regulations for Personal Care Homes, the proposed business shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility. Each group personal care home must provide at least four parking spaces within a driveway, garage, or carport. No group personal care homes may be operated within 1,000 feet of any other group personal care home.

The City of Tucker defines a Personal care home as *"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."*



Avondale Homes at Tucker, a Personal Care Home for six people, operated at 2553 Sandpiper Drive prior to Georgia Clay Properties purchasing the property in December of 2021. Upon purchasing the property, Georgia Clay Properties began renovating the home without a building permit. The renovations included converting the garage into an additional den space for the Personal Care Home. The City of Tucker was notified about the construction work by Dekalb Fire Department after a fire incident on the property. An Occupational Tax Certificate was issued on March 22, 2022, prior to the construction and expansion of the Personal Care Home.

Per Article 8, Section 46-1743, any expansion of a legal non-conforming use requires a Special Land Use Permit. The conversion of the garage into a den for the Personal Care Home constitutes an increase of a legal non-conforming use. Therefore, Georgia Clay Properties has submitted this Special Land Use Permit application to allow the property to operate as a six-person Personal Care Home.

Georgia Clay Properties is allowed to operate a Personal Care Home for three unrelated individuals under the definition of family while they are pursuing the SLUP. The City of Tucker definition of family includes the following: “not more than three persons not so related who live together in a dwelling unit.”

The interior floor plan submitted by the applicant shows six (6) bedrooms, four (4) bathrooms, a living room, a library, a kitchen, a dining area, and a proposed den area. The footprint of the building will not be expanded. The site plan indicates that a portion of the driveway and a carport/gazebo structure go over the property line and encroach on the adjacent property to the south. The staff recommend that these encroachments be removed.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located in the R-75 (Residential Medium Lot–75) zoning district. The purpose and intent section of the R-75 zoning district (Sec. 46-224) indicates in part that the R-75 zoning district is established to “ensure that the uses and structures authorized in the R-75 (Residential Medium Lot–75) district are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood”. The R-75 zoning district allows for “Personal Care Homes” only as a special use (Table 4.1. Use Table). The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case basis to ensure compatibility with the surrounding area including maintaining the residential character of the immediate area. In the City of Tucker all Personal Care Homes, Group (4-6) require a SLUP and must meet supplemental use regulations in Article 4.

CHARACTER AREA (Future Land Use)

The subject parcel is designated Suburban on the Future Land Use Map. The proposal is consistent with the intent of the Suburban Character Area strategy to be compatible with the existing housing stock. The operators of the Personal Care Home will be required to maintain an exterior appearance of a single-family home and there will be no signs located on the subject property advertising the Personal Care Home.

The introduction of a Personal Care Home is not entirely consistent with the intent of the Suburban Character Area and does not align with preservation of existing neighborhoods because it creates a use that could institutionalize the area. The Zoning Ordinance does, however, define institutionalization as two (2) Personal Care Homes within 1,000 feet of each other. The closest existing Personal Care Home is approximately 7,400 feet away, on Smithsonia Drive.

PUBLIC PARTICIPATION PLAN REPORT

The applicant hosted a public participation meeting on May 5, 2023. The meeting was held at 2553 Sandpiper Drive (the proposed site) and lasted approximately one hour. Prior to the meeting, the applicant mailed a letter and the proposed floor plan to all property owners within five hundred feet of the subject parcel. Zero people were in attendance.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning	Existing Land Use
Adjacent: North	R-75 (Residential Medium Lot-75)	Single-family home
Adjacent: East	OI (Office-Institutional)	Undeveloped land
Adjacent: South	M (Light Industrial)	North Royal Atlanta Business Park
Adjacent: West (Across Sandpiper Drive)	R-75 (Residential Medium Lot-75)	Single-family home

SLUP-23-0002

CRITERIA TO BE APPLIED

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 the staff's findings which are independent of the applicant's responses to these criteria.

- 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 subject site is approximately 0.45 acres. The lot is developed with a 2,512-square foot, single-family detached dwelling within a neighborhood of similarly sized homes. The applicant is not proposing to expand the existing structure's footprint but is proposing to increase the square footage of the use by expanding into the garage area. The site appears to be adequate for the proposed use, including the existing dwelling and driveway parking spaces. The staff is concerned that once the driveway, fence, and carport/gazebo encroachments are removed that there will be adequate parking for four vehicles.

- 2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.**

The proposed Personal Care Home is in a traditional suburban neighborhood, at the end of a street of single-family homes in the Windwood East subdivision. Care should be taken to protect the established neighborhood from impacts of institutionalization such as: future Personal Care

homes, daycares, and home-based businesses with customer contact. Staff did not find any home occupations with customer contact on Sandpiper Drive.

3. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The applicant does not propose any alterations to the property which would require review of stormwater management.

Water and sewer. The Department of Watershed Management stated that “Because this has been operating as a care home throughout the Consent Decree, no additional sewer flow is anticipated. If the number of beds in the care home increases, sewer capacity approval will be required.”

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.

The traffic impacts as a result of the proposed Personal Care Home will be minimal. The applicant has stated that the “existing Driveway shall include adequate parking spaces for any regular function for a single-family dwelling.” The applicant obtained a Trip Generation Report conducted by Lumin8, which stated that the use will generate sixteen daily trips. The applicant stated that while 10-12 employees are needed to operate the facility, there will be a maximum of two team members on shift at a time. Shift changes will occur at 7 AM and 7 PM.

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.

It is not expected that land uses along Sandpiper Drive would be adversely affected by the character of the vehicles or volume of traffic generated by the proposed personal care home.

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 property is located at the end of the street in a cul-de-sac, which would provide adequate access for emergency services vehicles.

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.

The proposed development will not generate excessive noise, nor will it emit smoke, odor, dust, or vibration.

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 property is surrounded by single family detached homes zoned R-75 (Residential Medium Lot – 75) on the north and west, undeveloped land on the east, and an industrial park on the south side. According to the applicant, all services will be conducted inside the residence. Shift teams will include up to two team members at a time and shift change will occur at 7 AM and 7 PM.

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 hours of operation will be 24 hours a day, but the occupants do not drive, so there should be minimal traffic impacts compared to a typical single-family home. The applicant has stated the residence shall appear as a single-family home and no signage will be erected for the PCH. If developed in accordance with the staff recommended conditions, nearby single-family homes should not be adversely affected by the manner or operation of the PCH. The driveway, fence, and carport/gazebo that currently encroach upon the adjacent property to the south should be removed/demolished.

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.

If approved by SLUP, the proposed Personal Care Home will comply with the R-75 zoning district. The proposed PCH will be located in an existing single-family house and must maintain the exterior appearance as a residential structure.

11. 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. While the proposed use is consistent with the intent of the adopted comprehensive plan, care must be taken to preserve existing neighborhoods from institutionalization. The introduction of a Personal Care Home does not align with preservation of existing neighborhoods because it could institutionalize the area. However, the zoning ordinance defines institutionalization as two Personal Care Homes within 1,000 feet of each other. In research of other nearby and surrounding Personal Care Homes, it appears as though the closest Personal Care Home is located approximately 7,400 feet away.

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.

There are no transitional buffer requirements on this parcel.

13. Whether or not there is adequate provision of refuse and service areas.

The proposed use should not generate excessive refuse and the applicant has stated that they will be serviced by DeKalb County sanitation.

14. Whether the length of time for which the special land use permit is granted should be limited in duration.

Staff does not recommend any limits on the length of time of the special land use permit (if granted), so long as the applicant obtains all local licensing requirements including compliance with approved conditions and annual occupational tax certificate renewal. However, the SLUP shall not be permitted to transfer to another entity.

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.

The applicant proposes no changes to the existing building size, mass, and scale. It is compatible with the surrounding residential homes.

16. 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 property.

17. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.

The proposed Personal Care Home is in compliance with the supplemental regulations for Personal Care Homes (4-6) [Sec. 46-1185. - Personal care homes].

Sec. 46-1185. - Personal care homes

(a) Personal care homes, general requirements.

- (1) Each personal care home must obtain all licenses and/or permits required by the state in order to operate. Each personal care home licensed and/or permitted by the state must display its state-issued licenses and/or permits in plain view, visible from the front doorway of the facility.**

The applicant's letter of intent states that they will comply with all required state and county requirements for Personal Care Homes and that the state-issued license and/or permit will be displayed at the front doorway once obtained.

- (2) No personal care home may display any exterior signage that violates the sign ordinance in chapter 34 or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.**

The applicant has stated they will be in compliance and are not proposing to post any signs.

- (3) Personal care homes may apply for an FHA Accommodation Variance as provided for in section 46-1639.**

The application has not stated that there is a need for an FHA Accommodation Variance.

(b) Personal care home, group (four to six persons).

- (1) Two copies of complete architectural plans for the subject group personal care home, signed or sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.**

The applicant intends to convert an existing garage into an additional living room space for the property. Additionally, the applicant is aware that two copies of architectural plans signed and sealed by a registered architect will be required prior to issuance of a building permit or occupational tax certificate.

- (2) Each group personal care home must provide at least four parking spaces within a driveway, garage or carport and must comply with any applicable requirements in article VI of this chapter.**

The applicant states that at least four (4) parking spaces will be provided on the property, and that the driveway alone is spacious enough to provide the parking required.

- (4) In order to prevent institutionalizing residential neighborhoods, no group personal care home located in the "...R-75..." zoning district may be operated within 1,000 feet of any other group personal care home. The 1,000-foot distance requirement is measured by a straight line which is the shortest distance (i.e., "as the crow flies") between the property lines of the two tracts of land on which the group personal care homes are located.**

There is another Personal Care Home (PCH) located approximately 7,400 feet northwest of the proposed PCH at 4316 Smithsonia Drive. The State of Georgia Department of Community Health Lists Cofer Group Home, located at 4316 Smithsonia Drive, as having a licensed capacity of four.

- 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 not produce an adverse shadow effect. No changes are being proposed to the existing structure regarding increasing the footprint or height of the building.

- 19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

The supplemental regulations pertaining to Personal Care Homes (4-6) require that PCHs shall be located at a minimum of 1,000 feet from another PCH. There are no other PCHs located within 1,000 feet of the proposed location. However, there is another Personal Care Home, registered with the State of Georgia Health Department, approximately 7,400 feet from the proposed location (4316 Smithsonia Drive). This proposed use would not result in a disproportionate proliferation of uses if approved, as explicitly stated in the supplemental regulations (Section 46-1185).

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.

Suburban Character Area. The proposal is consistent with the intent of the Suburban Character Area strategy to be compatible with the existing housing stock. The house will remain compatible with the existing housing stock in terms of building height, footprint, and massing, particularly as viewed from the street. The proposed use is not entirely consistent with the intent of the Suburban Character Area by introducing an institutional-like use in an established residential neighborhood; however, with the proposed conditions to preserve the suburban character of the residential neighborhood the proposal may be consistent.

CONCLUSION

The proposed use complies with the criteria (standards and factors) for special land use permits provided in Section 46-1594 of the City of Tucker Zoning Ordinance. The proposed use also complies with the Supplemental Regulations for Personal Care Homes (Section 46-1185).

Therefore, Staff recommends **APPROVAL WITH CONDITIONS** of the requested special land use permit.

Staff Recommendation

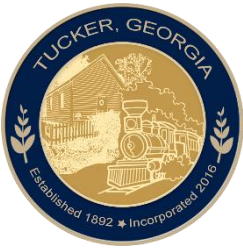
Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-23-0002**.

1. The proposed use shall be limited to a group personal care home with no more than six residents, per the floor plan stamped "Received City of Tucker 06/13/2023."
2. The Personal Care Home shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility.
3. The applicant shall submit a Life Safety Plan to the DeKalb County Fire Rescue Department, within 30 days of approval.
4. The Personal Care Home shall maintain an exterior appearance of a single-family home.
5. There shall be no signs located on the subject property advertising the Personal Care Home.
6. The Special Land Use Permit shall not be transferred to another business.
7. The carport/gazebo structure and the portion of the driveway and fence that encroach upon the adjacent property to the south shall be removed within 90 days of approval.

Planning Commission Recommendation

Based upon the findings and conclusions herein, at its July 20, 2023 public hearing, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of **SLUP-23-0002** subject to the following amended staff conditions: (additions = **bold**; deletions = ~~striketrough~~).

1. The proposed use shall be limited to a group personal care home with no more than six residents, per the floor plan stamped "Received City of Tucker 06/13/2023."
2. The Personal Care Home shall comply with all applicable state Personal Care Home requirements including obtaining all licenses and permits required by the State of Georgia and displaying its state-issued licenses and permits in plain view, visible from the front doorway of the facility.
3. The applicant shall submit a Life Safety Plan to the DeKalb County Fire Rescue Department, within 30 days of approval.
4. The Personal Care Home shall maintain an exterior appearance of a single-family home.
5. There shall be no signs located on the subject property advertising the Personal Care Home.
6. The Special Land Use Permit shall not be transferred to another business.
7. The carport/gazebo structure and the portion of the driveway and fence that encroach upon the adjacent property to the south shall be removed within 90 days of approval.



Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
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: Georgia Clay Properties, LLC. c/o Battle Law, P.C.

Address: 3562 Habersham at Northlake Rd., Building J, Suite 100

City: Tucker State: Ga Zip: 30084

Contact Name: Michele Battle

Phone: 404-601-7616 Email: mlb@battlelawpc.com

OWNER INFORMATION

Name: Georgia Clay Properties, LLC

Address: 4528 Candler Lake East

City: Atlanta State: GA Zip: 30319

Contact Name: Jeremy Le

Phone: (678) 428-1061 Email: jeremy@albertshouseinc.com

PROPERTY INFORMATION

Property Address: 2553 Sandpiper Drive

Present Zoning District(s): R-75 SF Residential Requested Zoning District(s): R-75

Present Land Use Category: Suburban Requested Land Use Category: Suburban

Land District: 18 Land Lot(s): 256 Acreage: 0.45

Proposed Development: Personal Care Home up to 6 persons.

Concurrent Variance(s): N/A

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units: 1 Dwelling Unit Size (Sq. Ft.): 2,512 Density: N/A

NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots: Total Building Sq. Ft.: Density:

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Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
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"/>
Public Participation Report	• One (1) Copy	<input type="checkbox"/>
Application, Signature Pages, Disclosure Form	• One (1) Copy each	<input type="checkbox"/>
Written Legal Description	• One (1) 8 1/2" x 11" Legal Description	<input 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 type="checkbox"/>
Building Elevations (renderings or architectural drawings to show compliance with Article 5)	• One (1) Copy	<input type="checkbox"/>
Letter of Intent	• One (1) Copy	<input type="checkbox"/>
Analysis of Standards/Criteria (See page 5)	• One (1) Copy	<input type="checkbox"/>
Environmental Site Analysis Form	• 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)	• One (1) Copy	<input type="checkbox"/>
Development of Regional Impact Review Form	• Three (3) Copies	<input type="checkbox"/>
Environmental Impact Report	• One (1) Copy	<input type="checkbox"/>
Noise Study Report	• One (1) Copy	<input type="checkbox"/>
Meeting with GDOT if impact to I-285 Eastside Express Lanes	• One (1) Copy	<input type="checkbox"/>
Other items required per the Zoning Ordinance	• One (1) Copy	<input type="checkbox"/>
LAND USE PETITION FEE SCHEDULE		
Residential Rezoning	\$500	<input type="checkbox"/>
Multifamily/Non-Residential Rezoning	\$750	<input type="checkbox"/>
Special Land Use Permit	\$400	<input checked="" 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 checked="" type="checkbox"/>

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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, Georgia Clay Properties, LLC, authorize, Battle Law, P.C.,
(Property Owner) (Applicant)

to file for SLUP at 2553 Sandpiper Drive, Tucker, Ga 30319
(RZ, CA, SLUP, M, CV) (Address)

on this date April 14, 2023
(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.



Georgia Clay Properties, LLC

05/08/2023

Signature of Property Owner

Date

Duc Le, CEO

Type or Print Name and Title



Signature of Notary Public

Date

05/08/2023



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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.



Georgia Clay Properties, LLC


05/08/2023

Signature of Applicant

Date

Duc Le, CEO

Type or Print Name and Title



Signature of Notary Public

05/08/2023

Date

Notary Seal



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PLANNING & ZONING
DEPARTMENT

ANALYSIS OF STANDARDS/CRITERIA

ZONING MAP AMENDMENT CRITERIA

Section 46-1560 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

COMPREHENSIVE PLAN MAP AMENDMENT CRITERIA

Section Sec. 46-1559 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant for evaluating applications for amendments to the comprehensive plan map and shall govern the review of all proposed amendments to the comprehensive plan map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

SPECIAL LAND USE PERMIT CRITERIA

Section 46-1594 and 46-1595 of the City of Tucker Zoning Ordinance lists specific criteria that shall be considered by the planning and zoning 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. The applicant shall write a detailed written analysis of criteria as it relates to their proposed project.

CONCURRENT VARIANCE CRITERIA

Section 46-1633 of the City of Tucker Zoning Ordinance lists specific criteria the board shall use in determining whether or not to grant a variance. The applicant shall provide a written analysis of how the request complies with this criteria, if they are requesting a concurrent variance.

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ENVIRONMENTAL SITE ANALYSIS FORM

Analyze the impact of the proposed rezoning and provide a written point-by-point response to Points 1 through 3:

1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN**. Describe the proposed project and the existing environmental conditions on the site. Describe adjacent properties. Include a site plan that depicts the proposed project. Describe how the project conforms to the Comprehensive Land Use Plan. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.
2. **ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT**. For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).
 - a. Wetlands (NOT PRESENT)
 - U. S. Fish and Wildlife Service, National Wetlands Inventory (<http://wetlands.fws.gov/downloads.htm>)
 - Georgia Geologic Survey (404-656-3214)
 - Field observation and subsequent wetlands delineation/survey if applicable
 - b. Floodplain (NOT PRESENT)
 - Federal Emergency Management Agency (<http://www.fema.org>)
 - Field observation and verification
 - c. Streams/stream buffers (NOT PRESENT)
 - Field observation and verification
 - d. Slopes exceeding 25 percent over a 10-foot rise in elevation (NOT PRESENT)
 - United States Geologic Survey Topographic Quadrangle Map
 - Field observation and verification
 - e. Vegetation (NOT PRESENT)
 - United States Department of Agriculture, Nature Resource Conservation Service
 - Field observation
 - f. Wildlife Species (including fish) (NOT PRESENT)
 - United States Fish and Wildlife Service
 - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
 - Field observation
 - g. Archeological/Historical Sites (NOT PRESENT)
 - Historic Resources Survey
 - Georgia Department of Natural Resources, Historic Preservation Division
 - Field observation and verification

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ENVIRONMENTAL SITE ANALYSIS FORM (CONTINUED)

Applicant: Georgia Clay Properties, LLC

Location: 2553 Sandpiper Drive, Tucker, Ga

3. PROJECT IMPLEMENTATION MEASURES. Describe how the project implements each of the measures listed below as applicable. Indicate specific implementation measures required to protect environmental site feature(s) that may be impacted.

a. Protection of environmentally sensitive areas, i.e., floodplain, slopes exceeding 25 percent, river corridors.

There are no records shown of existing flood plains or streams that would impact the requested use.

b. Protection of water quality;

The proposed use will not impact the water quality.

c. Minimization of negative impacts on existing infrastructure.

The proposed use will have minimum impact on the existing infrastructure.

d. Minimization of archeological/historically significant areas;

There are no records of any significant areas of historic value found on the property.

e. Minimization of negative impacts on environmentally stressed communities were 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) use.

There is no evidence of negative impacts as described above. There are no adverse conditions to the site that will be caused by the proposed use. All waste, water, and fire needs will be subject to the City/ County requirements for a home-based occupation.

f. Creation and preservation of green space and open space;

No open space of green space will be impacted by the requested use.

g. Protection of citizens from the negative impacts of noise and lighting;

The proposed use will not increase the usage of lighting or noise. The character of use for the property will remain a residential dwelling.

h. Protection of parks and recreational green space;

The proposed use will have no impact on parks and recreational use.

i. Minimization of impacts to wildlife habitats;

There is no evidence of impact to wildlife habitats.

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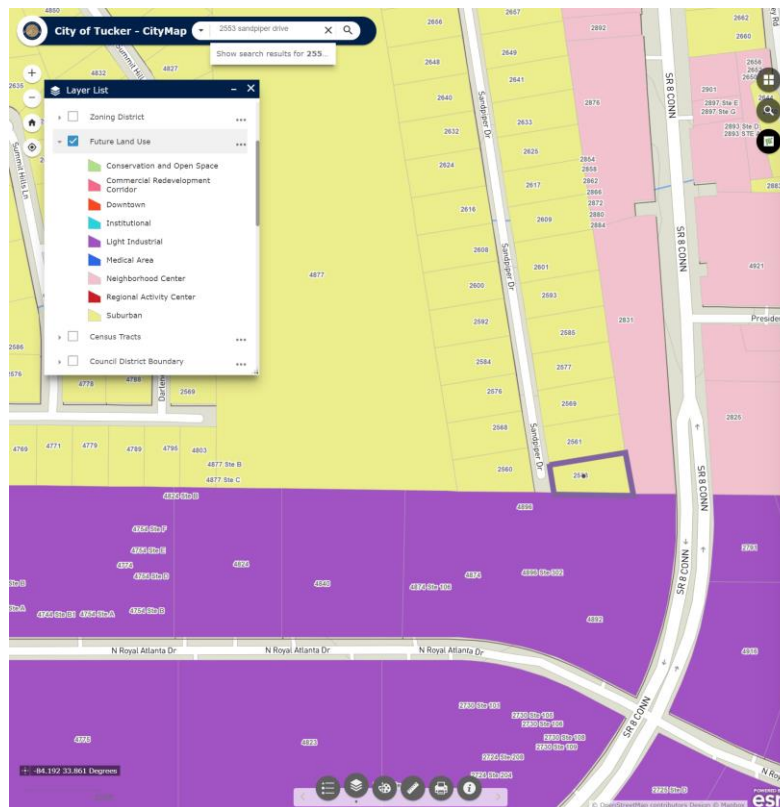
PLANNING & ZONING
DEPARTMENT

SLUP-23-0002

ESA1

The Applicant proposes to renovate an existing home into a personal care home for up to six (6) people. The Subject Property is at the end of Sandpiper Drive in an established neighborhood. No trees or other environmental assets will be affected by the renovation. Adjacent properties along Sandpiper Drive are residential. Other surrounding properties are commercial and industrial in nature.

The proposed project conforms to the Comprehensive Plan. The Subject Property has a future land use of Suburban, which is meant for residential developments. The Subject Property is zoned R-75 (residential) and the proposal does not seek to change that. Rather, the proposed project seeks to allow for a special kind of residential use that allow elderly citizens to seek care in a suburban environment. The Subject Property's future land use designation is shown in the map below. The Subject Property is outlined in purple.



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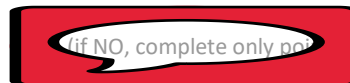
PLANNING & ZONING
DEPARTMENT

SLUP-23-0002

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);



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) Duc Le

Signature: 

Date: 05/08/2023 **06/13/2023**

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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:

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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) Michele L Battle

Signature:  Date: 5/18/2023

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PLANNING & ZONING
DEPARTMENT

SITE PLAN CHECKLIST

All items must be included on the Site Plan; separate Site Plans may be necessary to address all items

1. Key and/or legend and site location map with North arrow
2. Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning
3. Acreage of subject property
4. Location of land lot lines and identification of land lots
5. Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property
6. Proposed streets on the subject site
7. Posted speed limits on all adjoining roads
8. Current zoning of the subject site and adjoining property
9. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property
10. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvement or adjacent properties within 400 feet of the subject site based on the City's aerial photography or an acceptable substitute as approved by the Director
11. Location of proposed buildings (except single family residential lots) with total square footage
12. Layout and minimum lot size of proposed single family residential lots
13. Topography (surveyed or City) on subject site and adjacent property within 200 feet as required to assess runoff effects
14. Location of overhead and underground electrical and pipeline transmission/conveyance lines
15. Required and/or proposed setbacks
16. 100 year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps
17. Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed
18. Required and proposed parking spaces; Loading and unloading facilities
19. Lakes, streams, and waters on the state and associated buffers
20. Proposed stormwater management facilities
21. Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access
22. Availability of water system and sanitary sewer system
23. Tree lines, woodlands and open fields on subject site
24. Entrance site distance profile assuming the driver's eye at a height of 3.5 feet
25. Wetlands shown on the County's GIS maps or survey.
26. Mail kiosk location.

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LAND USE PETITION CALENDAR

*Application Deadline	Planning Commission	M&CC 1st Read	M&CC 2nd Read
12/12/2022	1/19/2023	2/13/2023	3/13/2023
1/09/2023	2/16/2023	3/13/2023	4/10/2023
2/13/2023	3/16/2023	4/10/2023	5/8/2023
3/13/2023	4/20/2023	5/8/2023	6/12/2023
4/10/2023	5/18/2023	6/12/2023	7/10/2023
5/8/2023	6/15/2023	7/10/2023	8/14/2023
6/12/2023	7/20/2023	8/14/2023	9/11/2023
7/10/2023	8/17/2023	9/11/2023	10/10/2023
8/14/2023	9/21/2023	10/10/2023	11/13/2023
9/11/2023	10/19/2023	11/13/2023	12/11/2023
10/10/2023	11/16/2023	12/11/2023	TBD
11/13/2023	12/14/2023	TBD	TBD
12/11/2023	TBD	TBD	TBD

*Incomplete applications will not be accepted.

PUBLIC PARTICIPATION PLAN AND REPORT

See separate document.

PUBLIC NOTICE REQUIREMENTS

Sec. 46-1526 details the public notice requirements for land use petitions, which include public notice sign(s), advertisement in The Champion newspaper, and written notice to everyone within 500'.

- The applicant is responsible for posting the public notice sign(s). City of Tucker Staff will order the signs(s) and provide the required timeframe for posting.
- The City of Tucker is responsible for placing the legal ad in The Champion newspaper
- The City of Tucker is responsible for mailing the written notification to surrounding property owners.

PROPERTY COMPLIANCE

All Occupational Tax payments must be paid in-full and any and all outstanding code violations on the property must be rectified prior to the public hearing.

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STATEMENT OF INTENT

and

Other Material Required by
The City of Tucker

For

A Special Land Use Permit to Allow a Personal Care Home for up to Six (6) People

Pursuant to

City of Tucker Zoning Ordinance

Of

**Georgia Clay Properties, LLC.
c/o Battle Law, P.C.**

for

**0.45+/- Acres of Land
2553 Sandpiper Drive, Atlanta, Georgia 30318
Being Parcel Number 18 256 05 026**

Submitted for Applicant by:

Michèle L. Battle, Esq.
Battle Law, P.C.
Habersham at Northlake, Building J, Suite 100
Tucker, Georgia 300384
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

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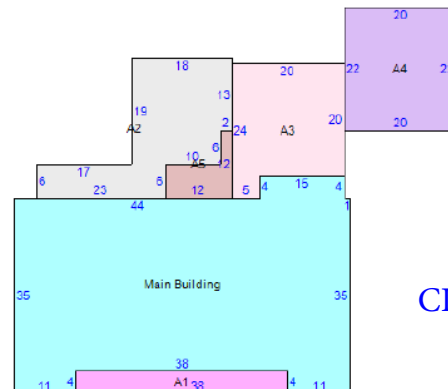
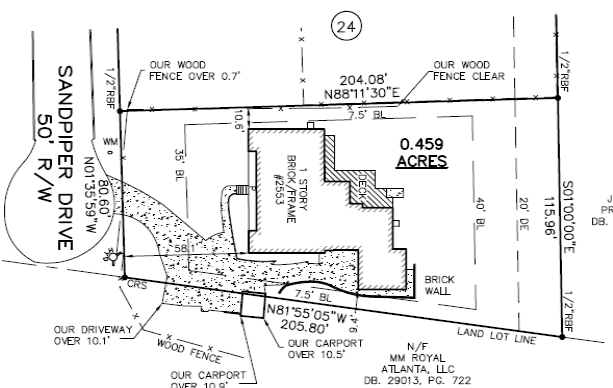


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I. LETTER OF INTENT

Georgia Clay Properties, LLC. (the “Applicant”) is requesting a special land use permit for an assisted living home for up to six (6) people within the R-75 zoning district on 0.45 +/- acres of land. The subject property is located at 2553 Sandpiper Drive, Tucker, Ga, and was built in 1973. The Subject Property has been used as a personal care home for up to six (6) people but lost its legal nonconforming status on November 24, 2022, when there was a fire that damaged part of the home. Upon applying to repair the building the City of Tucker notified the Applicant that certain repairs from the damage could not be done without complete compliance with zoning and other city department requirements. The delay in starting services and due to repairs has become a heavy financial burden and a loss of living space for those needing care. To begin operations and help partially alleviate the financial burden, the Applicant amended its 2023 business license to allow a maximum of three (3) person on site to allow construction to commence while the land use petition is pending.

Below you will find outlines of the existing floor plan and aerial views of the subject property.



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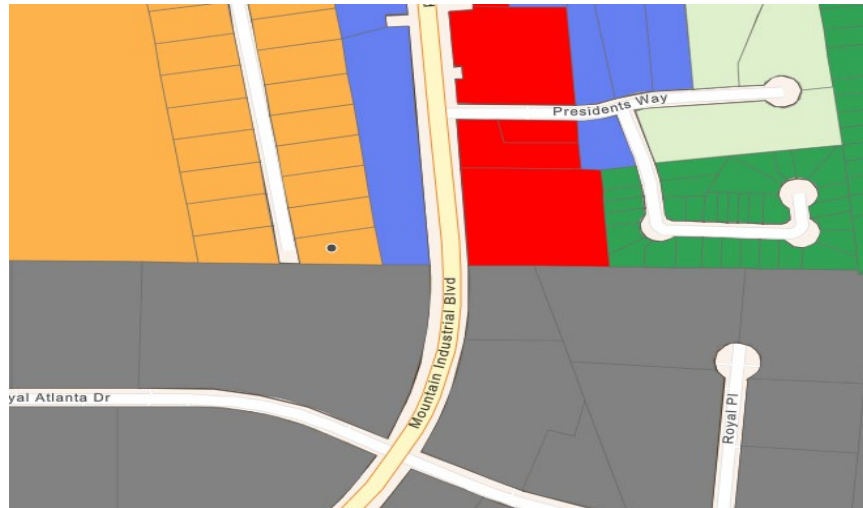
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This document is submitted as a Statement of Intent with regard to this Application, preservation of the Applicant’s constitutional rights, and an application of the criteria provided in the Steinberg Act to provide a rigorous analysis of the proposed land use application and applicable



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petitions alike. A surveyed plat and existing site plan of the Subject Property has been filed contemporaneously with the application, along with other required materials.



II. Review of Sec.46-1594 – Special Land Use Permit Criteria

The following criteria shall be considered by the Planning and Zoning 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 IV of this chapter:

- 1. Adequacy of the size of the site for the use contemplated and whether 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 proposed request is adequate given the building size will not be increased and the renovations for the property will return the dwelling back to its original state, though the proposed use will be expanded into more area of the home. There is no evidence of increased infrastructure needs or site development beyond the interior renovations.

- 2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;**

The proposed use is compatible given that the existing residential lots on Sandpiper Drive are all zoned for residential use and the proposed use is also residential in nature.

- 3. Adequacy of public services, public facilities, and utilities to serve the proposed use;**

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The proposed use has all necessary utilities required for the proposed development. The Subject Property is has access to all public services and facilities.

4. **Adequacy of the public street on which the use is proposed to be located and whether or not there insufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;**

The proposed use will not significantly impact internal traffic on the Sandpiper Drive. The existing Driveway shall include adequate parking spaces for any regular function for a single family dwelling. See the attached trip generation report for more details.

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;**

There existing land uses along Sandpiper Drive will not be adversely affected by the character of the vheicles or the volume of traffic generated by the proposed use. The attached trip generation report states that the proposed use will generate minimal traffic. The only types of vehicles that will travel to and from the home on a regular basis are passenger vehicles similar to those the surrounding property owners drive.

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;**

There is adequate ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon. The Subject Property is on Sandpiper Drive and can be accessed via Lawrenceville Highway.

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;**

There are no adverse impacts on the proposed use.

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;**

All services are conducted inside of the residence which will not cause any adverse effects to the adjacent properties. Hours of operation will not be a factor for the proposed increase and use of an assisted living home.

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;**

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All services are conducted inside of the residence and will not cause any adverse effects to the adjacent properties.

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;**

The proposed use is otherwise consistent with the requirements of the zoning classification in which the use is proposed to be located.

11. **Whether or not the proposed use is consistent with the policies of the comprehensive plan;**

The proposed use does not conflict with the existing zoning which is in compliance of the cities Comprehensive Plan.

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;**

The proposed use has natural coverage near the rear of the property. There are commercial land uses adjacent to the subject property.

13. **Whether or not there is adequate provision of refuse and service areas;**

Regular trash services are currently provided for the community and property.

14. **Whether the length of time for which the special land use permit is granted should be limited in duration;**

The length of time for which the special land use permit is granted should not be limited in duration. The special land use permit will allow the Applicant to conduct a personal care home for up to six (6) people. If the special land use permit is limited in duration and expires due to that limit, those individuals living in the home will be forced to find other means of care through no fault of their own. It would be better to allow the special land use permit to remain in place.

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;**

There will be no increase in the size of the building or lot.

16. **Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources;**

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There are no records or indications of any historic, archaeological resources found on the property or near adjacent lots.

17. Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit;

The current home occupations complies with the cities ordinance as currently zoned. The Applicant has all licenses and/or permits required by the State of Georgia to operate. The Applicant will display its state-issued licenses and/or permits in plain view, visible from the front doorway of the facility. However, the Applicant will not display signage in violation of Chapter 34 of the City of Tucker Code of Ordinances.

The Applicant shall provide at least four (4) parking spaces on the Subject Property. The driveway alone is spacious enough to provide the parking required. Lastly, the Applicant will not begin business within one-thousand (1,000) feet of another personal care home.

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 facade of the building and structure height shall remain the same for the proposed use and internal renovations.

19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area;

Home-based business and services are allowed within residential zoned dwellings it is not evident that the proposed use would result proliferation of flux in similar services.

20. Whether the proposed use would be consistent with the needs of the neighborhood or the community's a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan;

The proposed use is consistent with the needs of the neighborhood and the community as whole, providing assistant living services for the City of Tucker and the county.

III. CONCLUSION

For the foregoing reasons, the Applicant hereby requests that the application's submitted to the City of Tucker to be approved. Any further details requested may be available upon request of the acting agent or applicant on the request.

IV. NOTICE OF CONSTITUTIONAL ALLEGATIONS AND PRESERVATION OF CONSTITUTIONAL RIGHTS

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The portions of the City of Tucker Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and would be in violation of the Commerce Clause, Article I, Section 8, Clause 3 of the Constitution of the United States.

The application of the City of Tucker Zoning Ordinance to the Subject Property which restricts its use to any classification other than that proposed by the Applicant is unconstitutional, illegal, null, and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant in violation of the due process and equal protection rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia.

A refusal by the City of Tucker to amend the land use and/or rezone the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any Rezoning/ Special Land Use Permit of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A refusal to allow the proposed special land use permit in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

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A refusal to allow the Special Land Use Application in question would be invalid inasmuch as it would be denied pursuant to an ordinance is not in compliance with the Zoning Procedures Law, O.C.G.A Section 36-66/1 et seq., due to the manner in which the Ordinance as a whole and its map(s) have been adopted.

The existing land use designation and/or zoning classification on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional land use designation and/or zoning classification within a reasonable time, the Applicant is hereby placing the City on notice that it may elect to file a claim in the Superior Court of Dekalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

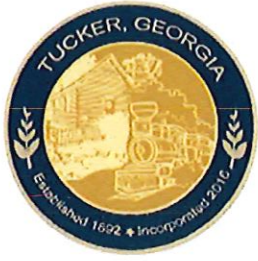
Amended and submitted on the 18th Day of May 2023.

Michele L. Battle
Attorney for the Applicant

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City of Tucker

Planning and Zoning

Courtney Smith
Director

March 24, 2022

Albert's House Sandpiper LLC
c/o Duc Le
2553 Sandpiper Drive
Tucker, GA 30084

RE: Zoning Certification of Property Located in Land Lot 256 of the 18th District of DeKalb County, Georgia, 2553 Sandpiper Drive Tucker, Georgia 30084

Via: Email

Mr. Le,

This letter is to certify that the parcel 18 256 05 026 located in Land Lot 256 of the 18th District of DeKalb County, Georgia is zoned R-75 (Residential Medium Lot - 75).

Please be advised that the above in no way implies that the site is suitable or grants permission to physically construct the proposed use. Additional requirements as set forth by the Tucker Zoning Ordinance, Land Development Regulations, conditions of zoning and other applicable codes, as may be required, must be satisfied and are factors that ultimately determine viable land use.

Please contact me at 678.597.9040 if you have any additional questions.

Sincerely,

Jessica Echols
Planner I

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PARID: 18 256 05 026
Tax Dist: 90-TUCKER
GEORGIA CLAY PROPERTIES LLC

2553 SANDPIPER DR

Parcel

Status	ACTIVE
Parcel ID	18 256 05 026
Alt ID	1356521
Address	2553 SANDPIPER DR
Unit	
City	TUCKER
Zip Code	30084-
Neighborhood	0480
Super NBHD	
Class	R3 - RESIDENTIAL LOT
Land Use Code	101-Residential 1 family
Living Units	
Zoning	R75 - SF RES DIST
Appraiser	EDDIE - EDDIE MCKOY (404) 371-7077

Mailing Address

GEORGIA CLAY PROPERTIES LLC
4528 CANDLER LAKE EAST
ATLANTA GA 30319

Current Ownership

Owner	Co-Owner
GEORGIA CLAY PROPERTIES LLC	

File an Appeal to Board of Equalization

2022 [Click Here](#) To File an Appeal Online

Notices of Assessment

Tax Year	Notice Type	Download
2022	Annual Notice\Real	Click Here
2021	Annual Notice	Click Here
2020	Annual Notice	Click Here

Property Tax Information

[Click Here](#) for Property Tax Information

Appraised Values

Tax Year	Class	Land	Building	Total
2022	R3	60,000	282,200	342,200
2021	R3	60,000	202,800	262,800
2020	R3	60,000	208,100	268,100
2019	R3	60,000	198,200	258,200
2018	R3	41,600	134,700	176,300
2017	R3	41,600	155,700	197,300
2016	R3	41,600	145,000	186,600

2015	R3	41,600	137,800	179,400
2014	R3	41,000	87,600	128,600
2013	R3	41,000	87,600	128,600

Assessed Values

Tax Year	Class	Land	Building	Total
2022	R3	24,000	112,880	136,880
2021	R3	24,000	81,120	105,120
2020	R3	24,000	83,240	107,240
2019	R3	24,000	79,280	103,280
2018	R3	16,640	53,880	70,520
2017	R3	16,640	62,280	78,920
2016	R3	16,640	58,000	74,640
2015	R3	16,640	55,120	71,760
2014	R3	16,400	35,040	51,440
2013	R3	16,400	35,040	51,440

Appeals

Tax Year	Hearing Type	Subkey	Original Notice Date	File Date	Appeal Status
2013	Assessment Notice	1	05/28/2013		Time Elapsed
2014	Assessment Notice	1	05/30/2014		Time Elapsed
2015	Assessment Notice	1	05/29/2015		Time Elapsed
2016	Assessment Notice	1	06/03/2016		Time Elapsed
2017	Assessment Notice	1	06/02/2017		Time Elapsed
2018	Assessment Notice	1	06/01/2018		Time Elapsed
2019	Assessment Notice	1	05/31/2019		Time Elapsed
2020	Assessment Notice	1	05/29/2020		Time Elapsed
2021	Assessment Notice	1	06/01/2021		Time Elapsed
2022	Assessment Notice	1	05/27/2022		Time Elapsed

Values

Tax Year	Hearing Type	Subkey	Total FMV
2013	Assessment Notice	1	\$128,600
2014	Assessment Notice	1	\$128,600
2015	Assessment Notice	1	\$179,400
2016	Assessment Notice	1	\$186,600
2017	Assessment Notice	1	\$197,300
2018	Assessment Notice	1	\$176,300
2019	Assessment Notice	1	\$258,200
2020	Assessment Notice	1	\$268,100
2021	Assessment Notice	1	\$262,800
2022	Assessment Notice	1	\$342,200

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Notices

Tax Year	Hearing Type	Subkey	Notice Type	Mail Date
2022	Assessment Notice	1	Res Review Form	05/27/2022

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Land

Land Type	G - SITE
Land Code	2 - SITE VALUE
Square Feet	0
Calculated Acres	0
Deeded Acres	.5
Parcel ID	18 256 05 026
Address	2553 SANDPIPER DR
Unit	
City	TUCKER
Zip Code	30084-
Neighborhood	0480
Class	R3 - RESIDENTIAL LOT
Land Use Code	101-Residential 1 family
Super NBHD	
Zoning	R75 - SF RES DIST

Permits

Permit #	Permit Date	Flag	Permit Type	Amount
134653	05/12/1998	INACTIVE		\$20,000.00
134652	04/01/1992	INACTIVE		\$2,976.00

Residential Structure

Building #	1
Land Class	R3 - RESIDENTIAL LOT
Stories	1
Construction	3 - BRICK & FRAME
Style	02 - RANCH
Living Area	2,512
Quality Grade	020
Condition	AV
Year Built	1973
Remodeled Year	
Effective Year	
Bedrooms	3
Full Baths	4
Half Baths	0
Total Fixtures	14
Fireplaces	1
AC	4 - CENTRAL WITH A/C
Basement	1 - SEE ADDITIONS
Unfinished Area	
Finished Basement Living Area	
Functional Obsolescence	
Economic Obsolescence	
% Complete	100

Additions

Addition Number	Description	Area
0	---	2,008
1	-OPEN PORCH--	152
2	-WOOD DECK--	468
3	-ADD FRAME FULL STORY AFO/AFT--	420
4	-GAR FR 1 STORY--	440

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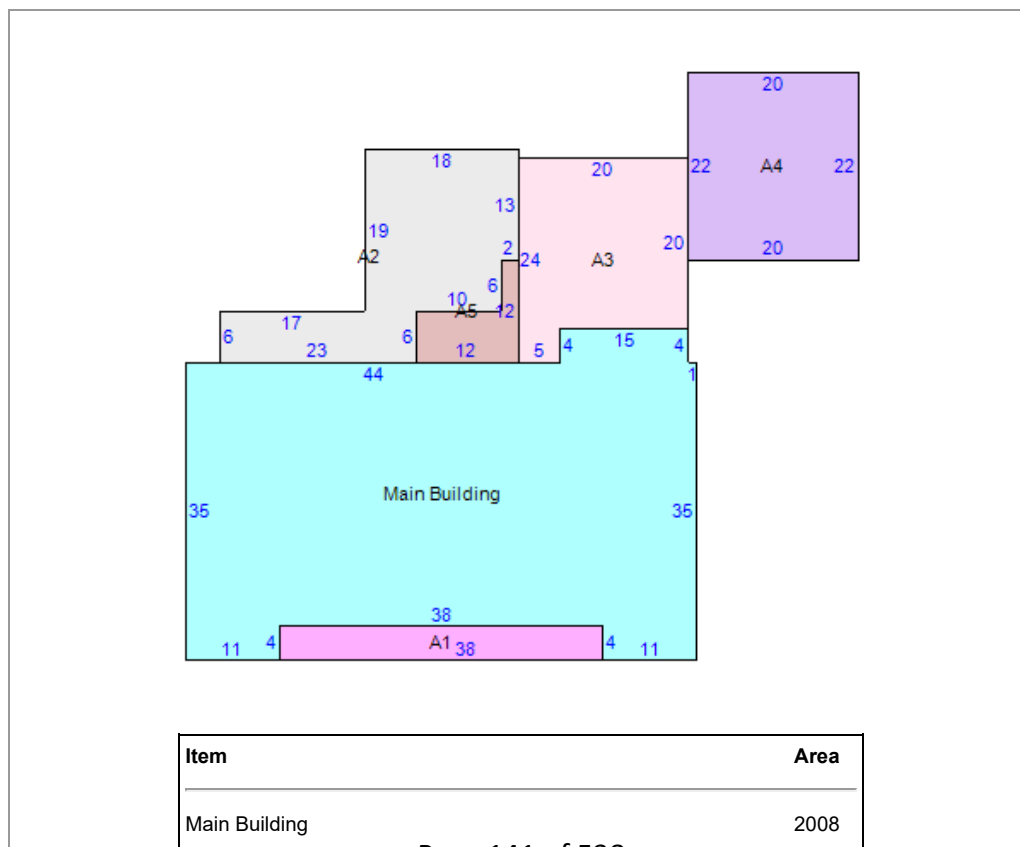
Sales

Sale Date	Price	Tran Code	Grantor	Grantee	Instrument	Book / Page
12/22/2021	400,000	OL - Outlier	ROSEWALD CONSORTIUM LLC	GEORGIA CLAY PROPERTIES LLC	WD - WARRANTY DEED	30003 / 00337
05/26/2005	564,000	I - Transitional Zoning or Use	AVONDALE HEALTH SERVICES INC	ROSEWALD CONSORTIUM LLC	WD - WARRANTY DEED	17487 / 00021
04/28/1999	0	H - Sales from Bank	WACHOVIA BANK NA	AVONDALE HEALTH SERVICES INC	QC - QUIT CLAIM DEED	10694 / 00202
04/24/1998	1,000	Q - Quit Claim Deed	GOULD CHARLES WILLIAM GOULD JR	AVONDALE HEALTH SERVICES INC	QC - QUIT CLAIM DEED	09997 / 00200
04/24/1998	126,900	0 - Valid Sale FMV	WHITE NANCY SUSAN	AVONDALE HEALTH SERVICES INC	WD - WARRANTY DEED	09971 / 00158
04/29/1991	0	5 - Old Code No Longer Used	GOULD CHARLES WILLIAM JR	GOULD NANCY SUSAN	WD - WARRANTY DEED	06942 / 00243
05/22/1974	0	0 - Valid Sale FMV			WD - WARRANTY DEED	03184 / 00066

Sale Details

1 of 7

Sale Date	12/22/2021
Price	\$400,000
Deed Book	30003
Deed Page	00337
Plat Book	
Plat Page	
Buyer 1	GEORGIA CLAY PROPERTIES LLC
Buyer 2	
Seller 1	ROSEWALD CONSORTIUM LLC
Seller 2	



A1 - 84:OPEN PORCH	152
A2 - 57:WOOD DECK	468
A3 - 10A:ADD FRAME FULL STORY AFO/AFT	420
A4 - 74:GAR FR 1 STORY	440
A5 - 10A:ADD FRAME FULL STORY AFO/AFT	84

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TRIP GENERATION REPORT

55 Millard Farmer Ind. Blvd.
Newnan, GA 30263
678.423.0050
www.lumin8.com

Subject: Sandpiper Drive Senior Living

Location: Dekalb County, GA

Date: 5/10/2023

To: Michèle L. Battle, Esq.

From: Chris Stewart, PE

This report includes a trip generation analysis for the proposed personal care home on Sandpiper Drive in the City of Tucker in Dekalb County, Georgia. Figure 1 illustrates the site location.

Figure 1: STUDY AREA



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Proposed Development

The proposed development is a personal care home that will service up to six seniors that do not have personal vehicles. Trips will be generated by staff and visitors. The development is located at 2553 Sandpiper Drive, which has a single point of access onto Lawrenceville Highway (SR 8/US 29).

Using this information, a trip generation was performed for the development.

Trip Generation

The trips generated by the proposed residential development were estimated using trip generation rates found in ITE's publication Trip Generation, 11th Edition. The trip generation publication contains multiple associated trip rates for each of the uses listed. The rate that resulted in the larger trip generation was used for this study.

The weekday AM and PM Peak Hour trip generation estimates correspond to the peak hour of the adjacent street. The trip generation data is provided in Appendix A. Table 1 summarizes the trip generation.

Table 1: TRIP GENERATION

ITE CODE	LAND USE DESCRIPTION	SIZE	DAILY TRIPS	AM PEAK HOUR			PM PEAK HOUR		
				ENTER	EXIT	TOTAL	ENTER	EXIT	TOTAL
254	Assisted Living	6 Beds	16	1	1	0	1	1	0
TOTAL GENERATED TRIPS			16	1	1	0	1	0	0

Conclusions

According to the Trip Generation analysis, the proposed personal care home development is expected to produce:

- 16 Daily trips (8 entering, 8 exiting)
- 1 AM Peak Hour trips (1 entering, 0 exiting)
- 1 PM Peak Hour trips (1 entering, 0 exiting)

APPENDIX A

TRIP GENERATION REPORTS



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Query Filter

DATA SOURCE:

Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:

254

LAND USE GROUP:

(200-299) Residential

LAND USE :

254 - Assisted Living

LAND USE SUBCATEGORY:

All Sites

SETTING/LOCATION:

General Urban/Suburban

INDEPENDENT VARIABLE (IV):

Beds

TIME PERIOD:

Weekday

TRIP TYPE:

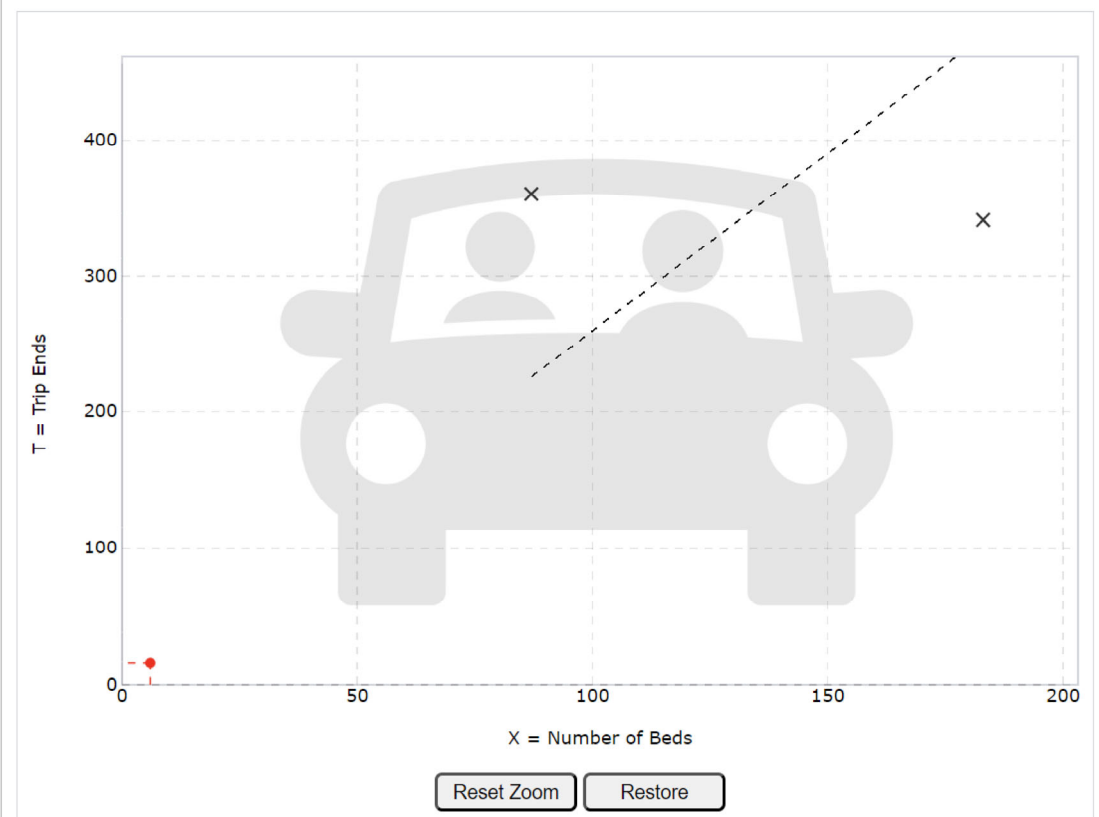
Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:

6 Calculate

Data Plot and Equation

Caution – Small Sample Size



DATA STATISTICS

Land Use:
Assisted Living (254) [Click for Description and Data Plots](#)

Independent Variable:
Beds

Time Period:
Weekday

Setting/Location:
General Urban/Suburban

Trip Type:
Vehicle

Number of Studies:
2

Avg. Num. of Beds:
135

Average Rate:
2.60

Range of Rates:
1.86 - 4.14

Standard Deviation:

Fitted Curve Equation:
Not Given

R²:

Directional Distribution:
50% entering, 50% exiting

Calculated Trip Ends:
Average Rate: 16 (Total), 8 (Entry), 8 (Exit)

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PLANNING & ZONING
DEPARTMENT

A-2

Query Filter

DATA SOURCE:
Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:
254

LAND USE GROUP:
(200-299) Residential

LAND USE :
254 - Assisted Living

LAND USE SUBCATEGORY:
All Sites

SETTING/LOCATION:
General Urban/Suburban

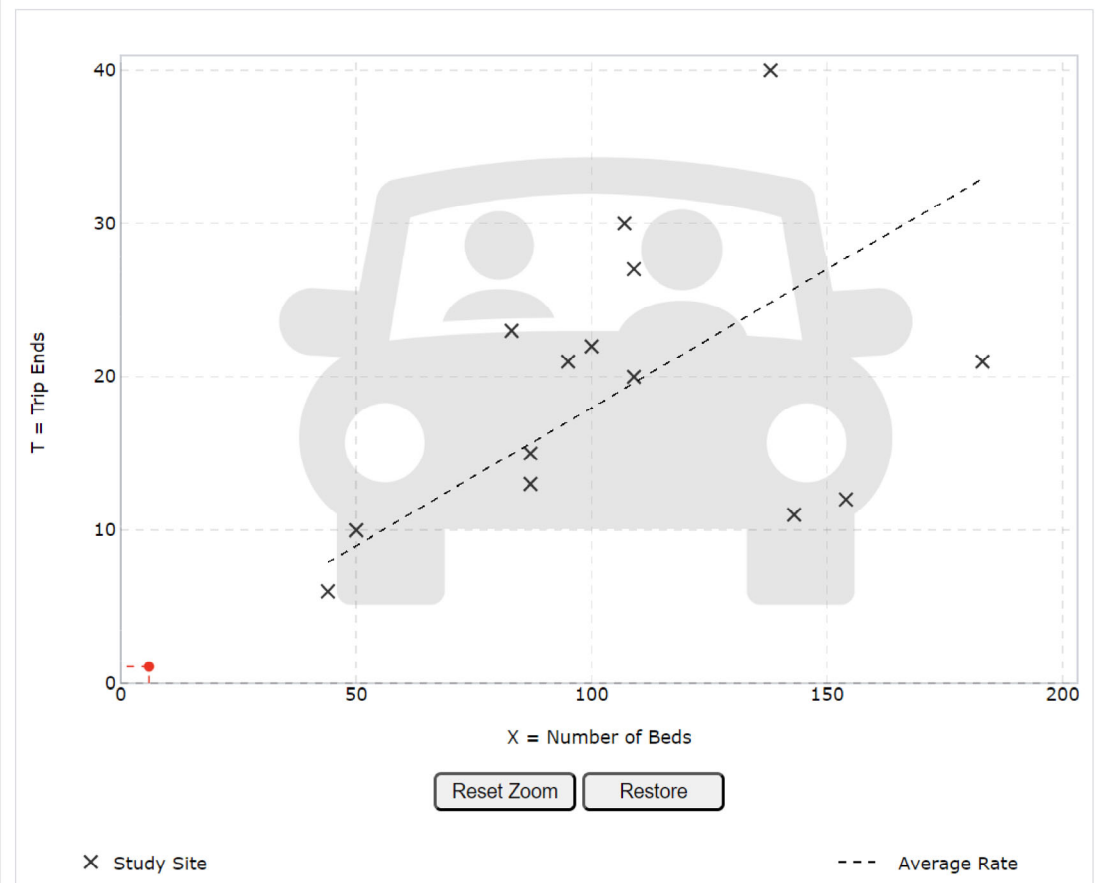
INDEPENDENT VARIABLE (IV):
Beds

TIME PERIOD:
Weekday, Peak Hour of Adjacent Street Traffic

TRIP TYPE:
Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:
6 Calculate

Data Plot and Equation



DATA STATISTICS

Land Use:	Assisted Living (254) Click for Description and Data Plots
Independent Variable:	Beds
Time Period:	Weekday Peak Hour of Adjacent Street Traffic One Hour Between 7 and 9 a.m.
Setting/Location:	General Urban/Suburban
Trip Type:	Vehicle
Number of Studies:	14
Avg. Num. of Beds:	106
Average Rate:	0.18
Range of Rates:	0.08 - 0.29
Standard Deviation:	0.08
Fitted Curve Equation:	Not Given
R ² :	****
Directional Distribution:	60% entering, 40% exiting
Calculated Trip Ends:	Average Rate: 1 (Total), 1 (Entry), 0 (Exit)

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A-3

Query Filter

DATA SOURCE:
Trip Generation Manual, 11th Ed

SEARCH BY LAND USE CODE:
254

LAND USE GROUP:
(200-299) Residential

LAND USE :
254 - Assisted Living

LAND USE SUBCATEGORY:
All Sites

SETTING/LOCATION:
General Urban/Suburban

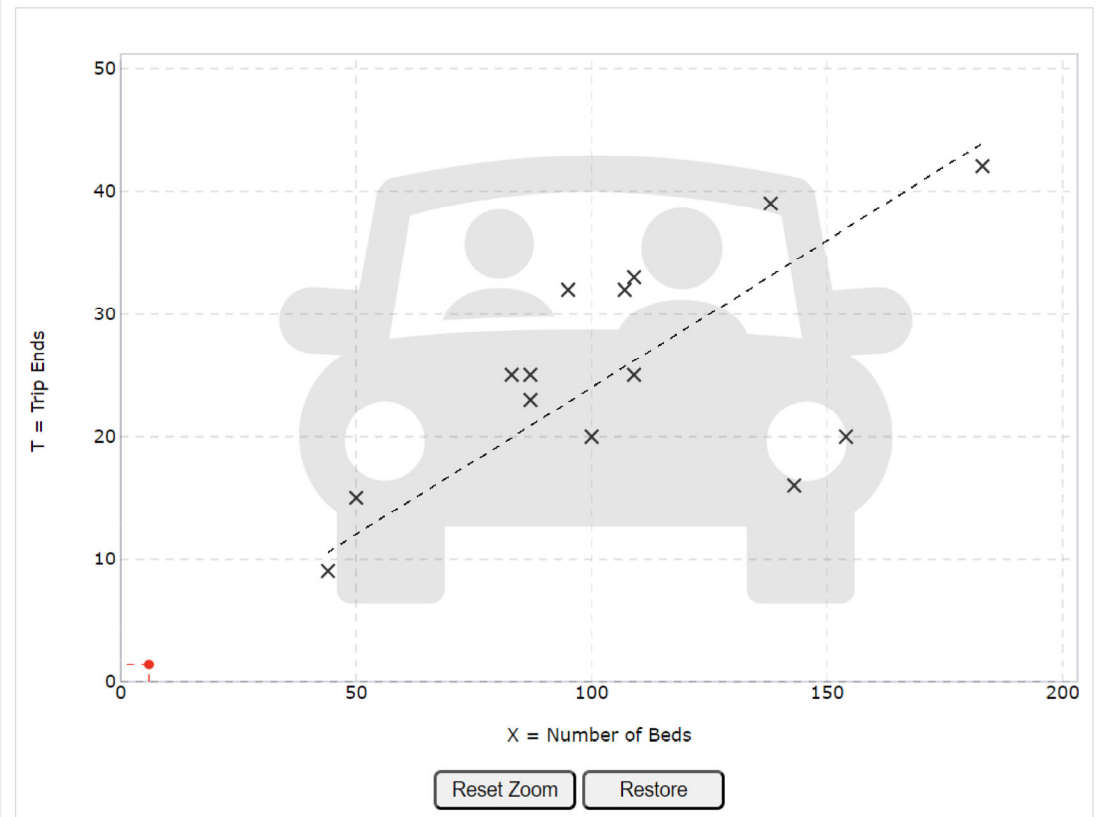
INDEPENDENT VARIABLE (IV):
Beds

TIME PERIOD:
Weekday, Peak Hour of Adjacent Street Traffic

TRIP TYPE:
Vehicle

ENTER IV VALUE TO CALCULATE TRIPS:
6 Calculate

Data Plot and Equation



DATA STATISTICS

Land Use:
Assisted Living (254) [Click for Description and Data Plots](#)

Independent Variable:
Beds

Time Period:
Weekday
Peak Hour of Adjacent Street Traffic
One Hour Between 4 and 6 p.m.

Setting/Location:
General Urban/Suburban

Trip Type:
Vehicle

Number of Studies:
14

Avg. Num. of Beds:
106

Average Rate:
0.24

Range of Rates:
0.11 - 0.34

Standard Deviation:
0.07

Fitted Curve Equation:
Not Given

R²:

Directional Distribution:
39% entering, 61% exiting

Calculated Trip Ends:
Average Rate: 1 (Total), 1 (Entry), 0 (Exit)

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DEPARTMENT

A-4

WARRANTY DEED

William H. Arroyo
Attorney At Law
4228 First Ave Ste 10
Tucker, GA 30084

PARCEL ID #18-256-05-026

STATE OF GEORGIA

COUNTY OF DEKALB

THIS INDENTURE, made this **22nd** day of **December** in the year of our Lord **Two Thousand Twenty-One**, Between

ROSEWALD CONSORTIUM, LLC

of the State of Georgia and County of DeKalb of the first part, and

GEORGIA CLAY PROPERTIES, LLC

of the State of Georgia and County of DeKalb of the second part.

WITNESSETH: That the said Party of the first part, for and in consideration of the sum of **OTHER VALUABLE CONSIDERATION AND TEN AND 00/100 DOLLARS (\$10.00)** in hand paid at and before the sealing and delivery of these presents, the receipt whereof 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, its successors and assigns,

All that tract or parcel of land lying and being in Land Lot 256 of the 18th District of DeKalb County, Georgia, and being more particularly described in EXHIBIT A, attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said bargained premises, together with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use, benefit, and behoof of the said Party of the second part, its successors and assigns forever IN FEE SIMPLE.

And the said Party of the first part, for itself, its successors and assigns, will warrant and forever defend the right and title to the above-described property unto the said Party of the second part, its successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, that the said Party of the first part has hereunto set its hand and affixed its seal, the day and year above written.

Signed, sealed, and delivered in the presence of:

ROSEWALD CONSORTIUM, LLC

Joan M. M...
Unofficial Witness

Notary Public

Notarized this **22nd** day of **December**, 2021.



By *Trevor A. Waldemar* (SEAL)
TREVOR A. WALDEMAR, Manager

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EXHIBIT A

All that tract or parcel of land lying and being in Land Lot 256 of the 18th District of DeKalb County, Georgia, being Lot 25, Block A, Windwood East Subdivision, as per plat recorded in Plat Book 61, Page 107, DeKalb County, Georgia Records, and revised in Plat Book 63, Page 35, aforesaid records; which plat is hereby referred to and by reference made a part of this description; being improved property, having a house thereon known as No. 2553 Sandpiper Drive, Tucker, according to the present system of numbering houses in DeKalb County, Georgia; and more particularly shown on survey prepared by A.S. Giometti, L.S., dated May 9, 1974.

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CITY OF TUCKER
BUSINESS LICENSE
OCCUPATIONAL TAX CERTIFICATE
1975 LAKESIDE PKWY., STE. 350
TUCKER, GA 30084

2022

LICENSE STATUS: Issued
DATE ISSUED: 03/22/2022
DATE EXPIRES: 12/31/2022

LICENSE NUMBER: 2022-4556
LEGAL BUSINESS NAME: ALBERT'S HOUSE SANDPIPER LLC
DBA NAME: ALBERT'S HOUSE SANDPIPER LLC
LICENSEE: DUC LE
BUSINESS LOCATION: 2553 SANDPIPER DR
NAICS DESCRIPTION: Other Residential Care Facilities

DISPLAY THIS CERTIFICATE FOR PUBLIC VIEW

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06/13/2023

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DEPARTMENT



City of Tucker Route Sheet for DeKalb County Review

City of Tucker Permit Number: _____

DeKalb County AP # (provided by DeKalb): _____

Project Name: _____

Site Address: _____

Applicant/Contact Person _____

Contact Phone: _____ Email: _____

Please route the plans for review by:

_____ DeKalb County Department of Watershed Management (2 sets) (FOG, Backflow, Watershed, Fire line)

_____ DeKalb County GIS (1 set)

_____ DeKalb County Fire Marshal (3 sets)

_____ DeKalb County Health Department

This review is for verification of code compliance only and shall not be construed as permission to perform any construction or alterations (except cosmetic change).

ken miller

Permit Technician, City of Tucker

_____ Date

**Applicant to submit all sets of plans to: DeKalb County Department of Planning and Sustainability
178 Sams Street Decatur, GA 30030
404-371-2155 Option 3**

I hereby certify that I understand that it is my responsibility to submit the required documents for the review listed above. I agree to exonerate, indemnify, and save harmless the City of Tucker from and against all claims or actions and expenses incidental to the defense of any such claim, litigation, and action, based upon or arising out of damage or injury (including death) to person or property caused by or sustained in connection with any review or proposed work.

Signature of Applicant

Date

Applicant must submit all sets of plans, stamped as approved by DeKalb County departments as required above, along with the signed routing sheet, to the City of Tucker for plan review and permitting.

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06/13/2023

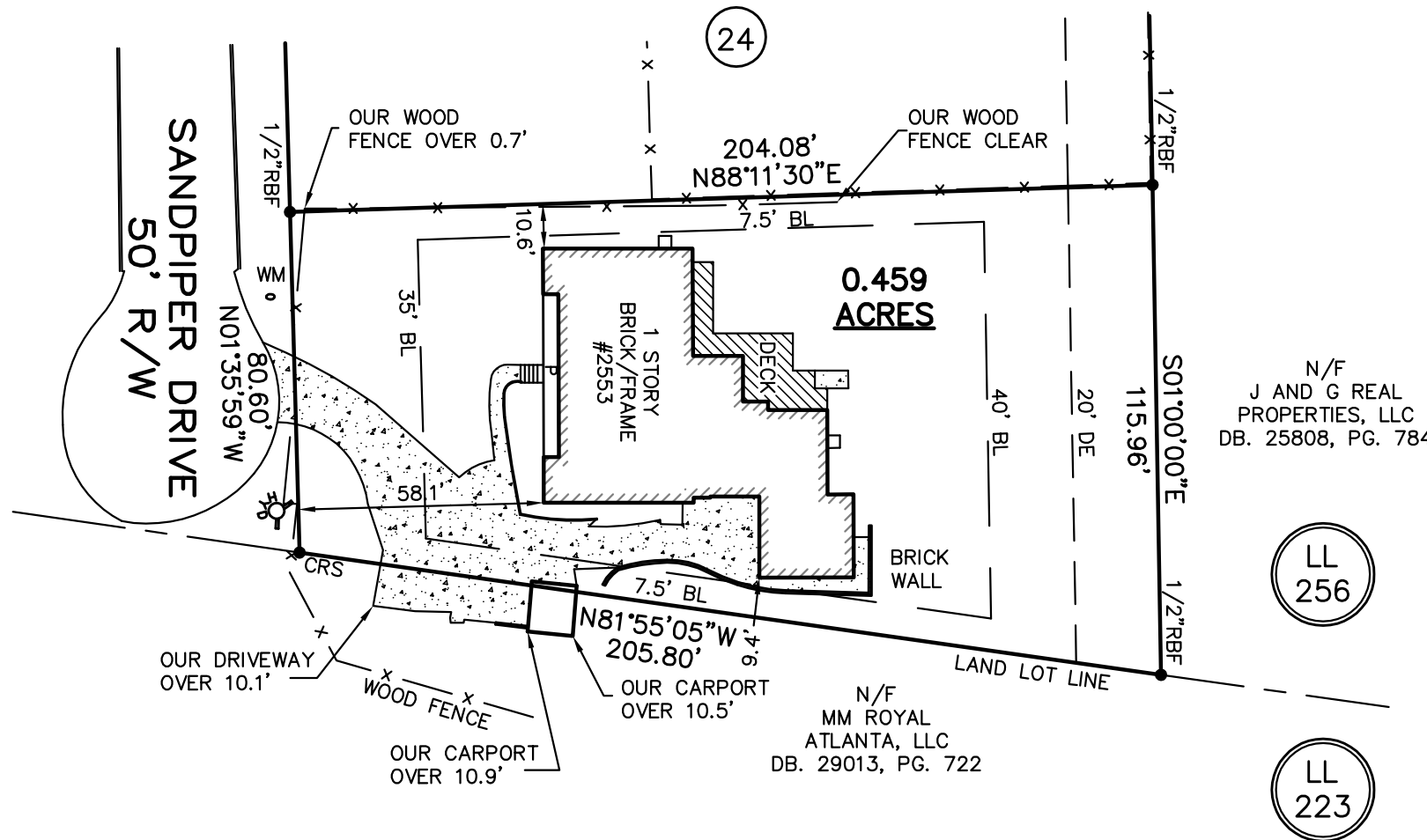
PLANNING & ZONING
DEPARTMENT

LEGEND

RBF	REBAR FOUND (1/2" REBAR)
CRS	CAPPED REBAR SET (1/2" REBAR)
CRBF	CAPPED REBAR FOUND
OTF	OPEN TOP FOUND
CTF	CRIMP TOP FOUND
☆	LIGHT POLE
BL	BUILDING LINE
C.L.F	CHAIN LINK FENCE
R/W	RIGHT-OF-WAY
TPED	PHONE PEDASTAL
CATV	CABLE BOX
WM	WATER METER
□PB	TRANSFORMER
U/E	UTILITY EASEMENT
(12.34'D)	DEED DISTANCE
12.34'(M)	MEASURED DISTANCE
DE	DRAINAGE EASEMENT
SSE	SEWER EASEMENT
AE	ACCESS EASEMENT
HW	HEADWALL
JB	JUNCTION BOX
CB	CATCH BASIN
YI	YARD INLET
P	PORCH
C/P	CARPORT
YI	YARD INLET
ST	STORAGE ROOM
-OHP-	OVERHEAD POWER
-AGL-	ATLANTA GAS LINE



NOTE: THE PUBLIC RECORDS REFERENCED HEREON REFLECT ONLY THOSE RECORDS NECESSARY TO ESTABLISH THE BOUNDARIES SHOWN HEREON, AND REFERENCE TO THE SAME DOES NOT AND IS NOT INTENDED TO CONSTITUTE A TITLE SEARCH OR OPINION. EASEMENTS OR OTHER ENCUMBRANCES MAY EXIST ON PUBLIC RECORD BUT NOT BE SHOWN HEREON.



GENERAL NOTES

THIS PLAT HAS BEEN CALCULATED FOR CLOSURE BY LATITUDES AND DEPARTURES AND IS FOUND ACCURATE TO WITHIN ONE FOOT IN 152,459 FEET.

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000± FEET AND AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.

A NIKON - TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

FENCES SHOULD NOT BE PLACED USING SIDE DIMENSIONS FROM HOUSE OR STRUCTURE.

CERTIFICATION IS MADE TO PERSON(S) NAMED ON THIS PLAT AND IS NOT TRANSFERABLE TO OTHERS.

UTILITIES SHOWN ARE LOCATIONS OF GROUND IDENTIFIABLE ITEMS. ADDITIONAL UTILITIES MAY EXIST ABOVE OR BELOW GROUND. THE SURVEYOR ACCEPTS NO RESPONSIBILITY FOR THE COMPLETENESS OF THIS DATA.

THIS PROPERTY IS SUBJECT TO ALL RIGHT OF WAYS AND EASEMENTS SHOWN OR NOT SHOWN, RECORDED OR UNRECORDED

FLOOD NOTE:

BASED ON GRAPHIC DETERMINATION, THIS PROPERTY DOES NOT LIE WITHIN A FEMA/FIRM SPECIAL FLOOD HAZARD AREA PER COMMUNITY PANEL NO. 13089C0077L DATED 8/15/19.

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CITY OF TUCKER

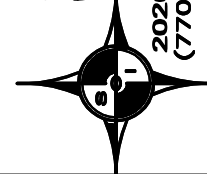
06/13/2023

PLANNING & ZONING
DEPARTMENT



IN MY OPINION, THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

SCI Development Services



ENGINEERS - SURVEYORS - LAND PLANNERS
2020 WESTSIDE COURT-STE E-SNELLVILLE GEORGIA 30078
(770) 736-7666 FAX (770) 736-4623
MAIL@SURVEYCONCEPTS.NET

PROJECT: 56052
DWG BY: DCP
CHKD BY: JAS
DATE: 3/30/23
SCALE: 1"=40'

SURVEY FOR:
GEORGIA CLAY PROPERTIES

LOT 25, BLOCK "A"
SUBDIVISION: WINDWOOD EAST
LAND LOT 256 18th DISTRICT
CITY OF TUCKER
DEKALB COUNTY, GEORGIA
REFERENCED IN PLAT BOOK 63, PAGE 35

SLUP-23-0002

6/21/23



4M
CONTRACTING

678-300-2843

REVIEW: 4/1/23

REVISIONS TO:
2553 SANDPIPER DRIVE
CITY OF TUCKER, GA

PROJECT
2217

SUBMITTALS	DATES
PERMIT SET	1/5/23
REVISIONS	4/1/23
REVISIONS	6/21/23

DRAWING TITLE
PROPOSED
FLOOR PLAN

DRAWING REFERENCE

A-2

SCOPE OF WORK

1. MAKE GARAGE INTO DEN
2. REMOVE WALL IN BEDROOM 4
3. ADD WALL FOR RAMP TO DEN IN BEDROOM 4
4. CHANGE ALL DOORS AND TRIM
5. REPLACE ALL BATHROOM TILE AND SHOWER VALVES
6. INSULATE NEW DEN
7. ADD MINI SPLIT HVAC IN DEN
8. REPLACE DEN WINDOWS
9. REMOVE DOOR AT GARAGE AND REPLACE WITH WINDOW
10. SHEETROCK OVER STIPPLE CEILINGS
11. ADD OUTLETS TO DEN AND BEDROOM 4 PER CODE
12. ADD EXTERIOR RAMP AT DEN/ PROVIDE RAILING
13. REPLACE ALL FLOOR COVERINGS
14. PAINT EXTERIOR AND INTERIORS
15. REMOVE BATHROOM DOOR AT BATH 3

DECK NOTES:

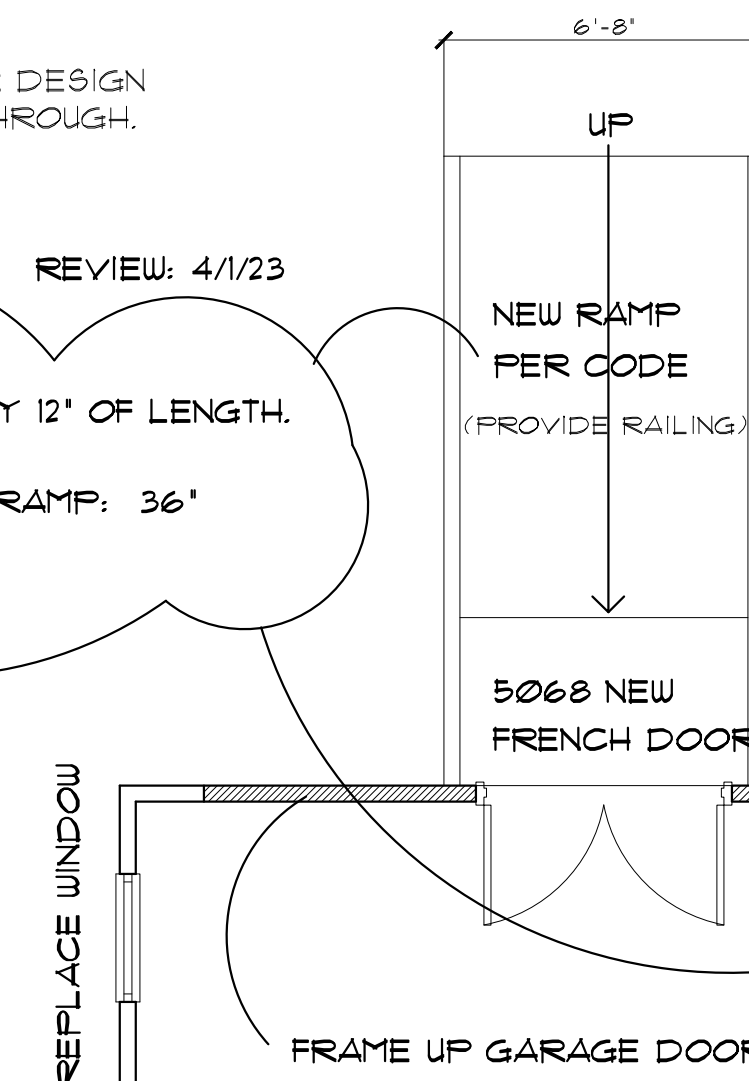
ALL DECK AND HANDRAIL MATERIAL TO BE PRESSURE TREATED OR NATURAL RESISTANCE TO DECAY

HAND RAILS/GUARDRAILS TO RESIST A SINGLE CONCENTRATED LOAD OF 200 * APPLIED IN ANY DIRECTION AT ANY POINT AT TOP.
GUARDRAILS TO BE MINIMUM 36" HIGH. BALLUSTER DESIGN OPENINGS TO NOT ALLOW A 4" SPHERE TO PASS THROUGH.
BOTTOM WOOD MEMBER TO BE 2" FROM DECK.
(RAILINGS 30" HIGH IF GRADE IS LESS THAN 30")

REVIEW: 4/1/23

HANDICAP RAMP:
1" HEIGHT TO EVERY 12" OF LENGTH.
(RATIO IS 1:12)
MINIMUM WIDTH OF RAMP: 36"

AREA OF REVISIONS



REPLACE WINDOW

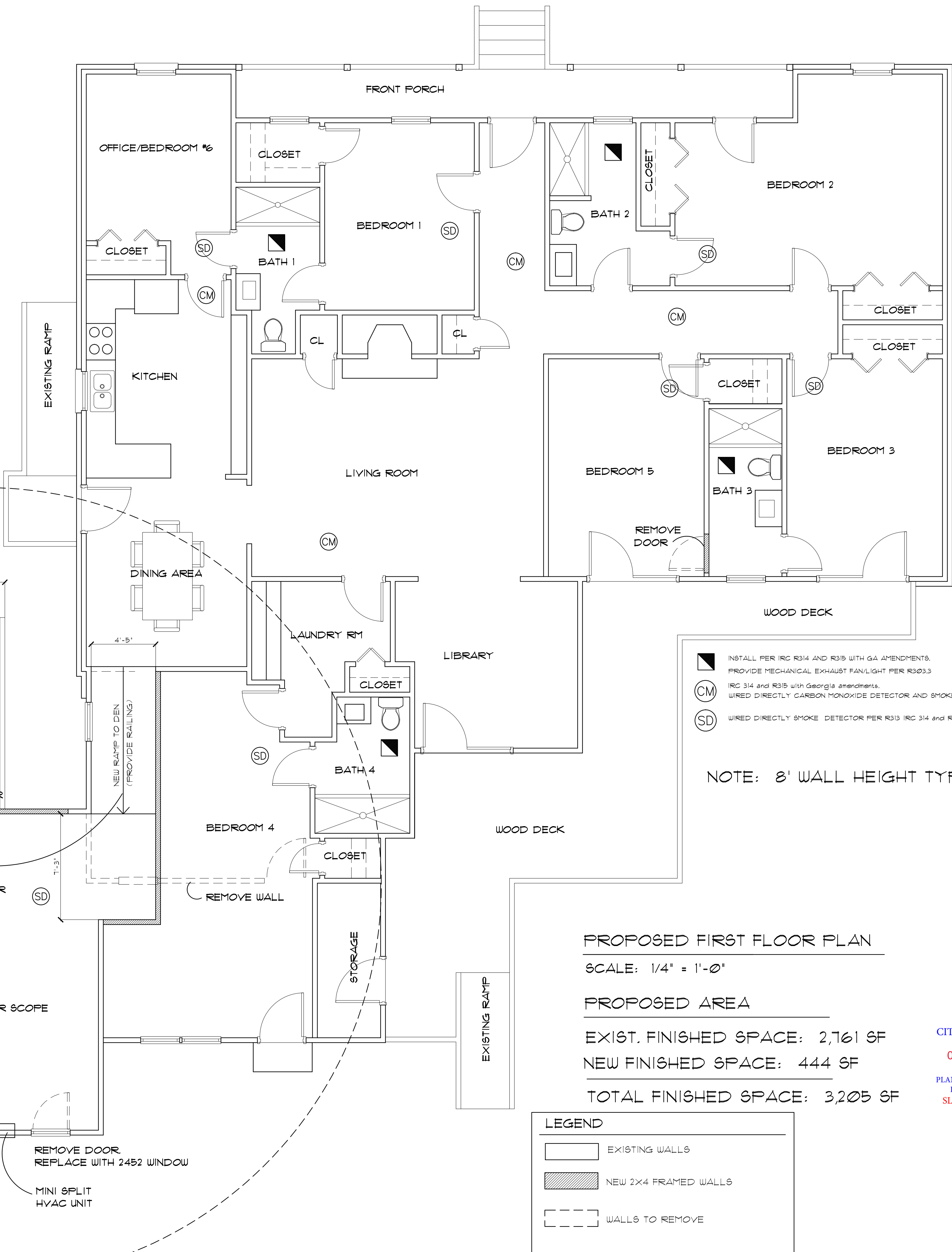
FRAME UP GARAGE DOOR

NEW
DEN AREA

FINISH SPACE PER SCOPE
OF WORK

REMOVE DOOR
REPLACE WITH 2452 WINDOW

MINI SPLIT
HVAC UNIT



- INSTALL PER IRC R314 AND R315 WITH GA AMENDMENTS.
PROVIDE MECHANICAL EXHAUST FAN/LIGHT PER R303.3
- CM IRC R314 AND R315 WITH GEORGIA AMENDMENTS.
WIRED DIRECTLY CARBON MONOXIDE DETECTOR AND SMOKE DETECTOR PER R313
- SD WIRED DIRECTLY SMOKE DETECTOR PER R313 IRC R314 AND R315 WITH GEORGIA AMENDMENTS.

NOTE: 8' WALL HEIGHT TYPICAL

PROPOSED FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

PROPOSED AREA

EXIST. FINISHED SPACE: 2,761 SF

NEW FINISHED SPACE: 444 SF

TOTAL FINISHED SPACE: 3,205 SF

LEGEND

- EXISTING WALLS
- NEW 2X4 FRAMED WALLS
- WALLS TO REMOVE

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07/18/2023

PLANNING & ZONING
DEPARTMENT
SLUP-23-0002

0 5 10 15

C103.2 R- Value for wall, ceiling and floors
City of Atlanta in Climate Zone 3 per Residential
Prescriptive from International Energy Conservation Code
(FROM TABLE 402.1.1 (INSULATION & FENESTRATION REQ.)

FENESTRATION U-FACTOR: 0.50
SKYLIGHT U-FACTOR = 0.65
GLAZED FENESTRATION SHGC = 0.30
CEILING = R-30
WOOD FRAME WALL = R-13
ATTIC KNEE WALL = R-10
MASS WALL = R-5/8
FLOOR = R-10
BASEMENT WALL = R-5/13
SLAB = R-0
CRAWL SPACE WALL = R-5/13

CODE INFORMATION

CURRENT MANDATORY CODES

IBC 2018 Edition with GA Amendments
IRC 2018 Edition with GA Amendments
IFC 2018 Edition with GA Amendments
IMC 2018 Edition with GA Amendments
IFGC 2018 Edition with GA Amendments
IECC 2018 Edition with GA Amendments
IFC 2018 Edition with GA Amendments
ISFSC 2018 Edition with GA Amendments
NFPA 101 Life Safety Code 2018 Edition

APPROVED

AP 3130589

DATE 06/05/23

This Department is not responsible for any errors or omissions by engineers or other design professionals on design or other code requirements of this project.

The issuance or granting of a permit shall not be construed to be a permit for, or approval of, violation of any of the provisions of applicable codes or of any other ordinance of the jurisdiction. Permits are issued on the basis of the information provided by the applicant and the issuance of a permit based on construction documents and other data shall not constitute a code official from requiring the code official to verify the accuracy of the information provided.

Plumbing, Mechanical, Gas, and Electrical sections of these plans have not been reviewed for compliance with technical codes and will be field-verified during inspection.

A set of these approved plans shall be kept on the jobsite at all times and shall not be modified or altered without authorization from DeKalb County Development Services.

4M
CONTRACTING

678-300-2843

REVIEW: 4/1/23

REVISIONS TO:
2553 SANDPIPER DRIVE
CITY OF TUCKER, GA

PROJECT
2217

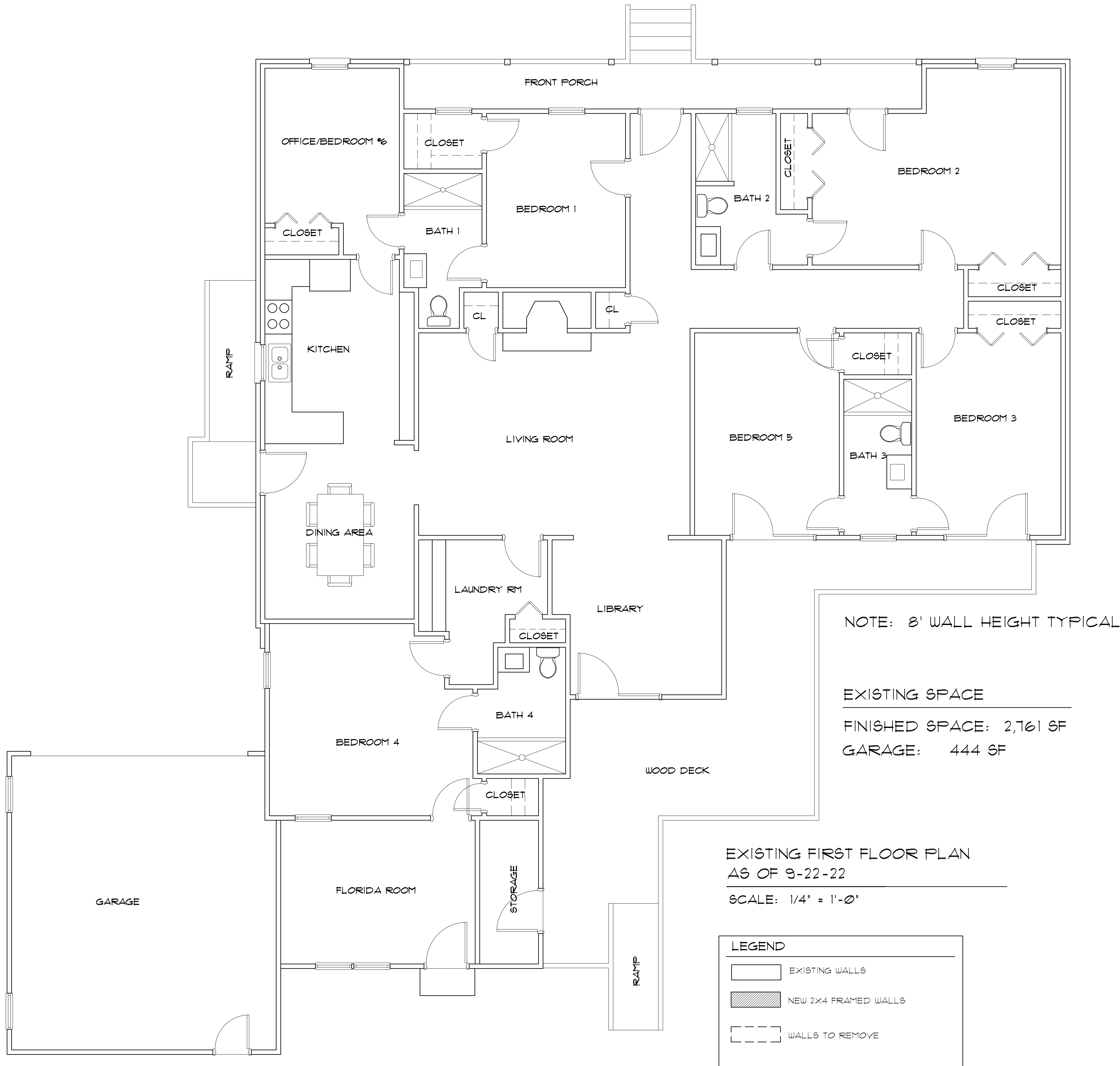
SUBMITTALS	DATES
PERMIT SET	1/5/23
REVISIONS	4/1/23

DRAWING TITLE

EXISTING
FLOOR PLAN

DRAWING REFERENCE

A-1



RELEASED FOR CONSTRUCTION

RECEIVED
CITY OF TUCKER

07/18/2023

PLANNING & ZONING
DEPARTMENT
SLUP-23-0002



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CITY OF TUCKER
06/13/2023
PLANNING & ZONING
DEPARTMENT



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Battle Law

Dear Neighbors of 2553 Sandpiper Drive,

Georgia Clay Properties LLC is interested in developing a personal care home for seniors. This request requires a SLUP because it is in a residential area.

We provide an alternative option for full-service elder care.

Designed with a focus on meeting the specific needs of individuals with dementia and/or high levels of care, our homes are self-sustaining units in private, residential settings. Our comprehensive holistic approach to individual care is a mindful shift from the one-size-fits-all model.

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 for a SLUP 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 at the

following time:

Meeting Date/Time: May 5th at 5:00 pm

Meeting Location: 2553 Sandpiper Drive

We've included a site plan of our current proposal which we look forward to discussing with you and getting feedback on May 5th. If you are unable to attend or wish to reach out beforehand, we can be reached at jnb@battlelawpc.com or 404-601-7616 ex.8

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,

Georgia Clay Properties, LLC c/o Battle Law P.C

3562 Habersham at Northlake • Building J, Suite 100 • Tucker, Georgia 30084 • Ph: 404.601.7616

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L D HART PROPERTIES LLC
4916 North Royal Atlanta Drive
Tucker, GA 30084

FLOURNOY VALENCIA
2593 Sandpiper Drive
Tucker, GA 30084

GEORGIA POWER CO
2825 Mountain Industrial Boulevard
Tucker, GA 30084

BLUE RENTALS LLC
2560 Sandpiper Drive Tucker
Tucker, GA 30084

GEORGIA CLAY PROPERTIES LLC
2553 Sandpiper Drive Tucker
Tucker, GA 30084

TUCKER CITY OF
4877 Lawrenceville Highway
Tucker, GA 30084

CONLEY PATRICK R
2600 Sandpiper Drive
Tucker, GA 30084

SARUBBI JARED
2569 Sandpiper Drive
Tucker, GA 30084

ELDON PROPERTIES LLC
4840 North Royal Atlanta Drive
Tucker, GA 30084

ATLANTA SMSA LTD PARTNERSHIP
2791 Mountain Industrial Boulevard
Tucker, GA 30084

WATSON REBECCA J
2576 Sandpiper Drive
Tucker, GA 30084

MILLS JEFFREY L
2568 Sandpiper Drive
Tucker, GA 30084

SUMMERLIN MANA AND SPIRITS INC
2845 Mountain Industrial Boulevard
Tucker, GA 30084

DOLLAR JEFF E
2592 Sandpiper Drive
Tucker, GA 30084

ATL REAL HOLDINGS LLC
2577 Sandpiper Drive
Tucker, GA 30084

LUCIUS LONNIE J III
2561 Sandpiper Drive
Tucker, GA 30084

J AND G REAL PROPERTIES LLC
2831 Mountain Industrial Boulevard
Tucker, GA 30084

MM ROYAL ATLANTA LLC
4874 North Royal Atlanta Drive
Tucker, GA 30084

AGNE BRIAN L
2584 Sandpiper Drive
Tucker, GA 30084

CRANE JOHN F
2585 Sandpiper Drive
Tucker, GA 30084

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PLANNING & ZONING
DEPARTMENT



City of Tucker

Public Participation Plan Report Project Name:

Contact Name: Jordan Battle

Meeting Date: 5/5/2023

Meeting Location: 2553 Sandpiper Drive

Meeting Start Time: 5pm

Meeting End Time: 6pm

Number of people in attendance: 0

Date of Filing of Land Use Petition Application: 5/8/2023

General Introduction: please include information about who you reached out to for the meeting, communication outreach methods (letters, facebook, emails, etc), what you were proposing at the time of the neighborhood meeting, the meeting format (ppt, q&a, display boards, etc), and who attended the meeting on behalf of the applicant (engineers, attorney, developer, property owner, etc). Additional information that you feel is important to include is welcomed.

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. List question/concern/comment/request for changes to the proposed plans

Applicant Response:

2. List question/concern/comment/request for changes to the proposed plans

Applicant Response:

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

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DEPARTMENT



Battle Law

On May 5th, 2023, we held a community meeting for the surrounding property owners of the subject property 2553 Sandpiper Drive. We alerted the surrounding property owners via mail notices and also posted signs on the subject property and at the top of the neighborhood. No one showed up for the meeting, but we stayed during the whole-time frame that was advertised. Senior Attorney Michele Battle and Paralegal Jordan Battle were present on behalf of the client Georgia Clay Properties, LLC.

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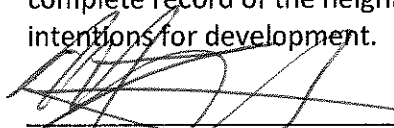
06/13/2023

PLANNING & ZONING
DEPARTMENT

SLUP-23-0002

- Meeting sign-in sheet
- Meeting minutes
- Copy of the plan that was presented at the neighborhood meeting

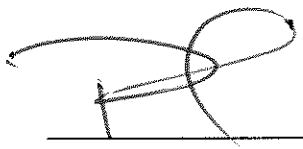
I, the undersigned, as the applicant or an authorized representative of the applicant do solemnly swear and attest that the information provided is true and accurate. I have included a complete record of the neighborhood meeting, as well as an honest response regarding the intentions for development.

 5/18/2023

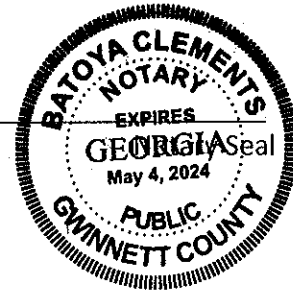
 Signature of Applicant or Authorized Representative Date

Michele L Battle 5/18/2023

 Type or Print Name of Applicant or Authorized Representative Date

 5/18/2023

 Signature of Notary Date



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06/13/2023

PLANNING & ZONING
 DEPARTMENT

Sandpiper Drive Community Meeting Sign-In Sheet, May 5, 2023

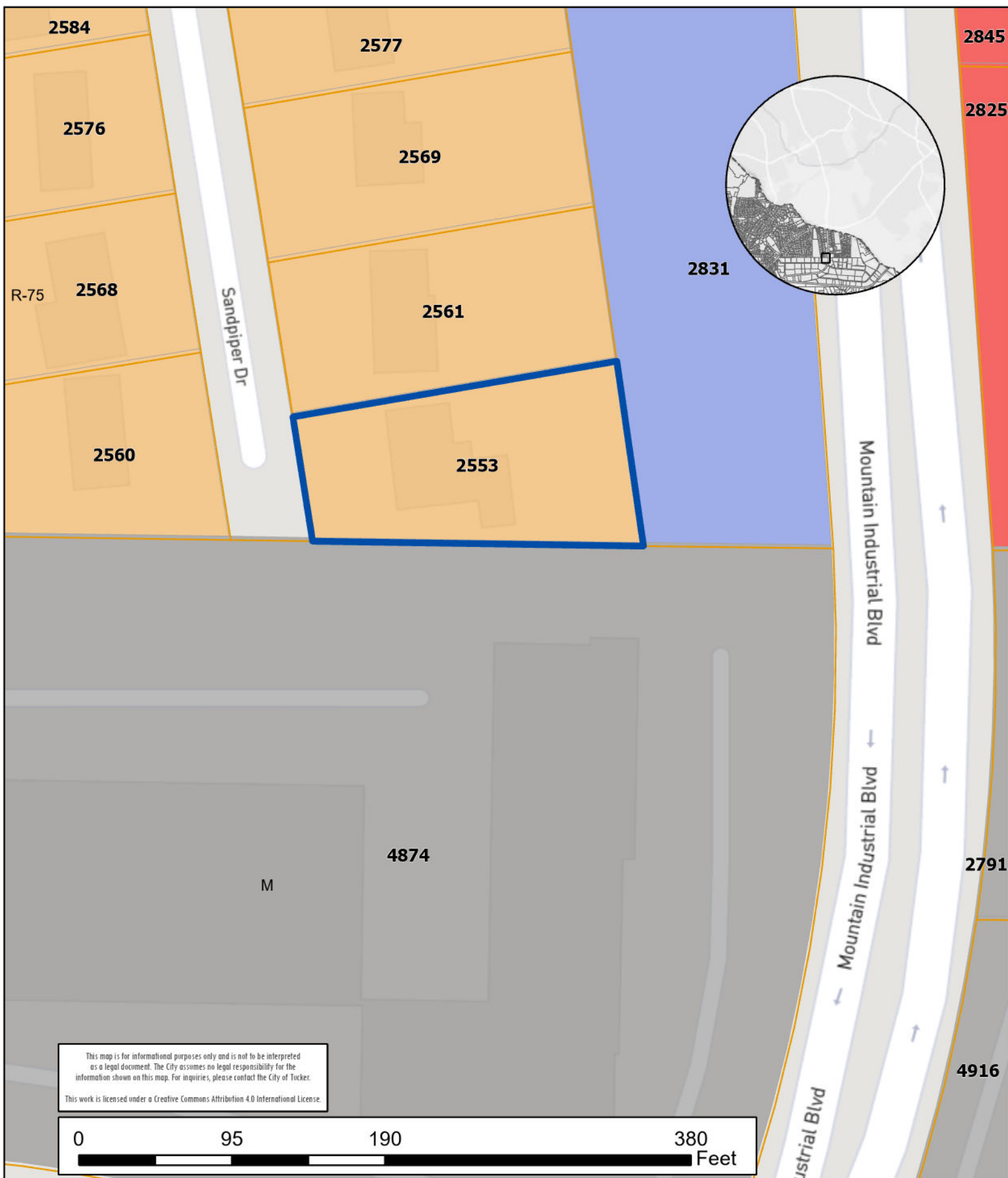
[illegible]

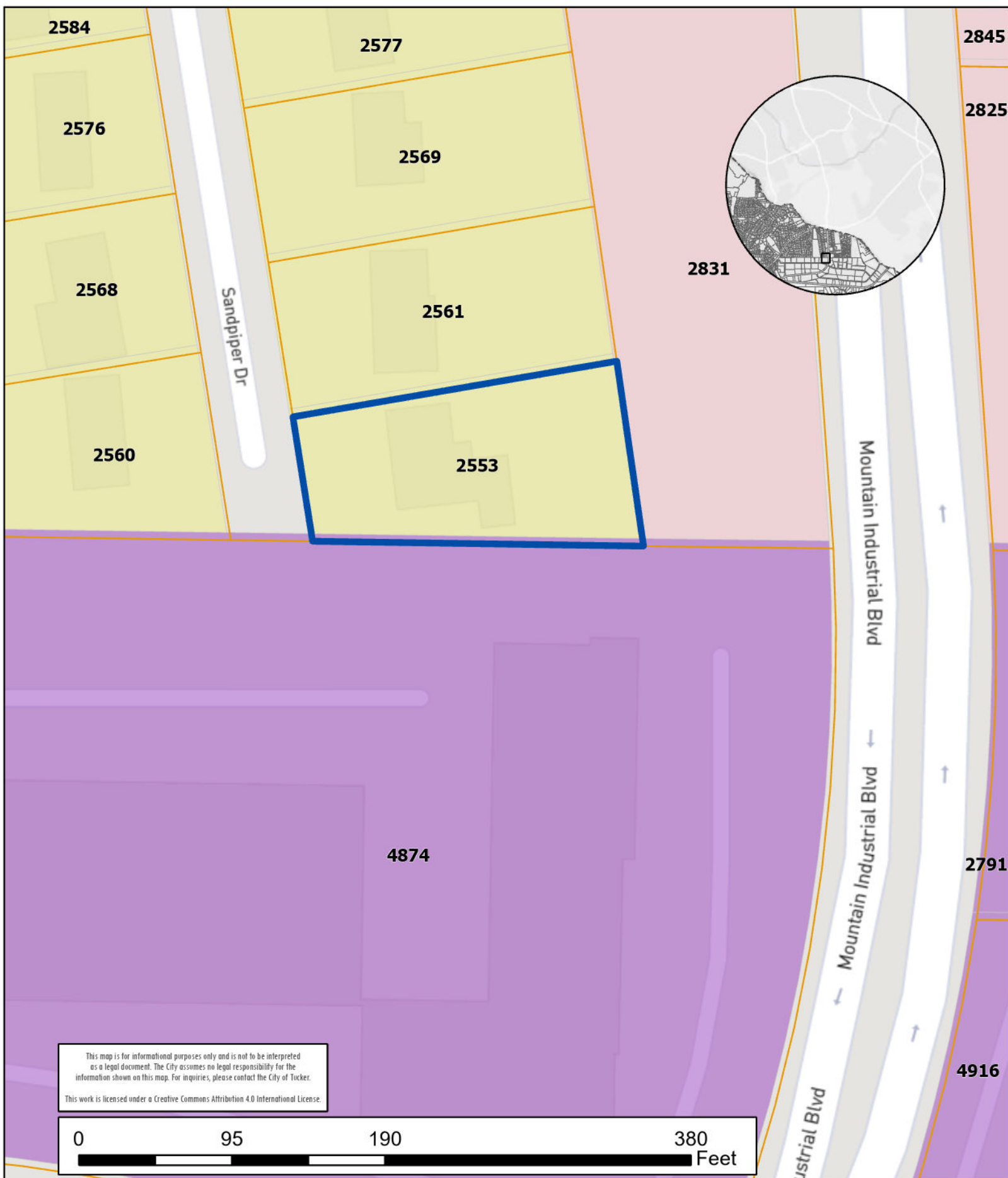
First Name	Last Name	Address	City, State	Zip Code	Phone Number	Email Address
------------	-----------	---------	-------------	----------	--------------	---------------

06/13/2023

PLANNING & ZONING
DEPARTMENT









MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Community Development Director
CC: Tami Hanlin, City Manager
Date: August 7, 2023
RE: Memo for SLUP-23-0003, 5960 East Ponce de Leon Avenue

Description for on the Agenda:

First Read and Public Hearing of an Ordinance for Special Land Use Permit SLUP-23-0003 for alcohol sales at 5960 East Ponce de Leon Avenue for Gas Express, LLC.

Issue:

The applicant has applied for a Special Land Use Permit (SLUP) to sell alcohol (beer and wine) for off-premises consumption within a convenience store at the 4.41+/- acre subject property located at 5960 East Ponce de Leon Avenue, located at the intersection of East Ponce de Leon Avenue and Richardson Street, near State Route 10.

Recommendation:

Staff recommends approval with conditions.

Planning Commission recommends approval with modified staff conditions.

Background:

In December of 2021, the Mayor & City Council approved Ordinance 2021-11-28 amending the zoning map at 5960 East Ponce de Leon Avenue from M (Light Industrial) to C-1 (Local Commercial) zoning. This development was entitled prior to the rezoning per Land Disturbance Permit PLD20-0025, which was issued March 26, 2021.

Recently constructed, the 7,000 square foot building housing the 5,000 square foot convenience store and two (2) 1,000 square foot suites (PB20-0354) remains vacant. A fuel pump canopy with five fuel pumps located in front of the store was also recently constructed (PB21-0306). The alcohol sales are proposed inside of the convenience store. The property owner has submitted the SLUP application on behalf of his tenant, Gas Express LLC.

Summary:

The proposal complies with a majority of the criteria for the Special Land Use Permit, however, it could negatively impact the surrounding residential uses. The sales area and hours of operation should be limited to limit any adverse impacts.

AN ORDINANCE FOR SPECIAL LAND USE PERMIT (SLUP-23-0003) IN LAND LOT 125 OF THE 18th DISTRICT TO ALLOW FOR ALCOHOL SALES AT 5960 E. PONCE DE LEON AVENUE FOR GAS EXPRESS, LLC.

WHEREAS: Notice to the public regarding said special land use permit 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 August 14, 2023 and September 11, 2023;

WHEREAS: The Mayor and City Council is the governing authority for the City of Tucker;

WHEREAS: The Mayor and City Council have reviewed the special land use request based on the criteria found in Section 46-1594 of the Zoning Ordinance of the City of Tucker;

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on September 11, 2023 hereby ordains and approves Special Land Use Permit (SLUP-23-0003) to allow for Alcohol Sales, subject to the following conditions.

1. The Special Land Use Permit for alcohol sales is limited to the 5,000 square foot convenience store and shall not be transferred to another business without City Council approval.
2. Alcohol sales shall be limited to beer and wine. Alcohol sales display area shall not exceed twenty percent (20%) of the gross floor area.
3. **The convenience store may be open 24 hours a day, but alcohol sales shall cease by 11:00 PM Monday through Sunday.**
4. The business shall comply with all local regulations for convenience stores, including the requirement for a video surveillance system, and the restrictions on coin operated amusement machines and vape/CBD.
5. A City of Tucker Occupational Tax Certificate and Alcohol License shall be maintained at all times.

SO EFFECTIVE this 11th day of September 2023.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL



City of Tucker

Land Use Petition: SLUP-23-0003

Date of Staff Recommendation Preparation: July 10, 2023

Planning Commission: July 20, 2023

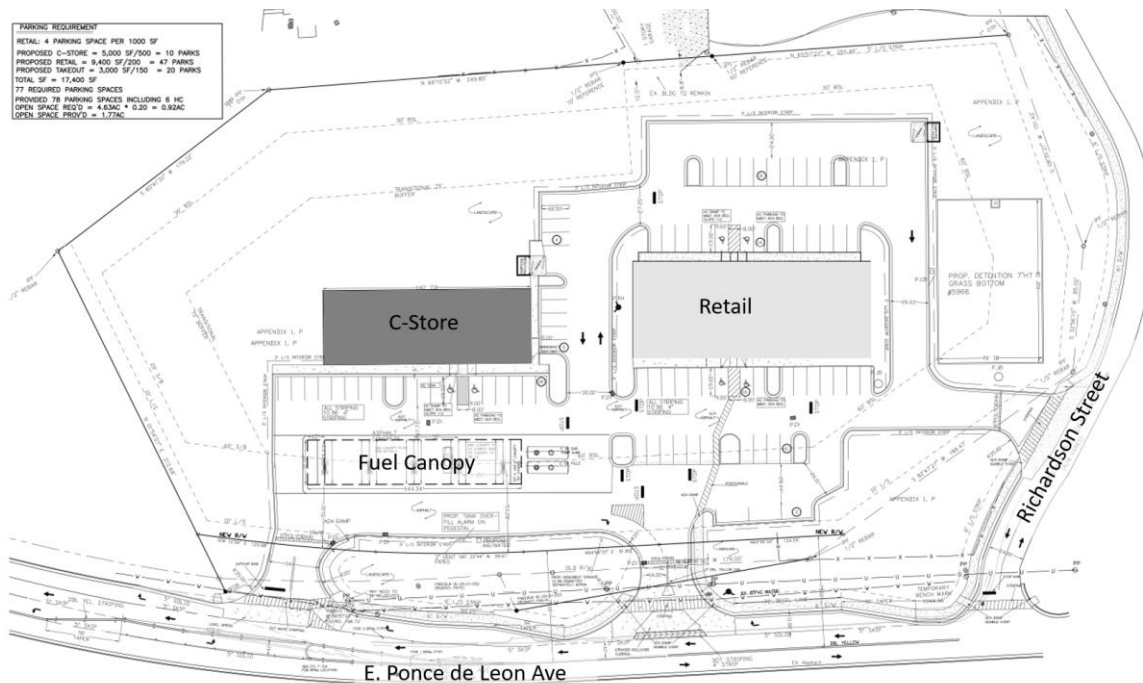
Mayor and City Council, 1st Read: August 14, 2023

Mayor and City Council, 2nd Read: September 11, 2023

PROJECT LOCATION:	5960 East Ponce de Leon Avenue, Tucker, GA
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 125
ACREAGE:	4.41 acres
EXISTING ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Convenience store with fuel pumps
FUTURE LAND USE MAP DESIGNATION:	Suburban
OVERLAY DISTRICT:	Mountain Industrial Boulevard Overlay District
APPLICANT:	Gas Express, LLC/Amin Chitalwala
OWNER:	Tucker Land Group, LLC/Ayaz Ali
PROPOSED DEVELOPMENT:	The applicant intends to operate a 5,000 sq. ft. convenience store with alcohol sales. The alcohol sales requires a SLUP.
STAFF RECOMMENDATION:	Approval of SLUP-23-0003 (Alcohol Sales) with conditions

PROJECT AND SITE DATA

The applicant has applied for a Special Land Use Permit (SLUP) to sell alcohol (beer and wine) for off-premises consumption within a convenience store at the 4.41+/- acre subject property located at 5960 East Ponce de Leon Avenue, located at the intersection of East Ponce de Leon Avenue and Richardson Street, near State Route 10. In December of 2021, the Mayor & City Council approved Ordinance 2021-11-28 amending the zoning map at 5960 East Ponce de Leon Avenue from M (Light Industrial) to C-1 (Local Commercial) zoning. This development was entitled prior to the rezoning per Land Disturbance Permit PLD20-0025, which was issued March 26, 2021.



Recently constructed, the 7,000 square foot building housing the 5,000 square foot convenience store and two (2) 1,000 square foot suites (PB20-0354) remains vacant. A fuel pump canopy with five fuel pumps located in front of the store was also recently constructed (PB21-0306). The alcohol sales are proposed inside of the convenience store. The property owner has submitted the SLUP application on behalf of his tenant, Gas Express LLC.



Character Area

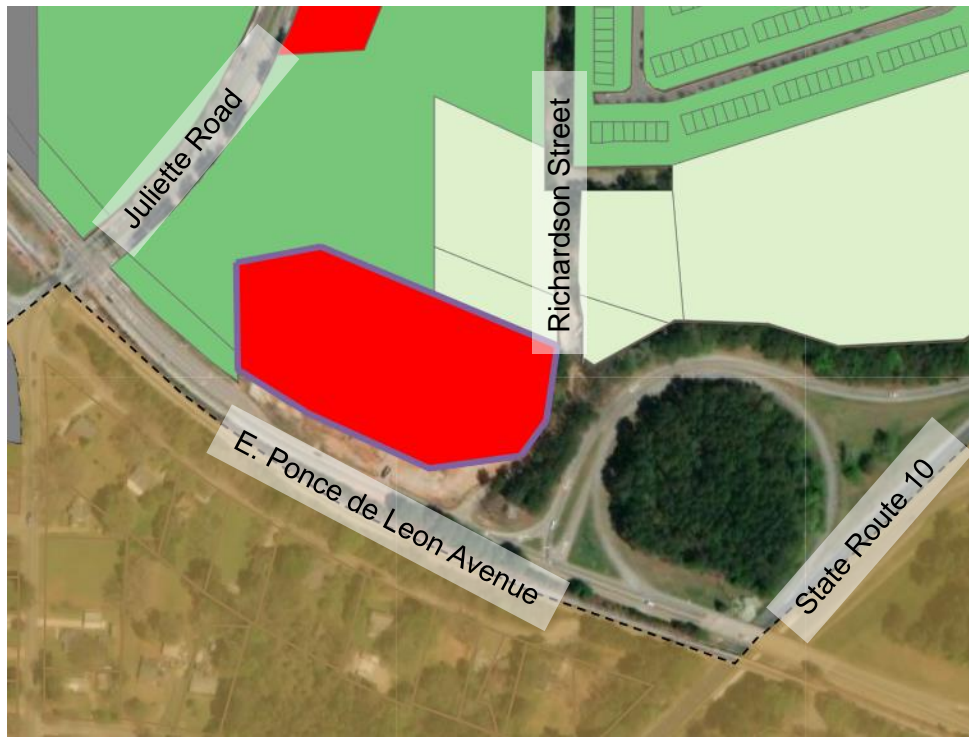
The subject parcel is located within the Suburban Character Area on the Future Land Use Map. Primary land uses in this character area include single-family residential, townhomes, lower density multi-family uses, and institutional uses. C-1 (Local Commercial) and M (Light Industrial) zoning are not compatible with the Suburban Character Area, but the designations already exist and are not changing.

Mountain Industrial Boulevard Overlay

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.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	MR-1 (Medium Density Residential-1)	NA	East Ponce Village
Adjacent: Northeast	RSM (Small Lot Residential Mix)	NA	RM Concrete Specialist
Adjacent: East	NA	NA	Entrance and exit ramps for State Route 10 and E. Ponce de Leon Avenue
Adjacent: South (South across E. Ponce de Leon Ave)	CSX railroad and single-family detached homes in unincorporated DeKalb County	NA	CSX railroad and single-family residential
Adjacent: West	MR-1 (Medium Density Residential-1)	NA and Mountain Industrial Boulevard	East Ponce Village



Zoning Exhibit. Subject parcel outlined in purple.

- C-1 (Local Commercial)
- MR-1 (Medium Density Residential-1)
- RSM (Small Lot Residential Mix)
- Unincorporated Dekalb County

SLUP-23-0003 ALCOHOL SALES

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 the staff's findings which are independent of the applicant's responses to these criteria.

- 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 size is approximately 4.41 acres. The ±5,000 square foot convenience store is located within the recently constructed ±7,000 square foot multi-tenant building. A fuel canopy with five fueling stations is positioned between the building and East Ponce de Leon Avenue. Stormwater is managed with a detention pond on the east side of the site. Three curb cuts

serve the property, which has eighteen parking spaces to the south of the convenience store, and nine spaces at the east. Two of the parking spaces are designated ADA compliant. Sidewalks have been installed along East Ponce de Leon Avenue and on Richardson Street.

2. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

The property is surrounded by residential zoning, including several thousand multifamily units. It is also located immediately adjacent to the State Route 10 off ramp. The area is located in a food desert, with the only other nearby service commercial uses being a Citgo gas station/convenience store, with an attached liquor store. Tucker now requires convenience stores to have at least ten percent of the sales floor area to be dedicated to fresh or pre-packaged meats, fruits, vegetables, and dairy products, which will better serve this community.

3. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities. The closest school is Stone Mill Elementary in unincorporated Dekalb County, which is over 2,800 feet away.

Stormwater management. Reviewed and approved during Land Development Permit phase.

Water and sewer. Reviewed and approved during Land Development Permit phase.

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.

Traffic capacity was evaluated during the Land Development Permit phase of the project. The site has three curb cuts for access. A curb cut with right-in, right-out only access is in the middle of the road frontage along East Ponce de Leon Avenue. An additional curb cut is located at the western edge of the East Ponce de Leon Avenue. Both curb cuts along East Ponce de Leon Avenue have deceleration lanes. The third curb cut is located off of Richardson Street. The project also includes right-of-way improvements, including sidewalks along both frontages.

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.

The traffic generated by the alcohol sales within the convenience store should not have an adverse impact on existing land uses located along the access route.

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.

Ingress and egress have already been developed on the property for the convenience store and were evaluated during the Land Development Permit phase. Three curb cuts have been

designed to control traffic, as well as deceleration lanes. The site plan includes sidewalks along the public street frontages and internal pedestrian connections to the convenience store building.

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.

The proposed use will not generate excessive noise, nor will it emit smoke, odor, dust, or vibration.

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 applicant proposes to be operational 24 hours a day. However, these hours could create adverse impacts on the adjacent residential land uses, especially as it relates to the request for alcohol sales. The hours of operation for the convenience store and alcohol sales shall be limited to ensure the nearby residential properties are not impacted.

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.

Nearby land uses along East Ponce de Leon Avenue will not be adversely affected by the proposed use, but the use could impact the surrounding residential uses. The sales area and hours of operation should be limited to limit any adverse impacts.

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.

The proposed use is consistent with the underlying zoning district requirements but requires a Special Land Use Permit.

11. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area are Suburban on the Future Land Use map. Uses typically found 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. A convenience store with alcohol sales is not specifically supported within the Suburban character area, so care should be taken to ensure that the use is less intense. Limiting the alcohol display area to a maximum of 20% of floor area and limiting the hours of operation are recommended means of keeping the use more compatible with the Suburban character area. 5960 East Ponce de Leon Avenue is located in a food desert according to the U.S. Department of Agriculture, so the convenience store could serve a neighborhood need. The closest existing convenience store is the Food Mart at the Citgo at 5095 Stone Mill Way, which is about seven hundred feet away. The site plan includes a 75' transitional buffer along the property lines adjacent to East Ponce Village, a multifamily residential development.

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.

At the time of LDP review, a type “D” 75’ transitional buffer zone was required where the parcel abuts East Ponce Village apartments.

13. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a dumpster enclosure towards the northwest portion of the subject site to serve the facility.

14. 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. However, the SLUP for alcohol sales shall not be transferred to another entity.

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.

The building is existing. No additional construction is proposed for the alcohol sales.

16. 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, the proposed use is unlikely to adversely affect historic buildings, sites, districts, or archaeological sites.

17. 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. 46-1151 (Alcohol outlets, retail, package liquor store). The applicant’s letter of intent provides a detailed analysis of conformance to the alcohol regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when alcohol sales are proposed, as enumerated below:

- A. Package stores and liquor stores, developed as a primary use in a freestanding building, must comply with City of Tucker ordinances pertaining to licensing requirements for a retail package liquor store.**

The proposal is for accessory alcohol sales, beer, and wine only. Regulation does not apply.

- B. Alcohol outlets in the NS (Neighborhood Shopping) District may only be permitted as an accessory use with a Special Land Use Permit (SLUP).**

The subject site is zoned C-1 (Local Commercial). Regulation does not apply.

- C. Alcohol outlets in the MU (Mixed-Use) districts shall be limited to beer and wine sales with a Special Land Use Permit (SLUP).**

The subject site is zoned C-1 (Local Commercial). Regulation does not apply.

- 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 convenience store building and fuel pump canopy are already existing and do not create a shadow impact on any adjoining lot or building.

- 19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.**

There could be a proliferation of alcohol sales outlets in close proximity to this location. There is a package store at 5095 Stone Mill Way, as well as a convenience store with alcohol sales, which is approximately seven hundred feet away as the crow flies. Care should be taken to avoid a proliferation of alcohol sales, as this is a residential area.

- 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 proposal is not consistent with the Suburban Character Area in terms of primary land uses, but the development was built by right. The only change is the request for alcohol sales within the convenience store. A 75' transitional buffer exists along the property lines that abut East Ponce Village helping to protect the existing neighborhood. Restrictions on the sales area and hours of operation will help make the proposal more compatible.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL WITH CONDITIONS** of Land Use Petition **SLUP-23-0003**.

If approved, it should be approved subject to the following conditions. Such conditions shall be complied with prior to the issuance of any building permit, unless otherwise specifically noted:

1. The Special Land Use Permit for alcohol sales within the 5,000 square foot convenience store is issued to Gas Express, LLC and shall not be transferred to another business.
2. Alcohol sales shall be limited to beer and wine. Alcohol sales display area shall not exceed twenty percent (20%) of the gross floor area.
3. The convenience store with alcohol sales shall close by 11:00pm Monday through Sunday.
4. The business shall comply with all local regulations for convenience stores, including the requirement for a video surveillance system, and the restrictions on coin operated amusement machines and vape/CBD.
5. A City of Tucker Occupational Tax Certificate and Alcohol License shall be maintained at all times.

Planning Commission Recommendation

Based upon the findings and conclusions herein, at its July 20, 2023 public hearing, the Planning Commission recommends **APPROVAL WITH CONDITIONS** of **SLUP-23-0003** subject to the following amended staff conditions: (additions = **bold**; deletions = ~~strikethrough~~).

1. The Special Land Use Permit for alcohol sales within the 5,000 square foot convenience store is issued to Gas Express, LLC and shall not be transferred to another business.
2. Alcohol sales shall be limited to beer and wine. Alcohol sales display area shall not exceed twenty percent (20%) of the gross floor area.
3. ~~The convenience store with alcohol sales shall close by 11:00pm Monday through Sunday.~~
The convenience store may be open 24 hours a day, but alcohol sales shall cease by 11:00pm Monday through Sunday.
4. The business shall comply with all local regulations for convenience stores, including the requirement for a video surveillance system, and the restrictions on coin operated amusement machines and vape/CBD.
5. A City of Tucker Occupational Tax Certificate and Alcohol License shall be maintained at all times.

Courtney Smith

From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Friday, July 21, 2023 4:10 PM
To: Courtney Smith
Cc: ayaz ali; BillB@circleKAtl.com
Subject: [External]5960 East Ponce de Leon Avenue -alcohol outlet SLUP
Attachments: List of Convenience and Liquor Stores.docx; Maps of C-store locations.pdf

Importance: High

Courtney:

Since I did not get any rebuttal last night, I wanted to take the opportunity to respond to some of the statements made by the opposition last night before the Planning Commission and **have my comments transmitted to the City Council as part of their packet prior to the first reading in August**. An attorney representing Samuels Gas and Grocery located at 5095 Stone Mill Way in Tucker opposed our application on various grounds. The general objections to Gas Express's request for a use permit for off premises consumption alcohol sales were as follows:

- The applicant is a national franchise with power and money to impact or eliminate small businesses such as the mom and pop, the opposition operates.
- Samuels Gas and Grocery provides alcohol in the community already. There is no need for another outlet.
- The operations of the proposed C-Store/ Gas Station will have negative impacts on the residents of this neighborhood in the form of light, noise, late hours, and illegal conduct.
- Gas Express and/or the property owner when they built out the C-Store knew they would need a use permit for alcohol.

The applicant responds to these objections as follows:

- The fact that Gas Express would perhaps be competing with Samuels Gas and Grocery for some of the same customers is not an element for consideration in a use permit application. See Section 46-1594 of the Zoning Ordinance. Samuels Gas and Grocery does not have the right to exclude competition because it is a mom and pop or because it has been in the neighborhood for a long time. It does not have an exclusive franchise on gas station, convenience store, or alcohol sales for the area. While it is certainly hoped that both Samuels and Gas Express can co-exist and prosper together, ultimately it is up to the consumers of the goods and services both provide to decide who and how to patronize these different businesses. There is no factual basis to assume that Samuels will lose customers or revenue but even if there were, this is not a legitimate factor for the City Council to consider when it ultimately votes on the use permit request for approval of beer and wine sales by Gas Express.
- Although Samuels provides alcohol in the community already, Gas Express has conducted studies finding that there is more consumer demand in this area for the alcohol products it desires to sell. Moreover, it should be noted that Samuels is located interior to the neighborhood and likely captures very few passers by on East Ponce de Leon and SR 10, passers by that Gas Express is more likely to capture. In other words, Samuels has a different target customer base than Gas Express.
- If there are any negative impacts from the proposed sale of alcohol by Gas Express, such impacts would certainly be no more than those of Samuels. Samuels is located at the intersection of Juliette Road and Stone Mill Way—surrounded by residential apartments and homes. It is much closer to these residences than the proposed Gas Express alcohol sales would be. It is not buffered in any way by vegetation, unlike the 75 foot buffer on the west and north sides of the Gas Express property. Like Gas Express proposes, Samuels' representative stated that it was open 24 hours a day. Samuels, unlike Gas Express, is located on a corner property highly visible to its

residential neighbors. There is absolutely no evidence put forward that the proposed C-store/ gas station will create loud noise, promote late night activity, or illegal conduct of any kind. Clearly, Sammies is simply wanting to eliminate any competition. As noted above, it has no right to a monopoly based on longevity or any other entitlement.

- The property owner did not know it would need a use permit for alcohol sales prior to building the property out for a gas station/C-Store. Presumably the opponents raise this issue to suggest that the property owner should not be allowed to build out a store and then claim a hardship of some sort if it is not allowed full use of its property. However, the opponents ignore the history of this property (or in fairness may not be aware of it). Prior to December of 2021, the subject property was zoned M (Light industrial). At that time and to the present alcohol outlets, retail sales, primary and accessory were expressly permitted uses of right **not requiring a special use permit** as were convenience stores with fuel pumps. See Use Table 4.1 of the Zoning Ordinance. As noted by staff a land disturbance permit for a C-store with gas pumps was issued in March of 2021, fully nine-months before the property was rezoned to C-1. Unfortunately, the property owner did not get a CO for the building prior to the passage of the zoning ordinance change and was thereby unable to apply to alcohol licenses for the off premises consumption sales. Quite frankly, the property owner was not happy about the zoning change and advised the City of Tucker that it expected tenants of the building to desire beer and wine sales. The property owner in no way created his hardship here or built out the property in an effort to strong arm the City into giving it the desired alcohol licenses. It was caught between changing laws and is thus now required to seek a use permit which was not something originally contemplated.
- Due to various aspects of the site design and distance from residential properties, no negative impacts to residents from the addition of alcohol sales to the fully permitted C-Store/ gas station use are anticipated. There is considerable distance between the C-store operations and any residential structures. Residences to the north and west are separated by a mature 75 foot vegetative buffer and more than 200 feet at the C-store's closest point. To the south they are separated by East Ponce de Leon Avenue, the Stone Mountain multi-use path, vegetation and the CSX railroad not to mention more than 400 feet of distance. All alcohol sales will be internal to the building and the residents will not be affected by them negatively.

Finally, there was much discussion about the proposed condition of staff that the C-store, gas sales and alcohol sales all be required as a condition of SLUP approval to cease by 11 p.m. I understand that staff believes such a condition is necessary to protect the residents and the residential character of the area. As noted by me on behalf of Gas Express, such a condition would be unfair, unwarranted and the death knell to its business. Unfortunately, we did not receive the staff report with this condition until less than 48 hours before the Planning Commission meeting so did not have much time to react. In the meantime, we have accumulated some information about other gas station/convenience stores in Tucker. See table attached along with associated City of Tucker maps. This information (probably not complete because no data base seems to track this specifically) reveals that there are numerous gas station/C-stores who operate 24 hours a day, as requested by Gas Express. There are at least 15 such businesses. See attached table. Of these 15 identified, at least half of them are located within a similar (if not closer) distance to residential properties as the Gas Express store. Some are immediately adjacent to residential properties. Based on these facts on the ground, Gas Express submits that disallowance of a 24 hour operation on the subject property would be treating similarly situated property owners disparately without any rational basis. Moreover, the use permit is for alcohol sales, not for a convenience store or gas pumps. While conditions of zoning approval are specifically allowed, legally they are to be designed to ameliorate any reasonably perceived negative impacts of the activity for which approval is sought. Requiring the C-store and gas sales to close as a condition of approving alcohol sales is clearly not designed to ameliorate any negative impacts of alcohol sales is thus, Gas Express submits, would be improper and an abuse of discretion.

Please let me know if you have any questions or desire to discuss these points at more length. Your professional feedback is always welcomed.

Linda

From: [Linda Dunlavy](#)
To: [Courtney Smith](#)
Cc: [ayaz ali](#); BillB@circleKAtl.com
Subject: [External]SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)
Date: Thursday, August 17, 2023 10:02:02 AM
Attachments: [PostMinutes Mayor & City Council - Regular Meeting Jan-27-2020 \(4246 LaVista\).pdf](#)
[SLUP-19-0008 and 19-0009 4246 La Vista Road.pdf](#)
[Staff-Report-SLUP-17-004-and-17-005.pdf](#)
[PostMinutes Mayor & City Council - Regular Meeting Jan-22-2018.pdf](#)

Courtney:

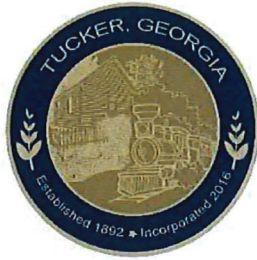
After the City Council meeting on Monday evening (8-14), I researched other SLUPs considered by the City since 2016 for gas station/convenience stores and found the following:

- SLUP 19-008/-009 for redevelopment of a gas station/convenience store site at 4246 Lavista Road was approved with conditions by the City Council on January 27, 2020 (ordinance No. 2019-10-37), and imposed (per staff recommendation) a condition that alcohol sales cease at 11 p.m. there is no indication in the minutes or the staff report that the entire convenience store was required to cease operations at 11 p.m. Interestingly this proposed store was immediately across the street from another C-store. *See attached minutes, application materials and staff report.*
- SLUP 17-005 was approved for 5448 East Ponce de Leon on January 22, 2018 (Ordinance 2018-01-1) with conditions. One of the conditions (#3) required alcohol sales to cease at 11 p.m. but there was no condition requiring the entire store to close at that time. *See attached minutes, application materials and staff report.*

As indicated before the Planning Commission and the City Council, while applicant has no objection to the conditions requiring alcohol sales cease at 11 p.m., it objects vigorously to any condition requiring it to cease operations of the entire store at 11 p.m. There is no rational basis for such a requirement. Please share this information with City Council prior to the second reading of the indicated ordinance scheduled for September 11, 2023.

Thanks,

Linda



City of Tucker, GA

Mayor & City Council Minutes

January 22, 2018 at 7:00 PM

City Hall Annex, 4228 1st Ave, Suite 2-4, Tucker, GA 30084

CALL TO ORDER

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

ROLL CALL

The following were in attendance:

Attendee Name	Title	Status	Arrived
Frank Auman	Mayor	Present	7:00 PM
Pat Soltys	District 1, Post 1	Present	7:00 PM
William (Bill) Rosenfeld	District 1, Post 2	Present	7:00 PM
Matt Robbins	District 2, Post 1	Present	7:00 PM
Noelle Monferdini	District 2, Post 2	Present	7:00 PM
Michelle Penkava	District 3, Post 1	Present	7:00 PM
Anne Lerner	District 3, Post 2	Present	7:00 PM

PLEDGE OF ALLEGIANCE

The pledge was led by the children of the Boards and Commissions.

SWEARING IN CEREMONY

Mayor Auman gave the Oath of Office to those present for the Community Council, Construction Board of Appeals, Downtown Development Authority, Planning Commission and Zoning Board of Appeals.

PUBLIC COMMENTS

Public comments were given on school events.

MAYOR'S OPENING REMARKS

Mayor Auman commented on the business license applications processed for 2017, crime statistics, and the City's newsletter.

APPROVAL OF MEETING AGENDA

Agenda for Monday, January 22, 2018 7:00 PM

- MOTION TO APPROVE THE AGENDA AS PRESENTED.

RESULT: APPROVED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Pat Soltys, District 1, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

MINUTES

Mayor & City Council - Regular Meeting - Jan 8, 2018 7:00 PM

- MOTION TO APPROVE THE MINUTES.

RESULT: ACCEPTED [UNANIMOUS]
MOVER: Michelle Penkava, District 3, Post 1
SECONDER: Matt Robbins, District 2, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

PRESENTATIONS - NONE

STAFF REPORTS - NONE

OLD BUSINESS- NONE

NEW BUSINESS

O2018-02-5 Annexation Ordinance - Application Dated January 11, 2018
John McHenry

- John McHenry spoke on the first read of an application dated January 11, 2018 to annex 8 parcels into the City.

RESULT: **FIRST READ** **Next: 2/20/2018 3:30 PM**

Action Item Painting and Repairs at the Tucker Recreation Center
Carlton Robertson

- 3 quotes were received to paint the recreation center.
- MOTION TO APPROVE THE BURPER CORPORATION BID \$30,650

RESULT: APPROVED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Anne Lerner, District 3, Post 2
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

PUBLIC HEARINGS

O2018-01-4
Tami Hanlin

Budget Amendment Request

- Tami Hanlin, City Manager, spoke on the budget amendments.
- Mayor Auman opened the public hearing. Nobody spoke in favor or opposition. Public hearing closed.
- **MOTION TO ADOPT THE BUDGET AMENDMENTS FOR 2018 FISCAL YEAR O2018-01-4**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	William (Bill) Rosenfeld, District 1, Post 2
SECONDER:	Matt Robbins, District 2, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

Ordinance
John McHenry

O2017-06-67 Public Hearing and Second Read of an Ordinance to approve a Rezoning (RZ-17-001) from R-85 to R-60 in Land Lot 211 of the 18th District to allow for a 19-unit single family detached development for 2157 Saren Court, 4513 Lavista Road, 3634 Lawrenceville Highway, and 3514 Lawrenceville Highway for applicant STS Development Group, LLC.

- John McHenry, Community & Economic Development Director, spoke on the rezoning application.
- Mayor Auman opened the public hearing: Den Webb spoke in favor of the application. 4 citizens spoke in opposition. Mayor Auman closed the public hearing.
- Council discussed.
- **MOTION TO DENY APPLICATION O2017-06-67 RZ-17-001: 6 DENY/1 APPROVE .**

RESULT:	DENIED [1 TO 6]
MOVER:	Anne Lerner, District 3, Post 2
SECONDER:	Michelle Penkava, District 3, Post 1
AYES:	Frank Auman
NAYS:	Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

O2018-01-1
Courtney Smith

O2018-01-1 Public Hearing and Second Read of an Ordinance to approve a Special Land Use Permit (SLUP-17-004) for fuel pumps and a Special Land Use Permit (SLUP-17-005) for alcohol sales; Concurrent Variance (VS-17-004-01) to allow increased canopy height (WITHDRAWN); Concurrent Variance (VS-17-004-02) to allow an outdoor ice machine/propane display for Land Lot 139 of the 18th District AKA 5448 E Ponce De Leon Avenue for applicant Jonathan Wocher (McBride Dale Clarion) c/o Speedway.

- Courtney Smith, Deputy Community Development Director, spoke on the application SLUP-07-004 and SLUP-07-005 and VS-17-004-02.

- Mayor Auman opened the public hearing: Jonathan Woche spoke in favor of the application. Nobody spoke in opposition. Mayor Auman closed the public hearing.
- **MOTION TO APPROVE O2018-01-1 TO INCLUDE THE ADDITIONAL LANGUAGE CONDITIONS 1-21 INCLUDING AT LEAST ONE BIKE RACK SHALL BE REQUIRED AND PLACED BY THE SOUTH SIDE OF THE BUILDING, NEAR THE ACCESS TO THE PATH TRAIL.**

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Pat Soltys, District 1, Post 1
SECONDER:	Matt Robbins, District 2, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

SLUP-17-004 For Fuel Pumps

- **MOTION TO APPROVE MOTION TO APPROVE WITH CONDITIONS 1-19 & 21 IN ORDINANCE**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Pat Soltys, District 1, Post 1
SECONDER:	Matt Robbins, District 2, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

SLUP-17-005 For Alcohol Sales

- **MOTION TO APPROVE MOTION TO APPROVE WITH CONDITIONS 1-19 & 21 IN ORDINANCE**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Pat Soltys, District 1, Post 1
SECONDER:	Michelle Penkava, District 3, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

VS-17-004-02

Concurrent Variance (VS-17-004-02) to allow an outdoor ice machine/propane display:
ORDINANCE #20 WORDING: ONE PROPANE TANK CAGE SHALL BE PERMITTED FOR OUTDOOR DISPLAY OF MERCHANDISE.

- **MOTION TO APPROVE WITH CONDITIONS 1-21 IN ORDINANCE 6 YES - 1 NO ROSENFELD**
- **ROSENFELD MOTIONED TO AMEND #20 WORDING TO: TWO PROPANE TANK CAGES OUTSIDE AND ICE MERCHANDISE CASE INSIDE**
- **MOTION TO APPROVE WITH AMENDED #20 AND CONDITIONS 1-21 IN ORDINANCE 6 YES - 1 NO SOLTYS**

RESULT: APPROVED [6 TO 1]
MOVER: Michelle Penkava, District 3, Post 1
SECONDER: William (Bill) Rosenfeld, District 1, Post 2
AYES: Auman, Rosenfeld, Robbins, Monferdini, Penkava, Lerner
NAYS: Pat Soltys

MAYOR AND COUNCIL COMMENTS

Mayor & Council thanked everyone for attending, thanked the staff, and thanked the Boards and Commissions for volunteering.

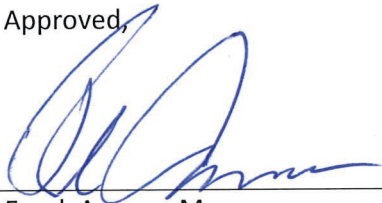
EXECUTIVE SESSION - NONE

ADJOURNMENT – 9:19 PM

- MOTION TO ADJOURN

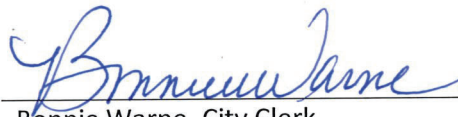
RESULT: APPROVED [UNANIMOUS]
MOVER: Michelle Penkava, District 3, Post 1
SECONDER: William (Bill) Rosenfeld, District 1, Post 2
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

Approved,



Frank Auman, Mayor

Attest:



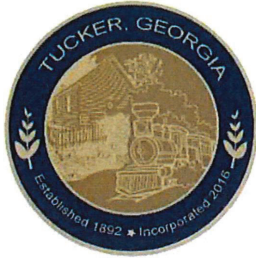
Bonnie Warne, City Clerk

(Seal)



APPROVED

2/12/2018



City of Tucker, GA

Mayor & City Council Minutes

Regular Meeting

January 27, 2020 at 7:00 PM

City Hall Annex, 4228 1st Ave, Suite 2-4, Tucker, GA 30084

A. CALL TO ORDER

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

B. ROLL CALL

The following were in attendance:

Attendee Name	Title	Status	Arrived
Frank Auman	Mayor	Present	7:00 PM
Pat Soltys	District 1, Post 1	Present	7:00 PM
William (Bill) Rosenfeld	District 1, Post 2	Present	7:00 PM
Matt Robbins	District 2, Post 1	Present	7:00 PM
Noelle Monferdini	District 2, Post 2	Present	7:00 PM
Michelle Penkava	District 3, Post 1	Present	7:00 PM
Anne Lerner	District 3, Post 2	Present	7:00 PM

C. PLEDGE OF ALLEGIANCE

The pledge was be led by Tucker First United Methodist Church Pre-K.

D. PUBLIC COMMENTS

Public Comments were heard from 3 citizens on: a non-discrimination ordinance and Johsie Cruz running for GA Congressional District 4.

E. MAYOR'S OPENING REMARKS

Mayor Auman mentioned that we operate under Roberts Rules of Order and please silence your phones

F. APPROVAL OF MEETING AGENDA

1. Agenda of January 27, 2020 7:00 PM Regular Meeting

Motion to approve the agenda as presented. Vote passed unanimously.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Noelle Monferdini, District 2, Post 2
SECONDER:	Matt Robbins, District 2, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

G. MINUTES

1. Minutes of Mayor & City Council - Work Session Meeting - Jan 14, 2020 5:45 PM

Motion to approve the minutes of the work session as presented. Vote passed unanimously.

RESULT: APPROVED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Matt Robbins, District 2, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

2. Minutes of Mayor & City Council - Swearing In Ceremony - Jan 14, 2020 6:30 PM

Motion to approve the minutes of the special called meeting for the swearing in ceremony as presented. Vote passed unanimously.

RESULT: APPROVED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Matt Robbins, District 2, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

3. Minutes of Mayor & City Council - Regular Meeting - Jan 14, 2020 7:00 PM

Motion to approve the minutes of the regular meeting with a scriveners error as corrected. Vote passed unanimously.

RESULT: APPROVED AS AMENDED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Matt Robbins, District 2, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

H. PRESENTATIONS - NONE

I. STAFF REPORTS

1. Information Item December 2019 Financials
Toni_Jo Howard

Finance Director Toni Jo Howard presented the financial report for December 2019, stating that the City has a strong revenue base and the expenses are under expectations.

RESULT: PRESENTED

J. OLD BUSINESS

1. O2020-01-1 Ordinance Second Read and Public Hearing of an Ordinance to Amend the
Toni_Jo Howard Charter of the City of Tucker

Toni Jo Howard, Finance Director, spoke on the second read of an ordinance to amend the Charter to submit the proposed budgets by the eleventh month and to adopt the budget by the last day of the fiscal year currently ending. Mayor Auman opened the public hearing: nobody spoke in favor or opposition. The public hearing was closed.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Anne Lerner, District 3, Post 2
SECONDER: Pat Soltys, District 1, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

2. O2019-10-36 Ordinance Courtney Smith Second Read and Public Hearing of an Ordinance to the Mayor and City Council for a Special Land Use Permit (SLUP-19-0008) to allow fuel pumps in the NL-1 (Northlake High Intensity Commercial) zoning district at 4246 Lavista Road for applicant Tarek Real Estate, LLC c/o Lisa S. Morchower of Berman, Fink, Van Horn, P.C.

Courtney Smith, Planning and Zoning Director, spoke on the second read of the Special Land Use Permit applications SLUP-19-0008 and SLUP-19-0009. Mayor Auman opened the public hearing: the representative for the applicant spoke in favor of the application and nobody spoke in opposition. The public hearing was closed.

24. Owner/Developer shall dedicate to the Georgia Department of Transportation (“GDOT”) along the entire frontage of Lavista Road right-of-way such additional right-of-way needed to accommodate the future GDOT I-285 Express Lane Project (“GDOT Project”), during the land acquisition phase by GDOT for the GDOT Project, which includes the widening of the Lavista Road bridge. The location of the dedicated right-of-way shall be as labeled “Future R/W Dedication” on the submitted site plan date stamped January 8, 2020. Said right-of-way dedication shall be at no cost to the City of Tucker. Should Owner/Developer sell, assign or otherwise transfer the Property which is the subject of this ordinance, then Owner/Developer shall include this requirement in any Agreement for such sale, assignment or other transfer of the Property. ~~Either Owner/Developer or its successor shall not be precluded from negotiating a price for the Right of Way Dedication with GDOT.~~

26. Applicant proposed condition that the sale of ~~drug~~ pipes, bongs, roach clips, small drug scales, bath salts sold in packets, kratom, and herbal incense (synthetic marijuana) sold in packets are prohibited.

Motion to include staff proposed changes and amend #24 as above and add condition #26.

Motion to amend the main motion to remove the word 'drug' in front of pipes and add 'applicant proposed addition that' to #26.

Motion to approve Ordinance O2019-10-36 for SLUP-19-008 with conditions.

RESULT:	APPROVED WITH CONDITIONS [6 TO 1]
MOVER:	Anne Lerner, District 3, Post 2
SECONDER:	Michelle Penkava, District 3, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Penkava, Lerner
NAYS:	Noelle Monferdini

3. O2019-10-37 Ordinance Courtney Smith Second Read and Public Hearing of an Ordinance to the Mayor and City Council for Special Land Use Permit (SLUP-19-0009) to allow alcohol sales in the NL-1 (Northlake High Intensity Commercial) zoning district located at 4246 Lavista Road for applicant Tarek Real Estate, LLC c/o Lisa S. Morchower of Berman, Fink, Van Horn, P.C..

Courtney Smith, Planning and Zoning Director, spoke on the second read of the Special Land Use Permit applications SLUP-19-0008 and SLUP-19-0009. Mayor Auman opened the public hearing: the representative for the applicant spoke in favor of the application and nobody spoke in opposition. The public hearing was closed.

23. Owner/Developer shall dedicate to the Georgia Department of Transportation (“GDOT”) along the entire frontage of Lavista Road right-of-way such additional right-of-way needed to accommodate the future GDOT I-285 Express Lane Project (“GDOT Project”), during the land acquisition phase by

GDOT for the GDOT Project, which includes the widening of the Lavista Road bridge. The location of the dedicated right-of-way shall be as labeled “Future R/W Dedication” on the submitted site plan date stamped January 8, 2020. Said right-of-way dedication shall be at no cost to the City of Tucker. Should Owner/Developer sell, assign or otherwise transfer the Property which is the subject of this ordinance, then Owner/Developer shall include this requirement in any Agreement for such sale, assignment or other transfer of the Property. ~~Either Owner/Developer or its successor shall not be precluded from negotiating a price for the Right of Way Dedication with GDOT.~~

25. Applicant proposed condition that the sale of ~~drug~~ pipes, bongs, roach clips, small drug scales, bath salts sold in packets, kratom, and herbal incense (synthetic marijuana) sold in packets are prohibited.

Motion to include staff proposed changes and to amend #23 as above and add condition #25.

Motion to amend the main motion to remove the word 'drug' in front of pipes and add 'applicant proposed addition that' to #25.

Motion to approve Ordinance O2019-10-37 for SLUP-19-009 with the conditions.

RESULT:	APPROVED WITH CONDITIONS [6 TO 1]
MOVER:	Anne Lerner, District 3, Post 2
SECONDER:	Michelle Penkava, District 3, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Penkava, Lerner
NAYS:	Noelle Monferdini

K. NEW BUSINESS

- | | |
|-------------------------|---|
| 1. O2020-01-2 Ordinance | First Read and Public Hearing of an Ordinance to Amend the FY20 |
| Toni_Jo Howard | Budget |

Finance Director Toni Jo Howard spoke on the first read of an ordinance to amend the FY20 Budget. Mayor Auman opened the public hearing: nobody spoke in favor or opposition. The public hearing was closed.

RESULT:	FIRST READ	Next: 2/10/2020 7:00 PM
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- | | |
|-------------------------|---|
| 2. O2020-01-3 Ordinance | First Read and Public Hearing of an Ordinance to the Mayor and City |
| Courtney Smith | Council for a rezoning RZ-19-0006 from M (Light Industrial) to G-2 |
| | (General Commercial) to allow a commercial development, and a |
| | concurrent variances CV-19-0008 and CV 19-0009 at 4650 Hugh |
| | Howell Road for Branch Acquisition Company LLC c/o Laurel David |

Courtney Smith, Director of Planning and Zoning, spoke on the first read of the rezoning and concurrent variance applications RZ-19-0006; CV-19-0008; CV-19-009. Mayor Auman opened the public hearing: the representative for the applicant and 2 other citizens spoke in favor of the application and one citizen spoke in opposition. The public hearing was closed.

RESULT:	FIRST READ	Next: 2/24/2020 7:00 PM
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Concurrent Variances CV-19-0010; CV-19-0011

Request by applicant to withdraw the concurrent variances CV-19-0010 and CV-19-0011. Motion to approve the withdrawal request on the concurrent variances .

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Matt Robbins, District 2, Post 1
SECONDER:	Pat Soltys, District 1, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

3. O2020-01-4 Ordinance Courtney Smith First Read of an Ordinance to the Mayor and City Council of the City of Tucker, Georgia, for the purpose of amending Chapter 38 of the Code of Ordinances of the City of Tucker, Georgia to add an Article III pertaining to streaming wireless facilities and antennas; to repeal conflicting provisions; and for other purposes at the regular meeting of the Mayor and City Council, held on February 10, 2020.

Courtney Smith, Planning & Zoning Director, spoke of a proposed model ordinance by GMA on small cells: First Read of an Ordinance of the Mayor and City Council of the City of Tucker, Georgia, for the Purpose of Amending Chapter 38 of the Code of Ordinances of the City of Tucker, Georgia to add an Article III Pertaining to Streaming Wireless Facilities and Antennas; to Repeal Conflicting Provisions; and for other purposes.

RESULT:	FIRST READ	Next: 2/10/2020 7:00 PM
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L. MAYOR AND COUNCIL COMMENTS

The Mayor and Council thanked everyone for attending, thanked the staff and Police Dept, gave an update on upcoming events and reminded all of the Census 2020, which will be the first-ever for the City of Tucker. All of us being counted is very important action to benefit the City.

M. EXECUTIVE SESSION

9:23 PM

Motion to enter into Executive Session for the purpose of real estate, personnel and/or litigation.

RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	William (Bill) Rosenfeld, District 1, Post 2
SECONDER:	Matt Robbins, District 2, Post 1
AYES:	Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

10:10 PM

Motion to exit Executive Session and reconvene the regular meeting.

RESULT:	VOTE BY ACCLAMATION
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N. ACTION ITEM AFTER EXECUTIVE SESSION - NONE

O. ADJOURNMENT – 10:12 PM

Motion to Adjourn

RESULT: APPROVED [UNANIMOUS]
MOVER: Noelle Monferdini, District 2, Post 2
SECONDER: Michelle Penkava, District 3, Post 1
AYES: Auman, Soltys, Rosenfeld, Robbins, Monferdini, Penkava, Lerner

Approved,

Attest:


Frank Auman, Mayor


Bonnie Warne, City Clerk



APPROVED

2/10/2020



Land Use Petitions: SLUP-19-0008 & SLUP-19-0009

Date of Staff Recommendation Preparation: September 18, 2019

Community Council: August 14, 2019

Planning Commission: September 26, 2019

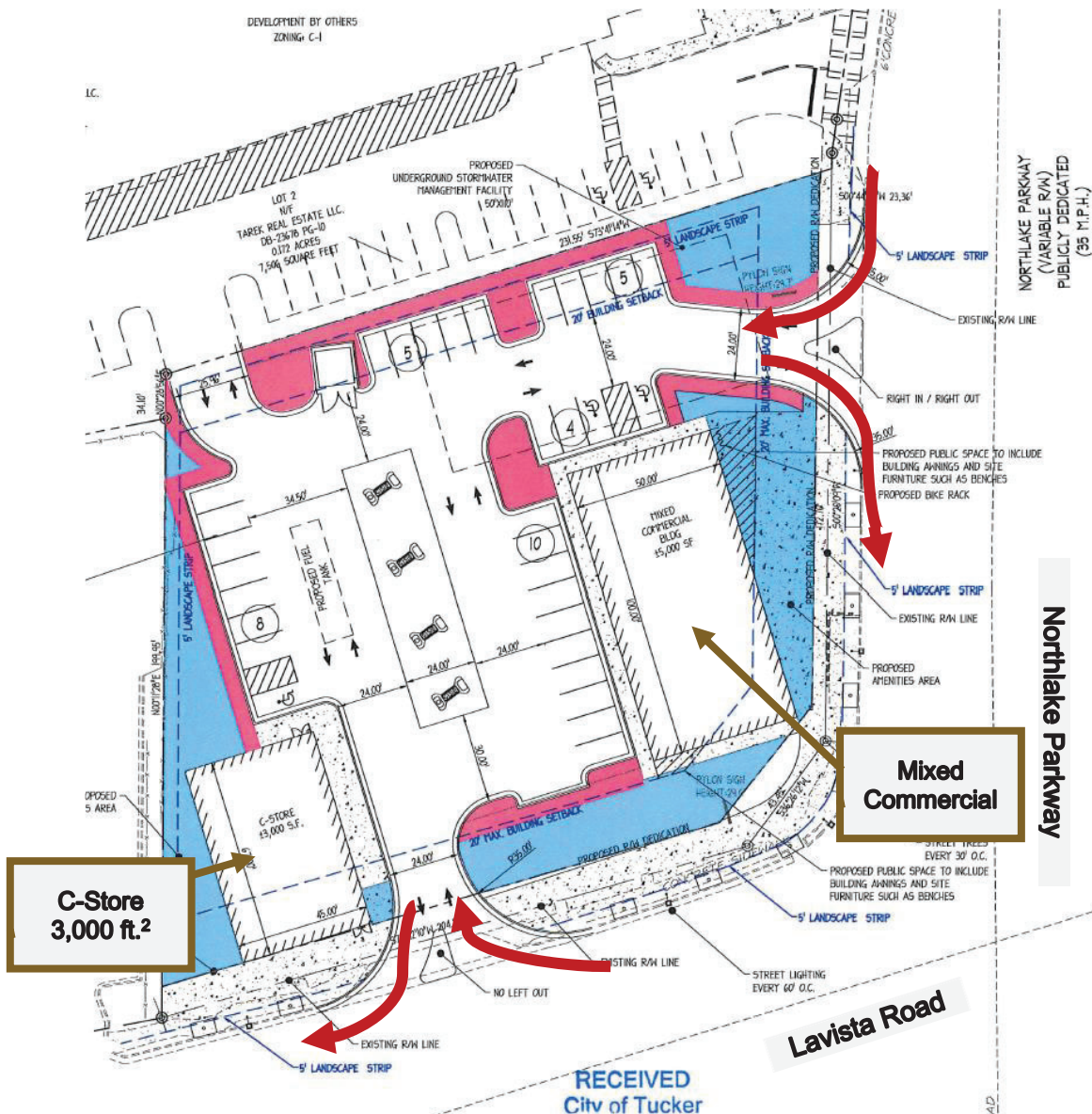
Mayor and City Council, 1st Read: October 28, 2019

Mayor and City Council, 2nd Read: November 25, 2019

PROJECT LOCATION:	4246 Lavista Road, Tucker, GA
DISTRICT/LANDLOT(S):	Land District 18, Land Lot 210
ACREAGE:	1.02 acres
EXISTING ZONING	NL-1 (Northlake High Intensity Commercial)
EXISTING LAND USE	Convenience store with fuel pumps
FUTURE LAND USE MAP DESIGNATION:	Regional Activity Center (RAC)
OVERLAY DISTRICT:	NA
APPLICANT:	Tarek Real Estate, LLC c/o Lisa S. Morchower (Berman, Fink, Van Horn, P.C.)
OWNER:	Tarek Real Estate, LLC
PROPOSED DEVELOPMENT:	<p>Applicant intends to redevelop the site with a 3,000 sq. ft. convenience store and 5,000 sq. ft. mixed-commercial building.</p> <p>A SLUP is required for both the proposed fuel pumps (SLUP-19-0008) and alcohol sales (SLUP-19-0009) due to the expectation that redevelopment will exceed 6 months for non-conforming uses.</p>
STAFF RECOMMENDATION:	<p>Approval of SLUP-19-0008 (Fuel Pumps)</p> <p>Approval of SLUP-19-0009 (Alcohol Sales)</p>

PROJECT DATA

The applicant has submitted two applications for Special Land Use Permits (SLUP) for the 1.02+/- acre subject property located at 4246 Lavista Road (located at the intersection of Lavista Road and Northlake Parkway). The subject site is approximately 350 feet from an interchange to Interstate 285. The first application, SLUP-19-0008, is for allow for fuel pumps. The second application, SLUP-19-0009, is to allow alcohol sales. Both of these requests are required as more than 6 months will lapse during the redevelopment of the subject site, closing of the fuel tanks, demolishing the existing convenience store and emission testing facility.



The convenience store is proposed to be a $\pm 3,000$ square feet air-conditioned space. The applicant requests a 24-hour operation of the convenience store and fuel pumps with alcohol sale hours restricted to the hours imposed by the City of Tucker Alcohol Ordinance. The project proposes 4 dispenser aisles (8 fuel pumps) for cars located towards the center portion of the parcel. Cars will primarily enter via

right-in / right-out driveway vehicular from Lavista Road. Secondary vehicular access for cars via right-in/right-out onto Northlake Parkway for the mixed commercial building and convenience store.

SLUP-17-001, approved on May 22, 2017, to allow for a multi-family development over 24-units per acre (90 units @ 60 units per acre) (45 one-bedroom and 45 two-bedroom) in one building consisting of four stories with parking underneath at ground level) is located to the immediate north of the subject site. Condition No. 7 of Ordinance 2017-05-65 required, *“Interparcel connectivity to the south shall be required due to fire access. Owner/Developer shall record and install the interparcel access easement and connection during the LDP process. No building permit shall be obtained until the interparcel connection is installed and inspected by the DeKalb County Fire Department.”* The site plan for the proposed development shows this third access point providing inter-parcel access allowing for greater mobility for fire safety and auto access from the 90-unit multi-family complex immediately to the north of the subject site.

The parcel is mitered at the southeastern corner (Lavista Road and Northlake Parkway) making the proposed development slightly non-compliant with the maximum setback requirements (Table 3.10 Northlake District Dimensional Requirements) at the southeastern corner of the proposed ±5,000 square-foot mixed commercial building. Particularly, the NL-1 zoning district requires front building setback to be between a minimum of zero (0) feet to a maximum of twenty (20) feet. However, Sec. 3.3.6.C Dimensional Standards, Additional Setback Requirements allows buildings to exceed the maximum 20-foot setback to allow for stoops, front porches, balconies, canopies, or steps, a public space or park, and or outdoor dining. The applicant submitted a revised site plan, on August 5, 2019 labeling this area as a proposed public space to include building awnings and site furniture. The applicant is not currently proposing outdoor dining, but if they do in the future, Sec. 3.2.18 Outdoor dining has the following requirements which applies to all outdoor dining: all tables and chairs must be metal; each umbrella canopy must be a single solid color; different umbrellas may have different colored canopies; and no signage may be placed on tables, chairs, or umbrellas.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

The subject property is located within NL-1 (Northlake High Intensity Commercial) zoning district. The intent of the Northlake Zoning Districts is to encourage development and redevelopment of properties in order to achieve a mixed-use community; the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel; to encourage mixed-use developments containing commercial and residential uses in order to create a pedestrian-oriented community where people can live, work, and play; To improve the visual appearance and increase property values; promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the Northlake area; to ensure a stable and healthy tax base. Taken together these items serve to unify the distinctive visual quality of the Northlake area.

The purpose and intent section of the NL-1 (Northlake High-Intensity Commercial) is to allow for the most intense mixed-use development in Tucker. It encourages the redevelopment of parking lots into a mix of retail, office, and residential uses in the same development. Convenience stores are allowed “by-right”. However, fuel pumps (accessory to convenience store) and alcohol sales are only allowed by approval of a Special Land Use Permit in the NL-1 (Northlake High Intensity Commercial) zoning district. The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-

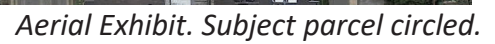
case specific basis ensure compatibility with the surrounding area including environmental impacts, visual and infrastructure impacts.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on August 14, 2019. Community Council discussion included pedestrian safety and limited walkability between the convenience store/gas station/retail. The community council suggested a sidewalk from the proposed development to the Northlake Residential apartments to the immediate north. Additional comments from the Community Council included questions to the applicant regarding why there were two buildings being planned on that site. Chairman Burrow inquired as to why the gas pumps were not equally spaced. The applicant explained it was just an AutoCAD (technical) issue and that the spacing of the pumps are evenly spaced. Other questions and concerns included how the gas station logo would look, how to make this aesthetically pleasing (the visibility from the street). Additional discussion included sidewalks and connectivity, especially for "seniors" at the Northlake Apartments to the immediate north of the subject property. There were comments made that this would improve the appearance of the corner, followed by continued concerns regarding safety, connectivity and walk-ability expressed by the Community Council. As is standard, the Community Council did not make a recommendation of approval or denial.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	NL-1 (Northlake High Intensity Commercial)	NA	90 units @ 60 units per acre (Northlake Sr. Center)
Adjacent: East (across Northlake Parkway)	NL-1 (Northlake High Intensity Commercial)	NA	Waffle house and fast food chain
Adjacent: Northeast (across Northlake Parkway)	NL-1 (Northlake High Intensity Commercial)	NA	Multi-tenant shopping center (Sprouts, Dicks Sporting Goods, Jimmy Johns, etc.)
Adjacent: South (South across Lavista Road)	NL-1 (Northlake High Intensity Commercial)	NA	Del Taco Restaurant and Target shopping center further south.
Adjacent: Catercorner— (Southeast across Lavista Road)	NL-1 (Northlake High Intensity Commercial)	NA	Gas Station



SLUP-19-0008 FUEL PUMPS

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.

- 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 size is approximately 1.02 acres. According to the DeKalb County Property Assessor's office the square footage of structures on the site is 1,664 square feet, built in 1987. The site is relatively small for the scope of the proposed 3,000 square-foot gas station and proposed 5,000 square-foot commercial building; however, it meets the development standards for the zoning district.

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum 0; Maximum 20 ft.	Yes – complies per Sec. 3.3.6.C Dimensional Standards. Applicant is proposing to include public space with awning, site furniture, such as benches, etc.
Side setbacks	No minimum	Yes – complies
Rear setbacks	20 ft. minimum	Yes – complies
Maximum building height	Canopy height may not exceed 20 feet. Max. bldg. ht. is 180 ft. or 180 stories, whichever is less.	Yes – complies per criteria narrative of application, Item 17, supplemental Item 3.
Landscape strip (Sec. 3.3.14, Table 3.14 Streetscape Dimensions)	Minimum Total Width (Landscape/Sidewalk): Lavista Road = 20 feet— including 5 ft. landscape strip / 15 ft. sidewalk Other NL-1 streets = 15 feet— including 5 ft. landscape strip / 10 ft. sidewalk	Yes – complies, per site plan sheet 1 – 6 entitled “City of Tucker Code Requirements”
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—16 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—45 spaces.	Yes – complies with Table 6.2. 32 spaces provided.
Architectural requirements (visible building facades) (Sec. Section 3.3.10)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Land Development Review.
Maximum Lot Coverage	80%	Yes – complies

Additional items, including exterior building materials will be determined at the time of Site & Land Development Review after the submittal for the building permit. The site data information only shows parking information for commercial uses. If the 5,000 square-foot “mixed” commercial building has a restaurant (with no drive-through) the minimum parking shall be one (1) space per 150 ft. of floor area and a maximum parking of one (1) space for each 75 sq. ft. of floor area but not less than 10 spaces. If the use included a 5,000 ft. restaurant, the minimum parking for the development would meet the minimum 31 parking spaces, as the site plan depicts 32 parking spaces.

2. 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 gas station is compatible with the land uses and development of adjacent properties as it is located on a minor arterial road across from restaurants and another gas station cater-corner to the proposed redevelopment. Interstate 285 is located less than 500 feet to the west of the subject property.

There is residential immediately north of the subject site and inter-parcel access that was established with the Special Land Use Permit approval for the multi-family development due north. The sidewalks surrounding the properties may provide access to the 90-unit development immediately north. A few hundred feet north is the site of a recently approved mixed-use, multifamily development (SLUP-18-002) consisting of three, four/five story split apartment buildings with a total of 245-units on ±8.65 acres (28.32 dwellings per acre) which are within walking distance along Northlake Parkway to the proposed development in compliance with the NL-1 intent to create more walkable communities in the area.

3. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The applicant is required to show stormwater management, if the development is approved, on their LDP plans to determine if their disturbance will require detention.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

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.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the City Engineer has recommended several conditions of approval pertaining to public street access which are included in this report including right in / right out ingress and egress to the development.

- 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.**

Existing commercial type land uses would not be adversely affected by the proposed fuel pumps because fuel pumps currently exist on the site. The proposed fuel pumps will not affect the character of vehicles or the volume of traffic generated by the proposed development.

- 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.**

If developed in accordance with GDOT standards (Lavista Road) and in accordance with recommended conditions from the City Engineer, the proposed development can meet this standard. Ultimately, a GDOT encroachment permit will be required.

- 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.**

The proposed development will not generate more excessive noise, nor will it emit smoke, odor, dust or vibration greater than that which currently exists. During redevelopment the applicant will be required to meet State of Georgia and federal requirements pertaining to removal of the existing tanks, installation of replacement tanks, and all applicable standards for fuel pumps adjacent to a residential development. Therefore, no adverse impacts on adjoining land uses are anticipated due to the environmental standards which the applicant must comply.

- 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 proposed gas station and convenience store proposes to be operational 24 hours a day. Nearby is a multifamily residential use, which the applicant should take care to mitigate any impacts, including recommended conditions for lighting, marked crosswalks, landscaping and screening of the parking lots to prevent glare into the residences. Staff notes the property is located less than 500 feet of the Interstate 285 interchange.

Although, there is not a proliferation of this use at this location. Rather, the gas stations are both right in/right out and may cater to travelers going in opposite directions along Lavista Road and Northlake Parkway allowing drivers to be safer.

- 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.**

If developed in accordance with recommended conditions, land uses along Northlake Parkway and Lavista Road will not be adversely affected by the manner or operation of the development.

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.

The proposed use is consistent with the underlying zoning district requirements, but the development will require further review regarding landscaping, exterior building materials, crosswalks and the like at the time of Site & Land Development Review. During Site and Development the applicant will need to provide material specifications to determine compliance. The site plan also shows trash dumpsters screened so that such outdoor area cannot be seen from any public right-of-way. Staff recommends screening from the adjacent residential development.

11. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area are Regional Activity Center on the Future Land Use. Uses typically include a higher-density mix of retail, office, housing, and services, and employment to serve a regional market area. Because the location is readily accessible from the highway, future development in the Northlake area is considered both desirable and appropriate. Primary land uses include townhomes, higher density multi-family including apartments and condominiums, retail and service commercial, office, entertainment and cultural facilities, and public and private recreational uses.

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.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties.

13. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the northwest portion of the subject site to serve the facility.

14. 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.

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.

The proposed development would result in a building set close to the road activating a more pedestrian oriented streetscape. Parking and gas pumps somewhat hidden from view behind

the proposed buildings. The applicant submitted elevations; however, the elevations do not specify the building height or exterior materials.

The application states the maximum building's height to be 22 feet. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses.

16. 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 (meets standard).

17. 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. 46-1171 (Fuel Pumps, accessory). The applicant's letter of intent provides a detailed analysis of conformance to the fuel pumps regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when fuel pumps are proposed, as enumerated below:

1. **The primary building (i.e., convenience store or automobile service station) shall conform to all primary building setbacks.** The proposed development meets the development standards for the zoning district pertaining to setback requirements. Proposed development meets the criteria.
2. **Canopies covering gasoline dispensers shall be set back not less than fifteen (15) feet from all street rights-of-way.** The proposed development shows the canopies setback over 15 feet from the street right-of-way. Proposed development meets the criteria.
3. **The canopy shall not exceed the height of the principal building, but in no case shall exceed twenty (20) feet in height.** The proposed canopy is 20 feet. Proposed development meets the criteria.
4. **The canopy and its columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.** The overall color scheme and building materials will be required to be compliant with the zoning ordinance at the time of Site & Development, before issuance of a building permit.
5. **Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.** The proposed development does not show the lighting scheme; however, this will be

a condition of approval. However, in the Statement of Intent the applicant proposes to utilize energy efficient LED lights and to have cut-off light fixtures to reduce glare (while providing safe lighting conditions). Proposed development meets the criteria, with conditions.

6. **Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow.** The proposed development has the capacity to store one (1) car per bay in front of the pump. Proposed development meets the criteria.
7. **A minimum of thirty (30) feet is required between a property line and the nearest gasoline pump.** The proposed development shows the gas pumps setback over 30 feet from the street right-of-way. Proposed development meets the criteria.

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 height of the convenience store and proposed commercial building is one story, reaching 22 feet at the top of the pitched roof. The proposed canopy over the fuel pumps is 20 feet, which will not create a shadow impact on any adjoining lot or building (meets standard).

19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There is a gas station cater corner to the proposed gas station. However, both of the gas stations have egress that are right in/right out and may complement travelers going in opposite directions along Lavista Road and Northlake Parkway.

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.

Regional Activity Center Character Area. Most of the area located within the Northlake area of Tucker is best characterized as a regional activity center. Regional activity centers typically include a higher-density mix of retail, office, housing, and services, and employment to serve a regional market area. Because it is readily accessible from the highway and is already more developed, future development in the Northlake area is considered both desirable and appropriate. Primary land uses include townhomes, higher density multi-family including apartments and condominiums, retail and service commercial, office, entertainment and cultural facilities, and public and private recreational uses.

CONCLUSION

The proposed accessory use of fuel pumps may be somewhat complementary to the existing uses along Lavista Road and Northlake Parkway. The location is less than 500 feet from the interchange to Interstate 285. Additionally, a gas station has been on the site for decades and the proposal is essentially extending the legal-nonconformity beyond the 6-month maximum allowable to maintain a non-conforming use to allow a redevelopment of the property that is expected to take more than 6 months to complete.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area, and the zoning ordinance, as the proposed accessory use is consistent with the purposes and intentions of the Regional Activity Center Character Area and will provide a use for those travelling in a south direction along Northlake Parkway or a westward direction along Lavista Road to fuel their vehicles and patronize a convenience store.

SLUP-19-0009 ALCOHOL SALES

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.

- 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 size is approximately 1.02 acres. According to the DeKalb County Property Assessor's office the square footage of structures on the site is 1,664 square feet, built in 1987. The site is relatively small for the scope of the proposed 3,000 square-foot gas station and proposed 5,000 square-foot commercial building; however, it meets the development standards for the zoning district.

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum 0; Maximum 20 ft.	Yes – complies per Sec. 3.3.6.C Dimensional Standards
Side setbacks	No minimum	Yes – complies
Rear setbacks	20 ft. minimum	Yes – complies
Maximum building height	Canopy height may not exceed 20 feet. Max. bldg. ht. is 180 ft. or 180 stories, whichever is less.	Yes – complies per criteria narrative of application, Item 17, supplemental Item 3.
Landscape strip (Sec. 3.3.14, Table 3.14 Streetscape Dimensions)	Minimum Total Width (Landscape/Sidewalk): Lavista Road = 20 feet— including 5 ft. landscape strip / 15 ft. sidewalk Other NL-1 streets = 15 feet— including 5 ft. landscape strip / 10 ft. sidewalk	Yes – complies, per site plan sheet 1 – 6 entitled “City of Tucker Code Requirements”
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—16 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—45 spaces.	Yes – complies with Table 6.2. 32 spaces provided.
Architectural requirements (visible building facades) (Sec. Section 3.3.10)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Land Development Review.
Maximum Lot Coverage	80%	Yes – complies

Additional items, including exterior building materials will be determined at the time of Site & Land Development Review after the submittal for the building permit. The site data information only shows parking information for commercial uses. If the 5,000 square-foot “mixed” commercial building has a restaurant (with no drive-through) the minimum parking shall be one

(1) space per 150 ft. of floor area and a maximum parking of one (1) space for each 75 sq. ft. of floor area but not less than 10 spaces. If the use included a 5,000 ft. restaurant, the minimum parking for the development would meet the minimum 31 parking spaces, as the site plan depicts 32 parking spaces.

2. 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 alcohol sales is compatible with the land uses and development of adjacent properties as it is located on a minor arterial road near restaurants and multifamily. There is residential immediately north of the subject site and inter-parcel access that was established with the Special Land Use Permit approval for the multi-family development due north. The sidewalks surrounding the properties may provide access to the 90-unit development immediately north. A few hundred feet north is the site of a recently approved mixed-use, multifamily development (SLUP-18-002) consisting of three, four/five story split apartment buildings with a total of 245-units on ±8.65 acres (28.32 dwellings per acre) which are within walking distance along Northlake Parkway to the proposed development in compliance with the NL-1 intent to create more walkable communities in the area.

3. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The applicant is required to show stormwater management, if the development is approved, on their LDP plans to determine if their disturbance will require detention.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

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.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the City Engineer has recommended several conditions of approval pertaining to public street access which are included in this report including right in / right out ingress and egress to the development. It should be noted, the proposed SLUP request for alcohol sales is for a use that currently exists on the subject site.

- 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.**

Existing land uses would not be adversely affected by the proposed alcohol sales. Alcohol sales currently exist on the site. The proposed alcohol sales will not affect the character of vehicles or the volume of traffic generated by the proposed development.

- 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.**

If developed in accordance with GDOT standards (Lavista Road) and in accordance with recommended conditions from the City Engineer, the proposed development can meet this standard.

- 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.**

The proposed development will not generate more excessive noise, nor will it emit smoke, odor, dust or vibration greater than that which currently exists. Alcohol sales currently exist on the site. Staff also recommends a condition limiting the space for alcohol sales (beer and wine only) to 20% or less of the interior floor space of the convenience store.

- 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 proposed gas station and convenience store proposes to be operational 24 hours a day. Nearby is a multifamily residential use, which the applicant should take care to mitigate any impacts, including recommended conditions for hours of alcohol sales, lighting, marked crosswalks, landscaping and screening of the parking lots to prevent glare into the residences. Staff notes the property is located less than 500 feet of an Interstate 285 interchange.

To further regulate the hours of alcohol sales, the Finance Director or designee shall ensure that all licenses for on-premises consumption of alcoholic beverages show:

- (1) Any special land use permit conditions imposed by the City Council for the establishment;
- (2) The allowed hours of operation for the location; and
- (3) Written notice to the licensee that the license with the hours of operation must be posted in a public and conspicuous place within the licensee's establishment (supports conditional approval).

- 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.**

Nearby land uses along Lavista Road and Northlake Parkway will not be adversely affected by the manner or operation of the development. The property is surrounded by commercial, residential and mixed-use development.

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.

The proposed use is consistent with the underlying zoning district requirements, but the development will require further review regarding landscaping, exterior building materials, crosswalks and the like at the time of Site & Land Development Review. During Site and Development, the applicant will need to provide material specifications to determine compliance. The site plan also shows trash dumpsters screened so that such outdoor area cannot be seen from any public right-of-way. Staff recommends screening from the adjacent residential development.

11. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area are Regional Activity Center on the Future Land Use. Uses typically include a higher-density mix of retail, office, housing, and services, and employment to serve a regional market area. Because the location is readily accessible from the highway, future development in the Northlake area is considered both desirable and appropriate. Primary land uses include townhomes, higher density multi-family including apartments and condominiums, retail and service commercial, office, entertainment and cultural facilities, and public and private recreational uses.

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.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties.

13. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the northwest portion of the subject site to serve the facility.

14. 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.

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.

The proposed development would result in a building set close to the road activating a more pedestrian oriented streetscape. Parking and gas pumps somewhat hidden from view behind the proposed buildings. The applicant submitted elevations; however, the elevations do not specify the building height or exterior materials.

The application states the maximum building's height to be 22 feet. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses.

16. 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 (meets standard).

17. 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. 46-1151 (Alcohol outlets, retail, package liquor store). The applicant's letter of intent provides a detailed analysis of conformance to the alcohol regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when alcohol sales are proposed, as enumerated below:

A. Package stores and liquor stores, developed as a primary use in a freestanding building, must comply with City of Tucker ordinances pertaining to licensing requirements for a retail package liquor store.

The proposal is for accessory alcohol sales, and will not be a primary use. However, a condition is proffered regarding restricted hours for alcohol sales.

B. Alcohol outlets in the NS (Neighborhood Shopping) District may only be permitted as an accessory use with a Special Land Use Permit (SLUP).

The subject site is zoned NL-1 (Northlake High Intensity Commercial). Regulation does not apply.

C. Alcohol outlets in the MU (Mixed-Use) districts shall be limited to beer and wine sales with a Special Land Use Permit (SLUP).

The subject site is zoned NL-1 (Northlake High Intensity Commercial). Regulation does not apply.

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 height of the convenience store is one story reaching 22 feet at the top of the roof, which will not create a shadow impact on any adjoining lot or building.

19. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There do not appear to be a proliferation of alcohol sales outlets in close proximity within the city of Tucker.

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.

Regional Activity Center Character Area. Most of the area located within the Northlake area of Tucker is best characterized as a regional activity center. Regional activity centers typically include a higher-density mix of retail, office, housing, and services, and employment to serve a regional market area. Because it is readily accessible from the highway and is already more developed, future development in the Northlake area is considered both desirable and appropriate. Primary land uses include townhomes, higher density multi-family including apartments and condominiums, retail and service commercial, office, entertainment and cultural facilities, and public and private recreational uses.

CONCLUSIONS

The proposed accessory alcohol retail sales outlet may be complementary to the existing uses along the Lavista Road and Northlake Parkway area of Northlake and would contribute to the desired mix of a healthy and vibrant area.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area and the zoning ordinance as the proposed accessory use is consistent with the purposes and intentions of the Regional Activity Center Character Area and provide a use that serves the other businesses and continued development of a vibrant area of the city.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **CONDITIONAL APPROVAL** of Land Use Petition **SLUP-19-0008** and **SLUP-19-0009**.

If approved, it should be approved **CONDITIONAL**, subject to the following conditions. Such conditions shall be complied with prior to the issuance of any building permit, unless otherwise specifically noted:

1. The property shall be developed in general conformance with the site plan submitted on August 5, 2019, to the Community Development Department, with revisions to meet these conditions.
2. The use of the property shall be limited to a $\pm 3,000$ square-foot convenience store with alcohol sales and fuel pumps, and a $\pm 5,000$ square-foot commercial building.
3. The hours of alcohol sales shall be limited to:
 - Monday through Saturday hours are from 9:00 a.m. until 11:00 p.m.
 - Sunday hours are from 12:30 p.m. until 11:00 p.m.
4. Alcohol shall be limited to beer and wine. Alcohol sale display area shall not exceed twenty percent (20%) of the gross floor area.
5. Lighting shall be energy efficient LED lighting with downward facing cut-off light fixtures to reduce glare.
6. Street furniture shall comply with Sec. 3.2.14 Streets and streetscapes. Street furnishings are required and must be of a type identified in Table 3.6, which includes specific products by specific brands. The use of specific products and brands is not required and similar designs may be used. Street furnishing may only be placed in the landscape strip or between the sidewalk and the building.
7. The exterior building materials shall comply with the NL-1 (Northlake High Intensity Commercial) architectural regulations (Section 3.3.10 Building form and design).
8. There shall be no overnight truck or car parking.
9. There shall be no outdoor display of merchandise.
10. The use of approved brick, concrete, or stone paving materials to identify crosswalk areas is required for all crosswalks.
11. Owner/Developer shall provide crosswalks at all curb cuts. Pavement markings and signage shall be installed to allow for the safe passage of pedestrians and bicyclist subject to the approval of the Director of Community Development.
12. Canopy height over the fuel pump islands may not exceed 20 feet.

13. Building height of the ±3,000-square-foot and the ±5,000- square-foot proposed buildings shall not exceed 22 feet.
14. A sign permit must be submitted to the City of Tucker Community Development Department and must be in compliance with the sign code. All non-conforming signs are required to be removed and come into compliance.
15. Owner/Developer shall construct ADA compliant internal sidewalks that will provide pedestrian connectivity from the front of the building to the existing sidewalk along Lavista Road and Northlake Parkway.
16. The property shall be limited to one right in / right out only driveway on Northlake Parkway and right in / right out on Lavista Road and subject to GDOT approval.
17. Owner/Developer shall maintain an inter-parcel access easement with the adjacent property to the north.
18. The applicant shall submit a landscape plan including screening of the parking spaces and dumpster located on the north side of the property. Additional screening shall also be shown in the landscape strip on the west side of the property.
19. Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of 30 units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance. If the required tree density cannot be obtained on site, compensation to the City's tree bank will be considered.
20. The development of this project is contingent upon the approval of the DeKalb County Department of Watershed Management.

DEPARTMENT COMMENTS

ARBORIST

Site must meet approval of the city of Tucker tree ordinance.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

A sewer capacity request is required for the above address. Even though the proposed use for this site is unchanged the sewer capacity request is still required for any approval from Dekalb County Watershed Management.

DEKALB COUNTY FIRE MARSHAL OFFICE

Please ensure compliance with State Fire Marshal's underground tank inspections prior to issuing C.O. No further fire department comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

- The property shall be limited to one right in / right out only driveway on Northlake Parkway and one three-quarter access (prohibiting left turns out) on Lavista Road.
- Owner/Developer shall maintain an interparcel access easement with the adjacent property to the north.



City of Tucker

Land Use Petitions: SLUP-17-004 and 17-005

Date of Staff Recommendation Preparation: December 21, 2017

Community Council: August 9, 2017

Planning Commission: December 28, 2017

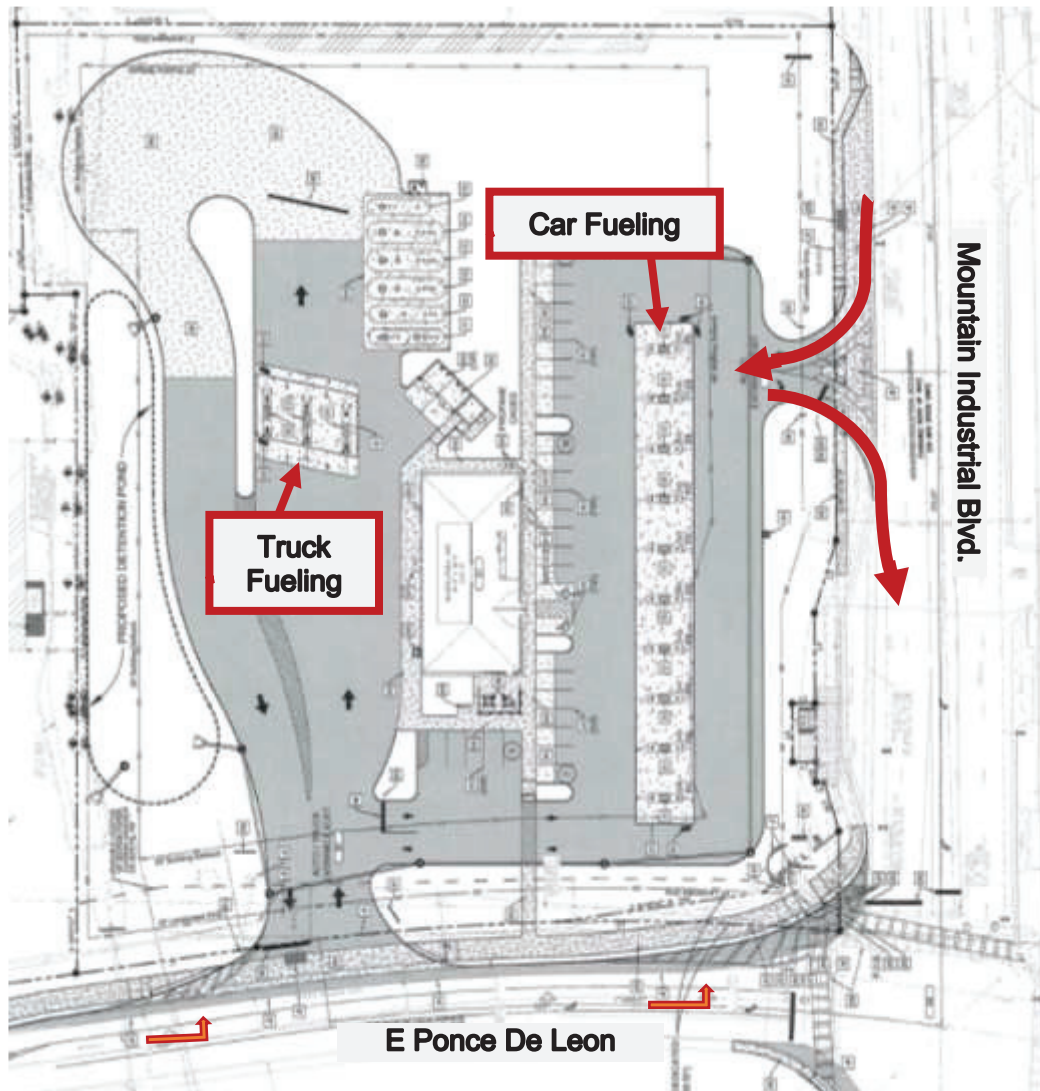
Mayor and City Council, 1st Read: January 8, 2018

Mayor and City Council, 2nd Read: January 22, 2018

PROJECT LOCATION:	5448 East Ponce De Leon Avenue, Tucker, GA
DISTRICT//LANDLOT(S):	Land District 18, Land Lot 139
ACREAGE:	3.72 acres
EXISTING ZONING	C-1 (Local Commercial)
EXISTING LAND USE	Vacant
FUTURE LAND USE MAP DESIGNATION:	Light Industrial (LIND)
OVERLAY DISTRICT:	Mountain Industrial Overlay District
APPLICANT:	McBride Dale Clarion
OWNER:	Stone Mountain Industrial Park
PROPOSED DEVELOPMENT:	Applicant intends to build a convenience store. A SLUP is required for both the proposed fuel pumps (SLUP-17-004) and alcohol sales (SLUP-17-005); concurrent variances are being requested to allow (1) increased canopy height, (2) outdoor ice machine/propane display.
STAFF RECOMMENDATION:	Approval of SLUP-17-004 (Fuel Pumps) Approval of SLUP-17-005 (Alcohol Sales) Denial VS-17-004-01 Denial VS-17-004-02

PROJECT DATA

The applicant has submitted two applications for Special Land Use Permits (SLUP) for the 3.72+/- acre subject property located at 5448 East Ponce De Leon Avenue (the intersection of East Ponce De Leon and Mountain Industrial Boulevard). The subject site is located approximately 3,600 feet from the Stone Mountain Freeway (U.S. 78) interchange. The first application, SLUP-17-004, is for development of fuel pumps. The second application, SLUP-17-005, is for alcohol sales. Two concurrent variances are also being requested to allow an increased canopy height from 20 feet to 21 feet (VS-17-004-01), and outdoor ice machine and an outdoor propane display (VS-17-004-02). The 3.72-acre site is currently vacant and fenced.



The convenience store is proposed to be a 4,608 square feet air-conditioned space. The applicant requests a 24-hour operation of the convenience store and fuel pumps with alcohol sale hours restricted to the hours imposed by the City of Tucker Alcohol Ordinance. The project proposes 10 dispenser aisles (20 fuel pumps) for cars located on the eastern portion of the parcel fronting Mountain Industrial Boulevard. Cars will enter via right-in/right-out driveway vehicular from Mountain Industrial Boulevard. Secondary vehicular access for cars is shared with trucks and located on E. Ponce De Leon. The western

portion of the site is for 18-wheel (and similar) truck fueling. Truck access is restricted to entrance and egress from E. Ponce De Leon Avenue. Trucks will not be allowed to be parked overnight.

The applicant submitted the initial application on July 24, 2017. At that time, the applicant proposed inter-parcel access via a shared driveway with the property to the north. However, the developer was unable to secure the cross-access easement with the adjacent property owner. The applicant continued to work with the adjacent property owner, but it was not possible for the property owners to come to an agreement to joint access. Therefore, the applicant began to revise the site plan because the cross-access easement was no longer likely to be feasible.

The applicant submitted a revision site plan, submitted on October 24, 2017 to staff. Staff had several concerns regarding safety tied to the land development regulations including spacing between curb cuts, the number of curb cuts, and the necessity of a left-turn lane along East Ponce De Leon Avenue. The revised site plan required additional administrative variances which staff would not have been able to support. The applicant met with staff through a couple iterations of the site plan, in order to revise the site plan to locate all access points on the site and be compliant with the land development regulations.

The applicant submitted a 3rd revised site plan on November 29, 2017. Additional modifications include having right-in/right-out access points from Mountain Industrial Boulevard, shifting the Mountain Industrial Boulevard and East Ponce De Leon Avenue access points further from existing curb cuts and removing curb cuts that were closer to the intersection of East Ponce De Leon and Mountain Industrial Boulevard. Additionally, truck ingress and egress are restricted to East Ponce De Leon.

USE ANALYSIS AND DEVELOPMENT PERMISSIONS

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.

The purpose and intent section of the C-1 zoning district (Article 2.26.1) indicates in part that the C-1 district is established to allow for “uses which are designed to serve the convenience shopping and service needs of neighborhoods.” The C-1 zoning district allows for “fuel pumps” and “alcohol sales” only as a special use (Table 4-1 zoning ordinance). The intent of the City of Tucker Zoning Ordinance is that the proposed uses be determined on a case-by-case specific basis ensure compatibility with the surrounding area including environmental impacts, visual and infrastructure impacts.

COMMUNITY COUNCIL REVIEW

The Community Council reviewed the proposed application on August 9, 2017. Community Council discussion included discussion regarding trip generation counts, no overnight parking, the number of employees, the hours of operation, and the Stone Mountain PATH trail. Community Council recommended reducing the number of curb cuts to lessen the impact to the Stone Mountain PATH trail. As is standard, the Community Council did not make a recommendation of approval or denial.

NEARBY/SURROUNDING LAND ANALYSIS

Adjacent & Surrounding Properties	Zoning (Petition Number)	Overlay District	Existing Land Use
Adjacent: North	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Wincup Foam Cups (Manufacturing)
Adjacent: East (across Mountain Industrial)	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Texaco with Convenience food store; Car Store
Outside City Limits: (South across Ponce De Leon Ave. and railroad)	C-1 (Local Commercial)	Mountain Industrial Boulevard Overlay	iPromo Network (Marketing, branding, promotion)
Outside City Limits: (South across Ponce De Leon Ave. and railroad)	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Electric Substation, and Large Vacant Culvert
Adjacent: West	M (Light Industrial)	Mountain Industrial Boulevard Overlay	Dah Sing Noodle (manufacturing and importing activities)



Zoning Exhibits showing surrounding land uses.

SLUP-17-004 FUEL PUMPS

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the 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 site size is approximately 3.72 acres. The site is relatively small for the scope of the proposed gas station; however, it meets the development standards for the zoning district, except for the canopy height, which the applicant has applied for a concurrent variance to vary.

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum, 60	Yes – complies
Side and rear setbacks	50 feet	Yes – complies
Maximum building height	Canopy height may not exceed 20 feet. Applicant seeks relief through variance for one additional foot.	No- proposes a 21-foot high canopy over fuel stations
Landscape strip (Sec. 5.4.3, Table 5.1)	Minimum Total Width (Landscape/Sidewalk) on Arterial/Collector = 16 feet, including 10 ft. landscape strip / 6 ft. sidewalk	Yes – complies
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—10 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—31 spaces.	Yes -- complies
Architectural requirements (visible building facades) (Sec. 3.35.17)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Land Development Review.
Maximum Lot Coverage	80%	Yes – complies

The site plan and application do not demonstrate compliance with all of the standards referenced above (i.e., does not meet all requirements). The applicant seeks a concurrent variance from the canopy height to allow a 21-foot canopy over the fuel pumps. Additional items, including exterior building materials will be determined at the time of Site & Land Development Review after the submittal for the building permit.

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 gas station is compatible with the land uses and development of adjacent properties as it is surrounded on three sides by industrial and commercial properties. The fueling station is also an accessory use to an existing truck and logistics corridor. The parcel is designated as a Light Industrial Character Area as are the properties to the north, east and west. Further, the zoning of the adjacent parcels are designated M (Light Industrial).

There is residential ± 300 feet due south; however, the residential is located across E. Ponce De Leon Avenue and railroad tracks, and outside the city limits. The City of Tucker boundary runs parallel to the south of the site; therefore, everything across E. Ponce De Leon Avenue is unincorporated DeKalb County.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The site plan depicts an above-ground stormwater retention area.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

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.

East Ponce De Leon has a ± 90 foot right of way. It is not considered sufficient to accommodate the development as proposed. If approved, dedication of additional right of way is recommended to accommodate additional road improvements needed to serve the proposed development, including a left turn lane into the gas station from E. Ponce De Leon Avenue.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the Land Development Engineer has recommended several conditions of approval pertaining to public street access which are included in this report (supports conditional approval).

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 light industrial type land uses would not be adversely affected by the proposed gas station (supports request). If developed in accordance with recommended conditions, land uses along both E. Ponce De Leon Avenue and Mountain Industrial Boulevard will not be adversely affected by the character of vehicles or the volume of

traffic generated by the proposed development (supports conditional approval). Table 5.13 from the *ITE Trip Generation Handbook* assumes approximately 66% of the total generated trips will be passer-by. Estimates for the A.M. Peak shows an increase of 64 net new trips; estimates for the P.M. Peak shows an increase of 75 net new trips.

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.

If developed in accordance with recommended conditions from the City Engineer, the proposed development can meet this standard (supports conditional approval).

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 development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes diesel truck fueling, which may increase particulate emissions within close proximity to the subject property. However, the surrounding adjacent land uses are light industrial in nature, and surrounded on 3 sides by Light Industrial zoning. Therefore, no adverse impacts on adjoining land uses are anticipated (meets standard).

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 proposed gas station and convenience store proposes to be operational 24 hours a day, as it is situated in an industrial area. The property is surrounded by Light Industrial zoning and light industrial uses. Additionally, it is located within 3,100 feet of the Stone Mountain Freeway interchange (meets standard).

DeKalb County SLUP6 studies have shown that a concentration of certain land uses - including alcohol outlets, automobile gas stations, convenience stores, -- negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. SLUP6 also found that local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts. However, there is not a proliferation of this use at this location.

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 recommended conditions, land uses along Mountain Industrial Boulevard will not be adversely affected by the manner or operation of the development (supports conditional approval).

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 development complies with all underlying zoning district requirements; the proposed development demonstrates substantial compliance with all of the requirements of the Mountain Industrial Overlay District (meets standard). The applicant proposes concrete masonry (quik-brik) on the exterior in compliance with the architectural regulations. The site plan also shows trash dumpsters screened so that such outdoor area cannot be seen from any public right-of-way. Compliance with the Mountain Industrial Overlay district standards assists in improving the property values along the corridor and the visual appearance of the corridor. (supports conditional approval).

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area is designated Light Industrial on the Future Land Use. The intent of the Light Industrial Character Area is to identify areas that are appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

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.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties (meets standard).

M. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the north of the convenience store to serve the facility (meets standard).

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 proposed development would result in a building that is setback from the road, with parking in front. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses (meets standard).

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 (meets standard).

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. 4.2.28 (Fuel Pumps, accessory). The applicant's letter of intent provides a detailed analysis of conformance to the fuel pumps regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when fuel pumps are proposed, as enumerated below:

- A. The primary building (i.e., convenience store or automobile service station) shall conform to all primary building setbacks.** The proposed development meets the development standards for the zoning district pertaining to setback requirements. Proposed development meets the criteria.
- B. Canopies covering gasoline dispensers shall be set back not less than fifteen (15) feet from all street rights-of-way.** The proposed development shows the canopies setback over 15 feet from the street right-of-way. Proposed development meets the criteria.
- C. The canopy shall not exceed the height of the principal building, but in no case shall exceed twenty (20) feet in height.** The proposed canopy is 21 feet. The applicant has submitted a concurrent variance to increase the canopy height an additional foot. Proposed development does not meet the criteria.
- D. The canopy and its columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.** The overall color scheme and building materials will be required to be compliant with the zoning ordinance at the time of Site & Development, before issuance of a building permit.
- E. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.** The proposed development does not show the lighting scheme; however, this will be a condition of approval. However, in the Statement of Intent the applicant proposes to utilize energy efficient LED lights and to have cut-off light fixtures to reduce glare (while providing safe lighting conditions). Proposed development meets the criteria, with conditions.

F. Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow. The proposed development has the capacity to store one (1) car per bay in front of the pump. Proposed development meets the criteria.

G. A minimum of thirty (30) feet is required between a property line and the nearest gasoline pump. The proposed development shows the gas pumps setback over 30 feet from the street right-of-way. Proposed development meets the criteria.

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 height of the convenience store is one story, reaching 24 feet at the top of the pitched roof. The proposed canopy over the fuel pumps is 21 feet, which will not create a shadow impact on any adjoining lot or building (meets standard).

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There are only two gas stations located within a mile radius (located inside the City of Tucker jurisdiction)– Valero, and the Texaco across the street (appears to meet standard).

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.

Mountain Industrial Overlay District. The purposes of the Mountain Industrial Overlay District, among others are to encourage development and redevelopment of properties within the district so as to achieve a more vibrant sense of place; to provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel; to enhance the long-term economic viability of this portion of Tucker by encouraging new industrial type developments with some accessory commercial. As proposed, the gas station is an allowable use within the Mountain Industrial overlay district. If approved, the design of the building would need to be in character with the overlay district requirements including exterior building materials, creating greater visual appeal of the corridor, and enhancing the distinctive visual quality of the corridor (meets standard). Staff finds the proposed development in compliance with the intent of the Mountain Industrial Overlay district.

Light Industrial Character Area. The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community

facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

CONCLUSION

The proposed accessory use of fuel pumps is complementary to the existing uses along the Mountain Industrial Boulevard corridor and would contribute to the desired mix of a healthy and vibrant corridor and overlay district.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area, and the zoning ordinance, as the proposed accessory use is consistent with the purposes and intentions of the Light Industrial Character Area and will provide a use that serves the other businesses and continued development of a vibrant industrial corridor.

SLUP-17-005 ALCOHOL SALES

CRITERIA TO BE APPLIED – SPECIAL LAND USE PERMIT

Criteria (standards and factors) for special land use decisions are provided in Section 7.4.6 of the City of Tucker Zoning Ordinance. Supplemental use regulations are outlined in Article 4, Division 2 of the 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 site size is approximately 3.72 acres. The site is adequate for a convenience store with alcohol sales. It meets the development standards for the zoning district, except for the canopy height, which is the subject of the concurrent variance associated with SLUP-17-004 (fuel pumps).

Development Standard	Specific Requirement	Compliance Demonstrated by Site Plan Submitted?
Front building setback	Minimum, 60	Yes – complies
Side and rear setbacks	50 feet	Yes – complies
Landscape strip (Sec. 5.4.3, Table 5.1)	Minimum Total Width (Landscape/Sidewalk) on Arterial/Collector = 16 feet, including 10 ft. landscape strip / 6 ft. sidewalk	Yes – complies
Minimum off-street parking (Table 6.2)	Min.: One (1) space per five hundred (500) square feet of floor area—10 spaces. Max.: One (1) space per one hundred fifty (150) square feet of floor area—31 spaces.	Yes -- complies

Architectural requirements (visible building facades) (Sec. 3.35.17)	Brick, stone, or cement stucco or other equivalents	Need material specifications to determine compliance at the time of Site & Development Review.
Maximum Lot Coverage	80%	Yes – complies

The site plan and application demonstrate compliance with all of the standards referenced above (i.e., meets all requirements). Additional items, including exterior building materials will be determined at the time of Site & Development Review after the submittal for the building permit.

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 convenience store with alcohol sales may be compatible with the land uses and development of adjacent properties. There is residential ± 300 feet due south; however, the residential is located across E. Ponce De Leon Avenue and railroad tracks feet due southwest and outside the city limits. Directly south is a large wooded culvert and an electric substation further south abutting the culvert.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use.

Schools. There will be no impact on public school facilities.

Stormwater management. The site plan depicts a stormwater retention area.

Water and sewer. Water and sewer approval is required by the DeKalb County Department of Watershed Management. Approval of the SLUP shall be conditional to Watershed approval.

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.

East Ponce De Leon has a ± 90 foot right of way. It is not considered sufficient to accommodate the development as proposed. If approved, dedication of additional right of way is recommended to accommodate additional road improvements needed to serve the proposed development, including a left turn lane into the convenience store from E. Ponce De Leon Avenue.

Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County. If approved, the land development engineer has recommended several conditions of approval pertaining to public street access which are included in this report (supports conditional approval). It should be noted that the conditions are more generally regarding the convenience store and the fuel pumps, and not specifically an alcohol retail sales outlet. If the applicant was proposing a stand-alone

convenience store, the site plan would be substantially different from the proposed fuel service station and café convenience store.

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 light industrial type land uses would not be adversely affected by proposed alcohol retail sales outlet located in a convenience store (supports request). If developed in accordance with recommended conditions, land uses along both E. Ponce De Leon Avenue and Mountain Industrial Boulevard will not be adversely affected by the character of vehicles or the volume of traffic generated by the proposed development (supports conditional approval).

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.

If developed in accordance with recommended conditions, the proposed development can meet this standard (supports conditional approval).

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 development will not generate excessive noise, nor will it emit smoke, odor, dust or vibration. The proposed use includes alcohol retail sales outlet. The surrounding adjacent land uses are light industrial in nature, and surrounded on three sides by Light Industrial zoning. Therefore, no adverse impacts on adjoining land uses are anticipated (meets standard).

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.

DeKalb County SLUP6 studies have shown that a concentration of certain land uses - including alcohol outlets, convenience stores, -- negatively impact the public health, safety, welfare, property values, economic development and social vitality of communities and neighborhoods. SLUP6 also found that local governments across the country recognize the negative impacts of such uses and impose additional regulations and distance requirements to mitigate such impacts.

To further regulate the hours of alcohol sales, the Finance Director or designee shall ensure that all licenses for on-premises consumption of alcoholic beverages show:

- (1) Any special land use permit conditions imposed by the City Council for the establishment;
- (2) The allowed hours of operation for the location; and
- (3) Written notice to the licensee that the license with the hours of operation must be posted in a public and conspicuous place within the licensee's establishment (supports conditional approval).

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 recommended conditions, land uses along Mountain Industrial Boulevard will not be adversely affected by the manner or operation of the development. The property is surrounded by Light Industrial zoning and light industrial uses. Additionally, it is located within 3,100 feet of the Stone Mountain Freeway interchange (supports conditional approval).

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 development complies with all underlying zoning district requirements; and the proposed development demonstrates substantial compliance with all of the requirements of the Mountain Industrial Overlay District (meets standard).

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

The subject property and the surrounding immediate area is designated as Light Industrial on the Future Land Use map. The intent of the Light Industrial Character Area is to identify areas appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

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.

Not applicable. No transitional buffer zones are required due to the current zoning of surrounding properties (meets standard).

M. Whether or not there is adequate provision of refuse and service areas.

The site plan shows space for a trash receptacle towards the north of the convenience store to serve the facility (meets standard).

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 proposed use is an accessory use to a convenience store. That building is setback from the road, with parking in front. It is staff's opinion that the building size, mass, and scale will be appropriate in relation to surrounding land uses (meets standard).

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 (meets standard).

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. 4.2.1 (Alcohol outlets, retail, package liquor store). The applicant's letter of intent provides a detailed analysis of conformance to the alcohol regulations in the Tucker zoning ordinance. There are additional criteria that must be considered when alcohol sales are proposed, as enumerated below:

A. Package stores and liquor stores, developed as a primary use in a freestanding building, must comply with City of Tucker ordinances pertaining to licensing requirements for a retail package liquor store.

The proposal is for accessory alcohol sales, and will not be a primary use. However, a condition is proffered regarding restricted hours for alcohol sales. (Proposed development meets the criteria.)

B. Alcohol outlets in the NS (Neighborhood Shopping) District may only be permitted as an accessory use with a Special Land Use Permit (SLUP).

The subject site is zoned C-1. Regulation does not apply.

C. Alcohol outlets in the MU (Mixed-Use) districts shall be limited to beer and wine sales with a Special Land Use Permit (SLUP).

The subject site is zoned C-1. Regulation does not apply.

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 height of the convenience store is one story reaching 24 feet at the top of the pitched roof, which will not create a shadow impact on any adjoining lot or building (meets standard).

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

There do not appear to be a proliferation of alcohol sales outlets in close proximity within the city of Tucker (appears to meet standard).

- 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.**

Mountain Industrial Overlay District. The purposes of the Mountain Industrial Overlay District, among others are to encourage development and redevelopment of properties within the district so as to achieve a more vibrant sense of place; to provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel; to enhance the long-term economic viability of this portion of Tucker by encouraging new industrial type developments with some accessory commercial. As proposed, the convenience store with retail alcohol sales is an allowable use within the Mountain Industrial overlay district. If approved, the design of the building would need to be in character with the overlay district requirements including exterior building materials, creating greater visual appeal of the corridor, and enhancing the distinctive visual quality of the corridor (meets standard).

Light Industrial Character Area. The intent of the Light Industrial Character Area is to identify area appropriate for industrial type uses. Primary land uses include light industrial uses, manufacturing, warehouse/distribution, automotive, accessory commercial and community facilities. A fueling station for the trucks supports the industrial nature of this corridor. The proposed development is consistent with and furthers the intent of the adopted comprehensive plan (meets standard).

CONCLUSIONS

The proposed accessory alcohol retail sales outlet may be complementary to the existing uses along the Mountain Industrial Boulevard corridor and would contribute to the desired mix of a healthy and vibrant corridor and overlay district.

The proposed Special Land Use Permit application is consistent with the comprehensive plan character area and the zoning ordinance as the proposed accessory use is consistent with the purposes and intentions of the Light Industrial Character Area and provide a use that serves the other businesses and continued development of a vibrant industrial corridor.

CONCURRENT VARIANCE (VS-17-004-01)

A concurrent variance has been requested to Article 4.2.28.C (Fuel Canopy Height), to allow a one-foot increase in height of the fuel canopy for both automobile and truck canopies from twenty feet to twenty-one feet. The applicant states that the literal interpretation of the code will cause modification of established Speedway branding and identity due to possible topographic issues that are may not be apparent until the Site & Land Development review.

Criteria for variance approval are provided in Section 7.5.3 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is not unusual in shape, size, narrowness or shallowness. The subject property is 3.72 acres. The subject property has no physical hardship; however, the proposed use gives the perception of a constrained site due to the various functions that are proposed.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance goes beyond the minimum necessary to afford relief by allowing a canopy height greater than other gas stations.

3. **The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance would not be materially detrimental to the public welfare or injurious to neighbors. The area surrounding the property is comprised of industrial and manufacturing uses. Additionally, all abutting properties are zoned Light Industrial and within the Light Industrial Character Area.

4. **The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

The literal interpretation and strict application of the applicable provisions or requirements of this chapter would not cause undue and unnecessary hardship, if the clearance is only 16 ½ feet. Speedway is requesting a canopy height of 21 feet which will allow installation of a four-foot fascia for the canopies. The four-foot fascia on the canopy is part of Speedway's branding and identity.

5. **The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The spirit and purpose of this regulation is to provide for consistency, visual appeal that does not overwhelm the parcel, and safety. Granting of the request would not be in conflict with the spirit and intent of the comprehensive plan or the zoning ordinance promoting quality, sustainable development patterns that complement existing development.

Conclusion:

Because the request does not meet all criteria, staff recommends **DENIAL of VS-17-004-01.**

CONCURRENT VARIANCE (VS-17-004-02)

A concurrent variance has been requested to Article 3.40.7.E, Overlay District Architectural Regulations to allow the display of merchandise outside, in front of the convenience store. Specifically, the applicant is proposing to display two ice boxes and one propane gas tank. The applicant states that a hardship is created by forcing the propane and ice machines to be inside the store, and that an outside location provides for more reasonable customer access.

Criteria for variance approval are provided in Section 7.5.3 of the City of Tucker Zoning Ordinance.

CRITERIA TO BE APPLIED – CONCURRENT VARIANCE

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slopes), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The subject site is not unusual in shape, size, narrowness or shallowness. The subject property is 3.72 acres. The subject property has no physical hardship; however, the proposed use gives the perception of a constrained site due to the various functions that are proposed.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The requested variance goes beyond the minimum necessary to afford relief by allowing an outdoor display which may be displayed inside the 4,608 square-foot store.

3. **The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance would not be materially detrimental to the surrounding neighborhood.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.

The literal interpretation and strict application of the applicable provisions or requirements of this chapter would not cause undue and unnecessary hardship. Ice machines are generally located inside.

However, propane tanks are generally located outside at many establishments selling propane. According to OSHA General Industry Powered Industrial Truck section, there is no prohibition regarding storing propane tanks inside, but for safety reasons they are typically located in an outdoor area.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.

The spirit and purpose of this regulation is to control the visual appearance of the corridor. Granting of the request would not be in conflict with the corridor spirit and intent of the comprehensive plan, but it would add visual clutter to the site.

Conclusion:

Because the request does not meet all criteria, staff recommends **DENIAL of VS-17-004-02.**

CONCURRENT VARIANCES (VS-17-004-03 and VS-17-004-04)

Concurrent Variance VS-17-004-03 and VS-17-004-004, are administratively withdrawn from consideration at the public hearing, as they were submitted in error. The variance proposals require an administrative variance by the City Engineer, as it is a regulation found within the Land Development Regulations; however, the site plan has been revised and these administrative variances are no longer needed.

ADMINISTRATIVE VARIANCE

Based on the revised November 29, 2017, site plan, it appears that the only administrative variance to the Land Development Code would be the length of the deceleration lane. City of Tucker, Sec. 14-200 (9) requires a 150' deceleration lane with a 50' taper. The applicant is showing a deceleration lane length of 71.84' with a 25' taper. The City Engineer has done a cursory review and has no objection to this variance. Staff will further discuss the dimensions of the deceleration lane and entrance driveway during the Land Development Process review.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **SLUP-17-004** and **SLUP-17-005**.

If approved, it should be approved **CONDITIONAL**, subject to the following conditions. Such conditions shall be complied with prior to the issuance of any building permit, unless otherwise specifically noted:

1. The property shall be developed in general conformance with the site plan submitted on November 29, 2017, to the Community Development Department, with revisions to meet these conditions.
2. The use of the property shall be limited to a convenience store with alcohol sales, and fuel pumps.
3. The hours of alcohol sales shall be limited to:
 - Monday through Saturday hours are from 9:00 a.m. until 11:00 p.m.
 - Sunday hours are from 12:30 p.m. until 11:00 p.m.
4. Alcohol sale display area shall not exceed twenty percent (20%) of the gross floor area.
5. The exterior building materials shall comply with the Mountain Industrial Overlay district architectural regulations (Section 3.40.7).
6. Lighting shall be energy efficient LED lighting with downward facing cut-off light fixtures to reduce glare.
7. There shall be no overnight truck parking.
8. Owner/Developer shall have a maximum of one (1) full access driveway on E Ponce De Leon Avenue and one (1) right in/right out only driveway on Mountain Industrial Boulevard. Curb cut locations shall meet the minimum requirements for spacing and sight distance and are subject to approval by the City of Tucker and DeKalb County.
9. Owner/Developer shall improve the turning radii at the intersection of E Ponce De Leon Avenue and Mountain Industrial Boulevard to safely accommodate the turning radius of delivery and fuel trucks. All costs associated with the construction of this intersection improvement, including the relocation of traffic signal poles, pedestrian signal poles, sidewalk, utility poles, and guardrail, shall be the responsibility of the Owner/Developer.
10. Owner/Developer shall construct a deceleration lane at the new site entrance on Mountain Industrial Boulevard.
11. Owner/Developer shall extend the eastbound left turn lane on E Ponce De Leon Avenue at Mountain Industrial Boulevard. Said left turn lane shall be extended to the western property line, as approved by the City of Tucker.

12. Owner/Developer shall dedicate additional right-of-way along Mountain Industrial Boulevard and E Ponce De Leon Avenue such that there will be a minimum of eleven feet (11') from back of curb or two feet (2') from back of sidewalk/trail, whichever is greater. The intersecting right-of-way at E Ponce De Leon Avenue and Mountain Industrial Boulevard shall be mitered.
13. Owner/Developer shall install a five foot (5') wide sidewalk along the entire frontage of Mountain Industrial Boulevard and a 10 foot (10') wide trail along the entire frontage of E Ponce De Leon Avenue.
14. Owner/Developer shall construct ADA compliant internal sidewalks that will provide pedestrian connectivity from the front of the building to the existing sidewalk/trail along Mountain Industrial Boulevard and E Ponce De Leon Avenue.
15. Owner/Developer shall provide crosswalks at all curb cuts. Pavement markings and signage shall be installed to allow for the safe passage of pedestrians and bicyclist subject to the approval of the Director of Community Development.
16. Owner/Developer shall relocate the existing MARTA bus shelter on E Ponce De Leon Avenue. Said shelter shall meet the requirements of MARTA, DeKalb County, and the City of Tucker.
17. 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.
18. Owner/Developer shall comply with Section 14-39 of the City of Tucker Code of Ordinances concerning tree protection and replacement. A minimum tree density of 30 units/acre shall be required. Any specimen trees removed during the redevelopment shall require additional tree replacement units as required in the ordinance. If the required tree density cannot be obtained on site, compensation to the City's tree bank will be considered.
19. The development of this project is contingent upon the approval of the DeKalb County Department of Watershed Management.

DEPARTMENT COMMENTS**ARBORIST**

Site must meet approval of the city of Tucker tree ordinance.

DEKALB COUNTY DEPARTMENT OF WATERSHED MANAGEMENT

A sewer capacity evaluation form and sewer action plan was submitted to Dekalb County by the applicant. DeKalb sent the applicant a letter dated, November 27, 2017, stating, "Due to the fact that the Capacity Assurance Crediting Bank has sufficient capacity credit to offset your proposed additional flow contribution, capacity is available for development". DeKalb County Watershed Management granted approval to proceed with regards to sanitary sewer capacity pursuant to Section 3.5 of the DeKalb County Department of Watershed Management's Interim Sanitary Sewer Capacity Evaluation Form.

DEKALB COUNTY FIRE MARSHAL OFFICE

No comments.

DEKALB COUNTY SCHOOL SYSTEM

Not applicable; no comments.

LAND DEVELOPMENT

1. Curb cut locations and alignments are subject to an approved sight distance plan and the approval of the City of Tucker.
 - a. Ensure that the R/W is cleared of all obstructions that may limit the sight-distance of the driver. This includes at a minimum all trees and/or shrubs and fencing. Coordinate all improvements in the R/W with the City of Tucker and DeKalb County.
 - b. Line of sight must remain entirely in the right-of-way. Additional right-of-way or a permanent easement may need to be dedicated to meet this requirement.
2. Curb cut locations shall meet the minimum requirements for sight distance and are subject to approval by the City of Tucker and DeKalb County.
3. Owner/Developer shall provide ADA compliant pedestrian access from the building frontage to the sidewalk along Mountain Industrial Boulevard and to the trail along E Ponce De Leon Avenue.
4. Owner/Developer shall be responsible for the repair and/or replacement of the existing concrete trail and sidewalk along E Ponce De Leon Avenue and Mountain Industrial Boulevard.
5. Owner/Developer shall provide a turning radius analysis using a WB-67 truck to ensure that there is adequate turning radii for ingress/egress to the site, within the site, and at the intersection of E Ponce De Leon Avenue and Mountain Industrial Boulevard.

6. All stormwater detention, water quality, and channel protection shall comply with the Georgia Stormwater Manual.
7. Development plans shall meet all the requirements of the City of Tucker Development Regulations, Tree Protection, Erosion & Sedimentation Control, Floodplain, and Stream Buffer Ordinances prior to the issuance of a Land Disturbance Permit.
8. Water and sewer approval is required by the DeKalb County Department of Watershed Management.

From: [Linda Dunlavy](#)
To: [Courtney Smith](#)
Cc: [ayaz ali](#); [BillB@circleKAtl.com](#)
Subject: [External]RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)
Date: Friday, August 18, 2023 3:20:23 PM
Attachments: [Minutes for SLUP 21-0009.pdf](#)

Courtney:

I found another SLUP for alcohol sales at a convenience store and attach the relevant minutes along with the link to the agenda packet at <https://pub-tuckerga.escribemeetings.com/FileStream.ashx?DocumentId=4628>. This SLUP for redevelopment of a site at 4114 Lavista Road. The SLUP (21-009) was approved on January 11, 2022. The conditions included one requiring alcohol sales cease at 12:30 AM but no condition required closure of the convenience store at that time also. Please provide this information to the Council in addition to that already provided prior to the 2nd read on the above item. Thank you.

Linda

From: Linda Dunlavy
Sent: Thursday, August 17, 2023 10:01 AM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: ayaz ali <alienterprise87@gmail.com>; BillB@circleKAtl.com
Subject: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

Courtney:

After the City Council meeting on Monday evening (8-14), I researched other SLUPs considered by the City since 2016 for gas station/convenience stores and found the following:

- SLUP 19-008/-009 for redevelopment of a gas station/convenience store site at 4246 Lavista Road was approved with conditions by the City Council on January 27, 2020 (ordinance No. 2019-10-37), and imposed (per staff recommendation) a condition that alcohol sales cease at 11 p.m. there is no indication in the minutes or the staff report that the entire convenience store was required to cease operations at 11 p.m. Interestingly this proposed store was immediately across the street from another C-store. *See attached minutes, application materials and staff report.*
- SLUP 17-005 was approved for 5448 East Ponce de Leon on January 22, 2018 (Ordinance 2018-01-1) with conditions. One of the conditions (#3) required alcohol sales to cease at 11 p.m. but there was no condition requiring the entire store to close at that time. *See attached minutes, application materials and staff report.*

As indicated before the Planning Commission and the City Council, while applicant has no objection to the conditions requiring alcohol sales cease at 11 p.m., it objects vigorously to any condition requiring it to cease operations of the entire store at 11 p.m. There is no rational basis for such a requirement. Please share this information with City Council prior to the second reading of the

indicated ordinance scheduled for September 11, 2023.

Thanks,

Linda



**MAYOR & CITY COUNCIL
REGULAR MEETING MINUTES**

**Tuesday, January 11, 2022, 6:00 PM
Tucker City Hall
1975 Lakeside Pkwy, Ste 350B, Tucker, GA 30084**

Members Present: Frank Auman, Mayor
Roger W. Orlando, Council Member District 1, Post 1
Cara Schroeder, Council Member District 2, Post 1
Alexis Weaver, 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/86825414571>

A. CALL TO ORDER

Mayor Auman called the meeting to order at 6:08 PM.

B. OATH OF OFFICE

Mayor-Elect Frank Auman welcomed everyone for attending the swearing-in ceremony for the Mayor and Councilmembers for Post 1 to serve a four-year term.

Matthew Lee, Tucker Historian, remarked on the old desk that was from the Tucker Post Office and the official pen that all of the elected officials have used to sign their oath of office.

Judge Steve Nicholas administered the oath of office to the following:

- Mayor Frank Auman
- District 1 representative Roger W. Orlando
- District 2 representative Cara Schroeder
- District 3 representative Alexis Weaver

C. ROLL CALL

The above were in attendance for a quorum.

D. PLEDGE OF ALLEGIANCE

The pledge was led by the new Council.

E. MAYOR'S OPENING REMARKS

Mayor Auman stated that the meeting follows Robert's Rules of Order and the Open Meetings Act. He also mentioned to sign up for the two-time award winning In-Tucker magazine and that this is the first meeting of the City's newly sworn in Mayor and Post 1 Councilmembers.

F. PUBLIC COMMENTS

Public comments were heard from 8 citizens on the Parks, cutting down trees, a greener future, Wynne's Orchard, congratulations to the new Council, non-discrimination ordinance, potential City Boards, more open communication and transparency.

G. APPROVAL OF THE AGENDA

Motion to approve the agenda as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: V.Rece

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

H. APPROVAL OF THE MINUTES

H.1 Special Called Meeting - December 13, 2021 6:00 PM

Motion to approve the minutes as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: V.Rece

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

H.2 Regular Meeting - December 13, 2021 7:00 PM

Motion to approve the minutes as presented passed unanimously.

MOVER: N. Monferdini

SECONDER: V.Rece

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

I. STAFF REPORTS

None

J. NEW BUSINESS

J.1 Resolution R2022-01-01

Nomination for Councilmember Anne Lerner to fill the role of Mayor Pro-Tem.

Motion to approve Resolution R2022-01-01 to elect Councilmember Anne Lerner as Mayor Pro-Tem.

MOVER: C. Schroeder

SECONDER: F. Auman

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

J.2 Resolution R2022-01-02

John McHenry, Economic Development Director, spoke on the update to the Downtown Development Authority (DDA) Boundary.

Motion to approve Resolution R2022-01-02 to revise the DDA Boundary Map per the attachment to the resolution passed unanimously.

MOVER: V.Rece

SECONDER: A. Lerner

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

J.3 Easement Acquisitions for TO2018-016 #31

City Engineer Ken Hildebrandt spoke on the acquisition of easements for the Old Norcross Road Sidewalk project. Engineering plans have been completed to install sidewalk on the west side of Old Norcross Road from Lawrenceville Highway to Spring Glen Drive. AT&T has agreed to relocate the utility poles at no cost. Approximately 15 temporary construction easements and 6 permanent drainage easements are required for this project. Atlas Consulting Services has been contracted to acquire these easements on the City's behalf. This authorization will allow the consultant and the City Engineer to negotiate with the property owners. Each easement acquisition will need to be approved by the City Manager. The approximate value of all of the easements is \$100,000.

Motion to authorize staff to proceed with negotiations to acquire easements at a cost not to exceed \$100,000 passed unanimously.

MOVER: N. Monferdini

SECONDER: A. Lerner

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

J.4 Quote Q2021-013-CE2203

City Engineer Ken Hildebrandt spoke on the quotes received for the installation of bus pads, benches, and simme seats. This phase of MARTA bus stop improvements was done separately because GDOT permits were required. Improvements will be done at the following locations:

Lawrenceville Hwy @ Hugh Howell Rd – pad and bench

Hugh Howell Rd @ Fuller Way – pad and bench

Lawrenceville Hwy @ Lee Way – pad and bench

4375 Lawrenceville Hwy – pad and bench

Lawrenceville Hwy @ Woodbriar Cir – Simme seat

Lawrenceville Hwy @ N Royal Atlanta Dr – Simme seat

E Ponce de Leon Ave @ Orchard Park Dr – install bench on existing pad

Motion to award the contract to Ligniappe Development Company, Inc. in the amount of \$33,324.75 passed unanimously.

MOVER: N. Monferdini

SECONDER: V.Rece

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)

K. OLD BUSINESS

K.1 Ordinance O2021-12-34 and O2021-12-35

Courtney Smith, Planning and Zoning Director, spoke on the first Read of a Special Land Use Permits SLUP-21-0008 and SLUP-21-0009.

Mayor Auman held a public hearing on both SLUP applications which 2 residents spoke in favor and nobody spoke in opposition.

Motion to approve Special Land Use Permit SLUP-21-0008 as presented this evening, with amendments to #9.

Motion to approve Special Land Use Permit SLUP-21-0008 to allow fuel pumps by Ordinance O2021-12-34 subject to 14 conditions, including changes to condition #9 which requires the nonconforming sign on the west side of the property to be removed within 24 months of the issuance of the Land Disturbance Permit, passed as amended.

Motion to approve Special Land Use Permit SLUP-21-0009 as presented this evening, with amendments to #11.

Motion to approve Special Land Use Permit SLUP-21-0009 as presented this evening, with amendments to #9. Motion to approve Special Land Use Permit SLUP-21-0009 to allow alcohol sales for a gas station redevelopment by Ordinance O2021-12-35 subject to 16 conditions, including changes to condition #11 which requires the nonconforming sign on the west side of the property to be removed within 24 months of the issuance of the Land Disturbance Permit, passed.

MOVER: N. Monferdini

SECONDER: C. Schroeder

Ordinance O2021-12-34

AYES: (6): F. Auman, C. Schroeder, A. Weaver, V. Rece, N. Monferdini, and A. Lerner

NAYES: (1): R. Orlando

APPROVED (6 to 1)

MOVER: N. Monferdini

SECONDER: C. Schroeder

Ordinance O2021-12-35

AYES: (6): F. Auman, C. Schroeder, A. Weaver, V. Rece, N. Monferdini, and A. Lerner

NAYES: (1): R. Orlando

APPROVED (6 to 1)

L. MAYOR AND COUNCIL COMMENTS

The Mayor and Council thanked everyone for attending.

M. EXECUTIVE SESSION

None

N. ACTION AFTER EXECUTIVE SESSION

None

O. ADJOURNMENT

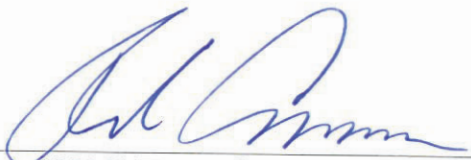
MOVER: V.Rece

SECONDER: N. Monferdini

Motion to Adjourn at 9:18 PM passed unanimously.

AYES: (7): F. Auman, R. Orlando, C. Schroeder, A. Weaver, V.Rece, N. Monferdini, and A. Lerner

APPROVED (7 to 0)



APPROVED: Frank Auman, Mayor



ATTEST: Bonnie Warne, Clerk

2/15/2022

Date Approved



From: [Linda Dunlavy](#)
To: [Courtney Smith](#)
Cc: [ayaz ali](#); [BillB@circleKAtl.com](#)
Subject: [External]RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)
Date: Tuesday, August 22, 2023 4:31:23 PM
Attachments: [Executed Affidavit of Ayaz Ali.pdf](#)

Courtney:

Sorry to piecemeal you like this but attached please find an affidavit from my client setting forth the permitting history and addressing other matters raised by the opposition to the SLUP application for 5960 East Ponce de Leon when before City Council on August 14, 2023. I ask that this affidavit be forwarded to City Council for their consideration prior to the vote on September 11, 2023. Thank you,

Linda

Let me know of any questions.

From: Linda Dunlavy
Sent: Friday, August 18, 2023 3:20 PM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: [ayaz ali](#) <alienterprise87@gmail.com>; [BillB@circleKAtl.com](#)
Subject: RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

Courtney:

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Linda

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Sent: Thursday, August 17, 2023 10:01 AM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: [ayaz ali](#) <alienterprise87@gmail.com>; [BillB@circleKAtl.com](#)
Subject: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

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the City since 2016 for gas station/convenience stores and found the following:

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As indicated before the Planning Commission and the City Council, while applicant has no objection to the conditions requiring alcohol sales cease at 11 p.m., it objects vigorously to any condition requiring it to cease operations of the entire store at 11 p.m. There is no rational basis for such a requirement. Please share this information with City Council prior to the second reading of the indicated ordinance scheduled for September 11, 2023.

Thanks,

Linda

STATE OF GEORGIA)
DEKALB COUNTY)

**AFFIDAVIT OF AYAZ ALI IN SUPPORT OF SLUP FOR ALCOHOL SALES AT 5960
EAST PONCE DE LEON AVENUE, TUCKER GA**

I, AYAZ ALI, having been duly sworn depose and state the following:

1. I am over eighteen years of age, have personal knowledge of the facts to which I attest to herein, am competent to give this affidavit and do so voluntarily.
2. I am currently, and have been since 2017, the principal of Tucker Land Group, LLC, the owner of property currently developer for a convenience store/gas station and retail center at 5960 East Ponce de Leon Avenue in Tucker, Georgia ("Subject Property").
3. Tucker Land Group purchased the Subject Property on December 15, 2017. It remained undeveloped until March 10th of 2021 when we secured a land disturbance permit from the City of Tucker and began developing the site for a 5000 square foot convenience store with gas pumps and additional retail space.
4. At all times during the development and construction phase it was my intent to build a store not only for grocery, convenience items, and gas sales but for the sale of beer and wine for off premises consumption. The City of Tucker, through its various officials, was aware of the intent to have alcohol sales on site.
5. Between March of 2021 and the present, we secured all permits necessary for build out but were not able to secure a certificate of occupancy prior to rezoning of the Subject Property as discussed below.
6. On April 15, 2021, the City's Community Development Department emailed "Juliette Road Stakeholders" notice of a community meeting to discuss "crime in the area and how

the city and surrounding property owners can make changes to improve safety and desirability”. *See email attached hereto as Exhibit A.*

7. I attended the above community meeting on April 20, 2021, via Zoom. At that meeting I advised the attendees, who included the owners of the Citgo convenience store/ gas station at 5905 Stone Mill Way of our plans to develop 5960 Ponce de Leon for a gas station/convenience store. I also advised attendees of our intent to have off premises alcohol sales at that site.

8. During the April 20th meeting, problems with recent shootings in the neighborhood were discussed. It is my understanding that several of those shootings had occurred at the 5905 Stone Mill Way Citgo/convenience store. *Supporting Police Reports will be provided once obtained through Open Records Request.*

9. According to the police reports, there have been 46 incidents at the Citgo/convenience store at the 5905 Stone Mill Way address since 2021. Most recently, there was a deadly shooting at 5905 Stone Mill Way on June 13, 2023. *See attached news report, Exhibit B,*

10. When I learned of the City’s desire to rezone the Subject Property from M to C-1, I was concerned. I was particularly concerned that upon rezoning, the City might make it difficult for me to finalize a fully functioning development as contemplated. The rezoning of my property occurred on December 13, 2021 (Ordinance 2021-11-28). Upon notification of the rezoning, I immediately had communications with Courtney Smith about alcohol licensing for the project. I was assured that there would be no problems but I would need to apply for a SLUP but it would be granted under the circumstances. *See relevant email thread attached as Exhibit C.*

11. By the time the Subject Property was rezoned, the convenience store was fully built out, gas pumps were in, permits were issued, and a certificate of occupancy obtained.

12. Tucker Land Group, LLC, has an agreement with Circle K for purchase of the Subject Property which will not be consummated if the condition of SLUP approval proposed by staff requiring the closure of the entire store by 11 p.m. is imposed by City Council.

FURTHER AFFIANT SAYETH NAUGHT



Notary Public

Sworn to and subscribed before me
this 21st day of August, 2023


Ayaz Ali



ayaz ali <alienterprise87@gmail.com>

Juliette Road Corridor Meeting - City of Tucker

4 messages

Courtney Smith <CSmith@tuckerga.gov>

Thu, Apr 15, 2021 at 8:35 PM

To: TAMARA PEARSON <andytammy@bellsouth.net>, "info@rmconcretespecialist.com" <info@rmconcretespecialist.com>, "construction@kissberg.com" <construction@kissberg.com>, ayaz ali <alienterprise87@gmail.com>, Spring Taylor <staylor@provencere.com>, "brian@adamsinvestorgroup.com" <brian@adamsinvestorgroup.com>, "tmary7@hotmail.com" <tmary7@hotmail.com>, "tjenkins@rocklynhomes.com" <tjenkins@rocklynhomes.com>, "kboyer@homesideproperties.com" <kboyer@homesideproperties.com>, "jmitchell@posolutions.net" <jmitchell@posolutions.net>, Andy Jenkins <ajenkins@rocklynhomes.com>, "lina_something@yahoo.com" <lina_something@yahoo.com>, "cleslie@elite-propertygmt.com" <cleslie@elite-propertygmt.com>, "efeller@readprop.com" <efeller@readprop.com>, "patty-beckett@ventron.net" <patty-beckett@ventron.net>, "lkritina@gmail.com" <lkritina@gmail.com>, rob mcelreath <mcelreath.rob@gmail.com>, "dupc1670@gmail.com" <dupc1670@gmail.com>, "donrosemont@summitsnf.com" <donrosemont@summitsnf.com>, "edrosemont@summitsnf.com" <edrosemont@summitsnf.com>
Cc: Frank Auman <FAuman@tuckerga.gov>, Tami Hanlin <thanlin@tuckerga.gov>, John McHenry <jmchenry@tuckerga.gov>, Jeremy Citron <jcitron@tuckerga.gov>, Brian Anderson <banderson@tuckerga.gov>

Dear Juliette Road Stakeholders,

With the continuing development of residential and commercial uses, as well as recent ownership changes, the City of Tucker would like to host a meeting with all of the Juliette Road stakeholders next week to discuss crime in the area and how the city and surrounding property owners can make changes to improve safety and desirability. We would appreciate your attendance either in person or via zoom at City Hall on Tuesday, April 20th at 11am.

City Hall is located at [1975 Lakeside Parkway, Suite 350, Tucker, GA 30084](#). A meeting invitation, and zoom link, to follow.

Best,

EXHIBIT A



COURTNEY SMITH

DIRECTOR OF PLANNING AND ZONING

T: 470-273-3091 | M: 678-209-9794

E: csmith@tuckerga.gov | W: tuckerga.gov



Krishna Lakshmana <lkritina@gmail.com>

Thu, Apr 15, 2021 at 9:43 PM

To: Courtney Smith <CSmith@tuckerga.gov>

Cc: TAMARA PEARSON <andytammy@bellsouth.net>, "info@rmconcretespecialist.com" <info@rmconcretespecialist.com>, "construction@kissberg.com" <construction@kissberg.com>, ayaz ali <alienterprise87@gmail.com>, Spring Taylor <staylor@provencere.com>, "brian@adamsinvestorgroup.com" <brian@adamsinvestorgroup.com>, "tmary7@hotmail.com" <tmary7@hotmail.com>, "tjenkins@rocklynhomes.com" <tjenkins@rocklynhomes.com>, "kboyer@homesideproperties.com" <kboyer@homesideproperties.com>, "jmitchell@posolutions.net" <jmitchell@posolutions.net>, Andy Jenkins <ajenkins@rocklynhomes.com>, "lina_something@yahoo.com" <lina_something@yahoo.com>, "cleslie@elite-propertygmt.com" <cleslie@elite-propertygmt.com>, "efeller@readprop.com" <efeller@readprop.com>, "patty-beckett@ventron.net" <patty-beckett@ventron.net>, rob mcelreath <mcelreath.rob@gmail.com>, "dupc1670@gmail.com" <dupc1670@gmail.com>, "donrosemont@summitsnf.com" <donrosemont@summitsnf.com>, "edrosemont@summitsnf.com" <edrosemont@summitsnf.com>, Frank Auman <FAuman@tuckerga.gov>, Tami Hanlin <thanlin@tuckerga.gov>, John McHenry <jmchenry@tuckerga.gov>, Jeremy Citron <jcitron@tuckerga.gov>, Brian Anderson <banderson@tuckerga.gov>

I plan to attend.

Thanks & Best regards,

Krishna

Cell: 770 728-2702

[Quoted text hidden]

Courtney Smith <CSmith@tuckerga.gov>

Mon, Apr 19, 2021 at 5:24 PM

To: TAMARA PEARSON <andytammy@bellsouth.net>, "info@rmconcretespecialist.com" <info@rmconcretespecialist.com>, "construction@kissberg.com" <construction@kissberg.com>, ayaz ali <alienterprise87@gmail.com>, Spring Taylor <staylor@provencere.com>, "brian@adamsinvestorgroup.com" <brian@adamsinvestorgroup.com>, "tmary7@hotmail.com" <tmary7@hotmail.com>, "tjenkins@rocklynhomes.com" <tjenkins@rocklynhomes.com>, "kboyer@homesideproperties.com" <kboyer@homesideproperties.com>, "jmitchell@posolutions.net" <jmitchell@posolutions.net>, Andy Jenkins <ajenkins@rocklynhomes.com>, "lina_something@yahoo.com" <lina_something@yahoo.com>, "cleslie@elite-propertygmt.com" <cleslie@elite-propertygmt.com>, "efeller@readprop.com" <efeller@readprop.com>, "lkritina@gmail.com" <lkritina@gmail.com>, rob mcelreath <mcelreath.rob@gmail.com>, "dupc1670@gmail.com" <dupc1670@gmail.com>, "donrosemont@summitsnf.com" <donrosemont@summitsnf.com>, "edrosemont@summitsnf.com" <edrosemont@summitsnf.com>, "Lt. David Schoeppner (dgschoeppner@dekalbcountyga.gov)" <dgschoeppner@dekalbcountyga.gov>, "Medlin, Craig D." <CDMedlin@dekalbcountyga.gov>, Maricela Perdomo <MPerdomo@tuckerga.gov>, "patty_beckett@ventron.net" <patty_beckett@ventron.net>
Cc: Frank Auman <FAuman@tuckerga.gov>, Tami Hanlin <thanlin@tuckerga.gov>, John McHenry <jmchenry@tuckerga.gov>, Jeremy Citron <jcitron@tuckerga.gov>, Brian Anderson <banderson@tuckerga.gov>

The meeting will be held in person and via zoom.

In person address: 1975 Lakeside Parkway, Suite 350. Please enter by the door next to the City of Tucker Municipal Court sign.

Zoom:

Topic: Juliette Road Meeting

Time: Apr 20, 2021 11:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/82417009176?pwd=U1NoS1Y3Y3BNK1RTdWwzdi9zUFJKdz09>

Meeting ID: 824 1700 9176

Passcode: 669607

One tap mobile

+13017158592,,82417009176#,,,,*669607# US (Washington DC)

+13126266799,,82417009176#,,,,*669607# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

877 853 5247 US Toll-free

888 788 0099 US Toll-free

Meeting ID: 824 1700 9176

Passcode: 669607

Find your local number: <https://us02web.zoom.us/j/82417009176?pwd=U1NoS1Y3Y3BNK1RTdWwzdi9zUFJKdz09>

[Quoted text hidden]

Construction Kissberg <construction@kissberg.com>

Mon, Apr 19, 2021 at 5:33 PM

To: Courtney Smith <CSmith@tuckerga.gov>

Cc: TAMARA PEARSON <andytammy@bellsouth.net>, "info@rmconcretespecialist.com" <info@rmconcretespecialist.com>, ayaz ali <alienterprise87@gmail.com>, Spring Taylor <staylor@provencere.com>, "brian@adamsinvestorgroup.com" <brian@adamsinvestorgroup.com>, "tmary7@hotmail.com" <tmary7@hotmail.com>, "tjenkins@rocklynhomes.com" <tjenkins@rocklynhomes.com>, "kboyer@homesideproperties.com" <kboyer@homesideproperties.com>, "jmittchell@posolutions.net" <jmittchell@posolutions.net>, Andy Jenkins <ajenkins@rocklynhomes.com>, "lina_something@yahoo.com" <lina_something@yahoo.com>, "cleslie@elite-propertygmt.com" <cleslie@elite-propertygmt.com>, "efeller@readprop.com" <efeller@readprop.com>, "lkritina@gmail.com" <lkritina@gmail.com>, rob mcelreath <mcelreath.rob@gmail.com>, "dupc1670@gmail.com" <dupc1670@gmail.com>, "donrosemont@summitsnf.com" <donrosemont@summitsnf.com>, "edrosemont@summitsnf.com" <edrosemont@summitsnf.com>, "Lt. David Schoeppner (dgschoeppner@dekalbcountyga.gov)" <dgschoeppner@dekalbcountyga.gov>, "Medlin, Craig D." <CDMedlin@dekalbcountyga.gov>, Maricela Perdomo <MPerdomo@tuckerga.gov>, "patty_beckett@ventron.net" <patty_beckett@ventron.net>, Frank Auman <FAuman@tuckerga.gov>, Tami Hanlin <thanlin@tuckerga.gov>, John McHenry <jmchenry@tuckerga.gov>, Jeremy Citron <jcitron@tuckerga.gov>, Brian Anderson <banderson@tuckerga.gov>

I will be attending the meeting.

Henrietta Kisseih

[Quoted text hidden]

--

*Henrietta Kisseih
Kissberg Construction
1100 Second Street
Stone Mountain, GA 30083
(770) 879-8382 (Office)
(770)879-2897 (Fax)
(404)281-0509 (Cell)*

EXHIBIT B

CRIME

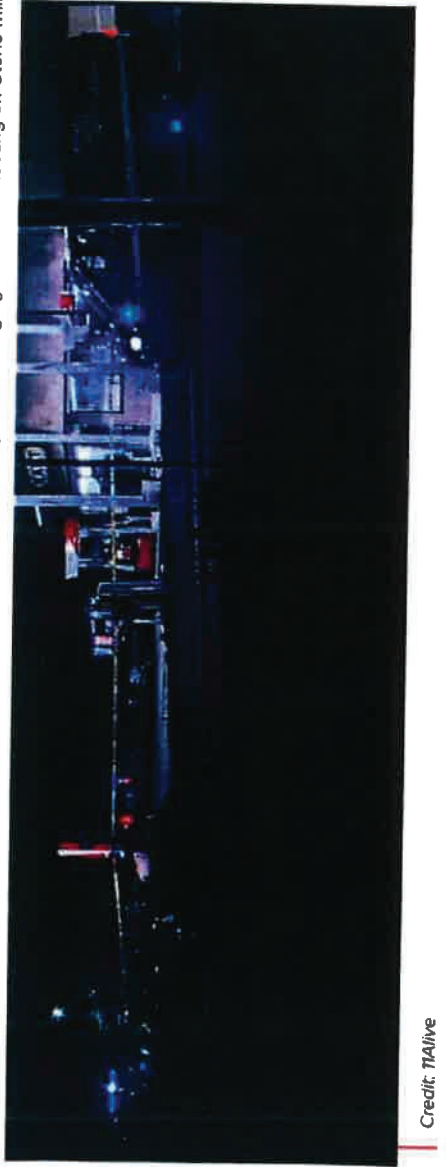
35-year-old shot, killed after dispute near DeKalb gas station: police

11Alive had a crew at the scene, where we saw crime scene tape and several police cars at the Citgo gas station along Stone Mill Way.



<https://www.11alive.com/article/news/crime/dekalb-gas-station-shooting-stone-mill-way/85-166db8b1-5fb1-4ceb-9791-e51463dd5789>





Credit: 11Alive



purple

Author: Jessica Moore

Published: 11:49 PM EDT June 13, 2023

Updated: 11:52 PM EDT June 13, 2023



DEKALB COUNTY, Ga. — A dispute led to a deadly shooting near a DeKalb gas station Tuesday night, according to the police department.

DeKalb Police said officers responded to the 5000 block of Stone Mill Way at 8:30 p.m. in reference to a person shot. When the officers arrived, the police department said they found a 35-year-old who had been shot multiple times.

The man was taken to a hospital critically hurt, where he died due to his injuries, DeKalb Police said.

11Alive had a crew at the scene, where we saw crime scene tape and several police cars at the Citgo gas station along Stone Mill Way.

Investigators believe the victim was in a dispute before the shooting took place. Detectives are still working to determine the circumstances surrounding the shooting.



Credit: 11alive

This is a developing story. Check back often for new information.

Also download the [11Alive News app](#) and sign up to receive alerts for the latest on this story and other breaking news in Atlanta and north Georgia.

Here's how often CrimeStoppers is used



11Alive's deKALB.com



ayaz ali <alienterprise87@gmail.com>

Rezoning Letter/Ordinance for 5960 East Ponce

11 messages

Courtney Smith <CSmith@tuckerga.gov>

Mon, Jan 3, 2022 at 12:41 PM

To: Ali Ayaz <alienterprise87@gmail.com>

Ali,

Please see attached for a digital copy of the rezoning letter/ordinance that is going out today via certified mail.

Best,

**COURTNEY SMITH****DIRECTOR OF PLANNING AND ZONING**

T: 470-273-3091 | M: 678-209-9794

E: csmith@tuckerga.gov | W: tuckerga.gov

**EXHIBIT C** **Rezoning Approval Letter 5960.pdf**
865K**ayaz ali** <alienterprise87@gmail.com>

Mon, Jan 3, 2022 at 12:50 PM

To: Courtney Smith <CSmith@tuckerga.gov>

Is that going to impact my capacity to get an alcohol license?

[Quoted text hidden]

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your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

Courtney Smith <CSmith@tuckerga.gov>
To: ayaz ali <alienterprise87@gmail.com>

Mon, Jan 3, 2022 at 5:06 PM

Alcohol sales requires a SLUP in C-1.

[Quoted text hidden]

ayaz ali <alienterprise87@gmail.com>
To: Courtney Smith <CSmith@tuckerga.gov>

Mon, Jan 3, 2022 at 6:02 PM

But it didn't require it in m zoning. So how will it effect the business? Will I be grandfathered in?

[Quoted text hidden]

Courtney Smith <CSmith@tuckerga.gov>
To: ayaz ali <alienterprise87@gmail.com>

Tue, Jan 4, 2022 at 9:16 AM

The development, per the approved LDP plans, is grandfathered. Any business that move in would have to comply with C-1. Any changes to the approved LDP plans would have to comply with C-1.

[Quoted text hidden]

ayaz ali <alienterprise87@gmail.com>
To: Courtney Smith <CSmith@tuckerga.gov>

Tue, Jan 4, 2022 at 9:51 AM

Right but does the gas station get grandfathered in for alcohol license or will it have to apply for SLUP?

[Quoted text hidden]

Courtney Smith <CSmith@tuckerga.gov>
To: ayaz ali <alienterprise87@gmail.com>

Tue, Jan 4, 2022 at 10:54 AM

Alcohol sales within the gas station will need a SLUP.

[Quoted text hidden]

ayaz ali <alienterprise87@gmail.com>
To: Courtney Smith <CSmith@tuckerga.gov>

Tue, Jan 4, 2022 at 12:45 PM

But I wouldn't need SLUP with M zoning. This doesn't put me in grandfather status. Is it guaranteed that I will get the alcohol license?

[Quoted text hidden]

Courtney Smith <CSmith@tuckerga.gov>
To: ayaz ali <alienterprise87@gmail.com>

Tue, Jan 4, 2022 at 4:21 PM

The physical structure of a gas station is grandfathered per the LDP but alcohol sales is a separate line item in the code and is not a physical use per the LDP plans. Therefore, a SLUP is required. The SLUP is a public hearing process with a decision made by city council so I cannot predict the outcome. I will say that council has not denied a gas station request for alcohol sales in the past though.

[Quoted text hidden]

ayaz ali <alienterprise87@gmail.com>
To: Courtney Smith <CSmith@tuckerga.gov>

Wed, Jan 5, 2022 at 6:31 AM

Can I get the application to apply for slup? I would need to start the process now.

[Quoted text hidden]

Courtney Smith <CSmith@tuckerga.gov>
To: ayaz ali <alienterprise87@gmail.com>
Cc: Kylie Thomas <kthomas@tuckerga.gov>, Jessica Echols <jechols@tuckerga.gov>

Wed, Jan 5, 2022 at 1:19 PM

I have emailed you the link for the SLUP application. The upcoming deadlines are Feb. 14th and March 14th. You cannot make the January deadline because of the neighborhood meeting requirement. The February deadline may be pushing it as well.

Neighborhood meeting requires 14 days notice. I'll email a link with more information about the neighborhood meeting process. Staff can also send you the 500' mailing list for notification.

Sent from my iPhone

On Jan 5, 2022, at 6:31 AM, ayaz ali <alienterprise87@gmail.com> wrote:

Can I get the application to apply for slup? I would need to start the process now.

On Tue, Jan 4, 2022 at 4:21 PM Courtney Smith <CSmith@tuckerga.gov> wrote:

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<image001.jpg>

COURTNEY SMITH

DIRECTOR OF PLANNING AND ZONING

<image002.png>

T: 470-273-3091 | **M:** 678-209-9794

E: csmith@tuckerga.gov | **W:** tuckerga.gov

<image003.png> <image004.png> <image005.png> <image006.png> <image007.png>

<image001.jpg>

From: ayaz ali <alienterprise87@gmail.com>

Sent: Tuesday, January 4, 2022 12:45 PM

To: Courtney Smith <CSmith@Tuckerga.gov>

Subject: [External]Re: [External]Re: [External]Re: [External]Re: Rezoning Letter/Ordinance for 5960 East Ponce

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<image001.jpg>

COURTNEY SMITH**DIRECTOR OF PLANNING AND ZONING**

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<image001.jpg>

From: ayaz ali <alienterprise87@gmail.com>**Sent:** Tuesday, January 4, 2022 9:51 AM**To:** Courtney Smith <CSmith@Tuckerga.gov>**Subject:** [External]Re: [External]Re: [External]Re: Rezoning Letter/Ordinance for 5960 East Ponce

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COURTNEY SMITH**DIRECTOR OF PLANNING AND ZONING**

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<image001.jpg>

From: ayaz ali <alienterprise87@gmail.com>
Sent: Monday, January 3, 2022 6:03 PM
To: Courtney Smith <CSmith@Tuckerga.gov>
Subject: [External]Re: [External]Re: Rezoning Letter/Ordinance for 5960 East Ponce

But it didn't require it in m zoning. So how will it effect the business? Will I be grandfathered in?

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<image001.jpg>

COURTNEY SMITH

DIRECTOR OF PLANNING AND ZONING

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E: csmith@tuckerga.gov | **W:** tuckerga.gov

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<image001.jpg>

From: ayaz ali <alienterprise87@gmail.com>
Sent: Monday, January 3, 2022 12:50 PM
To: Courtney Smith <CSmith@Tuckerga.gov>
Subject: [External]Re: Rezoning Letter/Ordinance for 5960 East Ponce

Is that going to impact my capacity to get an alcohol license?

On Mon, Jan 3, 2022 at 12:41 PM Courtney Smith <CSmith@tuckerga.gov> wrote:

Ali,

Please see attached for a digital copy of the rezoning letter/ordinance that is going out today via certified mail.

Best,

<image001.jpg>

COURTNEY SMITH

DIRECTOR OF PLANNING AND ZONING

<image002.png>

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7 attachments



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image007.png
2K



image002.png
8K



image005.png
2K



image003.png
1K



image004.png
1K



ayaz ali <alienterprise87@gmail.com>

Public Participation Plan

3 messages

Courtney Smith <CSmith@tuckerga.gov>

Wed, Jan 5, 2022 at 1:20 PM

To: ayaz ali <alienterprise87@gmail.com>

Cc: Kylie Thomas <kthomas@tuckerga.gov>, Jessica Echols <jechols@tuckerga.gov>

Here is an outline of the neighborhood meeting requirements.

https://www.tuckerga.gov/departments/planning_zoning/ppp/index.php

Sent from my iPhone

ayaz ali <alienterprise87@gmail.com>

Wed, Jan 5, 2022 at 3:33 PM

To: Courtney Smith <CSmith@tuckerga.gov>

Cc: Kylie Thomas <kthomas@tuckerga.gov>, Jessica Echols <jechols@tuckerga.gov>

Hey Courtney,

I have never done a SLUP so I will need to hire an attorney to assist. The attorney that I spoke to stated I should have vested grandfather rights. It is going to cost maybe more than \$10,000 to apply for SLUP. Can you verify with your legal team if this property has vested grandfather rights?

[Quoted text hidden]

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Courtney Smith <CSmith@tuckerga.gov>

Thu, Jan 13, 2022 at 11:01 AM

To: ayaz ali <alienterprise87@gmail.com>

Cc: Kylie Thomas <kthomas@tuckerga.gov>, Jessica Echols <jechols@tuckerga.gov>, Brian Anderson <banderson@tuckerga.gov>

Ali,

I've spoken with the city attorney and the alcohol sales component is not grandfathered as it is a separate line item/use in our code and the alcohol sales did not exist previously. The c-store and gas pumps are grandfathered per the LDP drawings/permit.

Many people apply for a SLUP without an attorney. The last two gas stations that requested a SLUP for alcohol sales did not use one (including the one that was approved on 1/11/22). All of our current and past requests are online if you would like to see an example of how they prepared the application/request. Staff is available to help guide you through the process, but you have the right to use an attorney as well. The SLUP process is very similar to a rezoning, just with a different set of criteria. See links below.

Past/current applications:

https://www.tuckerga.gov/departments/community_development/land_use_petition_archive.php

https://www.tuckerga.gov/departments/community_development/current_land_use_petitions.php

Criteria:

https://www.tuckerga.gov/departments/community_development/criteria_for_making_land_use_decisions.php

Best,



COURTNEY SMITH

DIRECTOR OF PLANNING AND ZONING

T: 470-273-3091 | **M:** 678-209-9794

E: csmith@tuckerga.gov | **W:** tuckerga.gov



[Quoted text hidden]

From: [Linda Dunlavy](#)
To: [Courtney Smith](#)
Cc: [ayaz ali](#); [BillB@circleKAtl.com](#)
Subject: [External]RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)
Date: Wednesday, August 23, 2023 3:27:11 PM
Attachments: [List of Convenience and Liquor Stores.docx](#)

On the night of the last meeting, the Mayor asked how many convenience stores do NOT sell alcohol in Tucker. At that point in time, you did not know the answer , nor did I. The attached updated table attempts to answer that question and also address the observation of councilperson who noted that many convenience stores are located within close proximity of another similar store and seem to be able to complete. The table notes where convenience stores are located in close proximity to others. In short, only one of the fifteen stores sampled does not sell alcohol and more than half of the convenience stores sampled are located in close proximity to another similar store. Please share this information with the Council prior to September 11, 2023, and include this material in the record. Thank you,

Linda

From: Linda Dunlavy
Sent: Tuesday, August 22, 2023 4:31 PM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: [ayaz ali](#) <alienterprise87@gmail.com>; [BillB@circleKAtl.com](#)
Subject: RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

Courtney:

Sorry to piecemeal you like this but attached please find an affidavit from my client setting forth the permitting history and addressing other matters raised by the opposition to the SLUP application for 5960 East Ponce de Leon when before City Council on August 14, 2023. I ask that this affidavit be forwarded to City Council for their consideration prior to the vote on September 11, 2023. Thank you,

Linda

Let me know of any questions.

From: Linda Dunlavy
Sent: Friday, August 18, 2023 3:20 PM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: [ayaz ali](#) <alienterprise87@gmail.com>; [BillB@circleKAtl.com](#)
Subject: RE: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

Courtney:

I found another SLUP for alcohol sales at a convenience store and attach the relevant minutes along

with the link to the agenda packet at <https://pub-tuckerga.escribemeetings.com/FileStream.ashx?DocumentId=4628>. This SLUP for redevelopment of a site at 4114 Lavista Road. The SLUP (21-009) was approved on January 11, 2022. The conditions included one requiring alcohol sales cease at 12:30 AM but no condition required closure of the convenience store at that time also. Please provide this information to the Council in addition to that already provided prior to the 2nd read on the above item. Thank you.

Linda

From: Linda Dunlavy
Sent: Thursday, August 17, 2023 10:01 AM
To: Courtney Smith <CSmith@Tuckerga.gov>
Cc: ayaz ali <alienterprise87@gmail.com>; BillB@circleKAtl.com
Subject: SLUP application for 5960-East Ponce de Leon (Ordinance 2023-08-15)

Courtney:

After the City Council meeting on Monday evening (8-14), I researched other SLUPs considered by the City since 2016 for gas station/convenience stores and found the following:

- SLUP 19-008/-009 for redevelopment of a gas station/convenience store site at 4246 Lavista Road was approved with conditions by the City Council on January 27, 2020 (ordinance No. 2019-10-37), and imposed (per staff recommendation) a condition that alcohol sales cease at 11 p.m. there is no indication in the minutes or the staff report that the entire convenience store was required to cease operations at 11 p.m. Interestingly this proposed store was immediately across the street from another C-store. *See attached minutes, application materials and staff report.*
- SLUP 17-005 was approved for 5448 East Ponce de Leon on January 22, 2018 (Ordinance 2018-01-1) with conditions. One of the conditions (#3) required alcohol sales to cease at 11 p.m. but there was no condition requiring the entire store to close at that time. *See attached minutes, application materials and staff report.*

As indicated before the Planning Commission and the City Council, while applicant has no objection to the conditions requiring alcohol sales cease at 11 p.m., it objects vigorously to any condition requiring it to cease operations of the entire store at 11 p.m. There is no rational basis for such a requirement. Please share this information with City Council prior to the second reading of the indicated ordinance scheduled for September 11, 2023.

Thanks,

Linda

Name of C-Store Gas Station	Zoning and Land Use Classification	Address	Hours	Proximity to Residential	Alcohol Sales?	Close to other C-store?
Valero	M/Light Industrial	1836 Mountain Industrial Boulevard	24 Hours	No where close	Y	Y
BP	M/ Light Industrial	4615 Hugh Howell	24 hours	No where close	Y	N ?
Shell	DT-3 Village/DT	4108 Lawrenceville Hwy	24 hours	470 feet to an R-75 subdivision	Y	N
Racetrac	C-1/CRC	3356 Lawrenceville Highway	24 hours	290 feet to an R-75	Y	Y
Shell	NL-1/RAC	4118 Lavista Rd	24 hours	No where close	Y	Y
BP	NL-1/RAC	4121 Lavista Rd.	24 hours	No where close	Y	Y
Quik Trip	C-1/CRC	3317 Lawrenceville Highway	Open 24 hours	Adjoins townhomes in unincorporated DeKalb and 320-370 feet to R-75 properties	Y	Y
Citgo	C-1/ MA	2929 Lawrenceville Hwy	24 hours	No where close	Y	N
Chevron	C-1/NC	1531 Cooledge Road	24 hours	180 feet to R-75 property on Cooledge and 350 feet to R-75 across road	Y	N
Chevron	C-1/CRC	3204 Tucker Norcross Road	24 hours	Adjoins MR-1 subdivision	Y	Y
Chevron	C-1/CRC	3671 Lawrenceville Highway	24 hours	Adjoins MR-2 and within 265 feet of an R-75	Y	Y
Quik Trip	C-1/Light Industrial	1999 Mountain Industrial Boulevard	24 hours	No where close	Y	Y
BP	DT-1/DT	4972 LaVista Road	24 hours	500 feet to R-85 subdivision	N	N
Citgo Samuels Gas and Grocery	C-1/SUB	5095 Stone Mill Way	24 hours	Surrounded on all sides by MR-1 subdivisions	Y	N
Speedway	C-1/Light Industrial	5448 East Ponce de Leon	24 hours	Directly across street from	Y	Y

				DeKalb County residential subdivision - 375 feet away		
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Name of C-Store Gas Station	Zoning and Land Use Classification	Address	Hours	Proximity to Residential
Valero	M/Light Industrial	1836 Mountain Industrial Boulevard	24 Hours	No where close
BP	M/ Light Industrial	4615 Hugh Howell	24 hours	No where close
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Racetrac	C-1/CRC	3356 Lawrenceville Highway	24 hours	290 feet to an R-75 subdivision
Shell	NL-1/RAC	4118 Lavista Rd	24 hours	No where close
BP	NL-1/RAC	4121 Lavista Rd.	24 hours	No where close
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Citgo	C-1/ MA	2929 Lawrenceville Hwy	24 hours	No where close
Chevron	C-1/NC	1531 Cooledge Road	24 hours	180 feet to R-75 property on Cooledge and 350 feet to R-75 across road
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				subdivision - 375 feet away
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ArcGIS Web Map



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Address

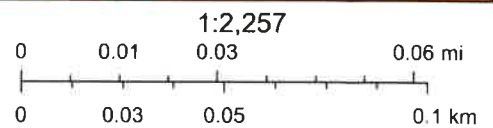
Zoning District

C-1 (Local Commercial)

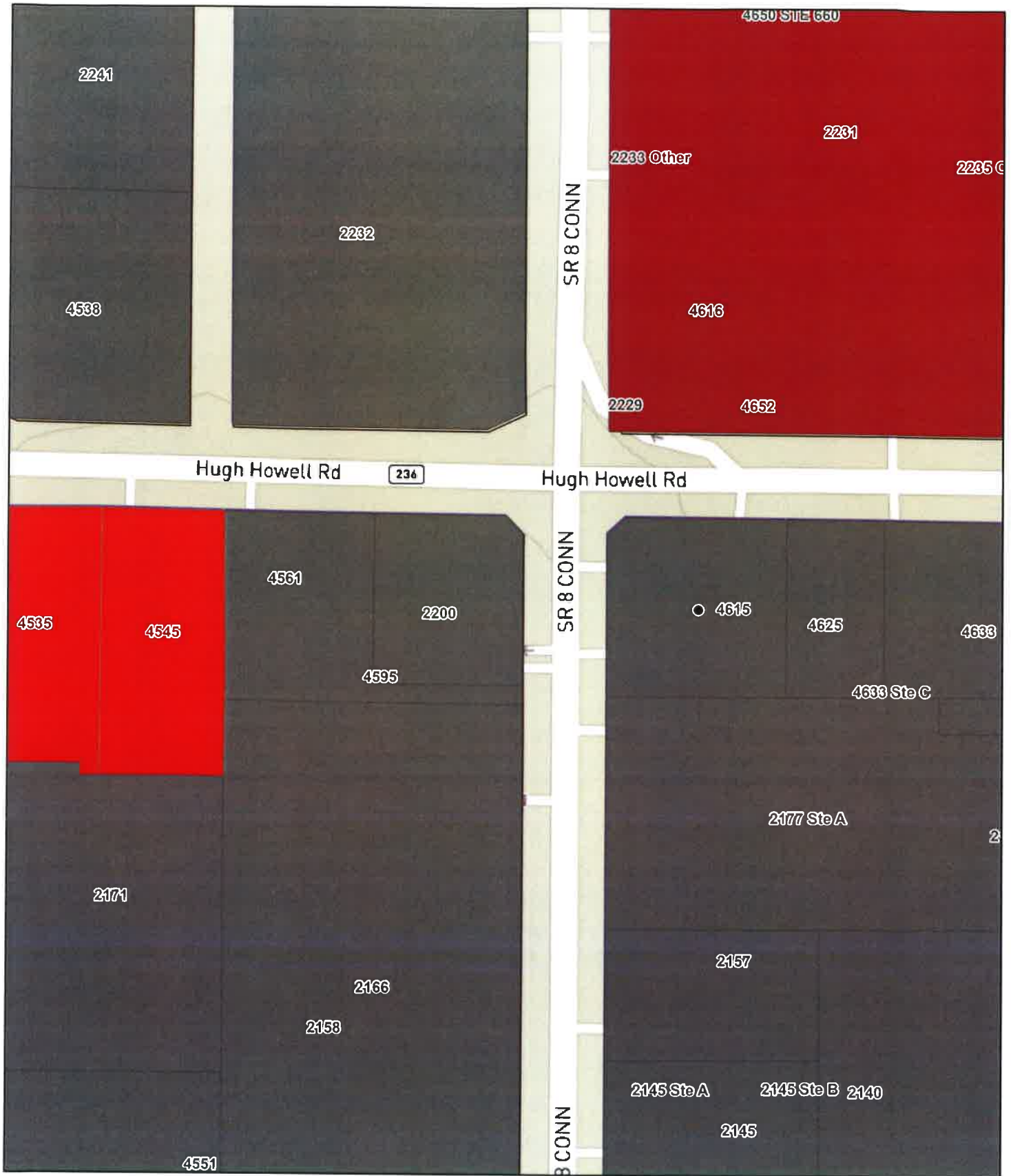
Future Land Use

Light Industrial

Municipal Boundary



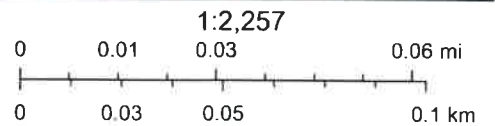
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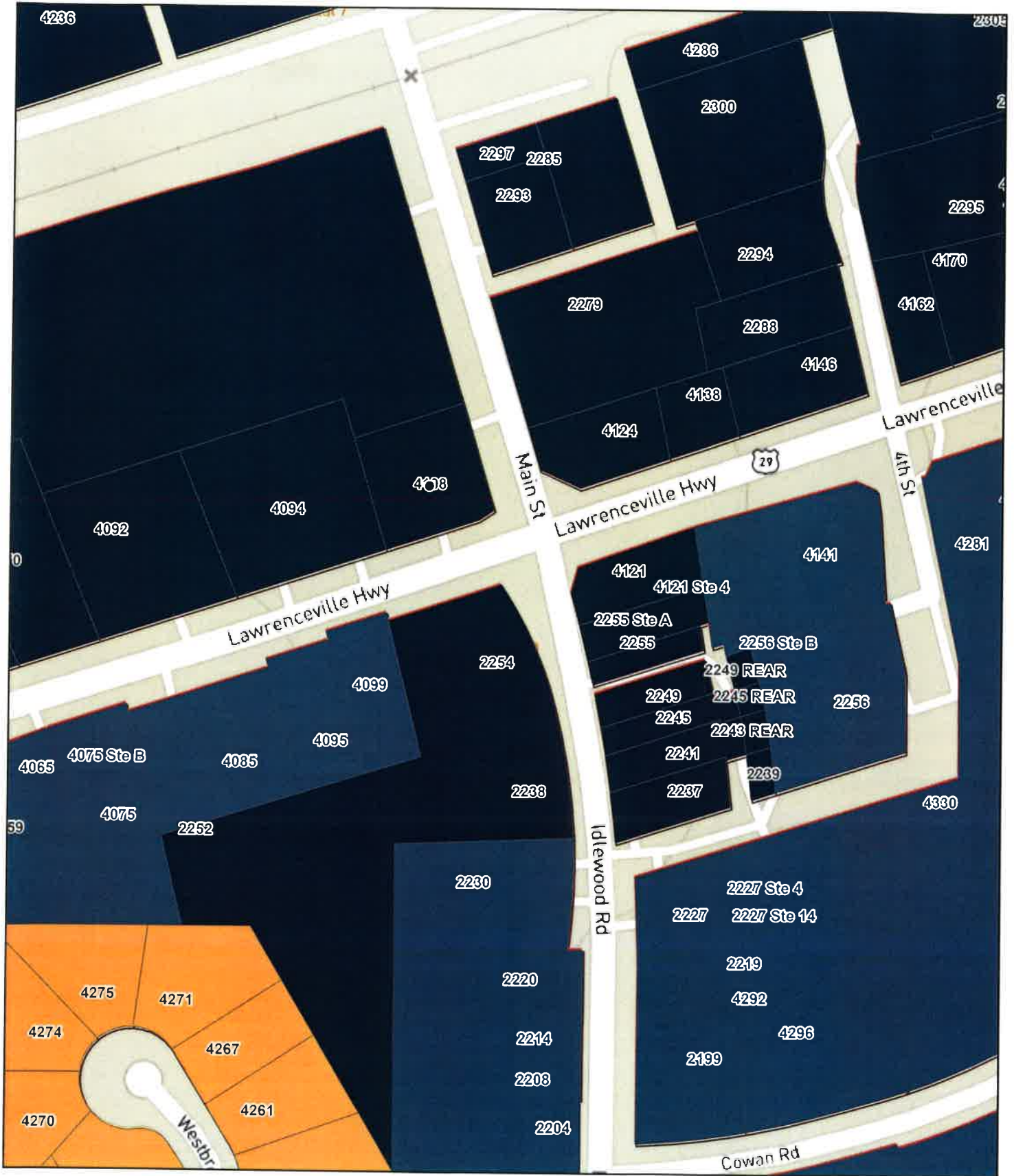
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Address
Zoning District
C-1 (Local Commercial)

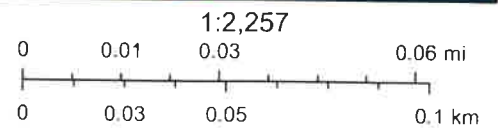
Future Land Use
Light Industrial
Municipal Boundary



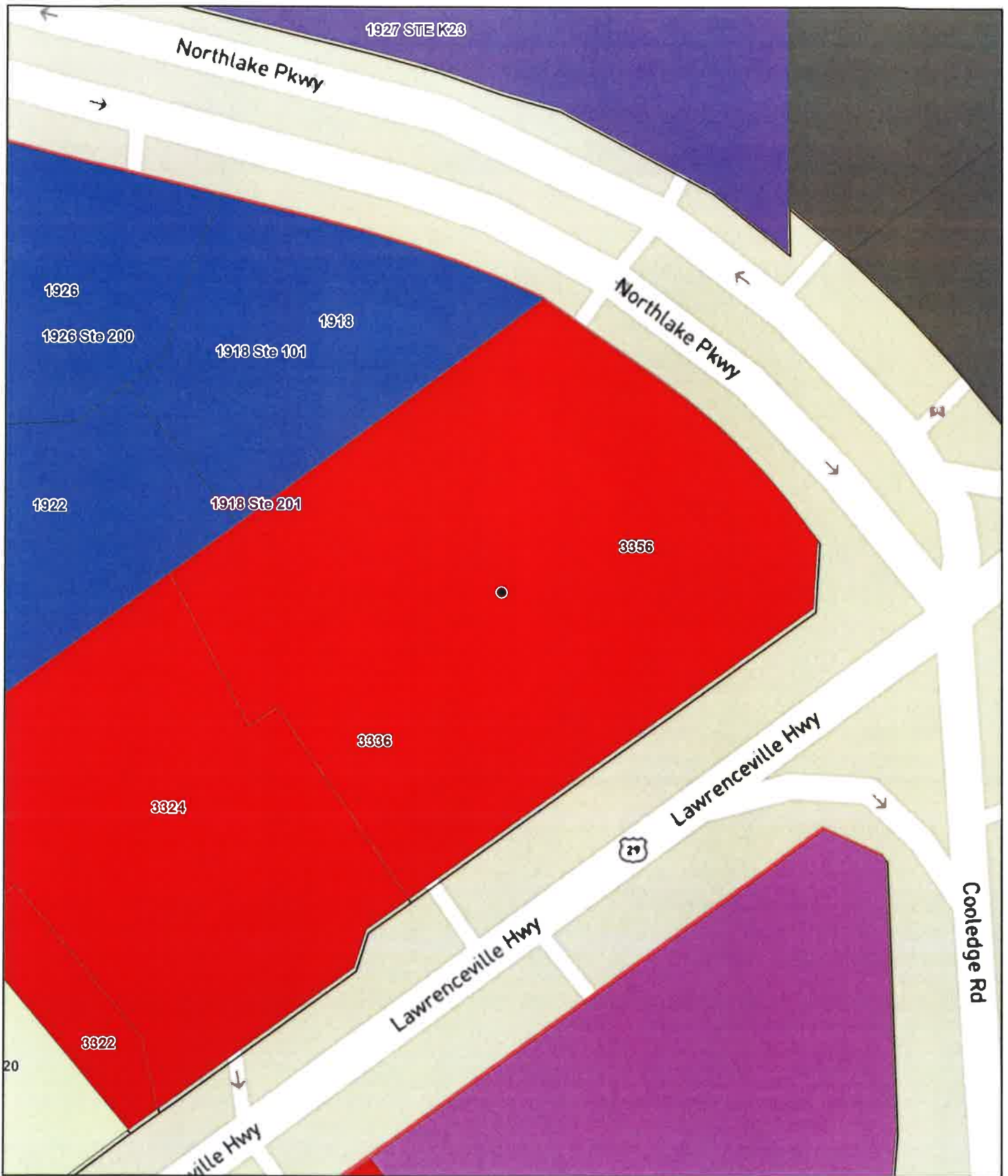
ArcGIS Web Map



7/21/2023, 1:49:07 PM



ArcGIS Web Map



7/21/2023, 1:53:21 PM

Address

Zoning District

NL-2 (Office Park)

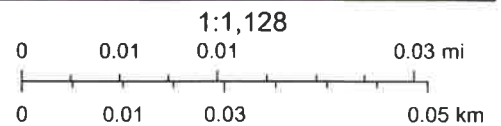
RSM (Small Lot Residential Mix)

MZ (Multiple Zoning)

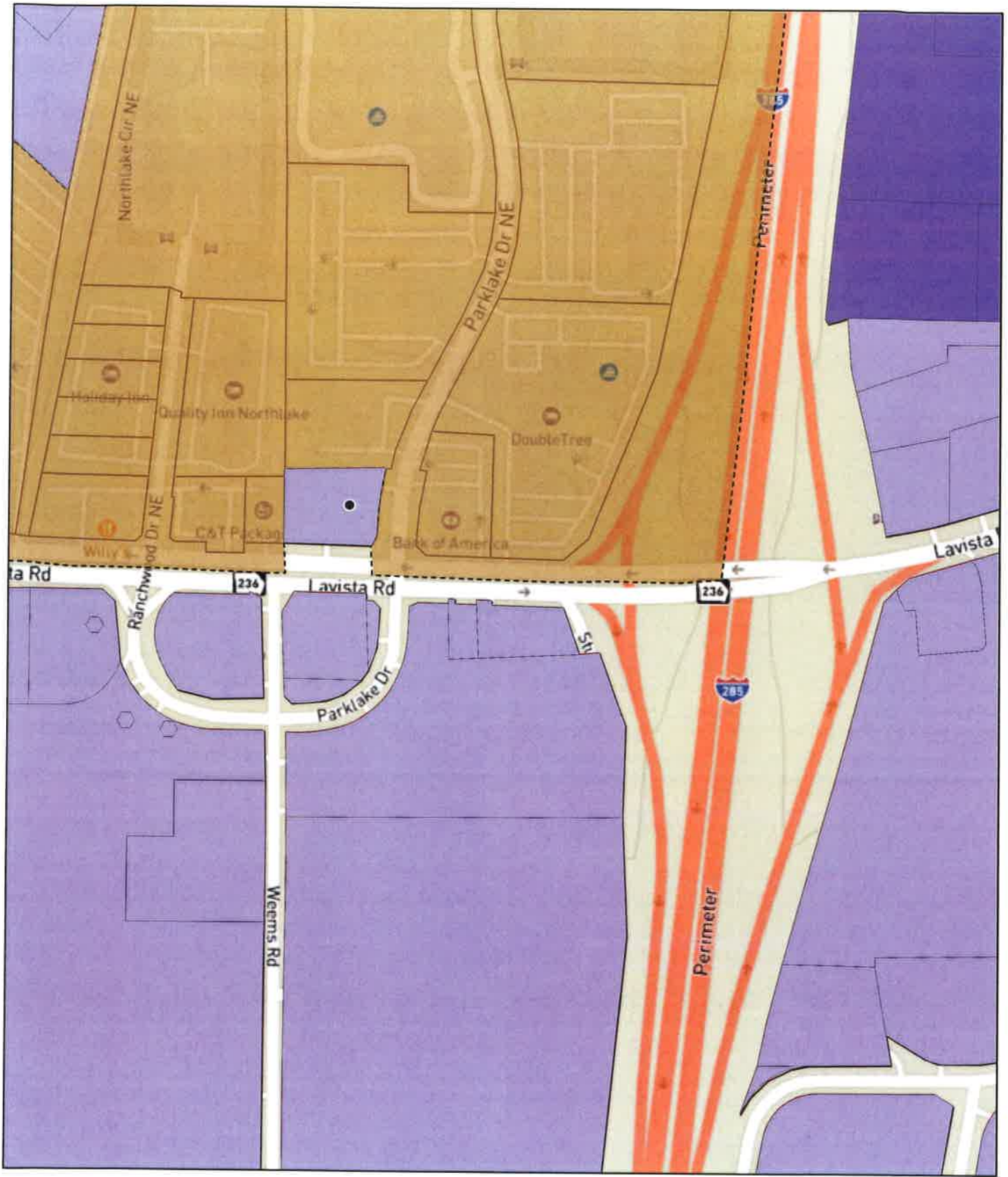
Future Land Use

Commercial Redevelopment Corridor

Light Industrial



ArcGIS Web Map



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Zoning District

NL-3 (Employment Center)

NL-2 (Office Park)

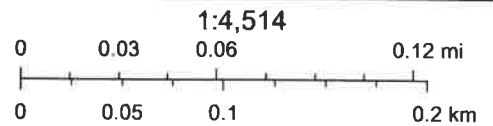
NL-1 (High-Intensity Commercial)

Regional Activity Center

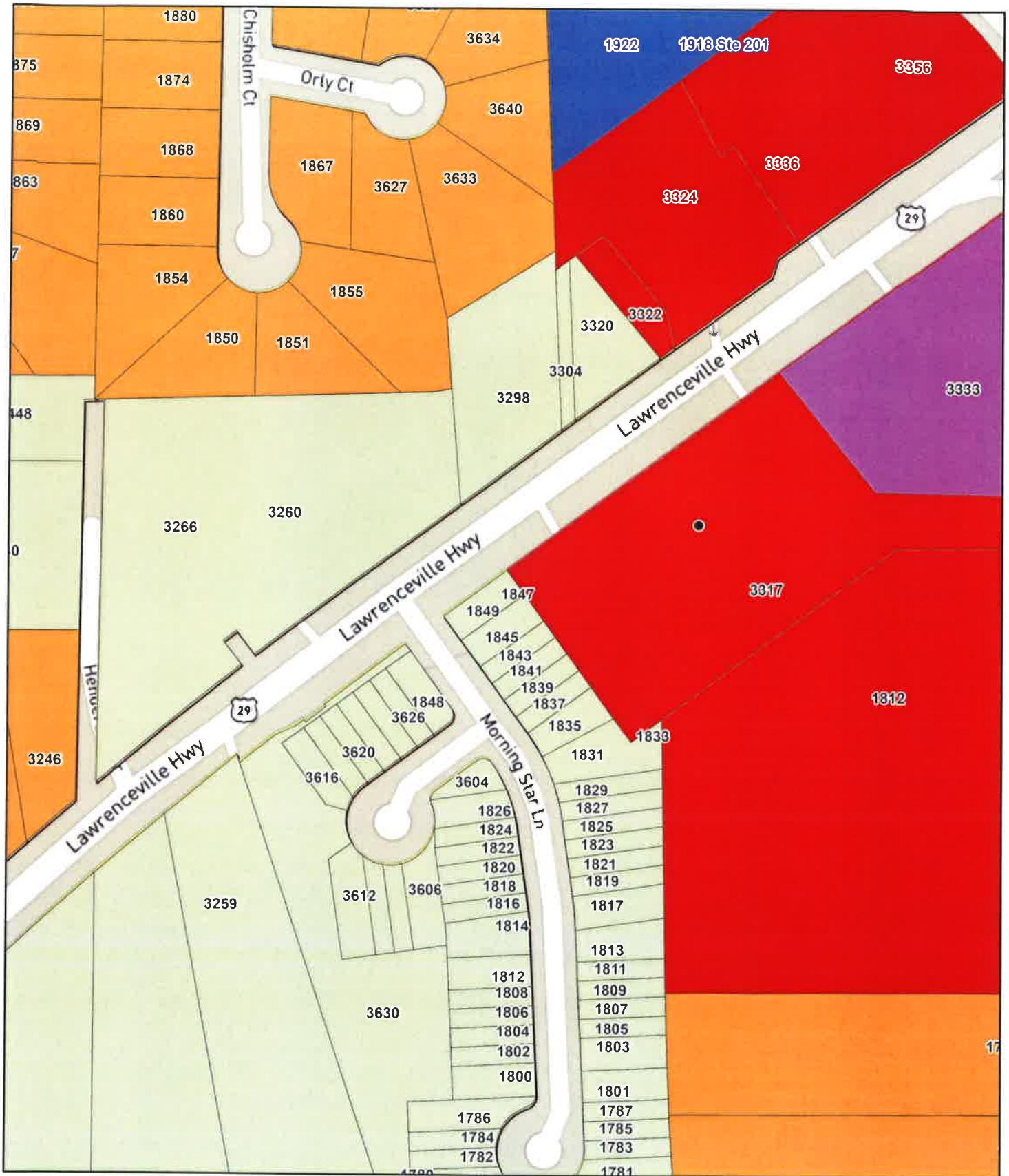
Municipal Boundary

Municipal Boundary

DeKalb County Tax Parcels



ArcGIS Web Map



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1:2,257

Address

 MZ (Multiple Zoning)


Zoning District

Future Land Use

 R-75 (Residential Medium Lot -75)

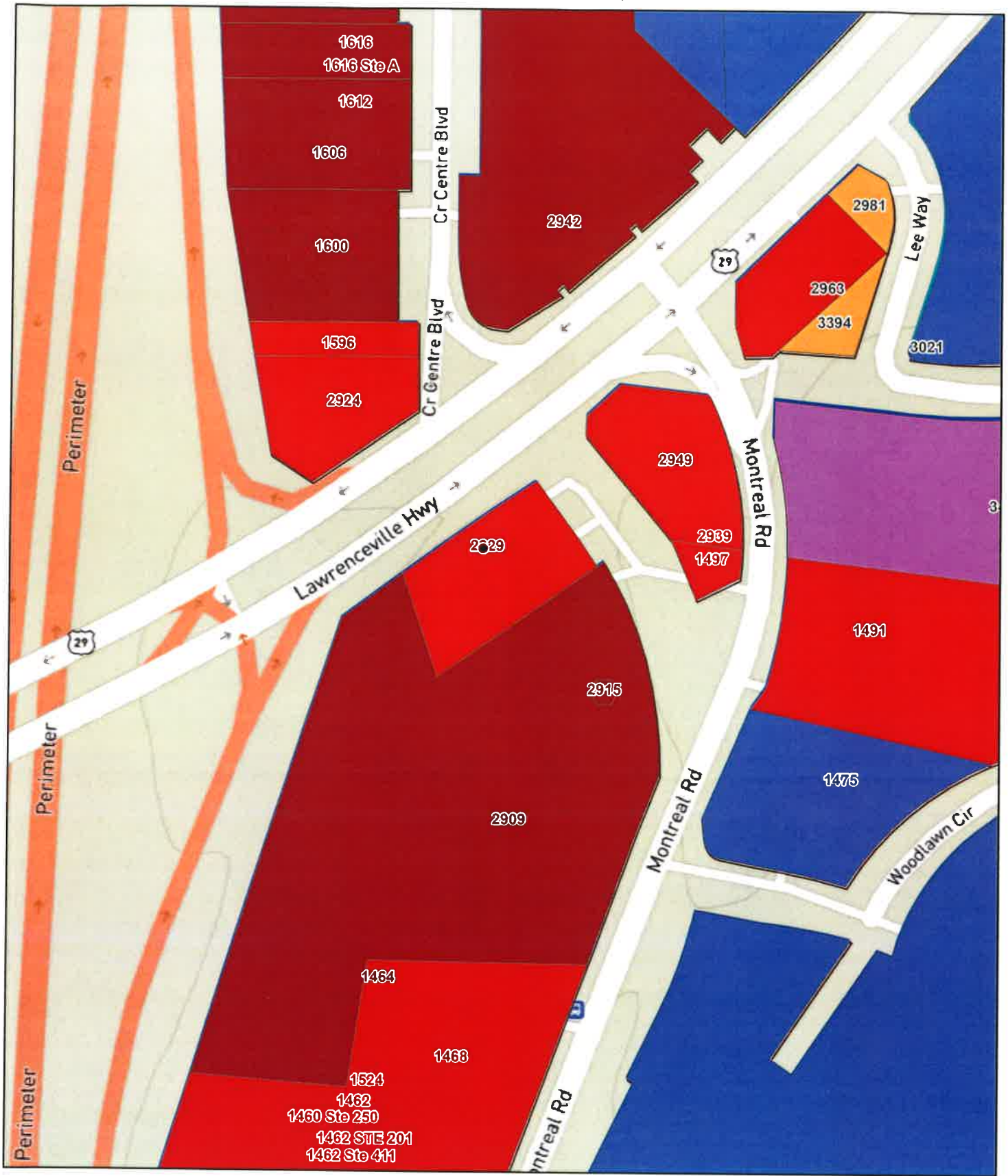
 Commercial Redevelopment Corridor

 RSM (Small Lot Residential Mix)

 Suburban

— []

ArcGIS Web Map



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Address

Zoning District

R-75 (Residential Medium Lot -75)

C-1 (Local Commercial)

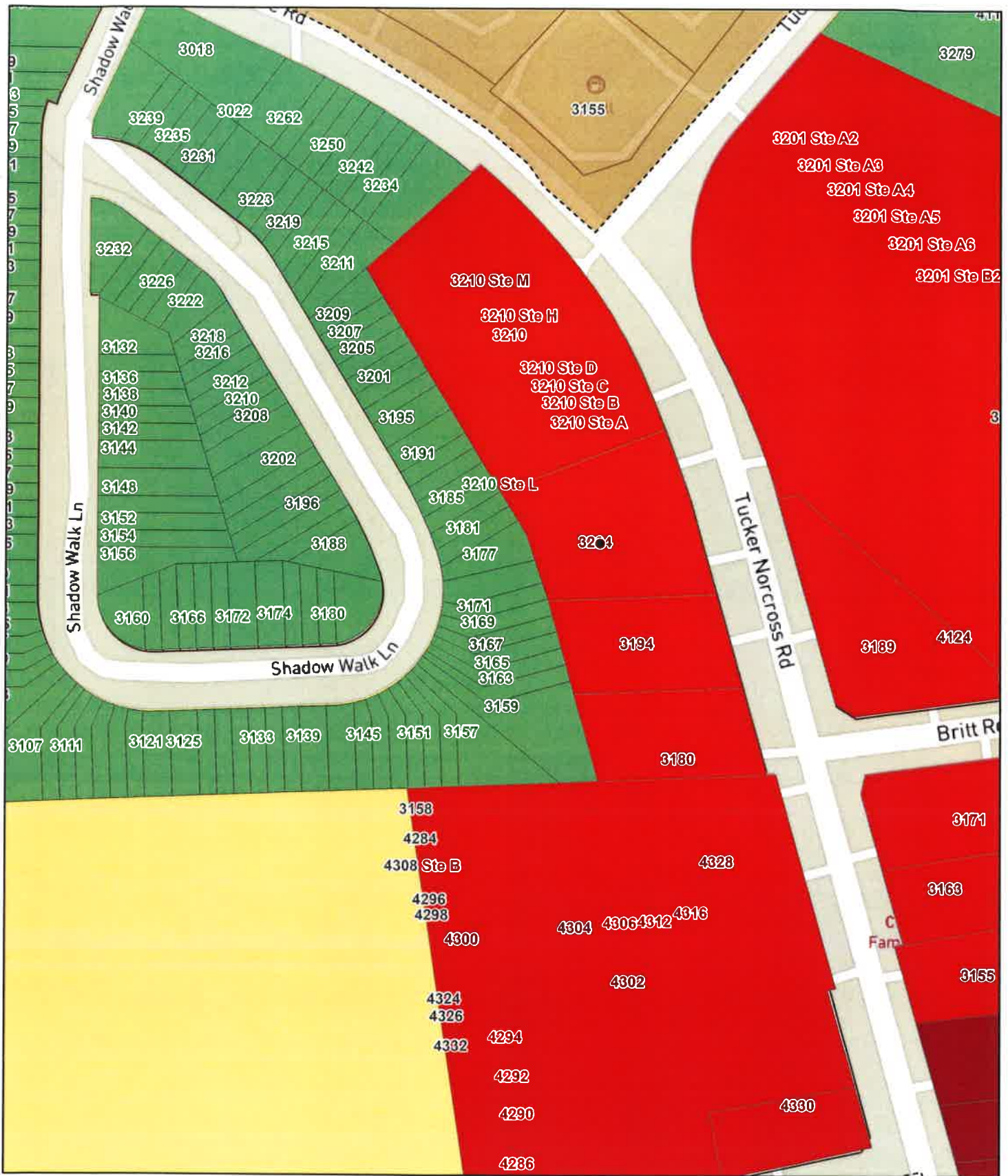
MZ (Multiple Zoning)

Future Land Use

Institutional

Medical Area

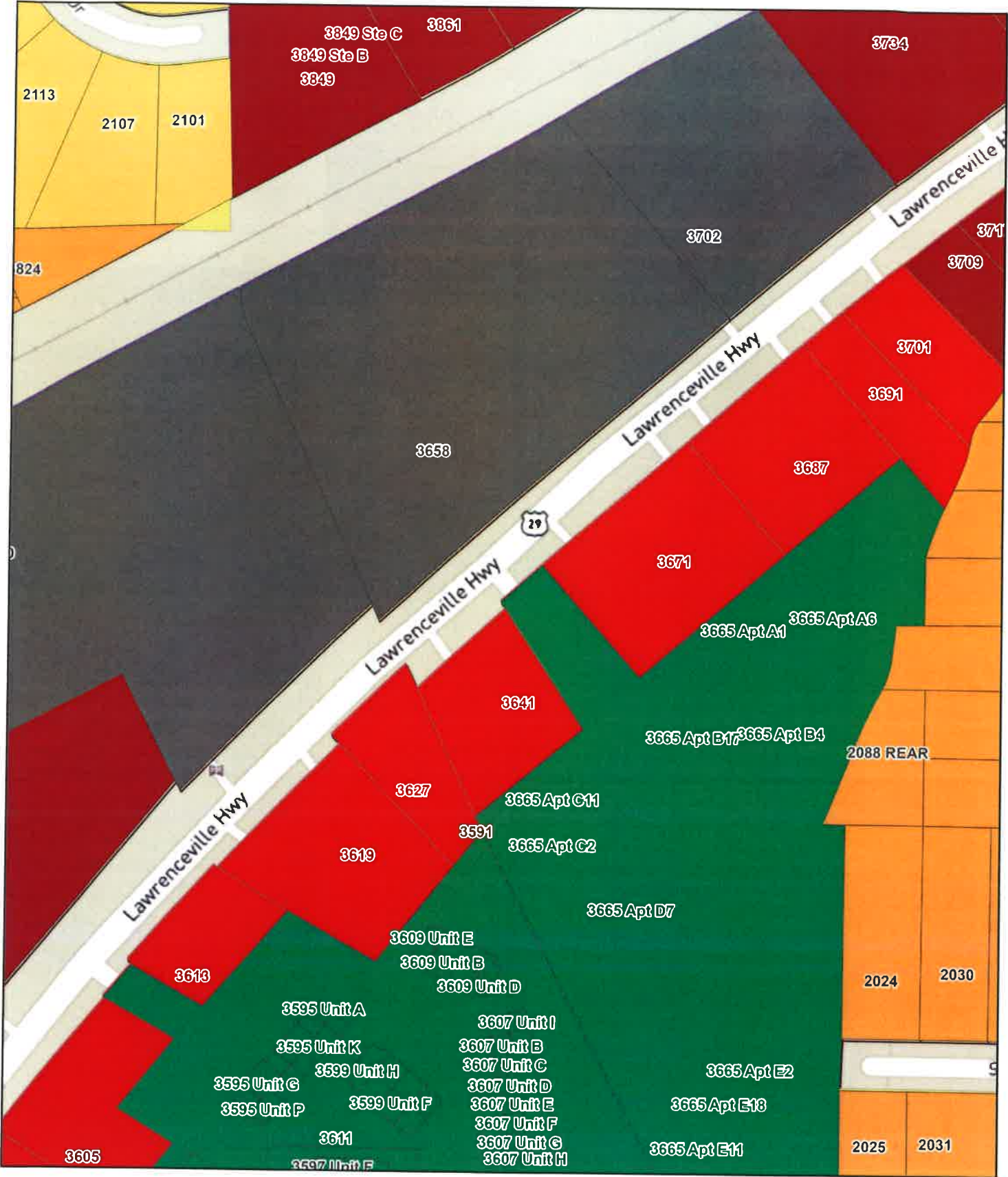
ArcGIS Web Map



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ArcGIS Web Map



7/21/2023, 2:30:32 PM

Address

Zoning District

R-85 (Residential Medium Lot - 85)

R-75 (Residential Medium Lot - 75)

M-2 (Medium Density Residential)

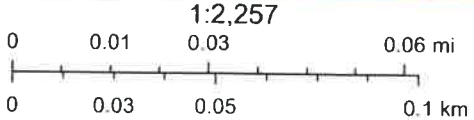
M (Light Industrial)

Future Land Use

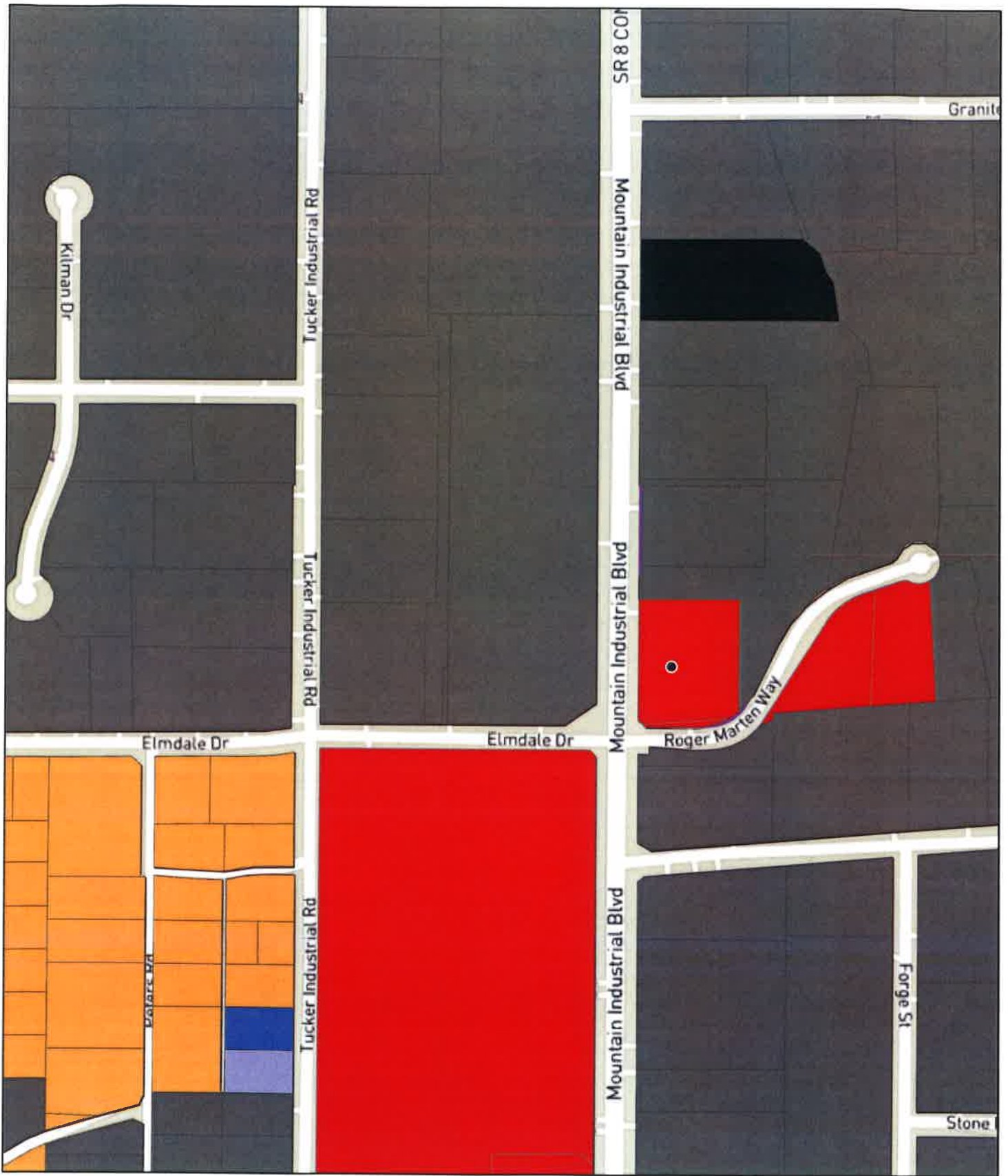
Commercial Redevelopment Corridor

Light Industrial

Page 283 of 538



ArcGIS Web Map



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Zoning District

R-75 (Residential Medium Lot -75)

C-1 (Local Commercial)

O-D (Office-Distribution)

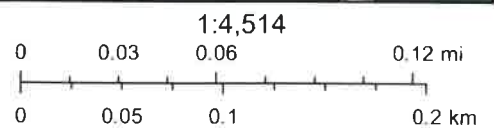
M-2 (Heavy Industrial)

Future Land Use

Light Industrial

Suburban

Page 284 of 538



Courtney Smith

From: Linda Dunlavy <ldunlavy@dunlavylawgroup.com>
Sent: Friday, July 21, 2023 4:10 PM
To: Courtney Smith
Cc: ayaz ali; BillB@circleKAtl.com
Subject: [External]5960 East Ponce de Leon Avenue -alcohol outlet SLUP
Attachments: List of Convenience and Liquor Stores.docx; Maps of C-store locations.pdf

Importance: High

Courtney:

Since I did not get any rebuttal last night, I wanted to take the opportunity to respond to some of the statements made by the opposition last night before the Planning Commission and **have my comments transmitted to the City Council as part of their packet prior to the first reading in August**. An attorney representing Samuels Gas and Grocery located at 5095 Stone Mill Way in Tucker opposed our application on various grounds. The general objections to Gas Express's request for a use permit for off premises consumption alcohol sales were as follows:

- The applicant is a national franchise with power and money to impact or eliminate small businesses such as the mom and pop, the opposition operates.
- Samuels Gas and Grocery provides alcohol in the community already. There is no need for another outlet.
- The operations of the proposed C-Store/ Gas Station will have negative impacts on the residents of this neighborhood in the form of light, noise, late hours, and illegal conduct.
- Gas Express and/or the property owner when they built out the C-Store knew they would need a use permit for alcohol.

The applicant responds to these objections as follows:

- The fact that Gas Express would perhaps be competing with Samuels Gas and Grocery for some of the same customers is not an element for consideration in a use permit application. See Section 46-1594 of the Zoning Ordinance. Samuels Gas and Grocery does not have the right to exclude competition because it is a mom and pop or because it has been in the neighborhood for a long time. It does not have an exclusive franchise on gas station, convenience store, or alcohol sales for the area. While it is certainly hoped that both Samuels and Gas Express can co-exist and prosper together, ultimately it is up to the consumers of the goods and services both provide to decide who and how to patronize these different businesses. There is no factual basis to assume that Samuels will lose customers or revenue but even if there were, this is not a legitimate factor for the City Council to consider when it ultimately votes on the use permit request for approval of beer and wine sales by Gas Express.
- Although Samuels provides alcohol in the community already, Gas Express has conducted studies finding that there is more consumer demand in this area for the alcohol products it desires to sell. Moreover, it should be noted that Samuels is located interior to the neighborhood and likely captures very few passers by on East Ponce de Leon and SR 10, passers by that Gas Express is more likely to capture. In other words, Samuels has a different target customer base than Gas Express.
- If there are any negative impacts from the proposed sale of alcohol by Gas Express, such impacts would certainly be no more than those of Samuels. Samuels is located at the intersection of Juliette Road and Stone Mill Way—surrounded by residential apartments and homes. It is much closer to these residences than the proposed Gas Express alcohol sales would be. It is not buffered in any way by vegetation, unlike the 75 foot buffer on the west and north sides of the Gas Express property. Like Gas Express proposes, Samuels' representative stated that it was open 24 hours a day. Samuels, unlike Gas Express, is located on a corner property highly visible to its

residential neighbors. There is absolutely no evidence put forward that the proposed C-store/ gas station will create loud noise, promote late night activity, or illegal conduct of any kind. Clearly, Sammies is simply wanting to eliminate any competition. As noted above, it has no right to a monopoly based on longevity or any other entitlement.

- The property owner did not know it would need a use permit for alcohol sales prior to building the property out for a gas station/C-Store. Presumably the opponents raise this issue to suggest that the property owner should not be allowed to build out a store and then claim a hardship of some sort if it is not allowed full use of its property. However, the opponents ignore the history of this property (or in fairness may not be aware of it). Prior to December of 2021, the subject property was zoned M (Light industrial). At that time and to the present alcohol outlets, retail sales, primary and accessory were expressly permitted uses of right **not requiring a special use permit** as were convenience stores with fuel pumps. See Use Table 4.1 of the Zoning Ordinance. As noted by staff a land disturbance permit for a C-store with gas pumps was issued in March of 2021, fully nine-months before the property was rezoned to C-1. Unfortunately, the property owner did not get a CO for the building prior to the passage of the zoning ordinance change and was thereby unable to apply to alcohol licenses for the off premises consumption sales. Quite frankly, the property owner was not happy about the zoning change and advised the City of Tucker that it expected tenants of the building to desire beer and wine sales. The property owner in no way created his hardship here or built out the property in an effort to strong arm the City into giving it the desired alcohol licenses. It was caught between changing laws and is thus now required to seek a use permit which was not something originally contemplated.
- Due to various aspects of the site design and distance from residential properties, no negative impacts to residents from the addition of alcohol sales to the fully permitted C-Store/ gas station use are anticipated. There is considerable distance between the C-store operations and any residential structures. Residences to the north and west are separated by a mature 75 foot vegetative buffer and more than 200 feet at the C-store's closest point. To the south they are separated by East Ponce de Leon Avenue, the Stone Mountain multi-use path, vegetation and the CSX railroad not to mention more than 400 feet of distance. All alcohol sales will be internal to the building and the residents will not be affected by them negatively.

Finally, there was much discussion about the proposed condition of staff that the C-store, gas sales and alcohol sales all be required as a condition of SLUP approval to cease by 11 p.m. I understand that staff believes such a condition is necessary to protect the residents and the residential character of the area. As noted by me on behalf of Gas Express, such a condition would be unfair, unwarranted and the death knell to its business. Unfortunately, we did not receive the staff report with this condition until less than 48 hours before the Planning Commission meeting so did not have much time to react. In the meantime, we have accumulated some information about other gas station/convenience stores in Tucker. See table attached along with associated City of Tucker maps. This information (probably not complete because no data base seems to track this specifically) reveals that there are numerous gas station/C-stores who operate 24 hours a day, as requested by Gas Express. There are at least 15 such businesses. See attached table. Of these 15 identified, at least half of them are located within a similar (if not closer) distance to residential properties as the Gas Express store. Some are immediately adjacent to residential properties. Based on these facts on the ground, Gas Express submits that disallowance of a 24 hour operation on the subject property would be treating similarly situated property owners disparately without any rational basis. Moreover, the use permit is for alcohol sales, not for a convenience store or gas pumps. While conditions of zoning approval are specifically allowed, legally they are to be designed to ameliorate any reasonably perceived negative impacts of the activity for which approval is sought. Requiring the C-store and gas sales to close as a condition of approving alcohol sales is clearly not designed to ameliorate any negative impacts of alcohol sales is thus, Gas Express submits, would be improper and an abuse of discretion.

Please let me know if you have any questions or desire to discuss these points at more length. Your professional feedback is always welcomed.

Linda

Name of C-Store Gas Station	Zoning and Land Use Classification	Address	Hours	Proximity to Residential
Valero	M/Light Industrial	1836 Mountain Industrial Boulevard	24 Hours	No where close
BP	M/ Light Industrial	4615 Hugh Howell	24 hours	No where close
Shell	DT-3 Village/DT	4108 Lawrenceville Hwy	24 hours	470 feet to an R-75 subdivision
Racetrac	C-1/CRC	3356 Lawrenceville Highway	24 hours	290 feet to an R-75 subdivision
Shell	NL-1/RAC	4118 Lavista Rd	24 hours	No where close
BP	NL-1/RAC	4121 Lavista Rd.	24 hours	No where close
Quik Trip	C-1/CRC	3317 Lawrenceville Highway	Open 24 hours	Adjoins townhomes in unincorporated DeKalb and 320-370 feet to R-75 properties
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				subdivision - 375 feet away
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Planning and Zoning
1975 Lakeside Parkway, Suite 350
Tucker, GA 30084
Phone: 678-597-9040
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: Gas Express LLC

Address: 1575 Northside Drive NW

City: Atlanta

State: GA

Zip: 30318

Contact Name: Amin Chitalwala

Phone: 404-809-4923

Email:

OWNER INFORMATION

Name: Tucker Land Group, LLC

Address: 1833 Lawrenceville Highway

City: Decatur

State: GA

Zip: 30033

Contact Name: Ayaz Ali

Phone: 678-770-0080

Email: alienterprise87@gmail.com

PROPERTY INFORMATION

Property Address: 5950 East Ponce de Leon Avenue, Tucker GA 30083

Present Zoning District(s): C-1

Requested Zoning District(s): C-1

Present Land Use Category: SUB

Requested Land Use Category: SUB

Land District: 18

Land Lot(s): 125

Acreage: 4.63

Proposed Development: Convenience Store/Gas Station with alcohol sales

Concurrent Variance(s): None

RESIDENTIAL DEVELOPMENT

No. of Lots/Dwelling Units:

Dwelling Unit Size (Sq. Ft.):

Density:

NON-RESIDENTIAL DEVELOPMENT

No. of Buildings/Lots: 1

Total Building Sq. Ft.: 7000

Density:

LAND USE PETITION APPLICATION - REVISED OCTOBER 24, 2022

SLUP-23-0003

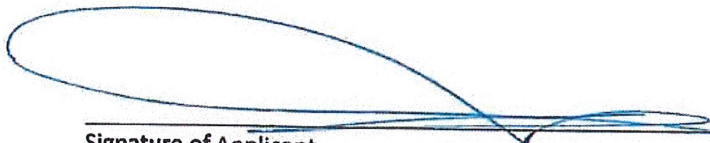
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06/14/2023

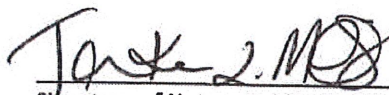
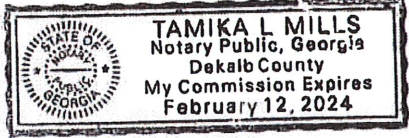
PLANNING & ZONING
DEPARTMENT

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
6/9/23
Date

Amin Chitalwala
Type or Print Name and Title
Member


Signature of Notary Public
6-9-23
Date

Notary Seal

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, Ayaz Ali, authorize, Gas Express, LLC
(Property Owner) (Applicant)

to file for SLUP at 5960 E. Ponce de Leon Avenue, Tucker GA
(RZ, CA, SLUP, M, CV) (Address)

on this date June 9, 2023
(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.

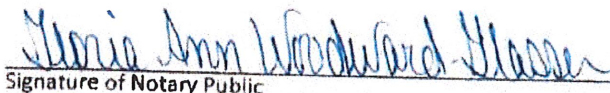


Signature of Property Owner

6/11/2023

Date

Ayaz Ali, authorized representative of Tucker Land Group, LLC
Type or Print Name and Title



Signature of Notary Public

6/11/2023

Date

Gloria Ann Woodward Glasser
NOTARY PUBLIC
DeKalb County, GEORGIA
My Commission Expires 08/18/2026

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PLANNING & ZONING
DEPARTMENT

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) Armin Chitalwala

Signature: [Signature]

Date: 6/13/23

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06/14/2023

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)

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Name (print) As an authorized representative of property owner and Applicant

Signature: 

Date: 6/13/2023

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Public Participation Plan Report

Project Name: 5690 E Ponce De Leon Ave
Alcohol Outlet - SLUP

Contact Name: Terry Bailey

Meeting Date: 03/08/2023

Meeting Location: 5690 E Ponce De Leon Ave Tucker, GA 30083

Meeting Start Time: 6:30

Meeting End Time: 5:50

Number of people in attendance: Only the applicant and the property owner were in attendance.

Date of Filing of Land Use Petition Application: March 13, 2023

General Introduction: Applicant mailed a copy of the notice to all impacted neighbors. In addition to the applicant, the property owner was in attendance. The applicant did receive a few calls from impacted neighbors as well as an e-mail. The 3 neighbors that contacted the applicant all informed the applicant that they did not oppose the request. Therefore, those neighbors did not see any reason to attend

Neighbors that contacted the applicant are Reuben Ramirez (neighbor), David Lloyd (neighboring business owner) and Marc Cahill (neighbor)

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. The only question proposed was by Mr. Lloyd who asked about the strip of land that DeKalb County owned and he wanted to know if the property owner was able to purchase it from the county. The Property Owner confirmed that he purchased it and provided Mr. Lloyd with a contact to assist him as well. This question was asked over the phone and via e-mail.
2. Mr. Rodriguez simply asked about the request over the phone and he was informed of what the request was for and he said he didn't have any opposition so he wouldn't be present.
3. Mr. Cahill said he didn't think there would be much opposition since they already have alcohol sales in the area.

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06/14/2023

PLANNING & ZONING
DEPARTMENT

SLUP-23-0003

1220 Richardson Street St RM CONCRETE SPECIALIST	2786 SPANIS LILBURN GA	30047
1249 Richardson Street St KISSEIH HENRIETTA AKUYI	1960 SILVER STONE MOU GA	30087
1252 West Ridge Avenue : BENTLEY JANICE S	1252 W RIDGE STONE MOU GA	30083
1268 West Ridge Avenue : BRUMBY MADELINE	3209 REHOB DECATUR GA	30033
5861 East Ponce De Leon / BREIT STONE MOUNTAIN	90 PARK AVE NEW YORK NY	10016
AIGP 13TEN LLC	99 ALDAN A\ GLEN MILLS PA	19342
1248 West Ridge Avenue : SFR HOLDCO OWNER LP	9200 E HAMI CAPITOL HEI MD	20743
5862 East Ponce De Leon / DEKALB COUNTY	1300 COMM DECATUR GA	30030
1237 Richardson Street St HERNANDEZ GUTIERREZ I	2332 TERREI LAGRANGE GA	30241
1209 Goldsmith Road Sto HEWATT MIK HEWATT ME	1209 GOLDS STONE MOU GA	30083
1280 West Ridge Avenue : WARD DONA JANE MATTI	1280 W RIDGE STONE MOU GA	30083
1254 West Ridge Avenue : THIGPEN JUI THIGPEN SE/	396 15TH ST ATLANTA GA	30318
5101 Madeline Place Ston BELAY ZELEKE	424 LANTER SCOTTDAL GA	30079
1218 Goldsmith Road Sto MATHENA R MATHENA P	1218 GOLDS STONE MOU GA	30083
1212 Goldsmith Road Sto CHELSEY DIANE O	1212 GOLDS STONE MOU GA	30083
1294 West Ridge Avenue : VILLAGE MANAGEMENT F	385 PINNACL WINDER GA	30680
1302 West Ridge Avenue : DULIN ANTH DULIN DASH	885 SCHUM BALDWIN NY	11510
5113 Madeline Place Ston BARBER MARCUS	5113 MADEL STONE MOU GA	30083
5111 Madeline Place Ston CAHILL MARK	5111 MADEL STONE MOU GA	30083
1604 Juliette Road Stone I AIGP 13TEN LLC	99 ALDAN A\ GLEN MILLS PA	19342
5160 Spring View Avenue SUMMIT STONE MOUNTA	2 SOUTHPOI LAKE FORES CA	92630
5100 West View Drive Sto REHOBOTH ETHIOPIAN EV	5100 W VIEV STONE MOU GA	30083
1232 West Ridge Avenue : DEKALB COU OF POLICE L	1238 W RIDGE STONE MOU GA	30083
5960 East Ponce De Leon / TUCKER LAND GROUP LLC	1833 LAWRE DECATUR GA	30033
5064 West View Drive Sto PELLEW CHARLES D	5064 W VIEV STONE MOU GA	30083
5074 West View Drive Sto WYNN CAROLINE	5074 W VIEV STONE MOU GA	30083
1312 West Ridge Avenue : STAGGS CAC LUCA DYLAN	1312 W RIDGE STONE MOU GA	30083
1324 West Ridge Avenue : PAYTON SHELBY THOMAS	1324 W RIDGE STONE MOU GA	30083
5117 Madeline Place Ston WALKER LORRAE	5117 MADEL STONE MOU GA	30083
5109 Madeline Place Ston CHANG VANESSA M	5109 MADEL STONE MOU GA	30083
5912 East Ponce De Leon / AIGP 13TEN LLC	99 ALDAN A\ GLEN MILLS PA	19342
1187 Goldsmith Road Sto RUBAYE KAR RUBAYE ALI	854 RAYS RC STONE MOU GA	30083
5882 East Ponce De Leon / AIGP 13TEN LLC	99 ALDAN A\ GLEN MILLS PA	19342
5107 Madeline Place Ston MITCHELL VERDELL	5107 MADEL STONE MOU GA	30083
5103 Madeline Place Ston BELGRAVE ANGIE M	5103 MADEL STONE MOU GA	30083
5860 East Ponce De Leon / PONCE OAKS LLC	1311 GREEN SNELLVILLE GA	30078
1250 Richardson Street St PEARSON LANDSCAPES IN	198 WEAVER BRASSTOWN NC	28902
5095 Stone Mill Way Ston HIDMO PROPERTIES LLC	5095 STONE STONE MOU GA	30083
1260 West Ridge Avenue : DEKALB COUNTY	4380 MEMOI DECATUR GA	30032
5105 Madeline Place Ston GRICE COREY	5105 MADEL STONE MOU GA	30083
5099 Madeline Place Ston ATLANTA LAND INVESTOF	2355 E CAMI PHOENIX AZ	85016

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Name	Address	Phone #
Terry Bailey	2221 Peachtree Rd NE Ste D341	404-969-5401
Ayaz Ali	ATLANTA GA 30309	
	1833 LAWRENCEVILLE HWY	678-770-0080
	DECATUR, GA 30033	

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THE
T.S. BAILEY
LAW FIRM PC

2221 Peachtree Rd. NE Suite D-341
Atlanta, Georgia 30309
404.969.5401

TERRY BAILEY
terry@tsbaileylaw.com

February 22, 2023

VIA UNITED STATES MAIL

RE: SPECIAL LAND USE PERMIT

Dear Neighbors of 5960 E Ponce De Leon Ave Tucker, GA 30083,

My firm represents Gas Express, LLC ("Gas Express" an applicant for a Special Land Use Permit ("SLUP") in the City of Tucker for property located at 5960 E Ponce De Leon Ave (the "Property"). The property is being developed and the applicant wishes to operate as a convenience store with gasoline and alcohol sales. This request requires a SLUP for the city to permit the applicant to apply for alcohol sales at this location.

The development consists of approximately 7,000 Sq. ft. of convenience store space with approximately 10,000 Sq. ft. of retail space adjacent to the convenience store. The convenience store will be managed by Gas Express, LLC, a franchise owner with significant experience managing locations across Georgia.

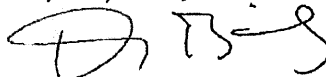
The first step in this process is to hold a Public Participation (neighborhood) meeting with the community to discuss our proposal with you and receive feedback. This meeting is required before we can submit our application for a SLUP to the city. You are receiving this letter as you own property within 500' of our project. We hope you will be able to meet with us at the following time:

MEETING TIME: 6:30 p.m. Wednesday March 8, 2023
MEETING LOCATION: 5960 E Ponce De Leon Ave Tucker, GA 30083

We have included a site plan of our current proposal in which we look forward to discussing with you and getting feedback on March 8, 2023. If you are unable to attend or wish to reach out beforehand, I can be reached at terry@tsbaileylaw.com or at (404) 969 - 5401.

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.

Very Truly Yours,



Terry Bailey

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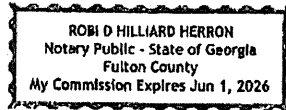
- o Meeting sign-in sheet
- o Meeting minutes
- o Copy of the plan that was presented at the neighborhood meeting

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] 3/12/23
 Signature of Applicant or Authorized Representative Date

TERRY BAILEY
 Type or Print Name of Applicant or Authorized Representative Date

[Signature] 3/13/2023
 Signature of Notary Date Notary Seal



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Public Participation Plan Report Attestation

I, ALI AYAZ, authorized representative for the property owner of 5960 East Ponce de Leon Avenue in the City of Tucker, Georgia ("Subject Property") , Tucker Land Group, LLC, do solemnly swear that the information provided by Terry Bailey in the foregoing Public Participation Plan report is true and correct to the best of my knowledge. Specifically, I attended the public participation meeting and signed the sign in sheet for that meeting which was conducted on the Subject Property (at 5960 East Ponce de Leon, not 5690 as erroneously stated) March 8, 2023, beginning at 6:30 p.m. and ending at 6:50 p.m. (not 5:50 as stated in error on the face of Mr. Bailey's report). Only a representative of the Applicant, Gas Express, and myself were present. The letter in the packet along with the site plan were sent to those property owners listed in the packet on February 23, 2023, but no one appeared at the meeting.



June 11, 2023

AYAZ ALI for TUCKER LAND GROUP, LLC



June 11, 2023

Signature of Notary

Gloria Ann WoodwardGlasser
NOTARY PUBLIC
DeKalb County, GEORGIA
My Commission Expires 08/18/2026

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ENVIRONMENTAL SITE ANALYSIS FORM

1. CONFORMANCE WITH THE COMPREHENSIVE PLAN.

The Subject Property is in a Suburban Character Area and within the Mountain Industrial Overlay. Redevelopment of this once vacant site for retail use serves to bolster the economic base by converting a vacant property to a contributing one. It also furthers the goal of promoting commercial growth within the overlay area. With redevelopment the sidewalks will be installed expanding the pedestrian network.

2. ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT

a. Wetlands-No jurisdictional wetlands on site

b. Floodplain-Not in flood plain

c. Stream/stream buffers-No streams or buffers on site

d. Slopes exceeding 25 percent over a 10-foot rise-None

e. Vegetation-Any clearing of vegetation was done with development of convenience store on site; replants installed and no additional clearing contemplated

f. Wildlife species including fish-No impact

g. Archeological/Historical sites-Not applicable

3. PROJECT IMPLEMENTATION MEASURES.

All environmental protection measures required by state and local codes were undertaken at development and construction stages of convenience store installation. No additional implementation measures required for sale of beer and wine on site.

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STATEMENT OF INTENT

and

Other Material Required by
City of Tucker Zoning Ordinance

for

A Special Land Use Permit pursuant to
Sections 46-1594 and Use Table 4.1
of the City of Tucker Zoning Ordinance

Of

Gas Express, LLC

To Allow For

Alcohol sales at an already permitted gas station convenience store located in
Land Lot 125, 18th District, DeKalb County
City of Tucker
5960 East Ponce de Leon Avenue

Submitted for Applicant by:

Linda I. Dunlavy
Dunlavy Law Group, LLC
245 North Highland N.E. Suite 230, #905
Atlanta, GA 30307
(404) 371-4101 Phone
(404) 371-8901 Facsimile
ldunlavy@dunlavylawgroup.com

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I. INTRODUCTION

This Application seeks Special Land Use Permits to authorize the Applicant to operate a gas station/convenience store with sales of beer and wine for off premises consumption on the Subject Property (“Subject Property”). The Subject Property is located at 5960 East Ponce de Leon Avenue. The property is zoned C-1 without conditions. It was rezoned by the City of Tucker after a land disturbance permit for the development of the property for a gas station convenience store was granted pursuant to Ordinance 2021-11-28 on December 13, 2021. Under the previous zoning the Subject Property was zoned M and convenience stores with fuel pumps were an expressly permitted use.¹ The convenience store constructed complies with the supplemental regulations governing fuel pumps. *See 46-1171*. The Subject Property is located on the northside of East Ponce de Leon Avenue immediately west of Highway 10 between Richardson Street and Juliette Road. It is in the Mountain Industrial Boulevard Overlay and carries a Suburban Character Area designation. *See maps filed contemporaneously with this application*. Applicant has fully developed the site for a gas station/convenience store with 5 fueling stations but desires to sell wine and malt beverages for off premises consumption and thus requires a special land use permit per Table 4.1 (“Alcohol outlet, retail sales primary or accessory”) of the Zoning Ordinance.

II. BACKGROUND INFORMATION

The Subject Property is comprised of +/- 4.63 acres of land fronting East Ponce de Leon Avenue where it has just over 400 feet of frontage. The Subject Property is currently developed with a brand-new convenience store/gas station of 7000 square feet and five fueling stations beneath a fuel canopy. Underground detention has been installed along with sidewalks, access

¹ At the time of the land disturbance permit application, Ordinance 2022-10-52 was not effective. *See 46-1206 of the Zoning Ordinance.*

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drives, parking spaces and landscaping. *See As-Built survey and site photographs included with materials.* Immediately to the west is a small townhome community along Bent Tree Loop. Adjoining to the north is RM Concrete Specialist, a commercial and residential concrete contractor, and Pearson Landscapes, a commercial landscaping business. Although commercially used, these properties to the north are zoned RSM. Immediately to the east is State Route 10 and the on-off ramps for same. To the south along the southside of East Ponce de Leon Avenue are single-family residential homes in unincorporated DeKalb County.

III. RELEVANT ZONING ORDINANCE PROVISIONS

Section 46-1073 of the Mountain Industrial Boulevard Overlay provides that permitted principal uses shall be governed by the underlying zoning district regulations unless excepted or prohibited specifically within the Overlay. The Overlay does not prohibit convenience stores or alcohol outlets. The Use Table 4.1 in the C-1 District (the current zoning) requires a Special Use Permit for accessory or primary alcohol outlets. Section 46-1594 of the Zoning Ordinance sets forth 20 criteria for approval of a Special Land Use Permit. The Applicant submits that, as required, it has made satisfactory provisions and arrangements concerning the criteria set forth in that section and is in compliance with all provisions of Article IV of the Zoning Ordinance.

Applicant addresses the specific criteria for a Special Land Use Permit below.

IV. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

- A. Adequacy of the size of the site for use contemplated and whether or not adequate land 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 Subject Property is comprised of land totaling 4.63 acres. The C-1 zoning district has a minimum lot size requirement of 20,000 square feet. The land is more than adequate for the 7000 square foot convenience store with five fueling stations and required off-street parking

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spaces. Approximately one-third of the land remains undisturbed and is currently being landscaped with vegetation to provide an enhanced appearance to the Subject Property and to provide screening from the adjoining properties and SR 10..

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district.

There are no single-family residential uses immediately adjoining the Subject Property in the City of Tucker. The closest residential uses are townhomes at Bent Tree Loop (zoned MR-1). These townhomes are separated from the store where alcohol will be sold by more than 200 feet. Similarly, the residential structures on the south side of East Ponce De Leon are separated from the C-store by more than 200 feet, the East Ponce right of way and a railroad right of way. The proposed alcohol outlet is clearly suitable in view of the use and development of adjacent and nearby property and is fully compatible with the commercial uses adjacent to and near the Subject Property. There should be no adverse impacts on surrounding properties from the alcohol outlet in an already permitted gas station/C-store.

C. Adequacy of public services, public facilities, and utilities to serve the use contemplated.

All services, facilities and utilities are available to serve the use contemplated. Since the proposed use is a non-residential use, there are no impacts on schools and the business is located near other commercial uses. The site is served by public water and sewer and no burdensome impacts on public services, facilities and utilities would be anticipated.

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.

As noted, the Subject Property fronts on East Ponce De Leon which is a two-lane minor arterial with dedicated turn lanes at Juliette Road and SR 10. These roadways have more than

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sufficient carrying capacity to manage any traffic generated from the proposed use. The use will not increase congestion or back up on East Ponce de Leon or the other surrounding roadways since the alcohol sales will occur mainly to the operators of cars already visiting the convenience store.

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.

Neither the character of the vehicles nor any potential volume of traffic generated by the proposed use will adversely affect existing land uses in the immediate vicinity or adjoining access routes. The additional traffic generated by the alcohol outlet will be zero or negligible as the additional alcohol sales will take their customer base from traffic that is already on the roadways, i.e., by-pass traffic.

F. Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular references to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

Ingress and egress to the Subject Property will be more than adequate, safe, and convenient. There are two large curb cuts on East Ponce de Leon Avenue and one on Richardson Street where full turning movements will be allowed, such that customers may enter or exit onto East Ponce de Leon or Richardson Street directly. The site driveways, access routes and building location facilitates safe, convenient, and efficient traffic flow and control throughout the Subject Property. In the event of fire or other emergency, emergency vehicles will have close access to any part of the buildings or other developed areas of the site. Moreover, the Applicant has constructed pedestrian sidewalks along the full frontage of the Subject Property which provides for safe access to the MARTA bus stop at the corner of Juliette Road and East Ponce de Leon Avenue.

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F. 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.

No smoke, odor, dust, or vibration are produced by the proposed use. While there is some noise inherent to the operation of a gas station, there will be no adverse impacts created by the addition of an alcohol outlet to the C-store/gas station upon any adjoining land uses.

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 proposes hours of operation seven days per week from ____ a.m. to ____ p.m.. These hours of operation are consistent with those of other businesses in the area such that the C-Store hours for alcohol sales will not impact the other businesses within the immediate vicinity.

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.

See E through H, above.

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 use is totally consistent with the requirements in a C-1 District. It produces no appreciable impact on adjacent properties and preserves the appeal and appearance of residential and commercial areas. Any noise impacts from the C-store/gas station operation will be contained within its boundaries and will not create noise problems for adjoining residential or commercial districts. Access to thoroughfares and freeways is readily available. *See stated purpose and intent of C-1 zoning district in Section 46-758.*

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K. Whether or not the proposed use is consistent with the policies of the Comprehensive Plan.

The designated land use for the Subject Property is suburban character Area and it is within the Mountain Industrial Boulevard Overlay. *See Future Land Use Map of Tucker Tomorrow Comprehensive Plan Update 2018, Pages 11 and 59, and Section 46-1072 of the Mountain Industrial boulevard Overlay Purpose and Intent Section.* . The gas station/C-store with alcohol sales use is consistent with the future vision for this area. A gas station/C-store with alcohol sales is a “supporting commercial use” appropriately located between development nodes and other higher intensity uses in close proximity to highly classified traffic arteries. The gas station/C-store with alcohol sales will provide services to neighboring communities thereby reducing travel time to services outside of the community and will support the activities envisioned in the Mountain Industrial Boulevard Overlay District. By providing sidewalks it links residential uses to commercial amenities. The sidewalk increases safety and improves walkability.

L. Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located.

Section 46-1338 of the Zoning Ordinance requires 50-foot transitional buffers between the Subject Property and those residentially zoned (mR-1 and RSM) properties to the north and west. Applicant has planted a number of trees at the rear and sides of the Subject Property and installed large, landscaped areas to improve appearances, provide vegetative screening and sound and light buffering for the adjoining residential properties and provided the required transitional buffer width.

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M. Whether there is adequate provision of refuse and service areas.

There is a dumpster on site adjacent to the northeast side of the store enclosed with three brick walls and a wooden gate.

N. Whether the length of time for which the special land use permit is granted should be limited in duration.

A time limitation is neither necessary nor appropriate. The proposed use is designed to be permanent in nature.

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 the adjacent and nearby lots and buildings.

The size, scale, and massing of the existing buildings on site is appropriate. The square footage of the one-story building is modest. Approximately 1/3 of the Subject Property is undisturbed.

P. Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources.

There are no historic buildings, sites, districts, or archaeological resources proximate to the Subject Property to the knowledge of the Applicant.

Q. Whether the proposed use satisfies the requirements contained within the Supplemental Regulations for such special land use permit.

Section 46-1151 contains supplemental requirements for Alcohol Outlets. The proposed outlet meets these requirements. It is not located in an NS or MU District. Applicant is not proposing a package store.

R. Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

The C-store and canopy over the fuel pumps are of modest height ---one story such that

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there can be no shadow impact on any adjoining land or building.

S. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area.

The proposed use is located along and near corridors heavily travelled by commuters seeking the services Applicant offers. While there is another C-store/gas station within the area on Stone Mill Way, the Applicants' data shows that there remains unmet demand for the services it would offer. The Applicants submits that its modest establishment does not amount to a "disproportionate proliferation alcohol outlets in the character area of which it is a part.

T. Whether the proposed use would be consistent with the needs of the neighborhood or to the community as a whole, be compatible with the neighborhood, and would not conflict with the overall objective of the Comprehensive Plan.

The Applicant is committed to providing convenience items including beer and wine for off premises consumption to residents in the area and passersby. Such objectives do not conflict with the needs of the community and are consistent with the County's land use objectives and policies.

U. 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.

See, foregoing responses, specifically K and T.

III. PRESERVATION OF CONSTITUTIONAL RIGHTS

On behalf of the owner of the property, the Applicant respectfully submits that the current zoning classification of and rules relative to alcohol outlets accessory to a convenience store established in the City of Tucker Zoning Ordinance, to the extent they prohibit the Applicant's proposed use, constitute an arbitrary, irrational abuse of discretion and unreasonable use of the zoning power because they bear no substantial relationship to the public health, safety, morality or

general welfare of the public and substantially harm the Property owner in violation of the due process and equal protection rights of the property owner guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia. Further, the failure to allow this use would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

Further, the Applicants respectfully submit that the City Council's failure to approve the requested Special Land Use Permit would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States. Specifically, there is no rational basis for distinction between the Applicant's proposed use and other convenience store/gas stations within the City.

A refusal to allow the operation in question would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution.

Finally, any resident objecting to the granting of the SLUP(s) requested does not have legal standing to challenge the applications.

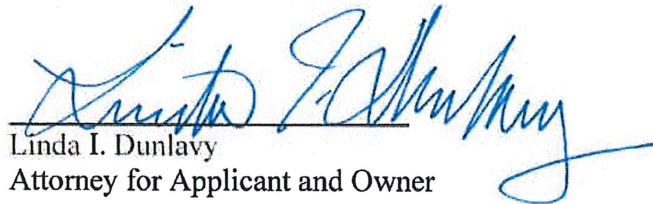
IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Special Land Use

Permits at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 12th day of June 2023.

Respectfully submitted,



Linda I. Dunlavy
Attorney for Applicant and Owner

Dunlavy Law Group, LLC
245 North Highland N.E. Suite 230, #905
Atlanta, GA 30307
(404) 371-4101 Phone
ldunlavy@dunlavylawgroup.com

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LEGAL DESCRIPTION AND SITE PLAN

EXHIBIT A
Legal Description

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 & 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.

PARKING REQUIREMENT
 RETAIL: 4 PARKING SPACE PER 1000 SF
 PROPOSED C-STORE = 3,000 SF/500 = 10 PARKS
 PROPOSED RETAIL = 8,400 SF/200 = 42 PARKS
 PROPOSED TAKEOUT = 1,000 SF/150 = 33 PARKS
 TOTAL SF = 12,400 SF
 77 REQUIRED PARKING SPACES
 PROVIDED 78 PARKING SPACES INCLUDING 8 HC
 OPEN SPACE RATIO = 4.82AC = 0.20 = 0.92AC
 OPEN SPACE PROVIDED = 1.77AC

SCENARIOS SHALL BE INSTALLED ON ADJUTING STREETS
 (ADJUTING SIDE) PRIOR TO ISSUANCE OF A CERTIFICATE
 OF OCCUPANCY

EACH BUSINESS SHALL POST AND MAINTAIN THE ADDRESS OF
 THE BUILDING IN A CONSPICUOUS PLACE, VISIBLE FROM THE
 STREET NOT MORE THAN 10 FEET OFF THE CURB ON EDGE OF
 STREET. THE ADDRESS SHALL CONSIST OF FIGURES AT LEAST
 4 INCHES HIGH ON CONTRASTING BACKGROUND FOR 24HR VISIBLE

PRIOR TO FINAL INSPECTION OF SITE LIGHTING, THE SITE LIGHTING
 DESIGN PROFESSIONAL OF RECORD FOR THE PROJECT SHALL
 SUBMIT TO THE CITY ELECTRICAL INSPECTOR A SIGNED LETTER WHICH
 STATES THAT I HAVE OBSERVED THE SITE LIGHTING FOR THIS
 PROJECT AND I HAVE FOUND IT TO BE IN ACCORDANCE WITH THE
 CITY OF TUCKER LIGHTING ORDINANCE.

TEACH BUILDING AND ITS ADJUTING LOCATION TO EXISTING LINES AND OTHER
 STRUCTURES. WHEN CONSTRUCTION OF THE BUILDING IS COMPLETED,
 THE BUILDING SHALL BE MAINTAINED WITH A SIGNAGE TO THE BUILDING AND OTHER
 STRUCTURES. THE SIGNAGE SHALL BE MAINTAINED AND THE BUILDING SHALL
 BE MAINTAINED IN ACCORDANCE WITH THE CITY OF TUCKER LIGHTING ORDINANCE.

THE BUILDING DESIGNER/ARCHITECT SHALL BE RESPONSIBLE FOR ALL SIGNAGE WHICH
 IS REQUIRED BY THE CITY OF TUCKER AND ALL SIGNAGE SHALL BE MAINTAINED AS A
 PART OF THE BUILDING'S MAINTENANCE.

ALL STOPPING WITHIN 8'W IS TO BE THERMOPLASTIC

CURBS SHALL BE LOCATED AT A MINIMUM 1' FROM CURB AND
 SHALL BE CONSTRUCTED OF CONCRETE AT A MINIMUM 1' IN WIDTH AND
 4" THICK. SIDEWALKS SHALL BE CONSTRUCTED WITH A CROSS SLOPE
 OF 2% IN FT. CONCRETE SHALL BE CLASS B AND HAVE A STRENGTH
 OF 4000 PSI AT 28 DAYS. A THICKNESS OF 4" IS REQUIRED FOR
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 SLUP-23-0003

SITE INFORMATION
 4.65 ACRES
 20,000 SF
 ZONING M MIN IND BLVD OVERLAY
 3.56 ACRES DISTURBED

OWNER/DEVELOPER
 ALI ATAZ
 10333 LAWRENCEVILLE HWY
 DUBLIN, GA 30033
 678-111-0750

SHEET C-2

SITE PLAN
 FOR
 E PONCE DE LEON C-STORE & RETAIL

LOCATED AT
 10333 LAWRENCEVILLE HWY
 DUBLIN, GA 30033

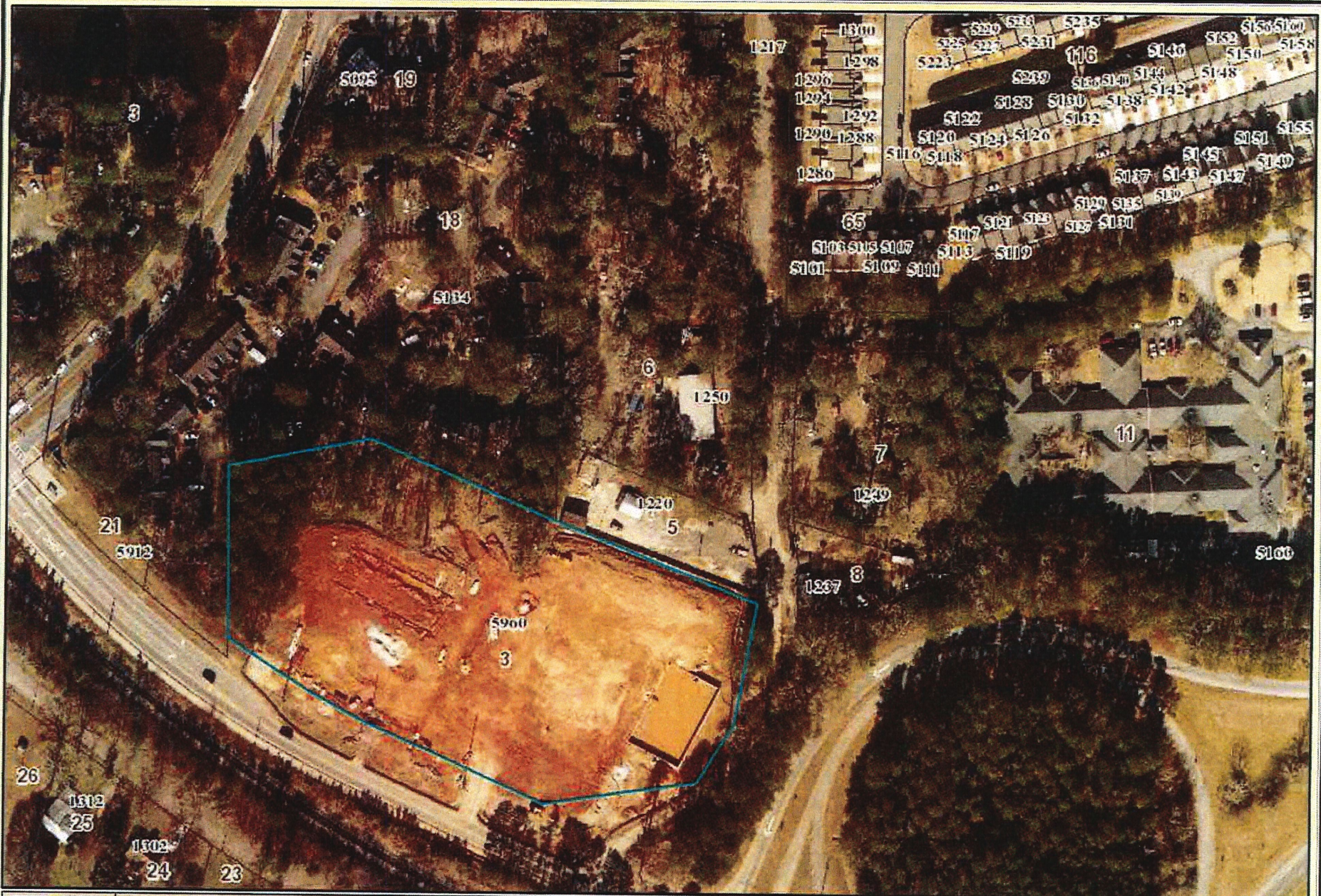
DANIEL ENGINEERING CONSULTANTS, LLC
 1045 CHURCH ST. SUITE 200
 DUBLIN, GA 30033
 678-271-1111
 DED

MAPS

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SLUP-23-0003



DeKalb County Parcel Map

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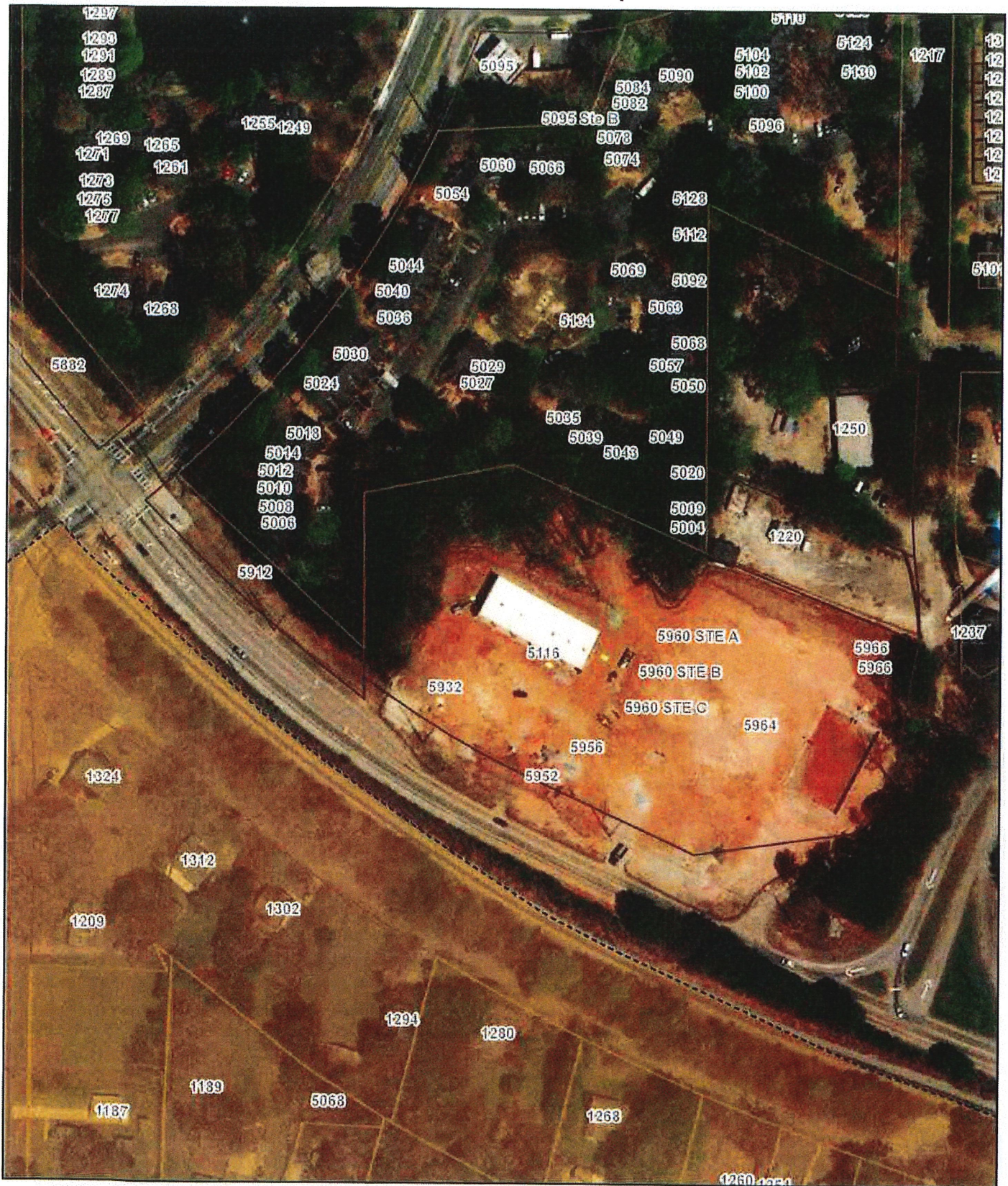
Date Printed: 6/9/2023



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ArcGIS Web Map

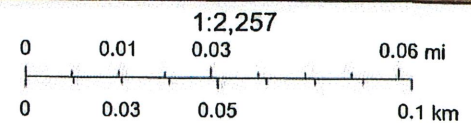


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SLO 23-0003

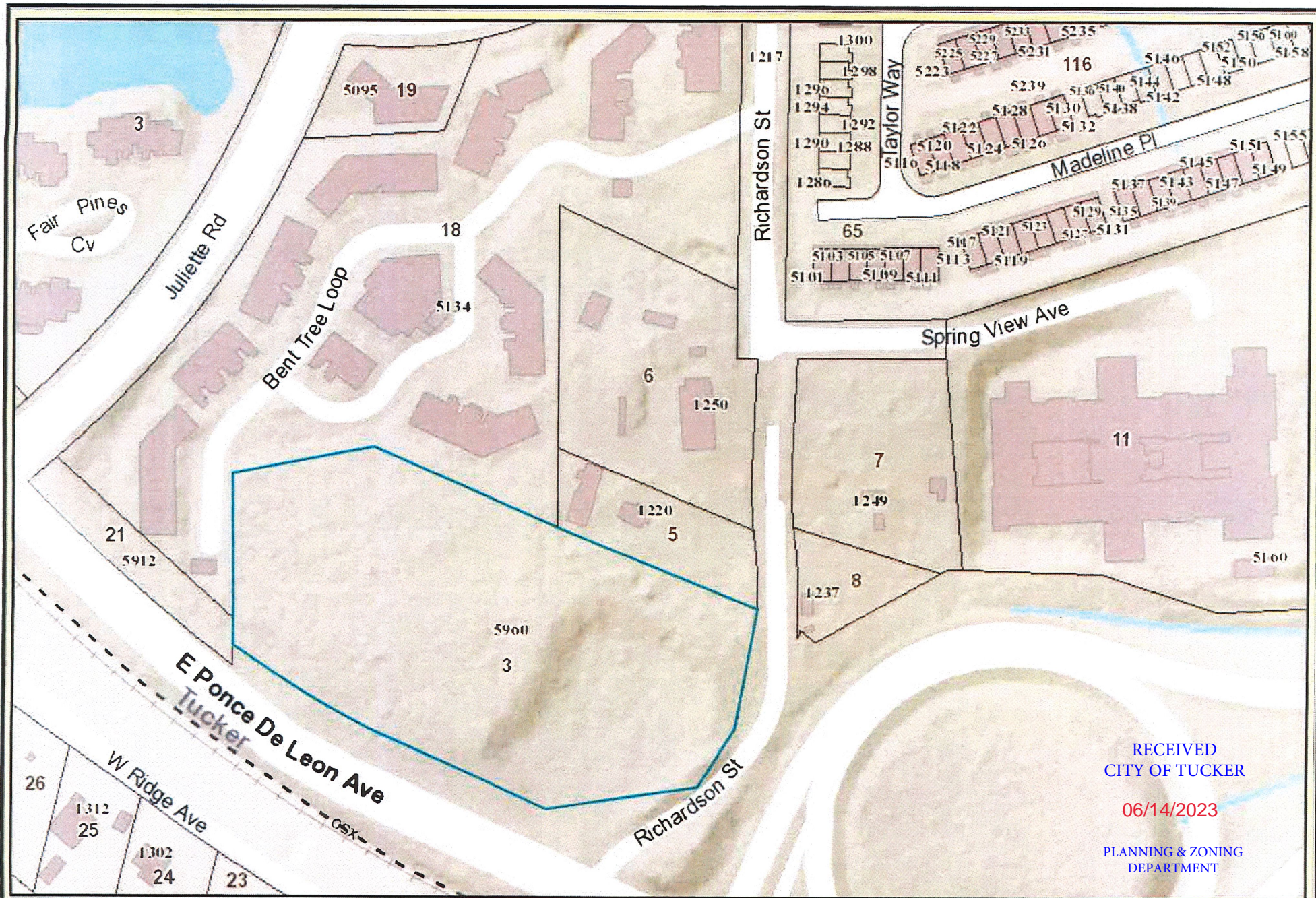


Address

Municipal Boundary

Municipal Boundary

Maxar, Microsoft



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DeKalb County Parcel Map

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mi

Date Printed: 6/9/2023



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ArcGIS Web Map



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Address

Zoning District

☐ RSM (Small Lot Residential Mix)

 MR-1 (Medium Density Residential-1)

 C-1 (Local Commercial)

 Municipal Boundary Municipal Boundary

DeKalb County, Georgia 30138

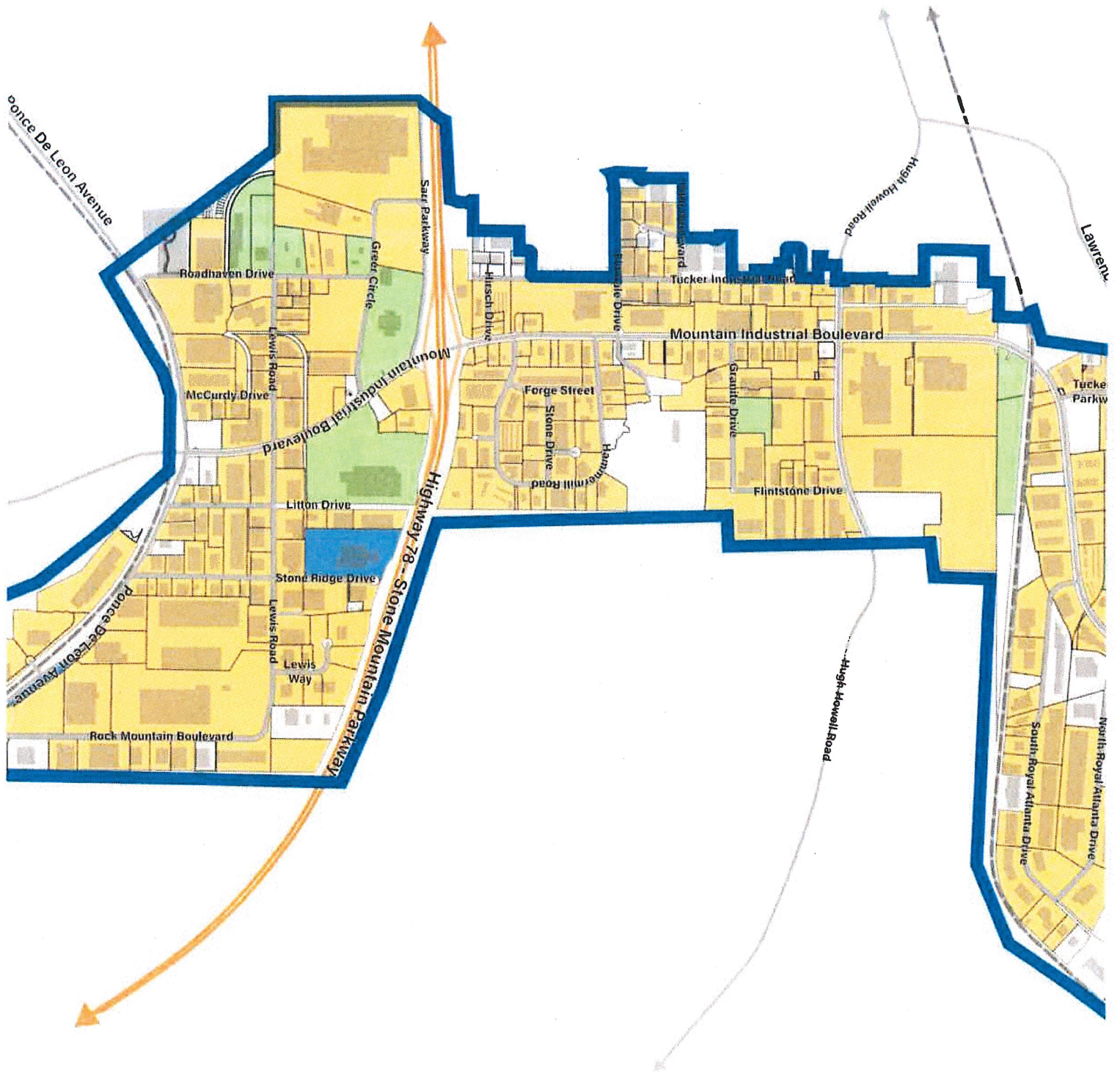
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[illegible]

Address Future Land Use

Road Classification Suburban

Minor Arterial Municipal Boundary

A scale bar for the map. The top scale is in miles, with markings at 0, 0.01, 0.03, and 0.06. The bottom scale is in kilometers, with markings at 0, 0.03, 0.05, and 0.1. A label '1:2,257' is positioned above the mile scale. The text 'RECEIVED CITY OF TUCKER' is overlaid in blue on the right side of the scale bar.

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PHOTOS

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RELEVANT EXCERPTS FROM TRAFFIC IMPACT STUDY/TRIP
GENERATION NUMBERS

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TRAFFIC IMPACT STUDY

E. Ponce de Leon St C-Store & Retail
Development

Dekalb County, GA



COASTAL ENGINEERING
AND CONSULTING

February 2019

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Traffic Impact Study – E. Ponce de Leon C-Store & Retail

<i>Title</i>	
E. Ponce de Leon C-Store & Retail Development Traffic Impact Study Dekalb County, GA	
<i>Prepared For</i>	<i>Date</i>
Ayaz Ali General Construction Management, LLC 1833 Lawrenceville Highway Decatur, GA 30033	February 22, 2019
<i>Prepared By</i>	<i>Report By</i>
Coastal Engineering & Consulting 6605 Abercorn Street, Suite 214F Savannah, GA 31405 (912) 964-4509	C. Scott Burns, P.E.
This study describes a traffic analysis to determine if improvements are required at the intersection of E. Ponce de Leon Avenue and the proposed access to the E. Ponce de Leon C-Store & Retail development in Dekalb County, GA. The proposed project will consist of a 5,000-sf convenience store with 5 MPDs, 9,400 sf retail space and 3,000 sf take-out restaurant and will provide one full access point and one right-in/right-out access along E. Ponce de Leon Avenue. Based on the findings in this study, a left turn and right turn lane will be required; however, the intersection will provide an acceptable level of service as a stop-controlled intersection.	

February 2019

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- 5 – GENERATED TRIP PERCENTAGES
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- 7 – PROJECTED PEAK HOUR VOLUMES

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- B – EXISTING TRAFFIC DATA
- C – PROPOSED SITE PLAN
- D – SYNCHRO/SIMTRAFFIC UNSIGNALIZED INTERSECTION ANALYSIS

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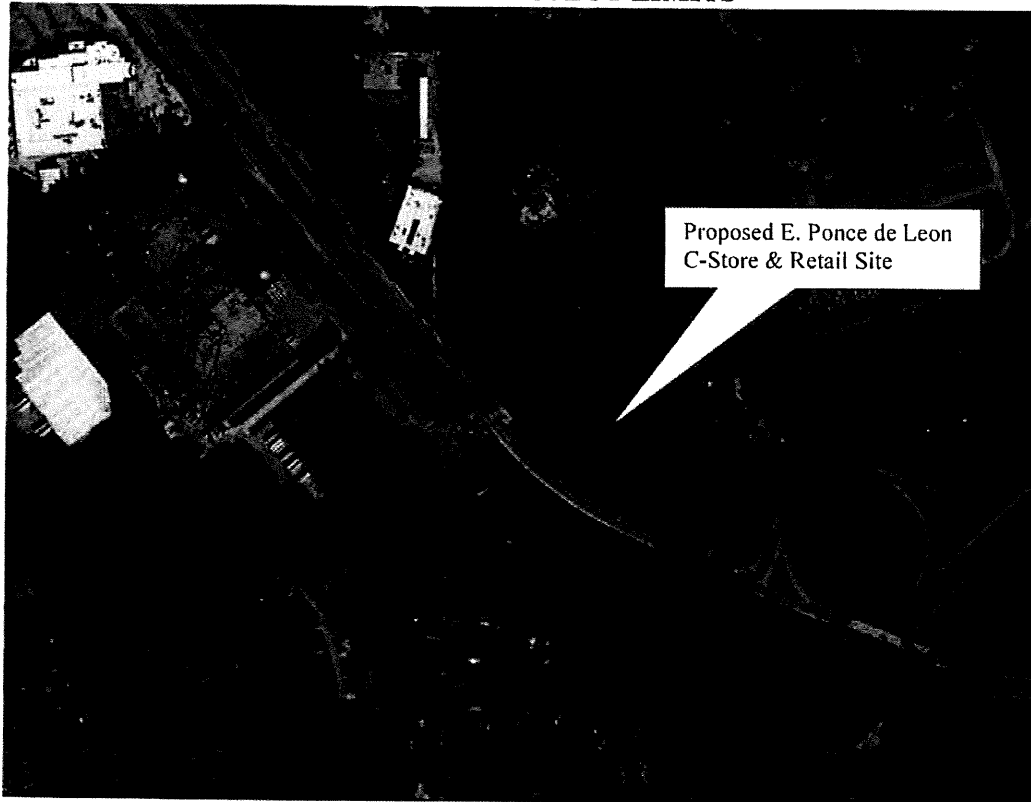
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Introduction

The purpose of this study is to provide traffic projections and capacity analysis to evaluate the need for potential improvements along E. Ponce de Leon Avenue due to the proposed development in Dekalb County, Georgia. Figure 1 shows the project location.

FIGURE 1: PROJECT LIMITS



Existing Conditions

Existing Geometry

E. Ponce de Leon Avenue is primarily an east-west roadway that runs from Decatur, GA to Stone Mountain, GA in Dekalb County. The roadway begins as W. Ponce de Leon Avenue in Decatur, GA at the intersection with Ponce de Leon Avenue NE/Scott Boulevard until it crosses Commerce Drive and continues running east/northeast/southeast until the intersection with James B. Rivers Memorial Drive/Silver Hill Road in Stone Mountain, GA where it continues as Main Street. For the purpose of this study, the analysis is near the intersection with Goldsmith Road/Juliette Road in Tucker, GA. In the project limits, the roadway consists of one lane in each direction with a left turn lane and a right turn lane on E. Ponce de Leon Avenue Northbound and a left turn lane on E. Ponce de Leon Avenue Southbound. Both approaches contain urban shoulders; however, there is no sidewalk along the corridor. In the area, active train tracks run parallel to the roadway with an at-grade crossing at W. Ridge Avenue/Goldsmith Road. The posted speed limit in the project limits is 45 MPH.

Goldsmith Road is a north-south roadway that runs from SR 10/Memorial Drive to W. Ridge Avenue where it becomes W. Ridge Avenue and continues to E. Ponce de Leon Avenue. The roadway consists of one lane in each direction and has urban shoulders with sidewalk on the west side of the roadway. At the intersection with E. Ponce de Leon Avenue, the roadway provides one left turn lane and a shared through-right lane. The roadway provides access to multiple neighborhoods and has a posted speed limit of 30 MPH.

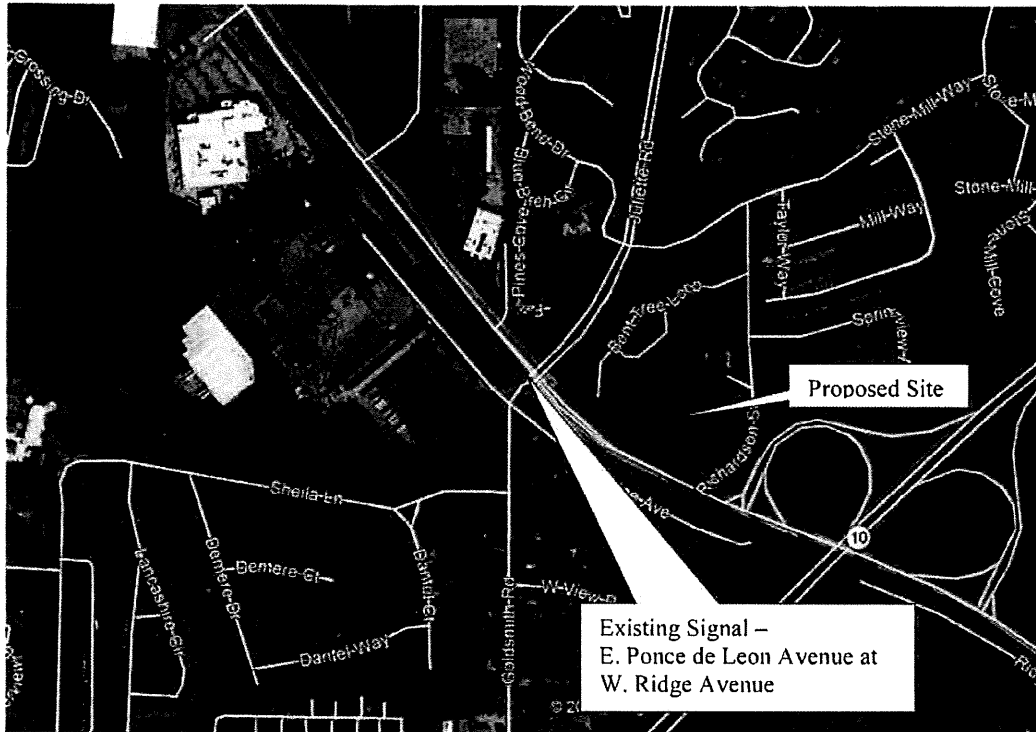
Juliette Road is a north-south roadway that runs from E. Ponce de Leon until the roadway ends beyond an overpass at US 78/Stone Mountain Parkway. The roadway contains two lanes in each direction with urban shoulders, separated by a raised median. At the intersection with E. Ponce de Leon Avenue, the roadway has a separate left turn lane with a shared through-right turn lane. The roadway provides access to an existing gas station and multiple apartment complexes and has a posted speed limit of 35 MPH.

It should be noted that the orientation used in the report will reflect the primary direction of the intersection and not the overall roadway. For the contents of this study, at the intersection with Goldsmith Road/Juliette Road, E. Ponce de Leon Avenue has been analyzed as a north-south roadway.

Existing Traffic Control

Figure 2 illustrates the existing traffic control along the project. The intersection of E. Ponce de Leon Avenue and W. Ridge Avenue is currently signalized and maintained by Dekalb County. The signal is located approximately 400 feet north/northwest of the proposed site.

FIGURE 2: EXISTING TRAFFIC CONTROL



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Existing Daily Volumes

Existing daily traffic volume data was collected at the intersection of E. Ponce de Leon Avenue and Goldsmith Road/Juliette Road on Monday, February 11, 2019 and Tuesday, February 12, 2019. The ADT for the corridor was determined by dividing the total vehicles by the number of days that the counts were taken. Table 1 summarizes the existing ADTs approaching the intersection while Table 2 summarizes the daily volume data, including 85th percentile speed and truck percentages.

TABLE 1: EXISTING ADT

	E. Ponce de Leon Avenue NB	E. Ponce de Leon Avenue SB	Goldsmith Road EB	Juliette Road WB
Weekday	6,302	5,153	2,964	5,690

TABLE 2: EXISTING DAILY VOLUME DATA

	E. Ponce de Leon Avenue NB	E. Ponce de Leon Avenue SB	Goldsmith Road EB	Juliette Road WB
85 th Percentile Speed (mph)	43	47	33	38
Truck % - SU	4.9	8.0	2.1	3.0
Truck % - COMB.	1.0	0.7	0.4	0.1
Truck % - Total	5.9	8.7	2.5	3.1

Existing Peak Hour Volumes

Currently, there is not an existing intersection at this location; however, due to the proximity of the site to an existing signalized intersection, data was collected at this location on Wednesday, February 13, 2019. Table 3 summarizes the existing peak hour volumes for this period. Figure 3 provides a graphical display of the existing peak hour volumes approaching the intersection.

TABLE 3: EXISTING PEAK HOUR VOLUMES

	E. Ponce de Leon Avenue NB			E. Ponce de Leon Avenue SB			Goldsmith Road EB			Juliette Road WB		
AM Peak	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT
	18	644	158	51	141	47	110	124	35	122	160	94
PM Peak	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT
	16	150	129	109	411	153	44	135	18	140	199	68

Horizon Year Traffic Projections

This section contains traffic projections for the future years to be evaluated.

Historic Traffic Data

The process used to project future traffic uses an examination of past trends along with outputs from models of future land use and travel demand.

The past traffic data was examined at nearby locations where GDOT periodically conducts traffic counts. GDOT count station 0000089_3532 is a short-term portable counter.

Table 4 summarizes the average annual daily traffic collected at this location between 2010 and 2018. Remaining years were estimated without the installation of additional counters. These years were not added to the table due to a discrepancy in GDOT collected counts and the annual statistic used by GDOT.

TABLE 4: HISTORIC TRAFFIC DATA, AADT

Year	AADT
2018	11,204
2015	13,061
2011	12,626
2010	12,903

Based on the data provided by GDOT, a decrease in traffic has been seen on the roadway. As a result, the existing data will be used to determine with the proposed data to determine the potential improvements needed on E. Ponce de Leon Avenue. The values in Table 5 serve as the “No-Build” volumes and are the basis for the 2021 (build-out) volumes.

TABLE 5: NO-BUILD TRAFFIC VOLUMES

	E. Ponce de Leon Avenue NB			E. Ponce de Leon Avenue SB			Goldsmith Road EB			Juliette Road WB		
AM Peak	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT
	20	645	160	55	145	50	110	125	35	125	160	95
PM Peak	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT	LT	Thru	RT
	20	150	130	110	415	155	45	135	20	140	200	70

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Trip Generation Estimate

When evaluating the existing and proposed conditions at this location, the 9th Edition of the ITE Trip Generation Manual was used. The ITE provides several codes to generate the trips for these sites. Once the ITE Code is determined, a unit measure (dwelling units (DU), vehicles, etc.) is used to determine the generated trips to determine the impact through the corridor. Trips generated to/from each site are categorized into three (3) categories.

New Trips

New trips are vehicles that do not currently use the roadway network. These trips add additional volume to the current roadway system. It is typically assumed that these new trips start at an origin, travel to the site and then return back to their original origin.

Pass By Trips

Pass by Trips are existing users to the roadway network that divert from their route to access the site. Upon exiting the site, these users return to the roadway towards their original destination. These trips do not add volume to the current roadway system, instead these trips typically impact the roadway by modifying the traffic patterns (typically resulting in additional turning traffic).

Internal Capture

Internal capture trips are associated with significant mixed-use developments. Internal capture trips take into account vehicles which travel to a mixed-use development and generate trips among multiple different use types or locations within the larger development. This is used to calculate the number of users who are generated by one site but visit another type and therefore should only count as a new trip or pass by trip for one site but not both. An example of internal capture would be a user visiting a restaurant after visiting a retail location on site. Although these vehicles factor in trips for both locations, they only affect the roadway network when they enter and exit the site. Internal capture trips are not calculated for this project.

E. Ponce de Leon C-Store & Retail Projected Data

The E. Ponce de Leon C-Store & Retail development is a proposed development located along E. Ponce de Leon Avenue between W. Ridge Road and Richardson Street in Dekalb County, GA. The site is expected to have a 9,400-sf retail space, 3,000-sf in takeout restaurant space and a 5,000-sf convenience store with 5 MPDs. Access to the site will be provided by one full access driveway and one right-in/right-out driveway from E. Ponce de Leon Avenue.

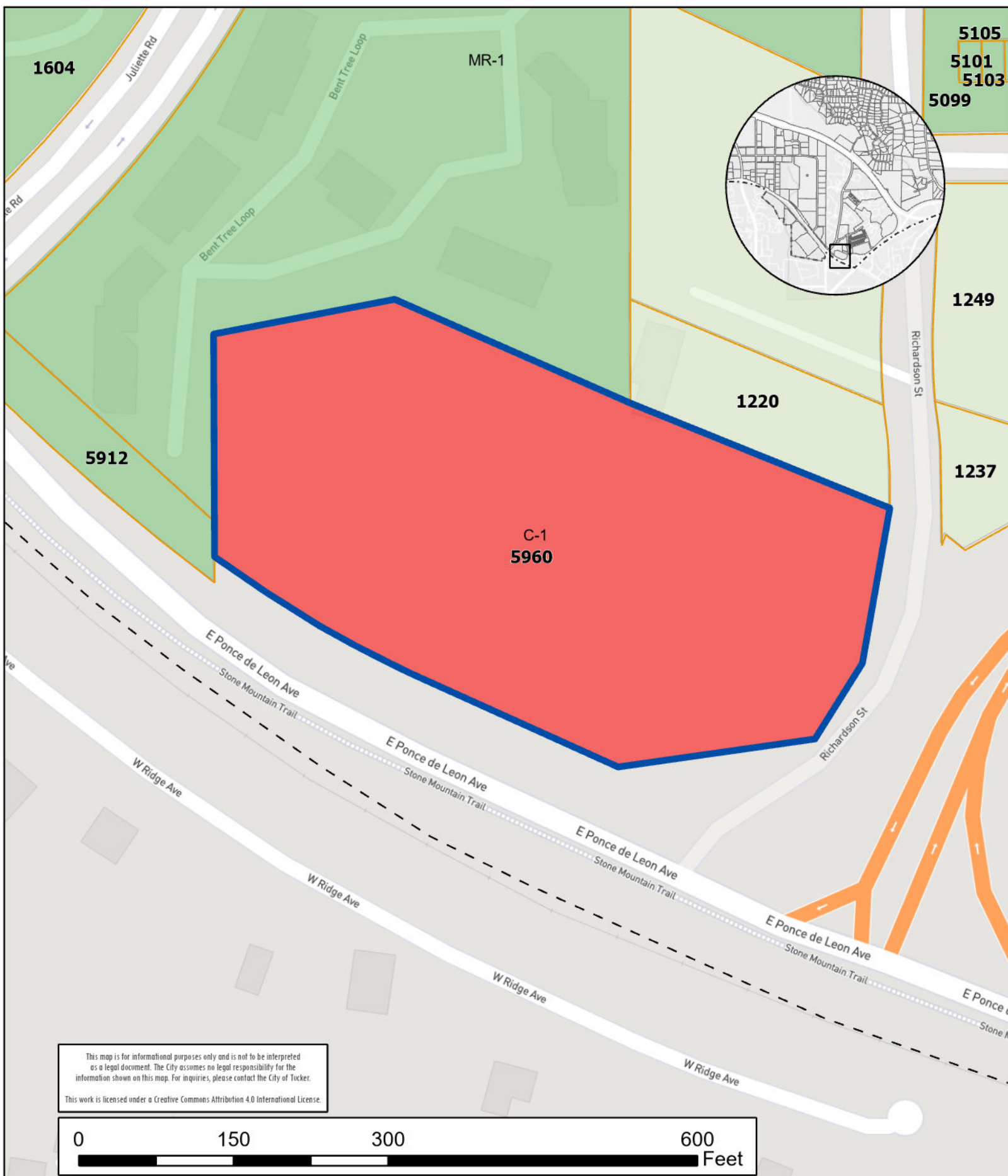
Using the proposed land use, it was determined that ITE Codes 820 – Shopping Center, 935 – Fast Food Restaurant with Drive-Thru with No Seats and 945 - Gas/Service Station with Convenience Market were the best options to analyze the proposed data for the site. Table 6 summarizes the site condition using the ITE Trip Generation Manual. Pass by rates used for these developments are based on ITE recommendation.

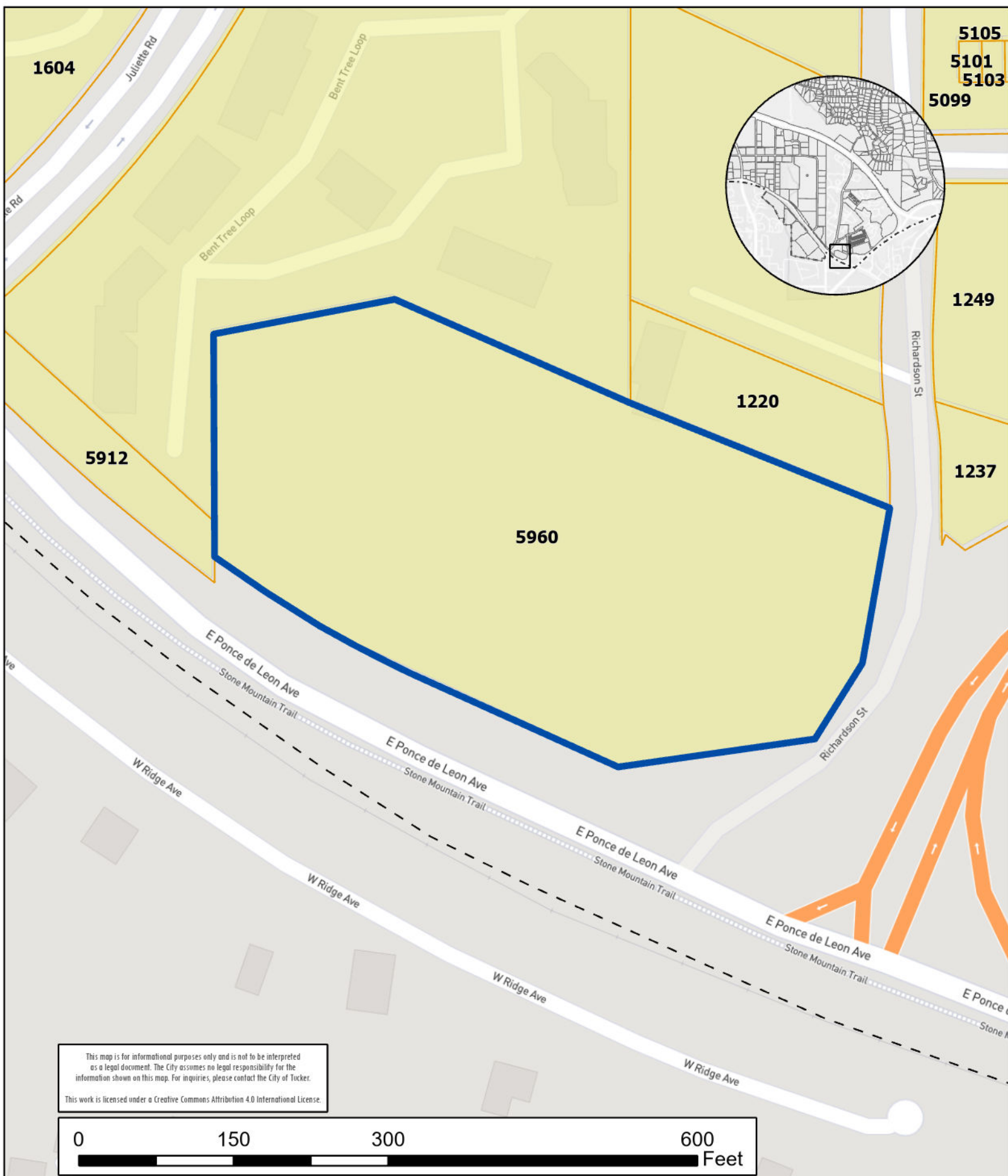
TABLE 6: TRIP GENERATION FOR PROPOSED DEVELOPMENT

	Unit	Qty	Daily Trips	AM Total Trips	AM In	AM Out	Pass By	PM Total Trips	PM In	PM Out	Pass By
820 – Shopping Center	KSF	9.400	384	9	4	2	3	33	11	11	11
935 – Fast Food Restaurant with Drive-Thru with No Seats	KSF	3.000	N/A*	73	16	21	36	135	35	32	68
945 – Gas/Service Station with Convenience Market	Fueling Positions	10.000	1,628	106	27	27	52	136	34	34	68

* Note – The ITE does not collect daily trips for these types of developments.







CONSTITUTIONAL NOTICE
APPLICATION FOR FLUM AMENDMENT AND REZONING

APPLICANT AND OWNER NAME: Gas Express, LLC (the “Applicant”); Ali Ayaz (the “Owner”)

OPPONENT NAME AND ADDRESS: Samuel Gas and Groceries, Inc., located at 5095 Stone Mill Way, Tucker, GA 30083, Kidane Gebrehiwot, and Mary Teklehaimanot (the “Opponents”)

LOCATION OF PROPERTY: Approximately 4.63 acres of land and 7,000 Sq. ft. of convenience store space located at 5960 East Ponce de Leon Avenue, Tucker, GA 30083 (the “Subject Property”)

APPLICATION REQUESTS: SLUP-23-0003 to allow alcohol sales at 5960 East Ponce de Leon Avenue (collectively the “Application Requests”).

Dear Mayor and City Counsel of the City of Tucker, Georgia:

This notice is being provided by the above-referenced Opponents to comply with the mandate of the Georgia Supreme Court decisions which require the presentation of constitutional issues to the zoning authority as a condition precedent to seeking judicial relief in the event a zoning decision constitutes a violation of an aggrieved person’s constitutional rights. Accordingly, the Opponents hereby preserve their rights to raise the following Constitutional issues before a court of competent jurisdiction, should the above-referenced Special Land Use Permit be approved.

Approval of the subject SLUP-23-0003 for 5960 East Ponce de Leon Avenue, Tucker, GA (*Subject Property*) and/or to allow the sale of alcohol on any part of the Subject Property would constitute an arbitrary and capricious abuse of the zoning power of the City of Tucker. The Subject Property would not be compatible with the residential properties near the Subject Property, including the Opponents’ property, and would substantially devalue the Opponents’ property and impair or prevent the quiet enjoyment of their property.

The Opponents respectfully submits that approval of the Rezoning/Use applications (SLUP-230-0003) would constitute an arbitrary, capricious, and unreasonable use of the City’s zoning power because it would not advance the health, safety, morality or general welfare of the public and would substantially harm and devalue the Opponents’ property, and prevent or impair the quiet enjoyment and commercial use of Opponents’ commercial property and well as other residents’ residential property, constituting a taking of the Opponents’ private property without just compensation as well as a violation of Opponents’ due process rights guaranteed by the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, Article I, Section III, Paragraph I and Article I, Section I, Paragraph I of the Constitution of the State of Georgia. Any such approval of SLUP-230-0003 would also violate the Opponents’ Equal Protection Rights guaranteed by the Constitutions of the United States and State of Georgia as compared to similarly situated property owners.

Furthermore, the Opponents respectfully preserve their right to raise any challenges based upon Opponents’ procedural due process rights, resulting from any fundamental unfairness in the Rezoning or Use Permit procedure set forth by the City of Tucker or any deviation therefrom in rendering a decision on the Rezoning/Use proposal.

Best Regards,

/s/ Greg K. Hecht

Greg K. Hecht, Esq.
Attorney for Opponent

Received on August 14, 2023, ✓

By: C. Brana

City Clerk



MEMO

To: Honorable Mayor and City Council Members
From: Courtney Smith, Community Development Director
CC: Tami Hanlin, City Manager
Date: September 3, 2023
RE: Memo for Text Amendment – Comp Plan Related Changes

Description for on the Agenda:

First Read and Public Hearing of consideration of amendments to the City of Tucker City Code, Chapter 46, including changes to Comprehensive Plan references.

Issue:

The Zoning Ordinance needs to be updated after the adoption of the 2023 Tucker Tomorrow Comprehensive Plan.

Recommendation:

Staff recommends approval of TA-23-0004.

Planning Commission recommends approval of TA-23-0004.

Background:

City Council adopted the 2023 Tucker Tomorrow Comprehensive Plan on June 26, 2023. The approval included converting the Regional Center Character Area to Town Center, as well several other smaller character area map changes. These changes require the city to make updates to the Comprehensive Plan references in the Zoning Ordinance, specifically Article I, Division 2. – Relationship to Comprehensive Plan. In preparing the text amendment, staff noticed several inconsistencies that we're proposing to remedy.

Summary:

Summary of Proposed Article 1 Changes:

- Replacing "Regional Center" with "Town Center."
- Table 1.2 outlines which zoning districts are permitted in each character area. Staff realized that HR-2, HR-3, MU-4, and MU-5 are not listed as allowable zoning districts in any of the character areas, which essentially means they would not be permitted anywhere. There are also no parcels within the city with these zoning designations. The comp plan directs all density to Northlake and Downtown, which both have special zoning

districts. Therefore, staff is proposing removing HR-2, HR-3, and MU-5 throughout the zoning ordinance. This aligns with density allotments throughout the city as HR-2 and MU-5 allows for up to 40 units per acre and HR-3 allows for up to 60 units per acre. Staff is proposing adding MU-4 to Table 1.2 in the Medical Area column as it's density (up to 24 units per acre) is consistent with other developments in the city and supports the objectives in the Comprehensive Plan.

Summary of Proposed Article 2 Changes:

- Replacing “regional center” with “town center.”
- Removing “downtown” from various zoning districts since only DT-1, DT-2, and DT-3 are permitted in “downtown.”
- Remove “regional activity center” from various zoning districts since only NL-1, NL-2, NL-3, and NL-4 are permitted in what is now “town center.”
- Remove HR-2, HR-3, and MU-5.
- Removed inconsistencies with other classifications.
- Removed conflicting language from C-1 and C-2.

Summary of Proposed Article 3 Changes:

- Added check marks to reflect existing supplemental uses for variance line items. The check mark indicates when there are additional requirements for the use so it's important that the check mark column is accurate.

Summary of Proposed Article 4 Changes:

- Removed HR-2, HR-3, and MU-5.
- Added check marks to reflect existing supplemental uses for variance line items. The check mark indicates when there are additional requirements for a use so it's important that the check mark column is accurate.
- Corrected a typo in wireless communications.

Summary of Proposed Article 5 Changes:

- Removed reference to MU-5, town center, regional center in Sec. 46-1277 regarding building spacing requirements.

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF TUCKER, GEORGIA, FOR THE PURPOSE OF AMENDING THE CITY OF TUCKER CODE CHAPTER 46 ZONING (ARTICLES 1, 2, 3, 4, AND 5) REGARDING AMENDMENTS TO COMPREHENSIVE PLAN REFERENCES; THE REMOVAL OF THE HR-2, HR-3, AND MU-5 ZONING DISTRICTS; THE ADDITION OF CHECK MARKS IN USE TABLES TO SIGNAL SUPPLEMENTAL REGULATIONS; AND OTHER MINOR CHANGES.

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 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 desires to amend regulations to keep them current and easy to understand; and

WHEREAS, notice to the public regarding said text amendment has been duly published in The Champion, the Official News Organ of Tucker; and

WHEREAS, a Public Meeting was held by the Mayor and City Council of Tucker on September 11, 2023 and October 10, 2023; and

WHEREAS, The Mayor and City Council is the governing authority for the City of Tucker;

WHEREAS, the Mayor and City Council desires to update references to the Comprehensive Plan based on the 2023 Tucker Tomorrow Comprehensive Plan Update that was adopted in June of 2023, including replacing Regional Center with Town Center throughout the code, including Sec. 46-42 and Sec. 46- 45, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to update zoning classifications listed in Table 1.2 in Sec. 46-45, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Table 2.1 in Sec, 46-64 to remove HR-2, HR-3, and MU-5, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to update Table 2.3 in Sec. 46-334 to remove references to Downtown, Regional Activity Center, HR-2 and HR-3, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to amend Table 2.4 in Sec. 46-335 to remove the column for HR-2 and HR-3, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike the reference to downtown and regional activity center character areas in Sec. 46-415 (5), as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to remove text in Division 16 (HR-2) and reserve the sections for future use, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to remove text in Division 17 (HR-3) and reserve the sections for future use, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to update Table 2.16 in Sec. 46-536 to remove references to Downtown, Regional Activity Center, Institutional, and MU-5, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to amend Table 2.17 in Sec. 46-537 to remove the references to MU-5 dimensional requirements, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike the reference to downtown, regional activity center, and institutional in Sec. 46-570, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to remove text in Division 23 (MU-5) and reserve the sections for future use, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike the reference to downtown and regional activity center and add a reference to institutional in Sec. 46-733(2), as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike Sec. 46-758(2) and reserve the section, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike Sec. 46-791(3) and reserve the section, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Table 3.1 in Sec. 46-985 to update the check marks in the far right column that identify when supplemental regulations exist, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Table 3.9 in Sec. 46-1035 to update the check marks in the far right column that identify when supplemental regulations exist, as shown in Exhibit A; and

WHEREAS, the Mayor and City Council wish to amend Table 4.1 in Sec. 46-1125 to update the check marks in the far right column that identify when supplemental regulations exist and correct a spelling error in wireless communications (small cell structure), as shown in Exhibit A; and

WHEREAS, the Mayor and City Council desires to strike reference to MU-5 and town or regional center in Sec. 46-1277 (b) (2), as shown in Exhibit A; and

NOW THEREFORE, the Mayor and City Council of the City of Tucker while in Regular Session on October 10, 2023, hereby ordains and approves the amendments of Chapter 46 as shown in Exhibit A, which is attached to this ordinance.

So effective this 10th day of October 2023.

Approved by:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

SEAL

TA-23-0004		
Article	Code Section	Change
1	Sec. 46-42	Change "Regional activity center" to "Town center."
	Sec. 46-45	Update Table 1.2. Character Areas and Permitted Zoning Districts to change "Regional Activity Center" to "Town Center."
	Sec. 46-45	Update Table 1.2 to add MU-4 to Medical Area; add LH-4 to Light Industrial; remove OD from Commercial Redevelopment Corridor; add LH-1, LH-2, and LH-3 to Commercial Redevelopment Corridor.
2	Sec. 46-64	Update Table 2.1. Zoning Districts Established to strike HR-2 (High Density Residential 2), HR-3 (High Density Residential 3), and MU-5 (Mixed Use Very High Density) zoning districts.
	Sec. 46-334	Update Table 2.3. Summary of Density Ranges for Medium and High Density Residential Zoning Districts to align the eligible character areas column with the recently adopted 2023 Comprehensive Plan. HR-2 and HR-3 zoning districts are struck from the table.
	Sec. 46-335	Update Table 2.4. Medium and High Density Residential Zoning Districts Dimensional Requirements to strike HR-2 and HR-3 column.
	Sec. 46-415	Strike references to downtown and regional activity center character areas.
	Sec. 46-472 thru 476	Strike HR-2 zoning district. Reserve code sections 46-472 thru 46-507.
	Sec. 46-508 thru 512	Strike HR-3 zoning district. Reserve code sections 46-508 thru 46-534.
	Sec. 46-536	Update Table 2.16. Summary of Mixed-Use Zoning District Densities to align the eligible character areas column with the recently adopted 2023 Comprehensive Plan. MU-5 zoning district is struck from the table.
	Sec. 46-537	Update Table 2.17. Mixed-Use Zoning Districts Dimensional Requirements to strike MU-5 column.
	Sec. 46-570	Strike references to downtown, regional activity center, and institutional character areas.
	Sec. 46-679	Strike MU-5 zoning district. Reserve code sections 46-679 thru 46-701.
	Sec. 46-733	Strike references to downtown and regional activity center character areas. Add reference to institutional character area.
	Sec. 46-758	Strike and reserve subsection (2).
	Sec. 46-791	Strike and reserve subsection (3).
3	Sec. 46-985	Update Table 3.1 (Downtown) to add a check mark to reflect existing supplemental regulations for special event facility and farmer's market permanent.
	Sec. 46-1035	Update Table 3.9 (Northlake) to add a check mark to reflect existing supplemental regulations for special event facility, convenience store, and farmer's market permanent.
4	Sec. 46-1125	Update Table 4.1. Use Table to strike HR-2, HR-3, and MU-5 zoning districts.
	Sec. 46-1125	Update Table 4.1 to add a check mark to reflect existing supplemental regulations for special event facility, drive-through facilities (other than restaurants), outdoor display, and pawn shop/title loan.
	Sec. 46-1125	Corrected a spelling error in "wireless communications (small cell structure)."
5	Sec. 46-1277	Strike references to MU-5 zoning district; town and regional center character areas.

ARTICLE I. IN GENERAL

Sec. 46-42. Relationship to comprehensive plan.

The comprehensive plan is hereby established as the official policy of the city concerning designated land uses and development types, under which the incorporated areas of the city are divided into the following categories referred to as character areas:

- (1) Suburban.
- (2) Neighborhood center.
- (3) Downtown.
- (4) ~~Regional activity center.~~ Town center.
- (5) Light industrial.
- (6) Institutional.
- (7) Conservation and open space.
- (8) Commercial redevelopment corridor.
- (9) Medical area.

(Ord. No. 2016-06-07, att. (1.2.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-45. Relationship between supplemental plans and zoning districts.

- (a) Supplemental plans of the comprehensive plan references all supplemental plans that focus on areas, situations, or issues of importance to the city. These plans include, but not limited to, redevelopment plans, neighborhood plans, county wide plans, corridor plans, or plans for conservation management. Where the city council has adopted a supplemental plan's policies and development standards, these policies and development standards will serve as specific guidelines to support the existing future development plan and character area policies.
- (b) The zoning districts identified on the chart are the districts commonly associated with the character area designations listed in the header column. The identified zoning districts may be consistent with the comprehensive plan when selected for a site having the land use designation shown on the chart and when the zoning district and proposed development is also consistent with the goals, objectives and policies of the plan.

Table 1.2. Character Areas and Permitted Zoning Districts

<i>Suburban</i>	<i>Neighborhood Center</i>	<i>Downtown</i>	<i>Regional Activity Town Center</i>	<i>Medical Area</i>	<i>Institutional</i>	<i>Light Industrial</i>	<i>Commercial Redevelopment Corridor</i>
RE	OI	DT-1	NL-1	RSM	R-100	C-2	RSM
RLG	OIT	DT-2	NL-2	MR-1	R-85	OD	MR-1
R-100	NS	DT-3	NL-3	MR-2	R-75	OI	MR-2
R-85	C-1		NL-4	HR-1	R-60	M	MU-1
R-75				MU-1	RE	M-2	MU-2
R-60				MU-2	NS		MU-3

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RNC				MU-3	C-1	LH-4	NS
MHP				OI	C-2		C-1
RSM*				OIT	M		OI
				C-1	OI		ØØ
				C-2	OIT		OIT
				M			LH-1
				MU-4			LH-2
							LH-3

*See suburban character area in Tucker Tomorrow Comprehensive Plan.

(Ord. No. 2016-06-07, att. (1.2.4), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019; Ord. No. O2019-04-15, exh. A(1.2.4), 6-26-2019)

ARTICLE II. DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 46-64. Districts established.

The city establishes the following zoning districts listed in table 2.1, which apply to property as illustrated on the official zoning map. See article III of this chapter for special and overlay districts.

Table 2.1. Zoning Districts Established	
District Name	District Type
Residential Single-Family Districts	
RE	Residential Estate
RLG	Residential Large Lot
R-100	Residential Medium Lot-100
R-85	Residential Medium Lot-85
R-75	Residential Medium Lot-75
R-60	Residential Small Lot
MHP	Mobile Home Park
RNC	Neighborhood Conservation
Medium and High Density Residential Districts	
RSM	Small Lot Residential Mix
MR-1	Medium Density Residential-1
MR-2	Medium Density Residential-2
HR-1	High Density Residential-1
HR-2	High Density Residential-2
HR-3	High Density Residential-3
Mixed-Use Districts	
MU-1	Mixed-Use Low Density
MU-2	Mixed-Use Low-Medium Density
MU-3	Mixed-Use Medium Density
MU-4	Mixed-Use High Density
MU-5	Mixed-Use Very High Density
Nonresidential Districts	
NS	Neighborhood Shopping
C-1	Local Commercial
C-2	General Commercial
OD	Office-Distribution
OI	Office-Institutional
OIT	Office-Institutional-Transitional

M	Light Industrial
M-2	Heavy Industrial

(Ord. No. 2016-06-07, att. (2.1.1), 7-11-2016; Ord. No. O2019-04-15, exh. A(2.1.1), 6-26-2019)

Sec. 46-65. Prior district classifications and conversion.

The zoning district classifications established prior to the effective date of the ordinance from which this chapter is derived that are no longer active shall be treated as classifications as shown in table 1.1.

(Ord. No. 2016-06-07, att. (2.1.2), 7-11-2016)

Sec. 46-66. Additional regulations.

Additional regulations for a variety of development and building types can be found in article IV (use regulations), article V (site development regulations), and article VI (parking) of this chapter. Street type classifications for front setback requirements are set forth in section 22-273.

(Ord. No. 2016-06-07, att. (2.1.3), 7-11-2016)

Sec. 46-67. Appropriate zoning districts for character area designations.

The zoning districts compatible with and acceptable within the character areas set forth in the comprehensive plan are established in section 46-44 and table 1.2.

(Ord. No. 2016-06-07, att. (2.1.4), 7-11-2016)

Sec. 46-68. Permitted uses.

Permitted principal and accessory uses by zoning district, and whether a use is allowed by right or only with special approval, are set forth in table 4.1. Table 4.1 also provides additional notation where supplemental regulations, also found in article IV of this chapter, may apply. Article III of this chapter, overlay district regulations, outlines additional uses that are allowed by right or only with special approval.

(Ord. No. 2016-06-07, att. (2.1.5), 7-11-2016; Ord. No. 2016-07-16, att. (2.1.5), 9-1-2016)

Secs. 46-69—46-94. Reserved.

DIVISION 11. MEDIUM AND HIGH DENSITY RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS

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)

Sec. 46-335. Dimensional requirements.

Dimensional requirements, including overall site requirements, individual lot dimensions, setbacks, and heights for medium and high density residential zoning districts, are provided in table 2.4, medium and high density residential zoning districts dimensional requirements. In addition, compatibility and transitional buffers as defined and required in article V of this chapter may apply.

Table 2.4. Medium and High Density Residential Zoning Districts Dimensional Requirements

<i>Elements</i>	<i>RSM</i>	<i>MR-1</i>	<i>MR-2</i>	<i>HR-1</i>	<i>HR-2 and HR-3</i>
Overall Site Requirements (minimum, unless otherwise specified)					
Dwelling Units Per Acre****	4-6	8	12	24	HR-2: 40 HR-3: 60
Open Space Required (minimum %)*	20%	20%	15%	15%	15%
Transitional Buffers (feet)	See article V of this chapter				
Lot Requirements (minimum, unless specified)					
Single-Family Detached Conventional (SFD)**					
Lot Area (square feet)	6,000/2,000 cottage	5,000/2,000 cottage	5,000/2,000 cottage	Not Permitted	Not Permitted

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Lot Width, Street Frontage (feet)	60/20 cottage	50/20 cottage	50/20 cottage	Not Permitted	Not Permitted
Lot Coverage (maximum % per lot)	50	60	65	Not Permitted	Not Permitted
Single-Family Attached (SFA/Townhomes)					
Lot Area (square feet)	1,000	1,000	1,000	1,000	1,000
Unit Width (feet)	24	24	20	20	20
Lot Coverage (maximum % per lot or total parcel acreage)	70	80	85	85	85
Two/Three Family (TTF)					
Lot Area (square feet)	Not Permitted	4,000	4,000	Not Permitted	Not Permitted
Lot Width (feet)	Not Permitted	55	50	Not Permitted	Not Permitted
Lot Coverage (maximum % per lot or total parcel acreage)	Not Permitted	55%	55%	Not Permitted	Not Permitted
Multifamily (MF) and Mixed-Use (MU)					
Lot Width, Street Frontage (feet)	Not Permitted	100	100	100	100
Lot Coverage (maximum % of total parcel acreage)	Not Permitted	65%	75%	85%	85%
Building Setbacks: SF and SFA/Townhomes for Individual Internal Lots; MF, SFA, MU for Overall Site****					
Front Thoroughfares and Arterials (min. and max. feet)	All: min. 20, max. 30	SFD: min. 15, max. 25 Other: 10-20	All: min. 10, max 20	All: min. 10, max 20	All: min. 10, max. 20

Front—all other streets (min. feet)	20	0—Determined only by utility placement, ROW, and streets cape (article V of this chapter)			
Front with alley access (min. feet)	10	SFD and TTF: 10; SFA and MF: 5	SFD and TTF: 10; SFA and MF: 5	5	5
Side—interior lot (feet)****	SFD and TTF: 6 feet; SFA: N/A; MF and MU: N/A				
Side—corner lot on public street (feet)	Same as front setback (see also article V of this chapter, Corner Lot)				
Rear without alley (feet)	SFD: 20; SFA: 1	SFD: 20; SFA: 15; MF and MU: 20; MF: 20; CM/OF/MU: 15 (see also transitional buffers, article V of this chapter)			
Rear with alley (feet)	10	10	10	10	10
Unit Size, Heated Living Area (square feet, minimum)					
Single-Family Detached (SFD)—Conventional	1,200	1,200	1,000	Not Permitted	Not Permitted
Single-Family Detached (SFD)—Cottage	800	800	800	Not Permitted	Not Permitted
Single-Family Attached (SFA)***	1,200	1,200	1,000	1,000	Not Permitted
Two/Three Family (TTF)	N/A	1,000	1,000	1,000	Not Permitted
Multifamily (MF)***	Not Permitted for New Developments	650	650	650	650
Height (maximum and whichever is less when indicated as stories or feet)					
Single-Family Detached (SFD) Except Res. Infill Overlays = 28 feet	35 feet	35 feet	35 feet	Not Permitted	Not Permitted
Single-Family Attached (SFA)	3 stories or 45 feet	3 stories or 45 feet	3 stories or 45 feet	Not Permitted	Tables 2.13 and 2.15
Two/Three Family (TTF)	N/A	35 feet	3 stories or 45 feet	Not Permitted	Not Permitted
Multifamily (MF)	N/A	4 stories or 60 feet	Table 2.9	Tables 2.13 and 2.15	Tables 2.13 and 2.15

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Mixed-Use (MU)	N/A	4 stories or 60 feet	Table 2.9	Table 2.11	Tables 2.13 and 2.15
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Key:

Housing types: SFD: Single-Family Detached, SFA: Single-Family Attached, TTF: Two/Three Family, MF: Multifamily, MU: Mixed-Use.

*Open space requirement shall apply to new subdivisions if project is >5 acres or ≥36 units (see chapter 22). See article V of this chapter for enhanced open space requirements.

**Where two numbers are indicated, the first number is the standard and the second number applies only to housing type that is indicated, e.g., cottage or townhome.

***See article V of this chapter for building separation and minimum multifamily unit size details

****Requires a special land use permit if requesting more than 24 multifamily dwellings per acre.

(Ord. No. 2016-06-07, att. (2.11.2), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.11.2), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019; Ord. No. O2020-03-07, exh. A, 3-23-2020)

Secs. 46-336—46-358. Reserved.

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.

DIVISION 13. MR-1 (MEDIUM DENSITY RESIDENTIAL-1) DISTRICT

Sec. 46-389. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MR-1 (Medium Density Residential-1) District is as follows:

- (1) To encourage primarily residential, planned developments that allow accessory retail, office, institutional, and civic uses;
- (2) To provide for residential neighborhoods with a mix of single-family and multifamily housing types that maintain harmony of scale, intensity, and design with surrounding development;
- (3) To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of and opportunity for alternative modes of travel;
- (4) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.13.1), 7-11-2016)

Sec. 46-390. 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. (2.13.2), 7-11-2016)

Sec. 46-391. Dimensional requirements.

Dimensional requirements for the MR-1 (Medium Density Residential-1) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.13.3), 7-11-2016)

Sec. 46-392. 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. (2.13.4), 7-11-2016)

Secs. 46-393—46-414. Reserved.

DIVISION 14. MR-2 (MEDIUM DENSITY RESIDENTIAL-2) DISTRICT

Sec. 46-415. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MR-2 (Medium Density Residential-2) District is as follows:

- (1) To encourage primarily residential, planned developments that allow accessory retail, office, institutional, and civic uses;
- (2) To provide for residential neighborhoods with a mix of single-family and multifamily housing types that maintain harmony of scale, intensity, and design with surrounding development;
- (3) To provide for connectivity of streets and communities and reduce the dependence on automobile uses by increasing the ease of movement and opportunities for alternative modes of travel;
- (4) To implement the future development map of the city's most current comprehensive plan;
- (5) To provide districts that allow appropriate development transitions within the edges and transitional areas ~~of the downtown and regional activity center character areas.~~

(Ord. No. 2016-06-07, att. (2.14.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-416. 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 exist supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

(Ord. No. 2016-06-07, att. (2.14.2), 7-11-2016)

Sec. 46-417. Dimensional requirements.

Dimensional requirements for the MR-2 (Medium Density Residential-2) District shall be as provided in table 2.4, "medium and high density residential zoning districts dimensional requirements."

(Ord. No. 2016-06-07, att. (2.14.3), 7-11-2016)

Sec. 46-418. 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. (2.14.4), 7-11-2016)

Sec. 46-419. Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of article V of this chapter as well as proportional relationship of density to height as established in table 2.9.

Table 2.9. MR-2 Building Height

<i>Density up to 12 dwelling units per gross acre</i>	
<i>Building Use</i>	<i>Base Max. Height</i>
Single-family attached	3 stories or 45 feet*
Multifamily	2 stories or 35 feet*
With accessory non-res.	3 stories or 45 feet*

*Whichever is less.

(Ord. No. 2016-06-07, att. (2.14.6), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.14.6), 4-9-2018)

Secs. 46-420—46-438. Reserved.***DIVISION 15. HR-1 (HIGH DENSITY RESIDENTIAL-1) DISTRICT*****Sec. 46-439. Statement of purpose and intent.**

The purpose and intent of the mayor and city council in establishing the HR-1 (High Density Residential-1) District regulations is as follows:

- (1) To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;
- (2) To provide for high density, low-rise residential neighborhoods with a mix of single-family and multifamily housing types that maintain harmony of scale, intensity, and design with surrounding development;
- (3) To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;
- (4) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.15.1), 7-11-2016)

Sec. 46-440. 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. (2.15.2), 7-11-2016)

Sec. 46-441. Dimensional requirements.

Dimensional requirements for the HR-1 (High Density Residential-1) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.15.3), 7-11-2016)

Sec. 46-442. 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. (2.15.4), 7-11-2016)

Sec. 46-443. Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of article V of this chapter as well as proportional relationship of density to height as regulated by table 2.11.

Table 2.11. HR-1 Building Height

<i>Density up to 24 Dwelling Units per Gross Acre</i>	
<i>Building Use</i>	<i>Base Max. Height</i>
Single-family attached	3 stories or 45 feet*
Multifamily	3 stories or 45 feet*
With accessory non-res.	4 stories or 60 feet*

*Whichever is less

(Ord. No. 2016-06-07, att. (2.15.6), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.15.6), 4-9-2018)

Secs. 46-444—46-471. Reserved.

DIVISION 16. ~~HR-2 (HIGH DENSITY RESIDENTIAL-2) DISTRICT~~Reserved.

~~Sec. 46-472. Statement of purpose and intent.~~

~~The purpose and intent of the mayor and city council in establishing the HR-2 (High Density Residential-2) District regulations is as follows:~~

- ~~(1) To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;~~
- ~~(2) To provide for high-density, mid-rise residential neighborhoods with a mix of single-family and multifamily housing types that maintain harmony of scale, intensity, and design with surrounding development;~~

~~(3) To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;~~

~~(4) To implement the future development map of the city's most current comprehensive plan.~~

~~(Ord. No. 2016-06-07, att. (2.16.1), 7-11-2016)~~

~~Sec. 46-473. 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. (2.16.2), 7-11-2016)~~

~~Sec. 46-474. Dimensional requirements.~~

~~Dimensional requirements for the HR-2 (High Density Residential-2) District shall be as provided in table 2.4, medium and high density residential zoning districts dimensional requirements.~~

~~(Ord. No. 2016-06-07, att. (2.16.3), 7-11-2016)~~

~~Sec. 46-475. 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. (2.16.4), 7-11-2016)~~

~~Sec. 46-476. Building heights.~~

~~Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of article V of this chapter as well as proportional relationship of density to height as established by Table 2.13.~~

Table 2.13. HR-2 Building Height

Density up to 40 Dwelling Units per Gross Acre	
Building Use	Base Max. Height
Multifamily	4 stories or 60 feet*
With accessory non-res.	6 stories or 75 feet*

~~*Whichever is less.~~

~~(Ord. No. 2016-06-07, att. (2.16.6), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.16.6), 4-9-2018)~~

Secs. 46-47~~27~~—46-507. Reserved.

DIVISION 17. ~~HR-3 (HIGH DENSITY RESIDENTIAL-3) DISTRICT~~Reserved.

~~Sec. 46-508. Statement of purpose and intent.~~

The purpose and intent of the mayor and city council in establishing the HR-3 (High-Density Residential-3) District regulations is as follows:

- ~~(1) To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;~~
- ~~(2) To provide for high density, high-rise residential neighborhoods with a mix of single-family and multifamily housing types that maintain harmony of scale, intensity, and design with surrounding development;~~
- ~~(3) To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;~~
- ~~(4) To implement the future development map of the city's most current comprehensive plan.~~

~~(Ord. No. 2016-06-07, att. (2.17.1), 7-11-2016)~~

~~Sec. 46-509. 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 exist supplemental use regulations for that use specified in article IV of this chapter, such regulations shall also apply.

~~(Ord. No. 2016-06-07, att. (2.17.2), 7-11-2016)~~

~~Sec. 46-510. Dimensional requirements.~~

Dimensional requirements for the HR-3 (High-Density Residential-3) District shall be as provided in table 2.4, medium and high-density residential zoning districts dimensional requirements.

~~(Ord. No. 2016-06-07, att. (2.17.3), 7-11-2016)~~

~~Sec. 46-511. 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. (2.17.4), 7-11-2016)~~

~~Sec. 46-512. Building heights.~~

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of article V of this chapter as well as proportional relationship of density to height as regulated by table 2.15.

Table 2.15. HR-3 Building Height for Density

<i>Density up to 60 Dwelling Units per Gross Acre</i>	
<i>Building Use</i>	<i>Base Max. Height</i>
Multifamily	6 stories or 75 feet*

~~With accessory non-res.~~

~~8 stories or 100 feet*~~

~~*Whichever is less.~~

~~(Ord. No. 2016-06-07, att. (2.17.6), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.17.6), 4-9-2018)~~

Secs. 46-50813—46-534. Reserved.

DIVISION 18. MIXED-USE ZONING DISTRICTS

Sec. 46-535. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing all districts designated as Mixed-Use (MU-1, MU-2, MU-3, MU-4 and MU-5) Zoning Districts are as follows:

- (1) To encourage the development of master or comprehensively planned, mixed-use developments;
- (2) To permit flexible and compatible arrangements of residential, commercial, office, institutional, and civic uses;
- (3) To offer a variety of housing options, including multifamily residential and single-family attached housing of various densities, upper-floor residential units over nonresidential space;
- (4) To implement the future development map of the city's most current comprehensive plan;
- (5) To maintain harmony of scale, intensity, and design of character areas with varying housing options;
- (6) To accommodate and promote mixed-use buildings with amenities and services provided by a variety of nonresidential uses, as appropriate in the activity centers established by the comprehensive plan;
- (7) To promote the health and well-being of residents through the development of living environments that accommodate pedestrians and bicyclists;
- (8) To encourage a sense of community through design that promotes social interaction; and
- (9) To reduce automobile traffic and congestion and promote the use of transit by encouraging appropriate development densities.

(Ord. No. 2016-06-07, att. (2.18.1), 7-11-2016; Ord. No. 2017-03-57, § 1, 3-27-2017)

Sec. 46-536. Mixed-use district densities.

- (a) Table 2.16, which summarizes the allowed densities and eligible character areas for mixed-use zoning districts, is provided for the aid of the reader. Any conflict between table 2.16 and any other provision of this chapter shall be resolved in favor of the other provision of this chapter.

Table 2.16. Summary of Mixed-Use Zoning District Densities

<i>Zoning District Name</i>	<i>Density (units/acre)</i>	<i>Eligible Character Areas</i>
Mixed-Use Low Density MU-1	4-6	Downtown, Regional activity center, Institutional, Medical area, Commercial redevelopment corridor

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Mixed-Use Low-Medium Density MU-2	8	Downtown, Regional activity center, Institutional, Medical area, Commercial redevelopment corridor
Mixed-Use Medium Density MU-3	12	Downtown, Regional activity center, Institutional, Medical area, Commercial redevelopment corridor
Mixed-Use High Density MU-4	24	Downtown, Medical area, Institutional
Mixed-Use Very High Density MU-5	40	Downtown, Regional activity center, Institutional

- (b) Individual buildings in any mixed-use district may exclusively consist of only residential uses, provided that they are part of a larger mixed-use development that meets the overall percentage mix of nonresidential to residential floor area established by table 2.17.

(Ord. No. 2016-06-07, att. (2.18.2), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.18.2), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-537. Mixed-use dimensional requirements.

Dimensional requirements including overall site requirements, individual lot dimensions, setbacks, and heights for mixed-use districts are provided in table 2.17, mixed-use zoning districts dimensional requirements. Compatibility rules and transitional buffers as defined and required in article V of this chapter may apply.

Table 2.17. Mixed-Use Zoning Districts Dimensional Requirements

Element	MU-1	MU-2	MU-3	MU-4 and MU-5
Overall Site Requirements (minimum, unless otherwise specified)				
Dwelling Units Per Acre****	4-6	8	12	MU-4=24; MU-5=40
Minimum Street Frontage for Site (feet)	75	75	50	50
Minimum Site Size	0	0	0	0
Overall Site Setback Rear (feet)	20	20	20	10
Overall Site Setback Side (feet)	15	15	15	N/A (Article V of this chapter buffers apply)
Open Space Required (minimum %)*	10% of total parcel acreage	10% of total parcel acreage	10% of total parcel acreage	10% of total parcel acreage

Transitional Buffers (feet)	See section 46-1338			
Required Minimum Mix of Uses				
Nonresidential (percentage square footage of building)	10%	15%	20%	20%
Residential (percentage square footage of building)	15%	10%	0	0
Individual Lot Dimensions by Residential Type (minimum, unless specified)				
Single-Family Detached (SFD)**				
Lot Area (square feet)	3,500	3,500/2,000 cottage	3,500	Not Permitted
Lot Width (feet)	35	35/20	35	Not Permitted
Lot Coverage (maximum percentage)	55	55	55	Not Permitted
Single-Family Attached (SFA/Townhomes)				
Lot Area (square feet)	1,000	1,000	1,000	1,000
Unit Width (feet)	20	16	16	20
Lot Coverage (maximum % per lot or total parcel acreage)	50%	75%	80%	90%
Two/Three Family (TTF)				
Lot Area (square feet)	4,000	4,000	4,000	4,000
Lot Width (feet)	55	55	55	55
Lot Coverage (maximum % per lot or total parcel acreage)	55	55	75	75
Multifamily (MF)—See building type standards in article V of this chapter				
Lot Area (square feet)	12,500	12,500	12,500	12,500
Lot Width (feet)	1 bldg: 50 2 or more bldgs: 100	1 bldg: 50 2 or more bldgs: 100	1 bldg: 50 2 or more bldgs: 100	1 bldg: 50 2 or more bldgs: 100
Lot Coverage (maximum percentage)	N/A	N/A	N/A	N/A

Building Setbacks (minimum, unless specified)				
Single-Family Detached and Two-Family				
Front (feet)	Min. 10/Max. 25	Min. 5/Max. 20	Min. 5/Max. 20	Not Permitted
Side—interior lot (feet)	7.5	7.5	7.5	Not Permitted
Side—corner lot on public street (feet)	15	15	15	Not Permitted
Rear (feet)	10	10	10	Not Permitted
Rear—w/alley (feet)	15	10	10	Not Permitted
Single-Family Attached				
Front (feet)	Min. 10/Max. 20, Min. 5/Max. 10 with alley garage	Min. 10/Max. 20, Min. 5 with alley garage	No Min./Max.	No Min./Max.
Side—interior lot (feet)	N/A	N/A	No Min./Max.	No Min./Max.
Side—corner lot on public street (feet)	Min. 10/Max. 20	Min. 10/Max. 20	10	5
Rear (feet)	20	15	10	10
Rear—w/alley (feet)	15	10	5	5
Mixed-Use/Commercial/Multifamily ***				
Front (feet)	Min. 10/Max. 50	Min. 10/Max. 50	No Min./Max.	No Min./Max.
Side—interior lot (feet)	Min. 10/Max. 20	Min. 10/Max. 20	No Min./Max.	No Min./Max.
Side—corner lot on public street (feet)	20	15	No Min./Max.	No Min./Max.
Rear (feet)	15, 0 if parking deck, liner building or party wall present	10, 0 if parking deck, liner building or party wall present	10, 0 if parking deck, liner building or party wall present	10, 0 if parking deck, liner building or party wall present
Rear—w/alley (feet)	10	10	5	5
Unit Size, Heated Living Area (minimum, unless specified)				
Single-Family Detached (square feet)	1,200	1,200/800 cottage	1,200/800 cottage	Not Permitted
Two- and Three-Family (square feet)	1,000	1,000	1,000	Not Permitted

Single-Family Attached (square feet)	850	850	850	850
Multifamily—one bedroom (square feet)	550	500	500	500
Multifamily—two bedroom (square feet)	700	650	650	650
Multifamily—three bedroom (square feet)	850	800	800	800
Accessory Unit (square feet)	650	650	Not Permitted	Not Permitted
Live/Work (residential portion square feet)	400	400	400	400

Key:

Housing types: SFD: Single-Family Detached, SFA: Single-Family Attached, TTF: Two/Three Family, MF: Multifamily, MU: Mixed-Use, CM: Commercial, OF: Office.

*See article V of this chapter for enhanced open space requirements.

**SFD Cottage type exempt; see article V of this chapter for standards.

***See article V of this chapter for building separation and minimum multifamily unit size details.

****Requires a special land use permit if requesting more than 24 multifamily dwellings per acre.

(Ord. No. 2016-06-07, att. (2.18.3), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.18.3), 4-9-2018; Ord. No. 2018-12-40, 1-14-2019; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Secs. 46-538—46-567. Reserved.

DIVISION 19. MU-1 (MIXED-USE LOW DENSITY) DISTRICT

Sec. 46-568. Dimensional requirements.

Dimensional requirements for the MU-1 (Mixed-Use Low Density) District shall be as provided in table 2.17. Dimensions are established in table 2.17 for the overall development site (development parcel) and for individual lots intended for single-family detached or single-family attached housing types, when such lots include yards. A mixed-use development may be subject to both the overall development site dimensions and the individual lot dimensions, depending on the mixture of housing types that are proposed for the overall development.

(Ord. No. 2016-06-07, att. (2.19.1), 7-11-2016)

Sec. 46-569. Site and building design standards.

Site and building design standards and regulations shall be as provided in table 2.17 and article V of this chapter.

(Ord. No. 2016-06-07, att. (2.19.2), 7-11-2016)

Sec. 46-570. Rezoning to the MU-1 (Mixed-Use Low Density) District.

Properties within the ~~downtown, regional activity center, Institutional,~~ medical area and commercial redevelopment corridor character areas of the city comprehensive plan future development map are eligible to be rezoned to the MU-1 district.

(Ord. No. 2016-06-07, att. (2.19.3), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-571. MU-1 (Mixed-Use Low Density) District rezoning submittal requirements.

The following standards only apply to rezoning applications initiated by the owner of the subject property or the authorized agent of the owner. In the interest of economic development and to spur redevelopment, applications initiated by the city are not required to comply with the standards in this section. Prior to the submittal of an application for a land-disturbance permit or building permit, an applicant for development of a city-initiated MU-zoned property, shall comply with the following standards. The application will be reviewed administratively by the director.

- (1) *Pre-application meeting.* Before submitting an application for rezoning to the MU-1 (Mixed-Use Low Density) District, the applicant shall confer with the planning and zoning director to discuss the feasibility of the proposed plan and its relationship to the comprehensive plan and city ordinances.
- (2) *Submittal of master development plan.* The submittal package for rezoning to the MU-1 (Mixed-Use Low Density) District shall include all items indicated by the application and instruction form established by the planning and zoning department. The master development plan shall include:
 - a. *Pre-application meeting minutes.* Applicants shall provide documentation showing that the required pre-application meeting occurred.
 - b. *Master development plan.* A master development plan shall illustrate the project showing the location of proposed uses identified by type, site functions, and internal vehicular and pedestrian circulation, along with proposed access points. (Note: prefer multi-modal access plan as specified in the overlays.)
 - c. *Master development standards.* An applicant for rezoning to the MU-1 (Mixed-Use Low Density) District shall submit the following with the rezoning application:
 1. A set of tables, matrices, and/or diagrams shall document the proposed standards that will regulate the permitted use, density, lot dimensions, setbacks, site and building form for each area identified in the master concept plan, and indicate all instances where proposed standards vary from this division.
 2. A summary of the anticipated maintenance and ownership of streets and open spaces.
 3. Proposed gross and net nonresidential floor area, maximum number of residential dwelling units by type and minimum lot size, and amount of enhanced open space.

-
- d. *Master development plan architectural standards.* An applicant for rezoning to the MU-1 (Mixed-Use Low Density) District shall include with the master development plan a set of binding and enforceable architectural standards that will be utilized by the developer to ensure aesthetic continuity throughout the life of the project.
1. At a minimum, the architectural standards shall address lighting, signage, fences, landscaping, building materials, and other architectural features proposed to be included by the applicant.
 2. A master sign plan may be proposed for approval at the time of rezoning with dimensions that vary from the sign chapter, provided that the proposed plan demonstrates pedestrian-oriented scale.

(Ord. No. 2016-06-07, att. (2.19.4), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.19.4), 4-9-2018; Ord. No. O2020-03-07, exh. A, 3-23-2020)

Sec. 46-572. Mixed-use building restrictions.

The following restrictions shall also apply to mixed-use buildings: All uses allowed in the MU-1 (Mixed-Use Low Density) District, as provided in table 4.1, may occupy the ground level of a mixed-use building; however, any residential uses shall not occupy more than 50 percent of the floor area of the ground level. All levels above ground level shall only be occupied by residential, professional office or service uses.

(Ord. No. 2016-06-07, att. (2.19.5), 7-11-2016)

Sec. 46-573. MU-1 retail size restrictions.

Standalone retail or other uses shall not exceed 40,000 square feet total floor area without a special land use permit, which may be issued based on the criteria provided in section 46-1594.

(Ord. No. 2016-06-07, att. (2.19.8), 7-11-2016)

Secs. 46-574—46-596. Reserved.

DIVISION 20. MU-2 (MIXED-USE LOW-MEDIUM DENSITY) DISTRICT

Sec. 46-597. District requirements, standards and criteria.

All provisions found in the MU-1 (Mixed-Use Low Density) District shall apply to the MU-2 (Mixed-Use Low-Medium Density) District.

(Ord. No. 2016-06-07, att. (2.20.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.20.1), 4-9-2018)

Secs. 46-598—46-627. Reserved.

DIVISION 21. MU-3 (MIXED-USE MEDIUM DENSITY) DISTRICT

Sec. 46-628. District requirements, standards and criteria.

All provisions found in the MU-2 (Mixed-Use Medium Density) District shall apply to the MU-3 (Mixed-Use Medium Density) District, except that:

- (1) Section 46-573 regarding retail size restrictions shall not apply.
- (2) Height restrictions apply to the MU-3 (Mixed-Use Low-Medium Density) District based on a relationship of density, in accordance with table 2.9.

(Ord. No. 2016-06-07, att. (2.21.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.21.1), 4-9-2018)

Secs. 46-629—46-659. Reserved.*DIVISION 22. MU-4 (MIXED-USE HIGH DENSITY) DISTRICT***Sec. 46-660. District requirements, standards and criteria.**

All provisions found in the MU-3 (Mixed-Use Medium Density) District shall also apply to the MU-4 (Mixed-Use High Density) District, except that height restrictions apply to the MU-4 (Mixed-Use High Density) District in accordance with table 2.11.

(Ord. No. 2016-06-07, att. (2.22.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.22.1), 4-9-2018)

Secs. 46-661—46-678. Reserved.*DIVISION 23. ~~MU-5 (MIXED-USE VERY HIGH DENSITY) DISTRICT~~Reserved.***~~Sec. 46-679. District requirements, standards and criteria.~~**

~~All provisions found in the MU-3 (Mixed-Use Medium Density) District shall also apply to the MU-5 (Mixed-Use Very High Density) District, except that height restrictions apply to MU-5 in accordance with table 2.13.~~

~~(Ord. No. 2016-06-07, att. (2.23.1), 7-11-2016; Ord. No. O2018-03-7, exh. A(2.23.1), 4-9-2018)~~

Secs. 46-~~679~~80—46-701. Reserved.*DIVISION 24. NONRESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS***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)

Secs. 46-703—46-732. Reserved.

DIVISION 25. NS (NEIGHBORHOOD SHOPPING) DISTRICT

Sec. 46-733. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the NS (Neighborhood Shopping) District is as follows:

- (1) To provide convenient neighborhood retail shopping and service areas within the city for all residents;
- (2) To provide for the development of new neighborhood shopping districts where so designated on the comprehensive plan especially for commercial uses in ~~downtown~~, neighborhood center, ~~regional activity center~~institutional, and commercial redevelopment corridor character areas;
- (3) To ensure that the size and scale of neighborhood shopping centers and individual uses within said centers are compatible with the scale of adjoining neighborhoods;
- (4) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.25.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-734. Intensity limitations.

In a building that contains more than one business establishment, no single business establishment shall occupy more than 15,000 square feet, whether owned or leased. No building occupied by a single business establishment shall exceed 50,000 square feet.

(Ord. No. 2016-06-07, att. (2.25.2), 7-11-2016)

Sec. 46-735. 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. (2.25.3), 7-11-2016)

Sec. 46-736. Dimensional requirements.

Dimensional requirements for the NS (Neighborhood Shopping) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.25.4), 7-11-2016)

Sec. 46-737. 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. (2.25.5), 7-11-2016)

Secs. 46-738—46-757. 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~~Reserved;
- (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.

DIVISION 27. C-2 (GENERAL COMMERCIAL) DISTRICT

Sec. 46-791. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the C-2 (General Commercial) District is as follows:

- (1) To provide convenient general business and commercial service areas within the city for all residents;
- (2) To provide for the development of new general commercial districts where so designated on the comprehensive plan;
- (3) ~~To provide for auto-oriented needs outside of the neighborhood center, downtown and regional activity-center character areas, but to focus on the pedestrian-oriented development which in these districts~~Reserved;
- (4) To provide for quality control in development through materials and building placement;
- (5) To ensure that the uses authorized within the C-2 (General Commercial) District are those uses which are designed to serve the general business and commercial service needs of the city;
- (6) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.27.1), 7-11-2016; Ord. No. 2018-12-40, 1-14-2019)

Sec. 46-792. 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. (2.27.2), 7-11-2016)

Sec. 46-793. Dimensional requirements.

Dimensional requirements for the C-2 (General Commercial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.27.3), 7-11-2016)

Sec. 46-794. 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. (2.27.4), 7-11-2016)

Secs. 46-795—46-811. Reserved.

DIVISION 28. OD (OFFICE-DISTRIBUTION) DISTRICT

Sec. 46-812. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OD (Office-Distribution) District is as follows:

- (1) To provide convenient areas within the city for the development of office and distribution establishments which are necessary for the residents and business practitioners within the city; and
- (2) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.28.1), 7-11-2016)

Sec. 46-813. 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 exist 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. (2.28.2), 7-11-2016)

Sec. 46-814. Dimensional requirements.

Dimensional requirements for the OD (Office-Distribution) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.28.3), 7-11-2016)

Sec. 46-815. 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. (2.28.4), 7-11-2016)

Secs. 46-816—46-838. Reserved.

DIVISION 29. OI (OFFICE-INSTITUTIONAL) DISTRICT

Sec. 46-839. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OI (Office-Institutional) District is as follows:

-
- (1) To provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the city;
 - (2) To provide accessory commercial and residential uses to reduce auto dependence;
 - (3) To provide locations for the development of cultural, recreational, educational and health service facilities for the city;
 - (4) To promote compatible development, in size and scale, to surrounding development;
 - (5) To promote campus style developments;
 - (6) To promote pedestrian oriented compact design;
 - (7) To implement the future development map of the city's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.29.1), 7-11-2016)

Sec. 46-840. 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. (2.29.2), 7-11-2016)

Sec. 46-841. Dimensional requirements.

Dimensional requirements for the OI (Office-Institutional) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.29.3), 7-11-2016)

Sec. 46-842. 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. (2.29.4), 7-11-2016)

Secs. 46-843—46-862. Reserved.

DIVISION 30. OIT (OFFICE-INSTITUTIONAL-TRANSITIONAL) DISTRICT

Sec. 46-863. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OIT (Office-Institutional-Transitional) District is as follows:

- (1) To provide areas within the city for the location of office and institutional uses which are necessary for the residents, business practitioners, and professional practitioners in existing buildings no longer viable for residential uses;

-
- (2) To limit said buildings' height to be compatible to those potential redevelopment parcels and structures;
 - (3) To provide for the transition from residential to office and associated commercial uses which do not generate large volumes of traffic, noise or other harmful effects, and which are compatible with residential uses in locations so designated in the comprehensive plan along commercial redevelopment corridor character areas and along the edge of the office park and institutional character areas.

(Ord. No. 2016-06-07, att. (2.30.1), 7-11-2016)

Sec. 46-864. 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. (2.30.2), 7-11-2016)

Sec. 46-865. Dimensional requirements.

Dimensional requirements for the OIT (Office-Institutional-Transitional) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.30.3), 7-11-2016)

Sec. 46-866. 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. (2.30.4), 7-11-2016)

Secs. 46-867—46-895. Reserved.

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 32. M-2 (HEAVY INDUSTRIAL) DISTRICT

Sec. 46-919. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M-2 (Heavy Industrial) District is as follows:

- (1) To provide areas for manufacturing, warehousing and distribution facilities at locations so designated in the comprehensive plan;
- (2) To provide for a location for intense industrial uses that do not require and may not be appropriate for a nuisance free environment;
- (3) To provide for a location that allows nuisances such as noise, vibration and other impacts which cannot be contained on-site;
- (4) To ensure that all businesses located within the M-2 (Heavy 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-2 (Heavy Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;
- (5) To ensure that industrial districts are so located that transportation access to thoroughfares and freeways is available;
- (6) To implement the future development map of the county's most current comprehensive plan.

(Ord. No. 2016-06-07, att. (2.32.1), 7-11-2016)

Sec. 46-920. 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. (2.32.2), 7-11-2016)

Sec. 46-921. Dimensional requirements.

Dimensional requirements for the M-2 (Heavy Industrial) District shall be as provided in table 2.24, nonresidential zoning districts dimensional requirements.

(Ord. No. 2016-06-07, att. (2.32.3), 7-11-2016)

Sec. 46-922. 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. (2.32.4), 7-11-2016)

Sec. 46-923. Solid waste facility/landfill use provisions.

Any solid waste facility, solid waste handling facility, or landfill must obtain a special land use permit from the mayor and city council and a modification or addition of zoning conditions that specifically authorizes and identifies all necessary zoning requirements for each such facility. If granted, the zoning district classification for such property shall be identified as M-2 (Conditional Landfill).

(Ord. No. 2016-06-07, att. (2.32.5), 7-11-2016)

Secs. 46-924—46-950. Reserved.

ARTICLE III. SPECIAL AND OVERLAY DISTRICT REGULATIONS¹

DIVISION 2. DOWNTOWN TUCKER ZONING DISTRICTS

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

¹Editor's note(s)—Ord. No. O2019-04-15, adopted June 26, 2019, amended Art. III in its entirety, in effect repealing and replacing said chapter to read as herein set out. Former Art. III, §§ 46-950—46-954, 46-983—46-1006, 46-1026—46-1055, 46-1066—46-1068, 46-1085—46-1092, pertained to overlay district regulations, and derived from Ord. No. 2016-06-07, att. (3.1.1—3.1.5, 3.34.2—3.34.25, 3.35.1—3.35.27, 3.40.1—3.40.8, art. 3, div. 35, app.), adopted July 11, 2016; Ord. No. 2016-07-16, att. (3.1.1, 3.34.6, 3.34.9, 3.35.5, 3.35.8, 3.35.9), adopted Sept. 1, 2016; Ord. No. 2016-10-37, att. (3.35.6, 3.35.8), adopted Nov. 14, 2016; Ord. No. 2017-06-69, exh. A(3.34.9, 3.34.13, 3.35.8, 3.35.13, 3.35.14, 3.35.16, 3.35.17, 3.35.24—3.35.30, 3.40.5), adopted June 28, 2017; Ord. No. O2018-03-7, exh. A(3.34.9), adopted April 9, 2018

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				
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	✓

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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	✓
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				

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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)				
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]	

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Fuel dealers, manufacturers or wholesalers				
Fuel pumps, accessory		SP	SP	✓
Gold buying, precious metals	P [2]	P	P [5]	
Grocery stores (see alcohol outlet)		P		
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		
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				
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		✓
Hookah/vapor bar or lounge				
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)				

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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	p	✓
Child day care center (in a place of worship)	p	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; Ord. No. O2021-10-21 , Exh. A, 11-8-2021; Ord. No. O2022-06-45 , Exh. A, 7-11-2022; Ord. No. O2022-10-52 , Exh. A, 11-14-2022)

DIVISION 3. NORTHLAKE ZONING DISTRICTS

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]	✓

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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					
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		✓

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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		✓
Automobile repair, major			SP		✓
Automobile sales or truck sales					
Automobile service stations	SP	SP	SP		✓
Automobile upholstery shop	SP	SP	SP		
Boat sales					
Car wash, hand wash	SP	SP	SP		✓
Car wash, automatic	SP	SP	SP		✓
Emission station					
Retail automobile parts or tire store	SP	SP	SP		✓
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					
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)	SP	SP	SP		✓
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		✓
Gold buying, precious metals	P	P			
Grocery stores (see alcohol outlet)	P	P	P		
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		✓

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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	
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					
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		✓
Hookah/vapor bar or lounge					
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 center (in a place of worship)					
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		

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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; Ord. No. O2021-07-12 , Exh. A, 8-9-2021; Ord. No. O2021-10-21 , Exh. A, 11-8-2021; Ord. No. O2022-06-45 , Exh. A, 7-11-2022; Ord. No. O2022-10-52 , Exh. A, 11-14-2022)

ARTICLE IV. USE REGULATIONS

DIVISION 1. GENERALLY

Sec. 46-1123. Overview of use categories and use table.

The regulations contained within this article shall apply to all zoning districts within the city, including special districts outlined in article 3 except as otherwise specified herein. Certain uses require imposition of additional regulations to mitigate environmental, visual and infrastructure impacts. Dimensions, site location and architectural requirements shall be indicated on required site development plans.

(Ord. No. 2016-06-07, att. (4.1.1), 7-11-2016; Ord. No. O2020-03-07 , exh. A, 3-23-2020)

Sec. 46-1124. Interpretation of unlisted uses.

Where a particular use is not specifically listed in table 4.1, the planning and zoning director shall have the authority to permit the use if the use is similar to uses permitted by this article. The planning and zoning director shall give due consideration to the purpose and intent statements contained in this zoning ordinance concerning the base zoning districts involved, the character of the uses specifically identified and the character of the uses in question.

(Ord. No. 2016-06-07, att. (4.1.2), 7-11-2016; 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	RL G	R- 10 0	R- 8 5	R- 7 5	R- 6 0	RS M	MR -1	MR -2	HR- 1,2,3	MH P	RN C	O I	OI 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 articl e
AGRICULTURAL																									
Agriculture and Forestry																									
Commercial greenhouse or plant nursery															P	P	P		P	P	P				✓
Temporary or portable sawmill	S A	SA	SA	S A	S A	S A	SA												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	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Produce stand	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
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																									

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Dwelling, cottage home						S P	SP	SP	SP	SP		SP												✓	
Dwelling, mobile home											P								P a	P a				✓	
Dwelling, multifamily								P	P	SP									S P	S P	SP	SP	SP	SP	
Dwelling, multifamily (supportive living)								P	P	SP											SP	SP	SP	SP	✓
Dwelling, townhouse							P	P	P	SP		P		P							SP	SP	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	Pa	Pa	P a	P a	P a	Pa	Pa	Pa												Pa	Pa	Pa	Pa	✓
Home occupation, no customer contact	P	P	P	P	P	P	P	P	P	P	P	P													✓
Home occupation, with customer contact	S P	SP	SP	S P	S P	S P	SP	SP	SP	SP	SP	SP									SP	SP	SP	SP	✓
Live/work unit													P	P		P	P		P	P	P	P	P	P	✓
Mobile home park											P														
Accessory uses or structures	P a	Pa	Pa	P a	P a	P a	Pa	Pa	Pa	Pa	Pa	Pa	P a	Pa	P a	P a	P a	Pa	P a	P a	Pa	Pa	Pa	Pa	✓
Housing and Lodging																									
Bed and breakfast	S P	SP	SP				SP	SP	SP	SP			P	P		P	P					P	P	P	✓
Boardinghouse/rooming house								SP	SP	SP															
Convents or monasteries	S P	SP	SP	S P	S P	S P	SP	SP	SP				P	P								P	P	P	✓

Dormitory														P a	Pa			P a	P a	Pa	P a			Pa	Pa	Pa	Pa	
Extended stay hotel														S P				S P							SP	SP	SP	✓
Fraternity house or sorority house														P a											Pa	Pa		
Hotel/motel														P				P	P	P					P	P	P	
Nursing care facility or hospice										P				P	P			P	P					P	P	P	P	
Personal care home, community, 7 or more								SP	SP	SP	SP			P	SP	S P	P	P	P					SP	SP	SP	SP	✓
Personal care home, group, 4-6	S P	SP	SP	S P	S P	S P																						✓
Child caring institution, group, 4-6	S P	SP	SP	S P	S P	S P				SP	SP	SP	SP	P	P	S P	P	P						SP	SP	SP	SP	✓
Child caring institution, community, 7 or more								SP	SP	SP	SP			P	SP	S P	P	P	P					SP	SP	SP	SP	✓
Shelter for homeless persons, 7-20														S P	SP			S P	S P									✓
Shelter for homeless persons for no more than six persons														S P	SP			S P										✓
Transitional housing facility, 7-20														S P	SP			S P	S P									✓
INSTITUTIONAL/PUBLIC																												
Community Facilities																												
Cemetery, columbarium, mausoleum	S P	SP	SP	S P	S P	S P	SP	SP	SP	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	
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	SP	SP			S P	SP		S P	S P	SP	S P		SP	SP	SP	SP		
Recreation club	S P	SP	SP	S P	S P	S P	SP	SP	SP	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		✓
Places of worship	S P	SP	SP	S P	S P	S P	SP	SP	SP	SP		SP	P	P	P	P	P	P	P	P	P	P	P	P	P	✓
Recreation, outdoor																	P	P	P	P						✓
Swimming pools, commercial	S P	SP	SP	S P	S P	S P	SP	SP	SP	SP	SP	SP	P	P		P	P	P	P				Pa	Pa	Pa	
Tennis courts, swimming pools, play or recreation areas, community	P a	Pa	Pa	P a	P a	P a	Pa	Pa	Pa	Pa	Pa	Pa	P	P		P	P	P	P				Pa	Pa	Pa	✓
Education																										
Colleges, universities, research and training facilities													P	P		P	P	P	P		P	P	P	P		
Private educational services, home occupation	P a	Pa	Pa	P a	P a	P a	Pa	Pa	Pa	Pa		Pa						P			Pa	Pa				✓
Private kindergarten, elementary, middle or high schools	S P	SP	SP	S P	S P	S P	SP	SP	SP	SP	SP	SP	P	P		P	P	P				SP	SP	SP		✓

Vocational schools														P	P		P	P	P	S	S	P	P	P	P	✓
Specialized schools									SP	SP	SP			P	P	P	P	P	P	S	S	P	P	P	P	✓
COMMERCIAL																										
Automobile, Boat and Trailer Sales and Service																										
Automobile or truck rental or leasing facilities																	S	P		P	P					✓
Automobile brokerage														P	P		P	P		P						✓
Auto recovery, storage																				P	P					✓
Automobile repair or maintenance, minor																	S	P		P						✓
Automobile repair, major																		S	P		P	P				✓
Automobile sales or truck sales																	S	P		P	P					✓
Automobile service stations																S	P	S	P		P	P				✓
Automobile upholstery shop																		P		P	P					
Boat sales																	S	P		P						✓
Car wash, hand wash																		S	P		P					✓
Car wash, automatic																	S	P		P						✓
Emission stations																	S	P	S	P		P	P			✓

Retail automobile parts or tire store																	S	P		P									✓
Service area, outdoor																		P	a	P	a								✓
Trailer or RV salesroom and lot																	S	P	P	P									✓
Used Parts Dealer														P	P		P	P		P									✓
Offices																													
Accounting office									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
Building or construction office									Pa	Pa	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	Pa	Pa			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Finance office or banking									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
General business office									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
Insurance office									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
Legal office									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
Medical office									Pa	Pa	Pa			P	P	P	P	P	P			P	P	P	P				
Real estate office									Pa	Pa	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																P	P	P	P	P	P	P	P	P	P	P	P	P	

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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	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
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					✓
Gold buying, precious metals																P a	P	P							
Grocery stores (see alcohol outlet)								Pa	Pa	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		S P							✓
Pet supply store														P	P	P	P	P			P	P				
Pharmacy or drug store (see alcohol outlet)								Pa	Pa	Pa		Pa	P a	Pa	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	Pa	Pa			P a	Pa	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			
Sporting goods or bicycle sale														P	P	P	P			P	P	P	P			
Tattoo establishment and piercing studio																S P	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						✓
Wine retailer (<5,000 sq. ft.)															P	P	P				P	P	P	P	
Temporary Commercial Uses																									
Temporary outdoor sales, seasonal	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Temporary produce stand	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Temporary outdoor retail sales	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Temporary outdoor events	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Temporary trailer, as home sales office or construction trailer	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
Restaurant/Food Establishments																									
Brewpub/beer growler															P	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	
Hookah/vapor bar or lounge																S P	S P								✓
Restaurants (non-drive-thru)								Pa	Pa	Pa		Pa	P a	Pa	P	P	P		P		P	P	P	P	
Restaurants with a drive-thru configuration																P	P				P				✓
Transportation and Storage																									
Bus or rail stations or terminals for passengers																S P	S P		S P	S P	SP	SP	SP	SP	
Heliport													S P			S P	S P	SP	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									SP	SP	SP			P	P	P	P	P	P	P			P	P	P	✓
Adult day care facility—up to 6								SP	SP	SP						P	P	P	P			P	P	P	P	✓
Animal care specialist																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	Pa	Pa				P	P	P	P	P		P		P	P	P	P	
Barber shop/ beauty salon or similar establishments								Pa	Pa	Pa				p a	P	P	P	P	P	P		P	P	P	P	
Check cashing establishment, primary																		S P		S P						✓
Check cashing establishment, accessory																		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	✓

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Child day care center (in a place of worship)	P	P	P	P	P																				✓
Child day care facility—up to 6	S P	SP	SP	S P	S P	S P	SP	SP	SP	P		SP	P	P	P	P	P	P				P	P	P	✓
Coin laundry								Pa	Pa	Pa					P	P	P					P	P	P	
Pet day care								SP	SP	SP						P	P		P	P	P	SP	SP	SP	✓
Pet grooming								Pa	Pa	Pa						P	P		P	P	P	P	P	P	✓
Dry cleaning agencies, pressing establishments, or laundry pick-up stations								Pa	Pa	Pa			P	P	P	P	P		P	P	P	P	P	P	
Fitness center	P a	Pa	Pa	P a	P a	P a	Pa	Pa	Pa	Pa	Pa		P	P	P	P	P		P	P	P	P	P	P	
Health spa													S P	SP	S P	S P	S P		S P		SP	SP	SP	SP	✓
Kennel, breeding or boarding	S P															P a	P		P	P					✓
Kennel, commercial	S P															P	P		P	P					✓
Kennel, noncommercial	S P	SP	SP	S P	S P																				
Landscape business																P	P		P	P					
Massage establishment													S P	SP	S P	S P	S P				SP	SP	SP	SP	✓
Mini-warehouse																S P	S P	P	P	P					✓
Multi-warehouse																S P	S P	P	P	P					✓
Outdoor storage, commercial																	P		P	P					✓
Personal services establishment								Pa	Pa	P		Pa	P a	Pa	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	
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		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	
Home healthcare service													P	P		P	P		P		P	P	P	
Kidney dialysis center													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	Pa	Pa				P	P	P	P		P		P	P	
Service area, outdoor																	P		P	P				✓
INDUSTRIAL																								
Alcohol manufacturing (brewery)																P	P		P					
Alcohol manufacturing (distilled spirits)																P	P		P					
Alternative energy production																		SP	S	S	P			

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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					
Compressed gas fuel station															S P		P	P						
Chemical manufacture, organic or inorganic																			P					
Contractor, general (See also Building or Construction Office)															P		P	P			P	P		✓
Contractor, heavy construction, outside storage															P		P	P						✓
Contractor, special trade															P		P	P						
Crematoriums																			S P					✓
Distillation of bones or glue manufacture																			P					
Dry cleaning plant																	P	P						
Dye works																			P					
Explosive manufacture or storage																			S P					
Fabricated metal manufacture																			P					
Fat rendering or fertilizer manufacture																			S P					

General aviation airport																		S P	S P					✓
Heavy equipment repair service or trade															P			P	P					
Ice manufacturing plant																		P	P					
Incidental retail sales of goods produced or processed on the premises																		P a	P a					
Incineration of garbage or refuse when conducted within an enclosed plant																			S P					
Industrial, heavy																			S P					✓
Industrial, light																		P	P					
Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal																			S P					
Leather manufacturing or processing																			P					
Light manufacturing																		P	P					
Manufacturing, heavy																			S P					✓
Manufacturing operations not housed within a building																			S P					✓
Mines or mining operations, quarries, asphalt plants, gravel pits or soil pits																		S P	S P					✓
Outdoor storage, industrial																		P	P					✓

Paper or pulp manufacture																			S P					✓
Petroleum or inflammable liquids production, refining																			S P					✓
Radioactive materials: utilization, manufacture, processing or emission																			S P					✓
Railroad car classification yards or team truck yards																		S P	S P					✓
Recovered materials facility wholly within a building																		P	P					✓
Recovered materials processing wholly within a building																		P	P					✓
Recycling collection												P a		P a	P a	P a		S P	S P					
Recycling plant																		S P	S P					
Repair/manufacture of clocks, watches, toys, electrical appliances, electronic, light sheet metal products, equipment, machine tools, or machinery not requiring the use of press punch over 100 tons rated capacity or drop hammer																		P	P					
Research, experimental or testing laboratories																		P	P					
Rubber or plastics manufacture																		P	P					

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Salvage yard (Junkyard)																			S P	S P					✓
Solid waste: general disposal, landfill, private industry disposal, handling facility, thermal treatment technology or hazardous/toxic materials including radioactive materials																			S P	S P					✓
Smelting: copper, iron, zinc, or ore																			S P	S P					
Storage yard, except vehicle																			S P	P					✓
Storage yard for damaged or confiscated vehicles																			S P	S P					✓
Sugar refineries																				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	SP	SP	S P	S P	S P	SP					SP													✓

Electric transformer station, gas regulator station or telephone exchange																			P						
Radio or television broadcasting studio													P				P		P	P	P	P	P	P	
Radio or television broadcasting transmission facility													P				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	SA	SA	S A	S A	S A	SA																		✓
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	SP	SP				SP	S P						SP	SP	SP	SP	✓
New support structure or stealth design up to 199'													S A			S A	S A	SA	S A	S A					✓
COWs (non-emergency or event, no more than 120 days)	S A	SA	SA	S A	S A	S A	SA	SA	SA	SA	SA	SA	S A	SA	S A	S A	S A	SA	S A	S A	SA	SA	SA	SA	✓
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	P	✓
Attached wireless telecommunication facility								P	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	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; Ord. No. O2021-07-12, Exh. A, 8-9-2021; Ord. No. O2021-10-21, Exh. A, 11-8-2021; Ord. No. O2022-06-45, Exh. A, 7-11-2022; Ord. No. O2022-10-52, Exh. A, 11-14-2022)

ARTICLE V. SITE DESIGN AND BUILDING FORM STANDARDS

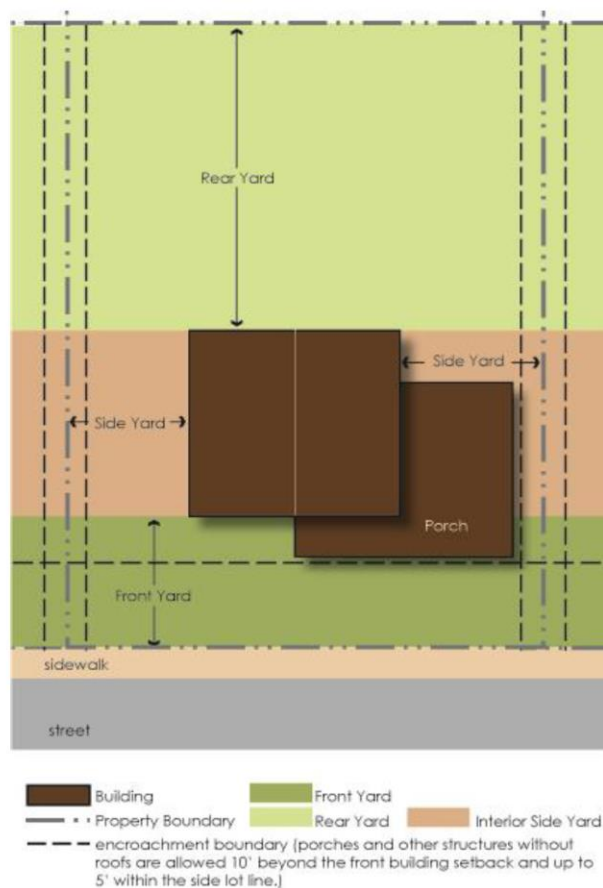
Sec. 46-1277. Minimum required yards and building setbacks.

(a) *Projections into yards.*

- (1) Every part of a required yard shall be open to the sky and unobstructed except for the ordinary projections of sills, belt courses, cornices, eaves, awnings, chimneys, buttresses and other ornamental and architectural features, provided that these features do not project more than three feet into any required yard and do not encroach on other lots or rights-of-way.
- (2) An open, unenclosed porch, balcony or hard-surfaced terrace, steps, stoops and similar fixtures of a building may project into a required front yard or rear yard for a distance not to exceed ten feet, and into a side yard to a point not closer than five feet from any lot line.
- (3) Enclosed porches may encroach for a distance of up to eight feet into the front or rear yard, but shall be no closer than five feet from the side property line.

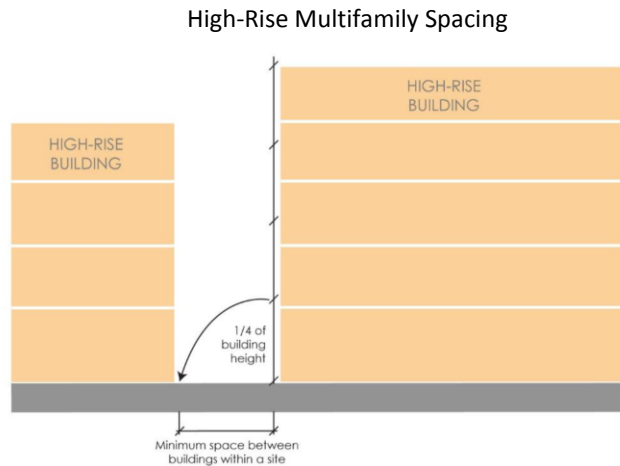
(b) *Spacing between buildings.* For single-family attached buildings and multifamily buildings:

Projections into Yards



- (1) Building shall be separated a distance as required by the International Codes Council (ICC).

- (2) Except when located in a MU-1, MU-2, MU-3, ~~or MU-4 or MU-5 zoning district and except when located in a town or regional center character area~~, the minimum spacing between high-rise multifamily buildings on a single site shall be a distance equal to one-fourth (0.25) of the height of the taller building.



- (c) *Setback averaging.* When a vacant lot located in a zoning district authorized for single-family detached dwellings is proposed for development, and is located where at least 60 percent of the other lots on the same block face are occupied by single-family detached dwellings, then setback averaging shall apply. Where setback averaging applies, the minimum front setback for the vacant lot to be developed shall be the average of the actual front setback of the existing dwelling adjacent to the vacant lot and on the same block face. Where application of setback averaging would require that the proposed dwelling be located closer to the street than the otherwise applicable minimum front setback for the zoning district where the vacant lot is located, then setback averaging shall not be applied. Where application of setback averaging would make it impossible for the proposed dwelling to comply with the applicable zoning district's rear yard setback requirement, then the proposed dwelling may be constructed closer to the street, up to the minimum front setback required in the subject zoning district, only to the extent necessary to satisfy the minimum rear yard setback requirement. If the actual front setback of the existing dwelling on the adjacent lot on the same block face as the vacant lot differ from each other by more than 30 feet, then the minimum front setback for the vacant lot shall be the actual front setback of the dwelling closest to the street.

(Ord. No. 2016-06-07, att. (5.2.1), 7-11-2016)



MEMO

To: Honorable Mayor and City Council Members
From: Ted Baggett, City Attorney
CC: Tami Hanlin, City Manager
Date: September 11, 2023
RE: Memo for Animal Control Ordinance

Description for on Agenda:
Memo for Animal Control Ordinance

Issue:
Should the City Council enact provisions to regulate certain aspects of pet ownership including leash requirements for dogs.

Recommendation:
If the City Council wishes to establish substantially similar rules regarding pet stewardship including leash requirements to those in place in unincorporated DeKalb County, it should adopt the ordinance.

Background:
The City of Tucker relies on DeKalb County for animal control services. Certain aspects of how the County operates its animal control facilities are appropriately only found in the County's code. Certain aspects of pet ownership such as requiring that dogs be on a leash, however, are unique to each local government's jurisdiction. Currently, the city does not have a leash requirement nor does it address issues such as pets roaming at large.

Summary:
Approval of this ordinance provides clarity that dogs need to be leashed and applies other typical regulations regarding pet ownership and responsibility are in effect within the city limits.

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF TUCKER, GEORGIA FOR THE PURPOSE OF AMENDING THE TUCKER CODE OF ORDINANCES TO CREATE CHAPTER 6 ANIMALS; TO PROVIDE DEFINITIONS; TO PROVIDE FOR CERTAIN REGULATIONS; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia Municipal Home Rule Act of 1965, O.C.G.A. § 36-35-1 et. seq., directly grants legislative power to this city to adopt clearly reasonable ordinances, resolutions, or regulations relating to its property, affairs, and local government for which no provision has been made by general law and which are not inconsistent with the Constitution or any charter provision applicable thereto; and

WHEREAS, O.C.G.A. § 4-8-20 et. seq., the Georgia Responsible Dog Ownership Act, provides that a city's jurisdiction for enforcement shall be within the city limits, county jurisdiction shall be in the unincorporated area, and that cities and counties may contract with each other for the provision of animal control services; and

WHEREAS, O.C.G.A. § 16-12-4 provides for criminal penalties for cruelty to animals and Title 4 of the O.C.G.A. provides for various provisions governing the treatment of animals and criminal penalties for violation thereof; and

WHEREAS, the City Council wishes to provide regulations governing the responsible care of animals not already provided for by state law so as to encourage responsible stewardship by pet owners and to foster mutual respect between humans and other species that inhabit the city; and

WHEREAS, a first and second read of this ordinance by the Mayor and Council took place on September 11, 2023 and October 10, 2023; and

WHEREAS, this ordinance is adopted to address the interests of public health, welfare, and safety of the citizens of the city;

NOW THEREFORE, the Mayor and City Council find that in the interests of the public health, safety, and welfare of the residents and visitors to this city, the enactment of this ordinance by reasonable means, as allowed under state law, and not unduly oppressive is necessary to protect the health, safety, and general welfare of the citizens of the city;

SECTION I.

The Code of Ordinances of the City of Tucker, Georgia is hereby amended to add Article I to Chapter 6, thereof, which shall read in words as follows:

ARTICLE I. – IN GENERAL.

Sec. 6-1. - Definitions.

For the purposes of this chapter, certain terms and words are hereby defined. Where words or terms are not herein defined, but are defined in section 1-2 or other applicable sections of this Code or state law, now and as they may be amended hereafter, those words shall have the meaning as defined therein. As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the meaning ascribed to them:

Animal means every living vertebrate except a human being.

Animal at large means any animal moving without physical restraint and not on its owner's property.

Animal service center means the facility designated by the city for the detention of animals and for so long as animal control services are provided to the city by DeKalb County, the facility so designated by the County.

Community cat means an unowned, free-roaming cat that has been marked by surgical ear-tip pursuant to the community cat program.

Community cat program means a comprehensive process whereby unowned free-roaming cats are captured humanely, transported to a veterinarian for evaluation, spay/neuter surgery, rabies vaccination and marking by surgical ear-tip, and returned to the area or location where the cat was captured.

Dog control officer means any person authorized by the city or by law to enforce the provisions of this chapter.

Electronic animal confinement system shall mean a commercially produced, functioning and professionally installed electronic fence which utilizes an invisible electrically generated perimeter, in which the animal within the perimeter wears an electronic collar that produces an electric shock when the animal approaches or exceeds the perimeter.

Euthanasia or *euthanized* refers to the legal act of putting an animal to death using humane methods, recommended by the American Veterinary Medical Association Panel on Euthanasia and approved by the Georgia Department of Agriculture, as defined by Georgia law in the Georgia Animal Protection Act, as may hereinafter be amended.

Fence means any structure of wire, wood, stone or other material, which is of sufficient height and strength to act as a barrier against passage of the animal it is intended to enclose. A fence must be sufficient to prevent the animal from being able to jump, dig, or escape from confinement.

Guard dog means a dog trained to attack persons or other animals independently or upon oral command; or a dog that, while not so trained, is reasonably expected to perform as a guardian of its owner and/or the property upon which the dog is located.

Hazardous animal means an animal that may be harmful to humans or other animals by virtue of its ability to produce poison or, due to its size and feeding habits, could prey on humans as a food source. Hazardous animals include, but are not limited to, pit vipers (genus *Crotalidae*), coral snakes (genus *Micrurus*), poisonous spiders, frogs, large reptiles, Nile monitors, caiman, alligators, crocodiles, and large constricting snakes greater than ten (10) feet in length.

Identification means any tag, tattoo, microchip, or other type of marking that can be used to locate an animal's owner.

Law enforcement agency means any division of the DeKalb County Police Department or other governmental agency with law enforcement powers operating within DeKalb County.

Official Certificate of Veterinarian Inspection Health Certificate ("OCVI Health Certificate") means a legible certificate issued by an accredited veterinarian either on an official form of the State of Georgia or an equivalent official form of the United States Department of Agriculture.

Open-air vehicle means the cargo area of any pickup truck that is not covered by a permanent attached utility cover or any convertible vehicle with its top down.

Owner means any natural person or any legal entity, including but not limited to a corporation, partnership, firm, or trust, owning, possessing, harboring, keeping, or having custody or control of an animal. In the case of an animal owned by a minor, the term "owner" includes the parents or person in loco parentis with custody of the minor. A cat may be deemed "unowned" if the cat is found on the property of a natural person or legal entity disclaiming ownership of the cat and no traceable form of identification is displayed on the cat.

Primary means first or highest in rank; principal.

Proper enclosure means any structure or device used to restrict an animal to a limited amount of space such as a fenced area, electronic animal confinement system, building, house, pen, or other device or structure out of which an animal cannot climb, dig, jump, or otherwise escape.

Qualified adoption facilitator, rescue group and animal shelter means an organization offering animals for adoption so long as the organization is licensed as a shelter by the State of Georgia; or if not incorporated in Georgia, is a non-profit organization under section 501(c)(3) of the Internal Revenue Code; and has the express mission/business function of facilitating the sterilization and adoption of homeless and unwanted animals. A copy of the state license or the Internal Revenue Service letter of non-profit designation shall be provided to the county upon request.

Secondary means of second rank; not primary.

Spay/neuter certificate means documentation that certifies that the animal listed therein has been sterilized as of the date of surgery.

Sterilized animal means an animal that has been surgically or chemically altered by a licensed veterinarian in order to render the animal incapable of reproduction.

Stray animal means any animal at large, whether lost by its owner or otherwise, that may be in or on the common areas of apartments, condominiums, trailer parks or other multi-residential premises, any single-family residential property, or any other property or public area without being controlled by a leash, that does not have an identification tag or microchip, and otherwise has no identifiable owner. A community cat shall not be classified as a stray animal, but a cat which has not become a part of the community cat program is a stray animal.

Tethered means an animal attached to a stationary object by a chain, cable or similar device commonly used for the size and type of animal involved. An animal is not considered tethered when the animal is attached to a stationary object, as long as the owner or custodian is physically within reach of the animal. Any tethering device used to tether an animal must be at least ten (10) feet in length.

Unsanitary conditions means an animal living space, shelter, or exercise area contaminated by health hazards, irritants, pollutants, items, or conditions that endanger or pose a risk to an animal's health.

Sec. 6-2. – General responsibilities of owners.

- (a) It shall be the duty of every owner of an animal to take all necessary steps and precautions to protect other people, property, and other animals from injury or damage resulting from such animal's behavior, including, but not limited to, chasing, biting, or otherwise jeopardizing the safety or welfare of the public, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.
- (b) If the owner of an animal is a minor, the parent or guardian of such minor shall be responsible to ensure full compliance with the requirements of this chapter.
- (c) It shall be the duty of every owner of an animal to immediately remove excrement deposited by the animal on any street or right-of-way. The provisions of this subsection shall not apply to any animal aiding the handicapped (e.g., guide dog) or to an animal used for law enforcement related activities.
- (d) Owners may not allow any domesticated or other animals within their control to make any vocalizations in violation of Section 28-161 of this Code.

Sec. 6-3. - Keeping animal under restraint while on owner's property.

- (a) It shall be the duty of every owner of an animal to ensure that the animal is kept under restraint, and that precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner.
- (b) It shall be the duty of every owner of an animal to ensure that the animal is securely and humanely enclosed within a proper enclosure as a means of primary restraint. Such enclosure must be secured at any time the animal is left unattended. When outside the proper enclosure but on the owner's property, it shall be the duty of every owner of an animal to ensure that the animal is humanely secured by a leash or lead and under the control of a responsible and competent person; or off leash but under the direct control of a responsible and competent person who is physically present with the animal, provided that such animal is obedient to that person's command.

- (c) Any animal that is housed outside of its owner's house shall be housed in a proper enclosure that complies with the provisions of this Code. The owner shall also ensure that the proper enclosure contains at least one hundred (100) square feet of open space.
- (d) Tethering of an animal is prohibited.
- (e) As a secondary means of restraint to a proper enclosure, an animal may be attached to a running cable line or trolley system providing that:
 - (1) A running cable line or trolley system is set inside a proper enclosure located in a back or side yard;
 - (2) Only one (1) animal may be attached to each running cable line or trolley system;
 - (3) No animal may be attached to a running cable line or trolley system for more than twelve (12) hours in a twenty-four-hour period;
 - (4) No animal may be attached to a running cable line or trolley system between the hours of 10:00 p.m. and 6:00 a.m.;
 - (5) Tethers and cables attaching the animal to the running cable line or trolley system must be made of a substance which cannot be chewed by the animal and shall not weigh more than five (5) percent of the body weight of the animal tethered;
 - (6) A running cable line or trolley system must have a swivel installed at each end and be attached to a stationary object that cannot be moved by the animal;
 - (7) The running cable line or trolley system must be at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level and shall be set back a minimum of ten (10) feet from all adjoining property boundaries;
 - (8) The length of the tether from the running cable line or trolley system to the animal's collar should allow access to the maximum available exercise area and allow the animal free access to food, water, and shelter;
 - (9) Be attached to a properly fitted harness or collar not used for the display of a current rabies tag and other identification; and with enough room between the collar and the dog's throat through which two (2) fingers may fit. Choke collars and pinch collars are prohibited for the purpose of tethering an animal to a running cable line or trolley system; and
 - (10) Be tethered at sufficient distance from any other objects to prohibit the tangling of the cable, from extending over an object or an edge that could result in injury of strangulation of the animal and be of sufficient distance from any fence so as to prohibit the animal access to the fence.
- (f) If an electronic animal confinement system is used to confine an animal, it shall:
 - (1) Provide a properly fitted and working signal device that will be worn by the animal to be enclosed.
 - (2) Contain a permanent and prominently displayed sign at the main point of ingress to the property. The sign shall be six (6) inches square, and shall read: "Caution—Electronic Animal Confinement System." Such sign shall be made of durable material, maintained in good condition, and shall not be located in the public right-of-way.

Sec. 6-4. - Duty to restrain while off owner's property.

It shall be the duty of any person to keep an animal under physical restraint and control through the use of a lead or leash no longer than six (6) feet at all times while the animal is off the real property limits of the owner. Such areas shall not include areas within city parks that are specifically designated and clearly marked as off leash areas.

Sec. 6-5. - Animals at large.

It shall be unlawful for the owner of an animal to allow it to run at large unattended on or about the streets, rights-of-way, and highways of the city; in any city, except for those areas within city parks that are specifically designated and clearly marked as off leash areas; unattended on or about the common property of any apartment complex or condominium community; or on the property of another person without permission of the owner of that property. This section shall not apply to dogs being used for hunting in accordance with state law, rules and regulations.

Sec. 6-6. - Transportation of animals in open air vehicles.

If transporting an animal in an open-air vehicle, the owner is responsible for securing the animal so as to prevent the animal from escaping out of the vehicle, getting tangled, or extending over the edge of the vehicle such that injury or strangulation of the animal could result while the vehicle is in motion.

Sec. 6-7. - Hazardous animals.

No person shall own, keep, harbor, house, or permit to be kept, harbored or housed, a hazardous animal within the city.

Sec. 6-8. - Guard dogs.

It shall be the duty of the owner of a guard dog to display in a prominent place on their premises, and at each entrance or exit to the area where such dog is confined, a sign which reads, in letters at least three-quarters (3/4) of an inch high, "Guard Dog," and lists the name and contact number of the owner of the dog in same size type. Such signs shall be eight and five-tenths (8.5) by eleven (11) inches. Such sign shall be made of durable material, maintained in good condition, and shall not be located in the public right-of-way.

Sec. 6-9. - Rabies tag; rabies vaccination and animal registration.

- (a) The requirements of this section only apply to owners of dogs, cats or ferrets, provided the dog, cat or ferret is three (3) months old or older.
- (b) DeKalb County shall promulgate and administer the process for verification of rabies vaccinations and registration of dogs, cats or ferrets set forth in this section and may utilize county employees or third parties to handle any or all parts of this process. DeKalb County shall determine what information is needed from veterinarians and owners in order to verify rabies vaccinations and complete the required registration process.
- (c) It shall be the duty of any owner of any dog, cat, or ferret to obtain a current rabies vaccination from a licensed veterinarian periodically as ordered by the veterinarian.
- (d) After vaccination, it shall be the duty of any owner of any dog, cat or ferret to register each inoculated animal with DeKalb County or its designee and pay the associated registration fee.
- (e) Veterinarians shall verify that an animal has received a rabies vaccination and shall advise the county or its designee of said vaccination in a manner and form specified by DeKalb County.
- (f) Each veterinarian shall obtain registration information from the owner of each inoculated animal and shall forward such information and verification of the rabies vaccination to the

DeKalb County or its designee within thirty (30) days of inoculation of every dog, cat, or ferret.

- (g) Upon receipt of verification of rabies vaccination and the required registration information, the county or its designee shall contact the owner of the inoculated dog, cat, or ferret and shall require the owner to register the animal with DeKalb County. Upon registration of the dog, cat or ferret and payment of the registration fee, DeKalb County or its designee shall forward the appropriate rabies inoculation tag for that animal to the owner.
- (h) Registration also can be handled through a licensed veterinarian's office at the time of inoculation in the manner provided in this section. If a veterinarian agrees to handle registration, rabies inoculation tags shall be provided to licensed veterinarians. At the time of inoculation, veterinarians shall request that owners simultaneously pay the County's registration fee, which if collected shall be forwarded with the registration form and rabies certificate to DeKalb County or its designee by the veterinarian. For every registration fee collected by the veterinarian and remitted to the County or its designee, the veterinarian may keep an administrative processing fee in an amount to be established by DeKalb County.
- (i) If an owner refuses to pay the registration fee to the veterinarian, the veterinarian shall notify DeKalb County or its designee of such refusal when it forwards the rabies certificate and the completed registration form to the county or its designee. Thereafter, the owner shall pay the registration fee directly to DeKalb County or its designee.
- (j) It shall be the duty of any owner of a dog, cat, or ferret to provide a collar or harness for such animal. The collar or harness, together with the rabies inoculation tag, shall be worn by the animal at all times.

Sec. 6-10. – Transfer of Ownership.

- (a) It shall be unlawful for any person to abandon, sell, trade, swap or give away animals within the real property limits of buildings or surrounding grounds belonging to the city.
- (b) It shall be unlawful for any person to give away or sell any animal on any public roadway or right of way in the city.

Sec. 6-11. - Transient animals.

A dog, cat, or ferret shipped or transported through the city or entering the city for less than fifteen (15) days shall be exempt from licensing fees and collar and tag sections of this chapter. However, all other provisions of this chapter are applicable to such transient animals. In addition, proof of a current rabies vaccination or health certificate for such animal must be available for inspection by law enforcement at any time the animal is within the boundaries of the city.

Sec. 6-12. - OCVI health certificate required.

- (a) The owner of any cat or dog, sterilized or unsterilized, that is sold, or exchanged for valuable consideration is required to give the new owner a current, valid OCVI health certificate at the time of exchange or sale. The OCVI health certificate must be available for review by potential new owners at the time any dog or cat is offered for sale or exchange, for valuable consideration. A current OCVI health certificate must be presented to any animal control officer upon request for review.
- (b) Qualified adoption facilitators, rescue groups, and animal shelters are exempt from the requirements of this section.

- (c) Each animal found to be without an OCVI health certificate shall be considered a separate violation of this section by the owner of the animal. Animals shall not be subject to impoundment for violations of this section.

Sec. 6-13. – Designation of Dog Control Officers.

- (a) For the purposes of the Georgia Responsible Dog Ownership Act, O.G.C.A. § 4-8-20 et. seq., law enforcement officers of the DeKalb County Police Department are hereby designated as dog control officers.
- (b) The dog control officers designated by this section shall be responsible for the proper administration and enforcement of all duties imposed by the state law referenced in this section and the provisions of this chapter.

Sec. 6-14. - Enforcement generally.

- (a) Dog control officers may respond to anonymous complaints of violations of this chapter. If the owner or custodian of an animal is unknown or not present, and such animal is upon the public streets, alleys, sidewalks, school grounds or other public places or premises, or is upon another person's property without permission or absent proper restraint, they shall immediately impound the animal in a facility designated for the detention of animals.
- (b) Any stray cat without any traceable form of identification that is impounded or brought to the animal service center and deemed eligible may be transferred immediately to the community cat program.
- (c) Any community cat or unowned, free-roaming cat that is not healthy in the opinion of qualified county employees or designees shall be impounded. No healthy community cat shall be impounded unless it:
 - (1) Damages the personal or private property of a person or legal entity that seeks its impoundment; or
 - (2) Creates unsanitary conditions, offensive or objectionable odors.
- (d) An animal may be euthanized when, in the judgment of a dog control officer, it is determined that:
 - (1) At the scene of an accident an animal is injured beyond medical help, and no traceable form of identification is displayed on the animal;
 - (2) An animal presented to the animal service center without traceable form of identification is injured beyond medical help, or exhibits obvious signs of infectious disease or parasite infestation that would impose a health risk to animals housed in the animal service center; and
 - (3) A veterinarian has determined from all the circumstances that it would be inhumane not to euthanize a particular animal.

Sec. 6-15. – Penalties.

Dog control officers shall direct violations of state law to the appropriate court of competent jurisdiction. Violations of this chapter, which are not violations of state law, shall be directed to the Municipal Court of the city. Violations of this chapter are punishable in accordance with Section 1-7 of this Code.

SECTION II.

This ordinance shall become effective immediately upon adoption.

SO ORDAINED, this 10th day of October 2023.

Approved:

Frank Auman, Mayor
City of Tucker

ATTEST:

Bonnie Warne, City Clerk

[SEAL]



City of Tucker

MEMO

To: Honorable Mayor and City Council Members
From: Ken Hildebrandt, City Engineer
CC: Tami Hanlin, City Manager
Date: September 11, 2023
RE: Memo for Bid Award – Brockett Road Sidewalk Construction

Description for on the Agenda:

Bid Award – Brockett Road Sidewalk Construction

Issue:

Bid award for ITB #2023-025 for the construction of sidewalk on the west side of Brockett Road from Lawrenceville Highway to Grantland Drive.

Recommendation:

Staff recommends awarding the bid to the low bidder, Construction 57, in the amount of \$131,550.

Background:

Council has identified the gap along the west side of Brockett Road from Lawrenceville Highway to Grantland Drive as a priority for sidewalk installation. The project will consist of a new 5' wide ADA compliant sidewalk with a 2' grass strip. Only one temporary construction easement was required for this project.

Summary:

Six bids were received.

<u>COMPANY</u>	<u>BID AMOUNT</u>
1. Back Sol Construction	\$ 135,945.00
2. Construction 57	\$ 131,550.00
3. Hasbun Construction	\$ 157,063.84
4. Lagniappe Development	\$ 196,637.14
5. DAF Concrete	\$ 248,950.00
6. Pathway Construction	\$ 157,727.58

Financial Impact:

\$131,550 will be funded from the SPLOST Sidewalk account SP2404, GL# 320.4224-54.14000.

**A RESOLUTION TO APPROVE A CONTRACT FOR THE BROCKETT ROAD
SIDEWALK CONSTRUCTION PROJECT**

WHEREAS, the Mayor and Council of the City of Tucker are authorized to approve contracts in furtherance of providing governmental services; and

WHEREAS, the City of Tucker has complied with the provisions of Title 32 of the O.C.G.A. by causing an invitation to bid to be published and bids received; and

WHEREAS, the City has determined through careful review that the lowest reliable bidder in response to said invitation is Construction 57 Inc; and

WHEREAS, the Mayor and Council wish to see the streets and roads maintained in a state of good repair and the construction of sidewalks.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Tucker while at a regular meeting on September 11, 2023 that by passage of this Resolution contract C2023-025-PO24-568 is hereby approved by the governing authority.

APPROVED:

Frank Auman, Mayor

ATTEST:

Bonnie Warne, City Clerk

(seal)



CONTRACT AGREEMENT

ITB 2023-025 Brockett Road Sidewalk Project (Phase II)

This Agreement made and entered into this ___ day of ____ in the year 202_; by and between the City of Tucker, Georgia, having its principal place of business at 1975 Lakeside Pkwy Suite 350, Tucker, Georgia 30084 and CONSTRUCTION 57 INC. ("Contractor"), located at 809 PARK NORTH BOULEVARD, CLARKSTON, GA 30021.

WHEREAS, the City of Tucker is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Tucker; and

WHEREAS, the City of Tucker has caused **Invitation to Bid #2023-025** to be issued soliciting bids from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with these specifications. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a bid in response to **ITB #2023-025**; and

WHEREAS, the Contractor's bid was deemed by the City to be the lowest reliable bid per the scope of services; and

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

That the Contractor has agreed and by these present does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "**Exhibit A**" (**Scope of Services**) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A - SCOPE OF SERVICE

EXHIBIT B - COST PROPOSAL

EXHIBIT C- W-9

EXHIBIT D - CERTIFICATE OF INSURANCE

EXHIBIT E – E-VERIFY AFFIDAVIT
EXHIBIT F- CONTACT INFORMATION
EXHIBIT G - ADDENDUMS
EXHIBIT I – PERFORMANCE AND PAYMENT BONDS (if applicable)

2.0 Key Personnel

The City of Tucker enters into this Agreement having relied upon Contractor's providing the services of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

- 3.1. Pricing.** The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the bid and final pricing documents as incorporated into the terms of the Contract. All prices are firm and fixed and are not subject to variation. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as **Exhibit "B" (Cost Proposal)** and incorporated herein, shall be firm throughout the term of this Contract. The maximum costs owed by the City, unless otherwise agreed to in writing, shall not exceed **\$131,550.00**.

Billings. If applicable, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

Invoices are to be emailed to invoice@tuckerga.gov and must reference the PO# (see top of contract). A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted **"Exhibit C" (W-9)**.

- 3.2. Delay of Payment Due to Contractor's Failure.** If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

- 3.3.** Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

- 4.1.** Contract Term. The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution. The term of this contract shall align with the City's fiscal year from July 1 to June 30 and shall be from commencement of services and until all services are rendered. All invoices postmarked by the City during said term shall be filled at the contract price.
- 4.2.** Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay.

This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

- 5.1.** The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Tucker. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Tucker Representative within ten (10) day after issuance.
- 5.2.** Inasmuch as the City of Tucker and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Tucker without

the express knowledge and prior written consent of the City.

6.0 Indemnification

- 6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.
- 6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City of Tucker Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have thirty (30) days to remedy the situation.

If requirements are not remedied City of Tucker has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- i. Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- ii. Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its subcontractors, including the amounts and other details thereof. Neither Final Acceptance nor final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
- iii. Acceptance of final payment by Contractor, or any subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance

with the procedures, including the time limits, set forth in section 8.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Insurance

- 10.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.
- 10.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. **"Exhibit D" (Certificate of Insurance).**

11.0 Termination

- 11.1. Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
 - (ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or

safety to be jeopardized;

- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification which is materially false, deceptive, incorrect or incomplete.

11.2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:

- (i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- (ii) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- (iii) The Contractor fails to make substantial and timely progress toward performance of the contract;
- (iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- (v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- (vi) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- (vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

11.3. Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- (i) Immediately terminate the Contract without additional written notice; and/or
- (ii) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- (iii) Enforce the terms and conditions of the Contract and seek any legal or equitable

remedies.

- 11.4. Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Vendor for work performed to date in accordance with Section 7 herein. The City shall have no further liability to Vendor for such termination.

City shall pay Contractor for work performed to date in accordance with Section herein. The City shall have no further liability to Contractor for such termination.

- 11.5. Payment Limitation in the event of Termination. In the event termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

- 11.6. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- (ii) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- (iii) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- (iv) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- (v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

12.0 Claims and Dispute Resolution

12.1 Claims Procedure

- (i) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City- directed work as provided in section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- (ii) Contractor shall file its Claim within the earlier of: 120 Days from City's final instructions in accordance with section 8; or the date of Final Acceptance,
- (iii) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect) impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- (iv) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- (v) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- (vi) After Contractor has submitted a fully documented Claim, the City shall respond, in writing, to Contractor with a decision within sixty (60) days of the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

12.2 Arbitration

- i) If Contractor disagrees with City's decision rendered in accordance with section 12. If, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim, failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its subcontractors,
- ii) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry

Arbitration Rules of AAA as follows:

1. Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
 2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
- All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of DeKalb County.
 - If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
 - Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within DeKalb County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
 - All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or subcontractor of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

13.0 Confidential Information

- 13.1. Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- (i) The Contractor shall provide to the City a written description of the Contractor's

policies and procedures to safeguard confidential information;

- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

- 13.2. No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.
- 13.3. Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.
- 13.4. Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.
- 13.5. Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

14.0 Inclusion of Documents

Contractor's documents submitted in response to any RFP or other solicitation from the City, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the RFP or other city solicitation, as amended, and the Contractor's submittal, the language in the former shall govern.

- 14.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

15.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

15.1 Federal Requirements.

15.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Tucker contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

1. Equal Employment Opportunity - The Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 1 1246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
2. Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded;
3. Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - a. Any patent that shall result under this contract; and
 - b. Any patent rights to which the Contractor purchases ownership with grant support
4. Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - a. The copyright in any work developed under this contract; and
 - b. Any rights of copyright to which the Contractor purchases ownership with grant support.
5. Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States,

or any of their duly authorized representatives; and

6. Retention of all required records for three years after the City makes final payment and all other pending matters are closed.

15.2 Georgia Security and Immigration Compliance Act

- a. The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "**Exhibit E**" (**E-Verify Form**) and incorporated herein by reference and made a part of this contract.
- b. The Contractor further certifies that any subcontractor employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c. Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

16.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Tucker's prior written consent.

17.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

18.0 Drug-Free and Smoke-Free Workplace

- 18.1 A drug-free and smoke-free workplace will be provided for the Contractor's employees during the performance of this Agreement; and
- 18.2 The Contractor will secure from any sub-Contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.
- 18.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

18.3.1 The Contractor has made false certification herein; or

18.3.2 The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

19.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, Invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

20.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Tucker all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Tucker pursuant hereto.

21.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a quarterly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

22.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

23.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

24.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable:)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF TUCKER:

CONTRACTOR: CONSTRUCTION 57 INC.

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

Attest:

Bonnie Warne, City Clerk

(Seal)

Approved as to form:

Ted Baggett, City Attorney

Exhibit A:
Project Specifications / Scope of Work
ITB #2023-025 Brockett Road (PHASE II) Sidewalk Project

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Tucker (City), requests that interested parties submit formal electronic bids for the construction of the Brockett Road (Phase II) Sidewalk Project.

Brockett Road is to be improved from Lawrenceville Highway to Grantland Drive (approx. 0.35miles). Improvements include the construction of sidewalk, minor repairs to curb and gutter, tree removal, and the reconfiguration of multiple driveway aprons. The complete scope, plans, and other relevant information for ITB 2023-025 Brockett Road (Phase II) Sidewalk Project is available for download or review on the City of Tucker website:

https://www.tuckerga.gov/government/rfp_rfq/index.php or request via email to procurement@tuckerga.gov .

GENERAL CONDITIONS

The contractor shall execute the work according to and meet the requirements of the following:

- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work, plans, and specifications;
- City of Tucker ordinances and regulations;
- OSHA standards and guidelines
- MUTCD Guidelines
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. This is a unit price bid. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including any to be taken from the finished work have been completed and evaluated. Standard Specification 106 – Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. Bidder shall provide at least three examples and reference information (including company name, project name, contact name, phone number and email address) demonstrating experience successfully completing projects of similar scope.

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BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

10% retainage will be withheld from the total amount due the contractor until Final Acceptance of work is issued by the City. The City will inspect the work as it progresses.

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed within 120 days of Notice to Proceed. The contractor will be considered substantially complete when all work required by this contract has been completed (excluding final punch list work).

Upon Notice of Award, the Contractor will be required to submit a Progress Schedule.

Normal workday for this project shall be 7:00AM to 7:00PM and the normal workweek shall be Monday through Friday. Lane closures on Brockett Road are limited to the hours of 9:00AM to 4:00PM. The City will consider extended workdays or workweeks upon written request by the Contractor on a case-by-case basis. No work will be allowed on national holidays (i.e. Memorial Day, July 4th, Labor Day, etc.). Hours of operation for subdivision streets shall be 8:00AM to 7:00PM.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon substantial completion of the work. The contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the contractor at contractor's expense prior to issuance of Final Acceptance.

The contractor shall be assessed liquidated damages in the amount of \$200.00 per calendar day for any contract work (excluding punch list items) that is not completed within 120 days of Notice to Proceed. Liquidated damages shall be deducted from the 10% retainage held by the City. The contractor will also be assessed liquidated damages in the amount of \$200.00 per calendar day for not completing any required Punch List work within 45 calendar days.

The contractor shall provide all material, labor, and equipment necessary to perform the work without delay until final completion.

The contractor shall provide a project progress schedule prior to or at the preconstruction meeting. This schedule should accurately represent the intended work and cannot be vague or broad such as listing every road in the contract.

The contractor shall submit a two-week advance schedule every **Friday by 2:00p.m.**, detailing scheduled activities for the following week.

PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

BONDING AND INSURANCE REQUIREMENTS

No bid may be withdrawn for a period of forty-five (45) days after the time has been called on the

City of Tucker Invitation to Bid
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BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

date of opening.

All bids must be accompanied by a Bid Bond of a reputable bonding company authorized to do business in the State of Georgia, in an amount equal to at least five percent (5%) of the total amount of the bid.

Upon Notice of Award, the successful contractor shall submit a Performance Bond payable to the City of Tucker in the amount of 100% of the total contract price. The successful contractor shall also submit a Payment Bond in the amount of 100% pursuant to O.C.G.A. § 36- 91-70 and 90.

Upon Notice of Award, the successful contractor shall procure and maintain a General Liability Insurance Policy with minimum limits of \$1,000,000 per person and \$1,000,000 per occurrence.

MATERIALS

The City will provide a Construction Engineering & Inspections (CEI) Consultant to inspect the work and provide materials testing. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications. The contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing lane closure and construction signage per MUTCD guidelines. Payment for this will be included in the item for Traffic Control. Properties requiring driveway closures be notified no less than one week prior to said closures.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

All information given in this ITB concerning quantities, scope of work, existing conditions, etc. is for information purposes only. It is the Contractor's responsibility to inspect the project site to verify existing conditions and quantities prior to submitting their bid. This is a Unit Price bid and no payment will be made for additional work without prior written approval from the City. At no time will Contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

The City reserves the right to add, modify, or delete quantities. The City may also elect to add or eliminate certain work locations at its discretion. The Contractor will not be entitled to any adjustment of unit prices or any other form of additional compensation because of adjustments made to quantities and/or work locations. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work" and included in the bid prices for items on the Bid Schedule.

TRAFFIC CONTROL

The contractor shall, at all times, conduct his/her work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

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Traffic whose origin and destination is within the limits of the project shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

Two-way traffic shall be maintained at all times, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the MUTCD and DOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the contractor's expense, except as otherwise called for in the plans. At no time will contractor remove regulatory signing which may cause a hazard to the public.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The contractor shall correct all disturbed areas before retainage will be released.

ADJUSTING UTILITY STRUCTURES TO GRADE

All sewer manholes and water valves are to be adjusted by the DeKalb County Department of Watershed Management. The contractor shall coordinate required utility adjustments with the CEI Consultant.

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time. Asphalt and other debris shall be removed from gutters, sidewalks, yards, driveways, etc. Failure to perform clean-up activities may result in suspension of the work.

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SAFETY

Beginning with mobilization and ending with acceptance of work, the contractor shall be responsible for providing a clean and safe work environment at the project site. The contractor shall comply with all OSHA regulations as they pertain to this project.

SPECIAL CONDITIONS

1. Remove and properly dispose of all demolished asphalt and concrete.
2. All disturbed or damaged grassing and landscaping on backside of sidewalk is to match surrounding conditions. Cost to be included in the "GRASSING COMPLETE" bid item.
3. All grassing strips between back of curb and front of sidewalk shall be Sod.
4. All cost for tree removal and demo of existing pavement/curb & gutter for the project is to be included in the "GRADING COMPLETE" quantity for the project.
5. For all utilities that can't be adjusted by the contractor, coordination shall be conducted with the proper utility company.
6. Contact the City Superintendent prior to tree removal.
7. For all driveway aprons that require modification, ensure there is proper drainage toward the curb & gutter line.

SUBCONTRACTOR

Any contractor utilizing a subcontractor must submit a proposed list of subcontractors and a Subcontractor Affidavit (Exhibit E-2).

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BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Exhibit B: Cost Proposal

Brockett Road (Phase II) Sidewalk - City of Tucker, GA				
Estimation of Probable Cost Report				
7/31/2023				
ITEM CODE	ITEM DESCRIPTION	QTY	UNITS	UNIT PRICE
	TRAFFIC CONTROL	1	LS	5000 \$5000
	GRADING COMPLETE (INCLUDES DEMO OF EXISTING PAVEMENT/CURB & GUTTER, AND TREE REMOVAL)	1	LS	65,000 \$65000
	DRIVEWAY CONCRETE, 6 IN TK	100	SY	65 \$6500
	CONC SIDEWALK, 4 IN	930	SY	39 \$36270
	HEADER CURB, 6 IN	30	LF	15 \$450.00
	CONC CURB AND GUTTER, 6"X24" TP2	30	LF	18 \$540
	SOD	330	SY	12 \$3960
	DETECTABLE WARNING SURFACE	14	EA	220 \$3080
	GRASSING COMPLETE (MATCH EXISTING CONDITIONS)	1	LS	1500 \$1500
	MAILBOX RELOCATION	5	EA	250 \$1250
	SIGN RELOCATION	5	EA	100 \$500
	ADJUST FENCE TO BACK OF SIDEWALK	30	LF	60 \$1800
	ADJUST UTILITIES TO GRADE	1	EA	700 \$700
	EROSION CONTROL INSTALLATION & MAINTENANCE	1	LS	5000 \$5000
	TOTAL			\$131,550.00

Company Name: CONSTRUCTION 57 INCORPORATED

Address: 809 PARK NORTH BOULEVARD CLARKSTON GA. 30021

Contact Person: OLUSEGUN OSHO

Phone Number: 404 514 8901

Email Address: Wale.Osho@gmail.com

Signature: 

*In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail, and the total price will be corrected.

EXHIBIT C

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. CONSTRUCTION 57 INCORPORATED	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ►	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) See instructions. 809 PARK NORTH BOULEVARD	Requester's name and address (optional)
6 City, state, and ZIP code CLARKSON GA 30021	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.


Social security number	
or	
Employer identification number	
27	2537065

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here Signature of U.S. person ►  Date ► **08/31/2023**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



EXHIBIT D-1 CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RCC&Associates Inc 5226 N Henry Blvd Stockbridge GA 30281		CONTACT NAME: Maria De Jesus PHONE (A/C, No, Ext): 678-565-1073 E-MAIL ADDRESS: mramirez@myrccagency.com FAX (A/C, No): 8664106445	
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn GA 30047		INSURER(S) AFFORDING COVERAGE INSURER A: EVANSTON INSURANCE COMP INSURER B: National Specialty Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 35378 22608	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	3AA665370	04/18/2023	04/18/2024	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000						
	MED EXP (Any one person) \$ 5,000						
	PERSONAL & ADV INJURY \$ 1,000,000						
GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:				GENERAL AGGREGATE \$ 2,000,000			
				PRODUCTS - COMP/OP AGG \$ 2,000,000			
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	X	X	EZXS3114194	04/28/2023	04/28/2024	COMBINED SINGLE LIMIT (Ea accident) \$
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
DED RETENTION \$							\$
WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y / N <input type="checkbox"/> N / A					PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

The City of Tucker Ga 1975 Lakeside Parkway Suite 350 Tucker Ga. 30084.	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Maria Ramirez
---	--

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Next First Insurance Agency, Inc. PO Box 60787 Palo Alto, CA 94306	CONTACT NAME: PHONE (A/C No Ext): (855) 222-5919 E-MAIL: support@nextinsurance.com ADDRESS:		FAX (A/C No):
	INSURER(S) AFFORDING COVERAGE INSURER A: National Specialty Insurance Company		NAIC # 22608
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn, GA 30047	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 359739604

REVISION NUMBER: .

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMSMADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A NXTH7FUFQV-01-WC	09/20/2022	09/20/2023	X PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$1,000,000.00 E.L. DISEASE - EA EMPLOYEE \$1,000,000.00 E.L. DISEASE - POLICY LIMIT \$1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Insurance.

CERTIFICATE HOLDER

City of Tucker Ga
 1975 Lakeside Pkwy Ste 350
 Tucker, GA 30084

LIVE CERTIFICATE



Click or scan to view

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



EXHIBIT D-3

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER ABT INSURANCE SERVICES INC 6695 Peachtree Industrial Blvd Suite 110 Atlanta GA 30360		CONTACT NAME: Maday Hernandez PHONE (A/C. No. Ext): (770)441-0000 E-MAIL ADDRESS: csr@abtinsurance.com FAX (A/C. No.): (770)441-3973	
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn GA 30047		INSURER(S) AFFORDING COVERAGE INSURER A : Progressive Mountain Ins Co INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
		NAIC # 35190	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			03013882	12/18/2022	12/18/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input checked="" type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

GA OPERATIONS

CERTIFICATE HOLDER

CANCELLATION

City of Tucker Ga 1975 Lakeside Parkway Suite 350 Tucker GA 30084	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

Fax: Email:

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ACORD 25 (2016/03)

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GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	CONSTRUCTION 57 INCORPORATED
Solicitation/Bid number or Project Description:	ITB#2023-025 BROCKETT ROAD PHASE II SIDEWALK PROJECT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

372698
Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

11-16-10
Date of Authorization

CONSTRUCTION 57 INCORPORATED
Name of Contractor

I hereby declare under penalty of perjury that the foregoing is true and correct

OLUSEGUN OSHO
Printed Name (of Authorized Officer or Agent of Contractor)

PRESIDENT
Title (of Authorized Officer or Agent of Contractor)

[Signature]
Signature (of Authorized Officer or Agent)

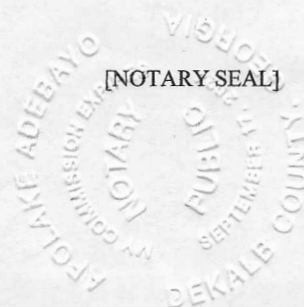
08/31/2023
Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

31ST DAY OF AUGUST, 2023

[Signature]
Notary Public

My Commission Expires: 09/17/2024





GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	CONSTRUCTION 57 INCORPORATED
Subcontractor's (Your) Name	N/A
Solicitation/Bid number or Project Description:	ITB#2023-025 BROCKETT ROAD PHASE II SIDEWALK PROJECT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

N/A
Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

N/A
Date of Authorization

N/A
Name of Subcontractor

I hereby declare under penalty of perjury that the foregoing is true and correct

N/A
Printed Name (of Authorized Officer or Agent of Contractor)

N/A
Title (of Authorized Officer or Agent of Contractor)

N/A
Signature (of Authorized Officer or Agent)

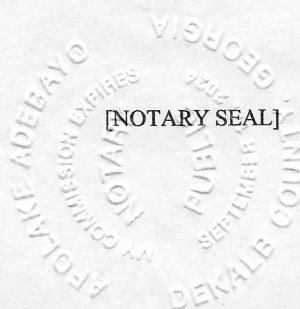
N/A
Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

31ST DAY OF AUGUST, 2023

[Signature]
Notary Public

My Commission Expires: 09/17/2024



Contact Information Form

Please fill out this sheet with the appropriate contact information for your company.

Full Legal Name of Company: CONSTRUCTION 57 INCORPORATED

Contractor Information:

Primary Contact Person: OLUSEGUN OSHO

Title: PRESIDENT Telephone Number: 404 514 8901

Secondary Contact Person: FUNMILAYO OSHO

Title: SECRETARY/CFO Telephone Number: 678 481 0203

Address: 809 PARK NORTH BOULEVARD

City / State / Zip: CLARKSTON GA. 30021

Mailing Address (If different than above): SAME

City / State / Zip: SAME

E-mail Address: wale.osho@gmail.com

Federal Employee ID Number (FEIN): 27-2537065

CITY OF TUCKER

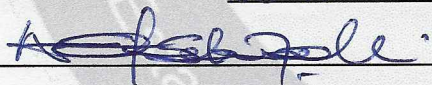
ACKNOWLEDGE RECEIPT OF ADDENDUM #1 FORM

ITB #2025-025

BROCKETT ROAD SIDEWALK PROJECT – PHASE II

Upon receipt, please print and add to your proposal.

I hereby acknowledge receipt of the supplement pertaining to the
above referenced bid.

COMPANY NAME: CONSTRUCTION 57 INCORPORATED
CONTACT PERSON: OLUSEGUN OSHO
ADDRESS: 809 PARK NORTH BOULEVARD
CITY: CLARKSTON STATE: GA ZIP: 30021
PHONE: 404 514 8901 FAX: 770 277 1425
EMAIL ADDRESS: wale.oshos@gmail.com
 08/31/2023
SIGNATURE DATE

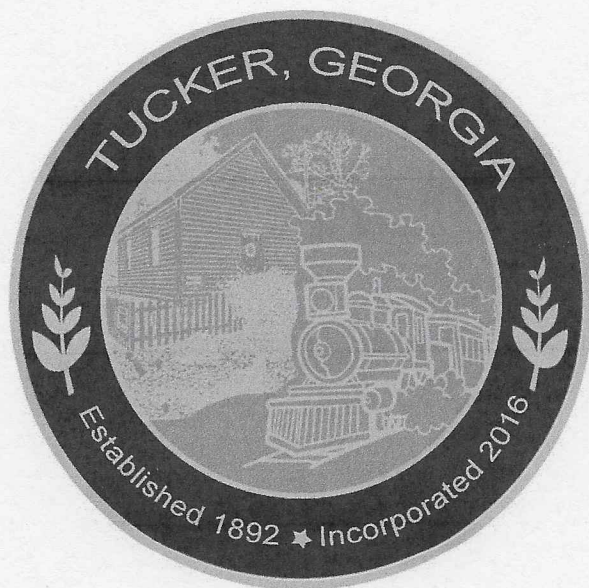
ITB #2025-025
ADDENDUM #1

	QUESTION	ANSWER
1	Confirm the erosion control items that should be included in the Lump Sum.	Silt fence and any other temporary measures needed to ensure silt and other disturbed material does not escape into the roadway.
2	Confirm the location of the 30lf of curb & gutter in the project.	The 30LF of curb and gutter is located on page C-003 in the radius of the highlighted curb cut. The 30LF header curb, 6in. quantity shall be used as a retainage structure on the backside of sidewalk for locations that cannot achieve a 3:1 slope, or as identified by City CEI.
3	Verify the quantities for the Driveway Concrete, 6in item.	Driveway concrete, 6in. quantity is primarily for the curb cut on page C-003 to ensure that proper drainage can be attained. Additional quantity may be used for repairs on additional driveways as identified by City CEI.
4	Confirm the location of the fence to be adjusted.	The fence to be adjusted is located on page C-001, at the curb cut for Shery's Produce on the corner lot. The fence is to be adjusted and aligned along the backside of the new sidewalk.
5	Is it necessary for us to possess pre-qualification certification by GDOT as either a prime contractor or subcontractor?	We did not require GDOT pre-qualification, however, experience with similar projects and references will be a consideration.

City of Tucker

Invitation to Bid
ITB # 2023-025

BROCKETT ROAD (PHASE II) SIDEWALK PROJECT



BID MANUAL

City of Tucker
1975 Lakeside Parkway, Suite 350
Tucker, Georgia 30084

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

INVITATION: The City of Tucker, Georgia requests that interested parties submit proposals for the Brockett Road (Phase II) Sidewalk Project. Proposals will be accepted until the date and time listed below and will be awarded to the lowest reliable bidder. Addenda and updates to this bid manual will be posted on the City of Tucker website <http://tuckerga.gov> or may be requested by email procurement@tuckerga.gov.

BID ACTIVITY SCHEDULE	
Bid Issued	August 3, 2023
Pre-Bid Conference	N/A
Deadline for Questions	August 15, 2023, at 5:00 p.m.
Responses to Questions Posted (Addenda)	August 17, 2023
Bid Deadline	August 31, 2023, at 1:00 p.m.
Award at Council Meeting	September 11, 2023 (tentative)
Completion from Notice to Proceed	120 days

SCOPE OF WORK: Refer to Exhibit A.

QUESTIONS: Submit all questions in writing to procurement@tuckerga.gov Reference Bid #2023-025

PRE-BID CONFERENCE: N/A

ADDENDA: Responses to the questions received will be by addenda and will be posted on the City website www.tuckerga.gov. The signed acknowledgement issued with each addendum must be submitted with the proposal. It is the vendors responsibility to verify if any addenda were created.

SUBMITTAL REQUIREMENTS: Vendor shall submit ITB Response electronically to procurement@tuckerga.gov **no later than August 31, 2023, at 1:00 p.m.** with the subject line ITB #2023-025. The email must contain the vendor contact information.

BID TABULATON: Preliminary Bid results will be posted on the City's website, <http://tuckerga.gov>, following the opening of bids.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Your response must be received by the date and time specified. Published addenda will show any schedule updates. Late receipt of RFPs will not be considered regardless of postmark/carrier or email issues. Proposals received after the opening time will be filed unopened. The City of Tucker reserves the right to reject any and all proposals or any part thereof, to waive any formalities or informalities, to make an award, and to re-advertise in the best interest of the City. No proposals will be received orally/phone.

The city reserves the right to negotiate pricing and may, in its discretion, award a contract to the lowest reliable bidder submitting the proposal.

BID DOCUMENT SUBMITTAL REQUIREMENTS:

1. Unit Price Bid Proposal Form (Exhibit B)
2. W-9 Form
3. Certificate of Insurance
4. Contractor Affidavit
5. Subcontractor Affidavit
6. Proposed List of Subcontractors
7. Bid Bond Form
8. Related Experience and References
9. Acknowledgement of Addendum issued with each Addendum.

Exhibit A:
Project Specifications / Scope of Work
ITB #2023-025 Brockett Road (PHASE II) Sidewalk Project

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Tucker (City), requests that interested parties submit formal electronic bids for the construction of the Brockett Road (Phase II) Sidewalk Project.

Brockett Road is to be improved from Lawrenceville Highway to Grantland Drive (approx. 0.35miles). Improvements include the construction of sidewalk, minor repairs to curb and gutter, tree removal, and the reconfiguration of multiple driveway aprons. The complete scope, plans, and other relevant information for ITB 2023-025 Brockett Road (Phase II) Sidewalk Project is available for download or review on the City of Tucker website:

https://www.tuckerga.gov/government/rfp_rfq/index.php or request via email to procurement@tuckerga.gov .

GENERAL CONDITIONS

The contractor shall execute the work according to and meet the requirements of the following:

- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work, plans, and specifications;
- City of Tucker ordinances and regulations;
- OSHA standards and guidelines
- MUTCD Guidelines
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. This is a unit price bid. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including any to be taken from the finished work have been completed and evaluated. Standard Specification 106 – Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. Bidder shall provide at least three examples and reference information (including company name, project name, contact name, phone number and email address) demonstrating experience successfully completing projects of similar scope.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

10% retainage will be withheld from the total amount due the contractor until Final Acceptance of work is issued by the City. The City will inspect the work as it progresses.

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed within 120 days of Notice to Proceed. The contractor will be considered substantially complete when all work required by this contract has been completed (excluding final punch list work).

Upon Notice of Award, the Contractor will be required to submit a Progress Schedule.

Normal workday for this project shall be 7:00AM to 7:00PM and the normal workweek shall be Monday through Friday. Lane closures on Brockett Road are limited to the hours of 9:00AM to 4:00PM. The City will consider extended workdays or workweeks upon written request by the Contractor on a case-by-case basis. No work will be allowed on national holidays (i.e. Memorial Day, July 4th, Labor Day, etc.). Hours of operation for subdivision streets shall be 8:00AM to 7:00PM.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon substantial completion of the work. The contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the contractor at contractor's expense prior to issuance of Final Acceptance.

The contractor shall be assessed liquidated damages in the amount of \$200.00 per calendar day for any contract work (excluding punch list items) that is not completed within 120 days of Notice to Proceed. Liquidated damages shall be deducted from the 10% retainage held by the City. The contractor will also be assessed liquidated damages in the amount of \$200.00 per calendar day for not completing any required Punch List work within 45 calendar days.

The contractor shall provide all material, labor, and equipment necessary to perform the work without delay until final completion.

The contractor shall provide a project progress schedule prior to or at the preconstruction meeting. This schedule should accurately represent the intended work and cannot be vague or broad such as listing every road in the contract.

The contractor shall submit a two-week advance schedule every **Friday by 2:00p.m.**, detailing scheduled activities for the following week.

PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

BONDING AND INSURANCE REQUIREMENTS

No bid may be withdrawn for a period of forty-five (45) days after the time has been called on the

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

date of opening.

All bids must be accompanied by a Bid Bond of a reputable bonding company authorized to do business in the State of Georgia, in an amount equal to at least five percent (5%) of the total amount of the bid.

Upon Notice of Award, the successful contractor shall submit a Performance Bond payable to the City of Tucker in the amount of 100% of the total contract price. The successful contractor shall also submit a Payment Bond in the amount of 100% pursuant to O.C.G.A. § 36- 91-70 and 90.

Upon Notice of Award, the successful contractor shall procure and maintain a General Liability Insurance Policy with minimum limits of \$1,000,000 per person and \$1,000,000 per occurrence.

MATERIALS

The City will provide a Construction Engineering & Inspections (CEI) Consultant to inspect the work and provide materials testing. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications. The contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing lane closure and construction signage per MUTCD guidelines. Payment for this will be included in the item for Traffic Control. Properties requiring driveway closures be notified no less than one week prior to said closures.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

All information given in this ITB concerning quantities, scope of work, existing conditions, etc. is for information purposes only. It is the Contractor's responsibility to inspect the project site to verify existing conditions and quantities prior to submitting their bid. This is a Unit Price bid and no payment will be made for additional work without prior written approval from the City. At no time will Contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

The City reserves the right to add, modify, or delete quantities. The City may also elect to add or eliminate certain work locations at its discretion. The Contractor will not be entitled to any adjustment of unit prices or any other form of additional compensation because of adjustments made to quantities and/or work locations. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work" and included in the bid prices for items on the Bid Schedule.

TRAFFIC CONTROL

The contractor shall, at all times, conduct his/her work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Traffic whose origin and destination is within the limits of the project shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

Two-way traffic shall be maintained at all times, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the MUTCD and DOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the contractor's expense, except as otherwise called for in the plans. At no time will contractor remove regulatory signing which may cause a hazard to the public.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The contractor shall correct all disturbed areas before retainage will be released.

ADJUSTING UTILITY STRUCTURES TO GRADE

All sewer manholes and water valves are to be adjusted by the DeKalb County Department of Watershed Management. The contractor shall coordinate required utility adjustments with the CEI Consultant.

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time. Asphalt and other debris shall be removed from gutters, sidewalks, yards, driveways, etc. Failure to perform clean-up activities may result in suspension of the work.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

SAFETY

Beginning with mobilization and ending with acceptance of work, the contractor shall be responsible for providing a clean and safe work environment at the project site. The contractor shall comply with all OSHA regulations as they pertain to this project.

SPECIAL CONDITIONS

1. Remove and properly dispose of all demolished asphalt and concrete.
2. All disturbed or damaged grassing and landscaping on backside of sidewalk is to match surrounding conditions. Cost to be included in the "GRASSING COMPLETE" bid item.
3. All grassing strips between back of curb and front of sidewalk shall be Sod.
4. All cost for tree removal and demo of existing pavement/curb & gutter for the project is to be included in the "GRADING COMPLETE" quantity for the project.
5. For all utilities that can't be adjusted by the contractor, coordination shall be conducted with the proper utility company.
6. Contact the City Superintendent prior to tree removal.
7. For all driveway aprons that require modification, ensure there is proper drainage toward the curb & gutter line.

SUBCONTRACTOR

Any contractor utilizing a subcontractor must submit a proposed list of subcontractors and a Subcontractor Affidavit (Exhibit E-2).

**ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT**

Exhibit B: Cost Proposal

Brockett Road (Phase II) Sidewalk - City of Tucker, GA				
Estimation of Probable Cost Report				
7/31/2023				
ITEM CODE	ITEM DESCRIPTION	QTY	UNITS	UNIT PRICE
	TRAFFIC CONTROL	1	LS	5000 \$5000
	GRADING COMPLETE (INCLUDES DEMO OF EXISTING PAVEMENT/CURB & GUTTER, AND TREE REMOVAL)	1	LS	65,000 \$65000
	DRIVEWAY CONCRETE, 6 IN TK	100	SY	65 \$6500
	CONC SIDEWALK, 4 IN	930	SY	39 \$36270
	HEADER CURB, 6 IN	30	LF	15 \$450.00
	CONC CURB AND GUTTER, 6"X24" TP2	30	LF	18 \$540
	SOD	330	SY	12 \$3960
	DETECTABLE WARNING SURFACE	14	EA	220 \$3080
	GRASSING COMPLETE (MATCH EXISTING CONDITIONS)	1	LS	1500 \$1500
	MAILBOX RELOCATION	5	EA	250 \$1250
	SIGN RELOCATION	5	EA	100 \$500
	ADJUST FENCE TO BACK OF SIDEWALK	30	LF	60 \$1800
	ADJUST UTILITIES TO GRADE	1	EA	700 \$700
	EROSION CONTROL INSTALLATION & MAINTENANCE	1	LS	5000 \$5000
	TOTAL			\$131,550.00

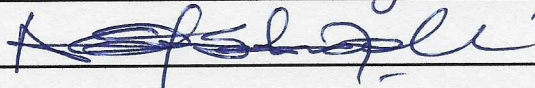
Company Name: CONSTRUCTION 57 INCORPORATED

Address: 809 PARK NORTH BOULEVARD CLARKSTON GA. 30021

Contact Person: OLUSEGUN OSHO

Phone Number: 404 514 8901

Email Address: Wale.Osho@gmail.com

Signature: 

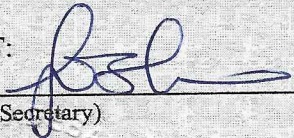
*In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail, and the total price will be corrected.

upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.


PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Seg. And SS 36- 86-101, et. Seg. And is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this 23rd day of August A.D., 20 23.

ATTEST:


(Principal Secretary)

(SEAL)


(Witness to Principal)

809 Park North Boulevard
(Address) Clarkston Ga. 30021

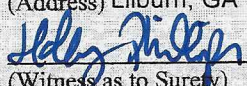
ATTEST:

BY: 
(Attorney-in-Fact) and Resident Agent

Robert M. Hrehor

(Attorney-in-Fact)

4572 Lawrenceville Highway, Suite 201
(Address) Lilburn, GA 30047


(Witness as to Surety)

Holly Phillips, Witness

Construction 57 Incorporated
(Principal)

BY: 

809 Park North Boulevard
(Address) Clarkston Ga. 30021

FCCI Insurance Company

(Surety)

(SEAL)



GENERAL POWER OF ATTORNEY

Know all men by these presents: That the FCCI Insurance Company, a Corporation organized and existing under the laws of the State of Florida (the "Corporation") does make, constitute and appoint:

Robert M. Hrehor

Each, its true and lawful Attorney-In-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed in all bonds and undertakings provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed the sum of (not to exceed \$20,000,000.00): **\$20,000,000.00**

Surety Bond No.: FCCIC57-248

Principal: Construction 57 Incorporated


Obligee: City of Tucker

This Power of Attorney is made and executed by authority of a Resolution adopted by the Board of Directors. That resolution also authorized any further action by the officers of the Company necessary to effect such transaction.


The signatures below and the seal of the Corporation may be affixed by facsimile, and any such facsimile signatures or facsimile seal shall be binding upon the Corporation when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.

In witness whereof, the FCCI Insurance Company has caused these presents to be signed by its duly authorized officers and its corporate Seal to be hereunto affixed, this 23rd day of July, 2020.

Attest:


Christina D. Welch, President
FCCI Insurance Company




Christopher Shoucair,
EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

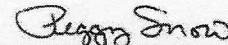
State of Florida
County of Sarasota

Before me this day personally appeared Christina D. Welch, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027


Notary Public

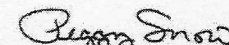
State of Florida
County of Sarasota

Before me this day personally appeared Christopher Shoucair, who is personally known to me and who executed the foregoing document for the purposes expressed therein.

My commission expires: 2/27/2027



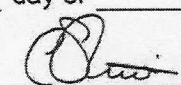
PEGGY SNOW
Commission # HH 326535
Expires February 27, 2027


Notary Public

CERTIFICATE

I, the undersigned Secretary of FCCI Insurance Company, a Florida Corporation, DO HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked; and furthermore that the February 27, 2020 Resolution of the Board of Directors, referenced in said Power of Attorney, is now in force.

Dated this 23rd day of August, 2023


Christopher Shoucair, EVP, CFO, Treasurer, Secretary
FCCI Insurance Company

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Give Form to the
requester. Do not
send to the IRS.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. CONSTRUCTION 57 INCORPORATED	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input checked="" type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
5 Address (number, street, and apt. or suite no.) See instructions. 809 PARK NORTH BOULEVARD	Requester's name and address (optional)
6 City, state, and ZIP code CLARKSON GA 30021	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	
27	2537065

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ► 	Date ► 08/31/2023
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	CONSTRUCTION 57 INCORPORATED
Solicitation/Bid number or Project Description:	ITB#2023-025 BROCKETT ROAD PHASE II SIDEWALK PROJECT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

372698
Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

11-16-10
Date of Authorization

CONSTRUCTION 57 INCORPORATED
Name of Contractor

I hereby declare under penalty of perjury that the foregoing is true and correct

OLUSEGUN OSHO
Printed Name (of Authorized Officer or Agent of Contractor)

PRESIDENT
Title (of Authorized Officer or Agent of Contractor)

[Signature]
Signature (of Authorized Officer or Agent)

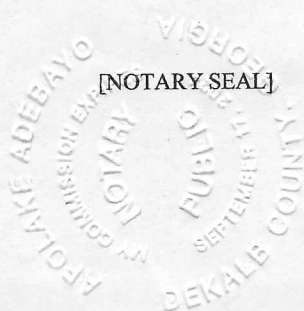
08/31/2023
Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

31ST DAY OF AUGUST, 2023

[Signature]
Notary Public

My Commission Expires: 09/17/2024





GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	CONSTRUCTION 57 INCORPORATED
Subcontractor's (Your) Name	N/A
Solicitation/Bid number or Project Description:	ITB#2023-025 BROCKETT ROAD PHASE II SIDEWALK PROJECT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

N/A
Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

N/A
Date of Authorization

N/A
Name of Subcontractor

I hereby declare under penalty of perjury that the foregoing is true and correct

N/A
Printed Name (of Authorized Officer or Agent of Contractor)

N/A
Title (of Authorized Officer or Agent of Contractor)

N/A
Signature (of Authorized Officer or Agent)

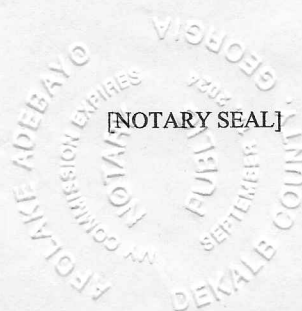
N/A
Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

31ST DAY OF AUGUST, 2023

[Signature]
Notary Public

My Commission Expires: 09/17/2024



Contact Information Form

Please fill out this sheet with the appropriate contact information for your company.

Full Legal Name of Company: CONSTRUCTION 57 INCORPORATED

Contractor Information:

Primary Contact Person: OLUSEGUN OSHO

Title: PRESIDENT Telephone Number: 404 514 8901

Secondary Contact Person: FUNMILAYO OSHO

Title: SECRETARY/CFO Telephone Number: 678 481 0203

Address: 809 PARK NORTH BOULEVARD

City / State / Zip: CLARKSTON GA. 30021

Mailing Address (If different than above): SAME

City / State / Zip: SAME

E-mail Address: wale.osho@gmail.com

Federal Employee ID Number (FEIN): 27-2537065

CITY OF TUCKER

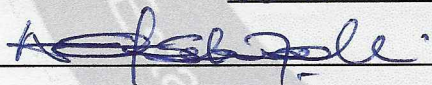
ACKNOWLEDGE RECEIPT OF ADDENDUM #1 FORM

ITB #2025-025

BROCKETT ROAD SIDEWALK PROJECT – PHASE II

Upon receipt, please print and add to your proposal.

I hereby acknowledge receipt of the supplement pertaining to the
above referenced bid.

COMPANY NAME: CONSTRUCTION 57 INCORPORATED
CONTACT PERSON: OLUSEGUN OSHO
ADDRESS: 809 PARK NORTH BOULEVARD
CITY: CLARKSTON STATE: GA ZIP: 30021
PHONE: 404 514 8901 FAX: 770 277 1425
EMAIL ADDRESS: wale.oshos@gmail.com
 08/31/2023
SIGNATURE DATE

ITB #2025-025
ADDENDUM #1

	QUESTION	ANSWER
1	Confirm the erosion control items that should be included in the Lump Sum.	Silt fence and any other temporary measures needed to ensure silt and other disturbed material does not escape into the roadway.
2	Confirm the location of the 30lf of curb & gutter in the project.	The 30LF of curb and gutter is located on page C-003 in the radius of the highlighted curb cut. The 30LF header curb, 6in. quantity shall be used as a retainage structure on the backside of sidewalk for locations that cannot achieve a 3:1 slope, or as identified by City CEI.
3	Verify the quantities for the Driveway Concrete, 6in item.	Driveway concrete, 6in. quantity is primarily for the curb cut on page C-003 to ensure that proper drainage can be attained. Additional quantity may be used for repairs on additional driveways as identified by City CEI.
4	Confirm the location of the fence to be adjusted.	The fence to be adjusted is located on page C-001, at the curb cut for Shery's Produce on the corner lot. The fence is to be adjusted and aligned along the backside of the new sidewalk.
5	Is it necessary for us to possess pre-qualification certification by GDOT as either a prime contractor or subcontractor?	We did not require GDOT pre-qualification, however, experience with similar projects and references will be a consideration.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER RCC&Associates Inc 5226 N Henry Blvd Stockbridge GA 30281	CONTACT NAME: Maria De Jesus PHONE (A/C, No, Ext): 678-565-1073 E-MAIL ADDRESS: mramirez@myrccagency.com FAX (A/C, No): 8664106445																					
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn GA 30047	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>EVANSTON INSURANCE COMP</td><td>35378</td></tr><tr><td>INSURER B:</td><td>National Specialty Insurance Company</td><td>22608</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	EVANSTON INSURANCE COMP	35378	INSURER B:	National Specialty Insurance Company	22608	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
INSURER(S) AFFORDING COVERAGE		NAIC #																				
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COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	3AA665370	04/18/2023	04/18/2024	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
							MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB DED RETENTION \$	X	X	EZXS3114194	04/28/2023	04/28/2024	COMBINED SINGLE LIMIT (Ea accident) \$
	<input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				
	Y / N <input type="checkbox"/>						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/>
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

The City of Tucker Ga
1975 Lakeside Parkway Suite 350
Tucker Ga. 30084.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Maria Ramirez

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/29/2023

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PRODUCER Next First Insurance Agency, Inc. PO Box 60787 Palo Alto, CA 94306	CONTACT NAME:	
	PHONE (A/C, No, Ext): (855) 222-5919	FAX (A/C, No):
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn, GA 30047	E-MAIL ADDRESS: support@nextinsurance.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: National Specialty Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		
NAIC # 22608		

COVERAGES

CERTIFICATE NUMBER: 359739604

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$
							MED EXP (Any one person) \$
							PERSONAL & ADV INJURY \$
							GENERAL AGGREGATE \$
							PRODUCTS - COMP/OP AGG \$
							\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	OTHER:						
	AUTOMOBILE LIABILITY						
	<input type="checkbox"/> ANY AUTO						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per person) \$
	<input type="checkbox"/> HIRED AUTOS ONLY						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						\$
	DED <input type="checkbox"/> RETENTION \$						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					X PER STATUTE OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below	N	N/A	NXTH7FUFQV-01-WC	09/20/2022	09/20/2023	E.L. EACH ACCIDENT \$ 1,000,000.00
							E.L. DISEASE - EA EMPLOYEE \$ 1,000,000.00
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Proof of Insurance.

CERTIFICATE HOLDER

City of Tucker Ga
1975 Lakeside Pkwy Ste 350
Tucker, GA 30084

LIVE CERTIFICATE



Click or scan to view

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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PRODUCER ABT INSURANCE SERVICES INC 6695 Peachtree Industrial Blvd Suite 110 Atlanta GA 30360		CONTACT NAME: Maday Hernandez PHONE (A/C, No, Ext): (770)441-0000 E-MAIL ADDRESS: csr@abtinsurance.com FAX (A/C, No): (770)441-3973	
INSURED CONSTRUCTION 57 INC 3975 Embassy Way Lilburn GA 30047		INSURER(S) AFFORDING COVERAGE INSURER A : Progressive Mountain Ins Co INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	
		NAIC # 35190	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			03013882	12/18/2022	12/18/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

GA OPERATIONS

CERTIFICATE HOLDER**CANCELLATION**

City of Tucker Ga 1975 Lakeside Parkway Suite 350 Tucker GA 30084	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---

Fax: Email:

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ACORD 25 (2016/03)

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CONSTRUCTION 57 INCORPORATED
REFERENCES

REFERENCE #1

City of College Park Georgia
3667 Main Street, College Park, Georgia 30337
Jackson Myers
678.794.4834

Email: jmyers@collegeparkga.com

REFERENCE #2

City of East Point Georgia
2791 East Point Street
Atlanta, Georgia 30344
404.270.7010 (City of East Point)
Michael Lehner
SEI Engineering Inc.
770.265.7794

mlehner@sei-engineering.com

REFERENCE #3

City of Sandy Springs Georgia
1 Galambos Way
Sandy Springs Georgia 30328
Reginald Williams
770.315.5950
RWilliams@sandyspringsga.gov



ITB #2023-025 Brockett Road Sidewalk Phase II Project

BID SUBMISSION SHEET

The below listed firms submitted bids which were turned in at the time indicated.

Any bid or proposal submitted after the due date and time may not be considered for award.

<u>COMPANY</u>	<u>RECEIVED</u>	<u>BID AMOUNT</u>
1. Sol Construction	8/31/2023 9:00AM	\$ 135,945.00
2. Construction 57	8/31/2023 9:41AM	\$ 131,550.00
3. Hasbun Construction	8/31/2023 11:11AM	\$ 157,063.84
4. Lagniappe Development	8/31/2023 11:45AM	\$ 196,637.14
5. DAF Concrete	8/31/2023 12:36PM	\$ 248,950.00
6. Pathway Construction	8/31/2023 12:54PM	\$ 157,726.58 \$ 157,727.58

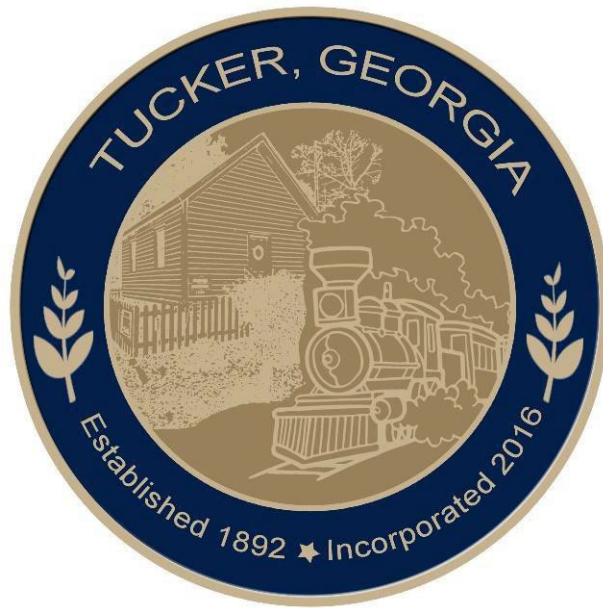
Opened/Verified by: Lisa Owen 8/31/2023

Ken Hildebrandt

City of Tucker

Invitation to Bid
ITB # 2023-025

BROCKETT ROAD (PHASE II) SIDEWALK PROJECT



BID MANUAL

City of Tucker
1975 Lakeside Parkway, Suite 350
Tucker, Georgia 30084

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

INVITATION: The City of Tucker, Georgia requests that interested parties submit proposals for the Brockett Road (Phase II) Sidewalk Project. Proposals will be accepted until the date and time listed below and will be awarded to the lowest reliable bidder. Addenda and updates to this bid manual will be posted on the City of Tucker website <http://tuckerga.gov> or may be requested by email procurement@tuckerga.gov.

BID ACTIVITY SCHEDULE	
Bid Issued	August 3, 2023
Pre-Bid Conference	N/A
Deadline for Questions	August 15, 2023, at 5:00 p.m.
Responses to Questions Posted (Addenda)	August 17, 2023
Bid Deadline	August 31, 2023, at 1:00 p.m.
Award at Council Meeting	September 11, 2023 (tentative)
Completion from Notice to Proceed	120 days

SCOPE OF WORK: Refer to Exhibit A.

QUESTIONS: Submit all questions in writing to procurement@tuckerga.gov Reference Bid #2023-025

PRE-BID CONFERENCE: N/A

ADDENDA: Responses to the questions received will be by addenda and will be posted on the City website www.tuckerga.gov. The signed acknowledgement issued with each addendum must be submitted with the proposal. It is the vendors responsibility to verify if any addenda were created.

SUBMITTAL REQUIREMENTS: Vendor shall submit ITB Response electronically to procurement@tuckerga.gov **no later than August 31, 2023, at 1:00 p.m.** with the subject line ITB #2023-025. The email must contain the vendor contact information.

BID TABULATON: Preliminary Bid results will be posted on the City's website, <http://tuckerga.gov>, following the opening of bids.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Your response must be received by the date and time specified. Published addenda will show any schedule updates. Late receipt of RFPs will not be considered regardless of postmark/carrier or email issues. Proposals received after the opening time will be filed unopened. The City of Tucker reserves the right to reject any and all proposals or any part thereof, to waive any formalities or informalities, to make an award, and to re-advertise in the best interest of the City. No proposals will be received orally/phone.

The city reserves the right to negotiate pricing and may, in its discretion, award a contract to the lowest reliable bidder submitting the proposal.

BID DOCUMENT SUBMITTAL REQUIREMENTS:

1. Unit Price Bid Proposal Form (Exhibit B)
2. W-9 Form
3. Certificate of Insurance
4. Contractor Affidavit
5. Subcontractor Affidavit
6. Proposed List of Subcontractors
7. Bid Bond Form
8. Related Experience and References
9. Acknowledgement of Addendum issued with each Addendum.

Exhibit A:
Project Specifications / Scope of Work
ITB #2023-025 Brockett Road (PHASE II) Sidewalk Project

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Tucker (City), requests that interested parties submit formal electronic bids for the construction of the Brockett Road (Phase II) Sidewalk Project.

Brockett Road is to be improved from Lawrenceville Highway to Grantland Drive (approx. 0.35miles). Improvements include the construction of sidewalk, minor repairs to curb and gutter, tree removal, and the reconfiguration of multiple driveway aprons. The complete scope, plans, and other relevant information for ITB 2023-025 Brockett Road (Phase II) Sidewalk Project is available for download or review on the City of Tucker website:

https://www.tuckerga.gov/government/rfp_rfq/index.php or request via email to procurement@tuckerga.gov .

GENERAL CONDITIONS

The contractor shall execute the work according to and meet the requirements of the following:

- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work, plans, and specifications;
- City of Tucker ordinances and regulations;
- OSHA standards and guidelines
- MUTCD Guidelines
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. This is a unit price bid. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including any to be taken from the finished work have been completed and evaluated. Standard Specification 106 – Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. Bidder shall provide at least three examples and reference information (including company name, project name, contact name, phone number and email address) demonstrating experience successfully completing projects of similar scope.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

10% retainage will be withheld from the total amount due the contractor until Final Acceptance of work is issued by the City. The City will inspect the work as it progresses.

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed within 120 days of Notice to Proceed. The contractor will be considered substantially complete when all work required by this contract has been completed (excluding final punch list work).

Upon Notice of Award, the Contractor will be required to submit a Progress Schedule.

Normal workday for this project shall be 7:00AM to 7:00PM and the normal workweek shall be Monday through Friday. Lane closures on Brockett Road are limited to the hours of 9:00AM to 4:00PM. The City will consider extended workdays or workweeks upon written request by the Contractor on a case-by-case basis. No work will be allowed on national holidays (i.e. Memorial Day, July 4th, Labor Day, etc.). Hours of operation for subdivision streets shall be 8:00AM to 7:00PM.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon substantial completion of the work. The contractor will be allowed to participate in the Final Inspection. All repairs shall be completed by the contractor at contractor's expense prior to issuance of Final Acceptance.

The contractor shall be assessed liquidated damages in the amount of \$200.00 per calendar day for any contract work (excluding punch list items) that is not completed within 120 days of Notice to Proceed. Liquidated damages shall be deducted from the 10% retainage held by the City. The contractor will also be assessed liquidated damages in the amount of \$200.00 per calendar day for not completing any required Punch List work within 45 calendar days.

The contractor shall provide all material, labor, and equipment necessary to perform the work without delay until final completion.

The contractor shall provide a project progress schedule prior to or at the preconstruction meeting. This schedule should accurately represent the intended work and cannot be vague or broad such as listing every road in the contract.

The contractor shall submit a two-week advance schedule every **Friday by 2:00p.m.**, detailing scheduled activities for the following week.

PERMITS AND LICENSES

The contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

BONDING AND INSURANCE REQUIREMENTS

No bid may be withdrawn for a period of forty-five (45) days after the time has been called on the

**City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT**

date of opening.

All bids must be accompanied by a Bid Bond of a reputable bonding company authorized to do business in the State of Georgia, in an amount equal to at least five percent (5%) of the total amount of the bid.

Upon Notice of Award, the successful contractor shall submit a Performance Bond payable to the City of Tucker in the amount of 100% of the total contract price. The successful contractor shall also submit a Payment Bond in the amount of 100% pursuant to O.C.G.A. § 36- 91-70 and 90.

Upon Notice of Award, the successful contractor shall procure and maintain a General Liability Insurance Policy with minimum limits of \$1,000,000 per person and \$1,000,000 per occurrence.

MATERIALS

The City will provide a Construction Engineering & Inspections (CEI) Consultant to inspect the work and provide materials testing. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications. The contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing lane closure and construction signage per MUTCD guidelines. Payment for this will be included in the item for Traffic Control. Properties requiring driveway closures be notified no less than one week prior to said closures.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

All information given in this ITB concerning quantities, scope of work, existing conditions, etc. is for information purposes only. It is the Contractor's responsibility to inspect the project site to verify existing conditions and quantities prior to submitting their bid. This is a Unit Price bid and no payment will be made for additional work without prior written approval from the City. At no time will Contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

The City reserves the right to add, modify, or delete quantities. The City may also elect to add or eliminate certain work locations at its discretion. The Contractor will not be entitled to any adjustment of unit prices or any other form of additional compensation because of adjustments made to quantities and/or work locations. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work" and included in the bid prices for items on the Bid Schedule.

TRAFFIC CONTROL

The contractor shall, at all times, conduct his/her work so as to assure the least possible obstruction of traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by the contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Traffic whose origin and destination is within the limits of the project shall be provided ingress and egress at all times unless otherwise specified by the City. The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to ensure that ingress and egress are safely provided when and where needed.

Two-way traffic shall be maintained at all times, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area. Any pavement damaged by such an occurrence will be repaired by the Contractor at no additional cost to the City.

The contractor shall furnish, install and maintain all necessary and required barricades, signs and other traffic control devices in accordance with the MUTCD and DOT specifications, and take all necessary precautions for the protection of the workers and safety of the public.

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the contractor's expense, except as otherwise called for in the plans. At no time will contractor remove regulatory signing which may cause a hazard to the public.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The contractor shall correct all disturbed areas before retainage will be released.

ADJUSTING UTILITY STRUCTURES TO GRADE

All sewer manholes and water valves are to be adjusted by the DeKalb County Department of Watershed Management. The contractor shall coordinate required utility adjustments with the CEI Consultant.

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the contractor fails to accomplish restoration and clean-up within an acceptable period of time. Asphalt and other debris shall be removed from gutters, sidewalks, yards, driveways, etc. Failure to perform clean-up activities may result in suspension of the work.

City of Tucker Invitation to Bid
ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

SAFETY

Beginning with mobilization and ending with acceptance of work, the contractor shall be responsible for providing a clean and safe work environment at the project site. The contractor shall comply with all OSHA regulations as they pertain to this project.

SPECIAL CONDITIONS

1. Remove and properly dispose of all demolished asphalt and concrete.
2. All disturbed or damaged grassing and landscaping on backside of sidewalk is to match surrounding conditions. Cost to be included in the "GRASSING COMPLETE" bid item.
3. All grassing strips between back of curb and front of sidewalk shall be Sod.
4. All cost for tree removal and demo of existing pavement/curb & gutter for the project is to be included in the "GRADING COMPLETE" quantity for the project.
5. For all utilities that can't be adjusted by the contractor, coordination shall be conducted with the proper utility company.
6. Contact the City Superintendent prior to tree removal.
7. For all driveway aprons that require modification, ensure there is proper drainage toward the curb & gutter line.

SUBCONTRACTOR

Any contractor utilizing a subcontractor must submit a proposed list of subcontractors and a Subcontractor Affidavit (Exhibit E-2).

ITB #2023-025
BROCKETT ROAD (PHASE II) SIDEWALK PROJECT

Exhibit B: Cost Proposal

Brockett Road (Phase II) Sidewalk - City of Tucker, GA				
<i>Estimation of Probable Cost Report</i>				
7/31/2023				
ITEM CODE	ITEM DESCRIPTION	QTY	UNITS	UNIT PRICE
	TRAFFIC CONTROL	1	LS	
	GRADING COMPLETE (INCLUDES DEMO OF EXISTING PAVEMENT/CURB & GUTTER, AND TREE REMOVAL)	1	LS	
	DRIVEWAY CONCRETE, 6 IN TK	100	SY	
	CONC SIDEWALK, 4 IN	930	SY	
	HEADER CURB, 6 IN	30	LF	
	CONC CURB AND GUTTER, 6"X24" TP2	30	LF	
	SOD	330	SY	
	DETECTABLE WARNING SURFACE	14	EA	
	GRASSING COMPLETE (MATCH EXISTING CONDITIONS)	1	LS	
	MAILBOX RELOCATION	5	EA	
	SIGN RELOCATION	5	EA	
	ADJUST FENCE TO BACK OF SIDEWALK	30	LF	
	ADJUST UTILITIES TO GRADE	1	EA	
	EROSION CONTROL INSTALLATION & MAINTENANCE	1	LS	
	TOTAL			

Company Name:_____

Address: _____

Contact Person: _____

Phone Number:_____

Email Address: _____

Signature:_____

*In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail, and the total price will be corrected.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, THAT

(Name of Contractor) _____ at

(Address of Contractor) _____

(Corporation, Partnership and / or Individual) hereinafter called Principal, and

(Name of Surety) _____

(Address of Surety) _____

A corporation of the State of _____, and a surety authorized by law to do

business in the State of Georgia, hereinafter called Surety, are held, and firmly bound unto

(Name of Oblige) City of Tucker Georgia

(Address of Oblige) 1975 Lakeside Parkway, Suite 350, Tucker, Georgia 30084

Hereinafter referred to as Oblige, in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to the City of Tucker, Georgia, a proposal for furnishing materials, labor, and equipment for:

**ITB # 2023-025
BROCKETT ROAD SIDEWALK PROJECT – PHASE II**

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified Bidder's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the bid is accepted, the Principal shall within ten days after receipt of notification of the acceptance execute a Contract in accordance with the Bid and upon the terms, conditions, and prices set forth in the form and manner required by the City of Tucker, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to the City of Tucker, Georgia, each in an amount of 100% of the total Contract Price, in form and with security satisfactory to said the City of Tucker, Georgia, and otherwise, to be and remain in full force and virtue in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the City of Tucker, Georgia,

upon demand, the amount hereof in good and lawful money of the United States of America,
not as a penalty, but as liquidated damages.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed
pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia
Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Seg. And SS
36- 86-101, et. Seg. And is intended to be and shall be constructed as a bond in compliance with
the requirements thereof.

Signed, sealed, and dated this _____ day of _____ A.D., 20 ____.

ATTEST:

(Principal Secretary)

(Principal)

(SEAL)

BY: _____

(Witness to Principal)

(Address)

(Address)

(Surety)

ATTEST:

BY: _____
(Attorney-in-Fact) and Resident Agent

(Attorney-in-Fact)

(Address)

(SEAL)

(Witness as to Surety)

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number										
				-				-		
or										
Employer identification number										
				-						

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ►

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	
Solicitation/Bid number or Project Description:	

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

Date of Authorization

Name of Contractor

I hereby declare under penalty of perjury that the foregoing is true and correct

Printed Name (of Authorized Officer or Agent of Contractor)

Title (of Authorized Officer or Agent of Contractor)

Signature (of Authorized Officer or Agent)

Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

____ DAY OF _____, 20____

[NOTARY SEAL]

Notary Public

My Commission Expires: _____



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

GEORGIA E-Verify and Public Contracts: The Georgia E-Verify law requires contractors and all sub-contractors on Georgia public contract (contracts with a government agency) for the physical performance of services over \$2,499 in value to enroll in E-Verify, regardless of the number of employees.

Contractor Name:	
Subcontractor's (Your) Name	
Solicitation/Bid number or Project Description:	

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services under a contract on behalf of the City of Tucker, Georgia has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period as required by O.C.G.A. § 13-10-91(b) and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present and affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number
(EEV/E-Verify Company Identification Number)

Date of Authorization

Name of Subcontractor

I hereby declare under penalty of perjury that the foregoing is true and correct

Printed Name (of Authorized Officer or Agent of Contractor)

Title (of Authorized Officer or Agent of Contractor)

Signature (of Authorized Officer or Agent)

Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

____ DAY OF _____, 20____

[NOTARY SEAL]

Notary Public

My Commission Expires: _____

Contact Information Form

Please fill out this sheet with the appropriate contact information for your company.

Full Legal Name of Company: _____

Contractor Information:

Primary Contact Person: _____

Title: _____ Telephone Number: _____

Secondary Contact Person: _____

Title: _____ Telephone Number: _____

Address: _____

City / State / Zip: _____

Mailing Address (If different than above): _____

City / State / Zip: _____

E-mail Address: _____

Federal Employee ID Number (FEIN): _____

LEGEND:
PROPOSED SIDEWALK
PROPERTY LN/EXISTING PVMT
ADA RAMPS
LANDSCAPING

EXISTING CURB AND GUTTER
NEW CURB AND GUTTER
OBSTRUCTIONS/UTILITIES
EROSION CONTROL



City of
Tucker

STATE

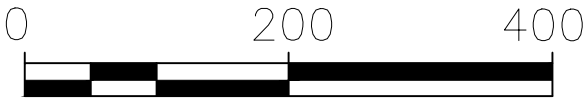
PROJECT

GA



REVISIONS

NOTE: ALL DISTURBED AREAS ARE
TO BE GRASSED/SODDED BEFORE
PROJECT COMPLETION.



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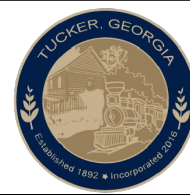
CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-000

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL

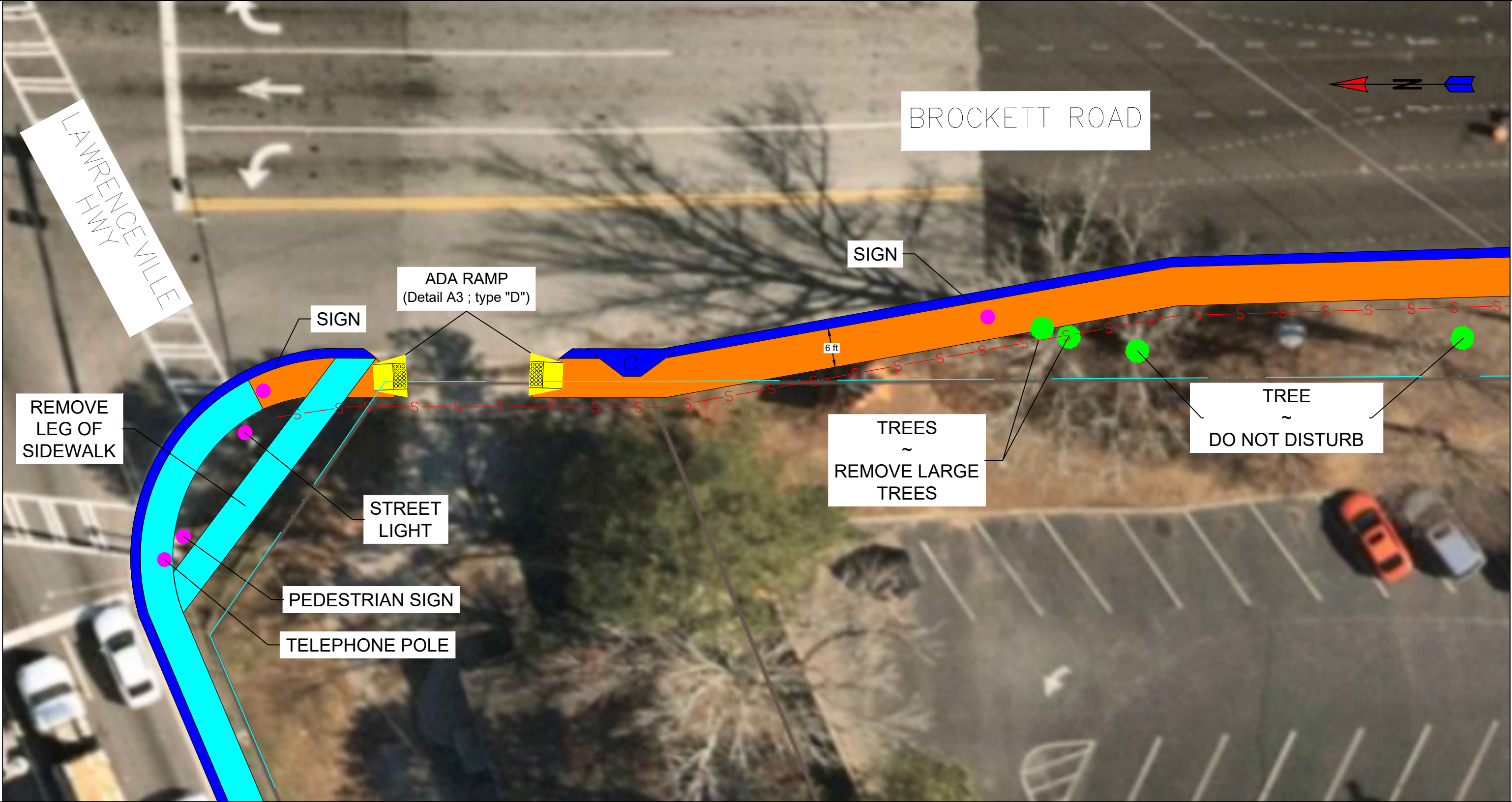


City of
Tucker

STATE

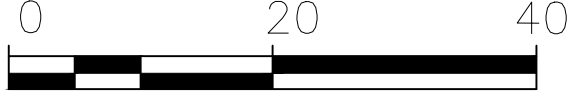
PROJECT

GA



REVISIONS

NOTE: ALL DISTURBED AREAS ARE
TO BE GRASSED/SODDED BEFORE
PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-001

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



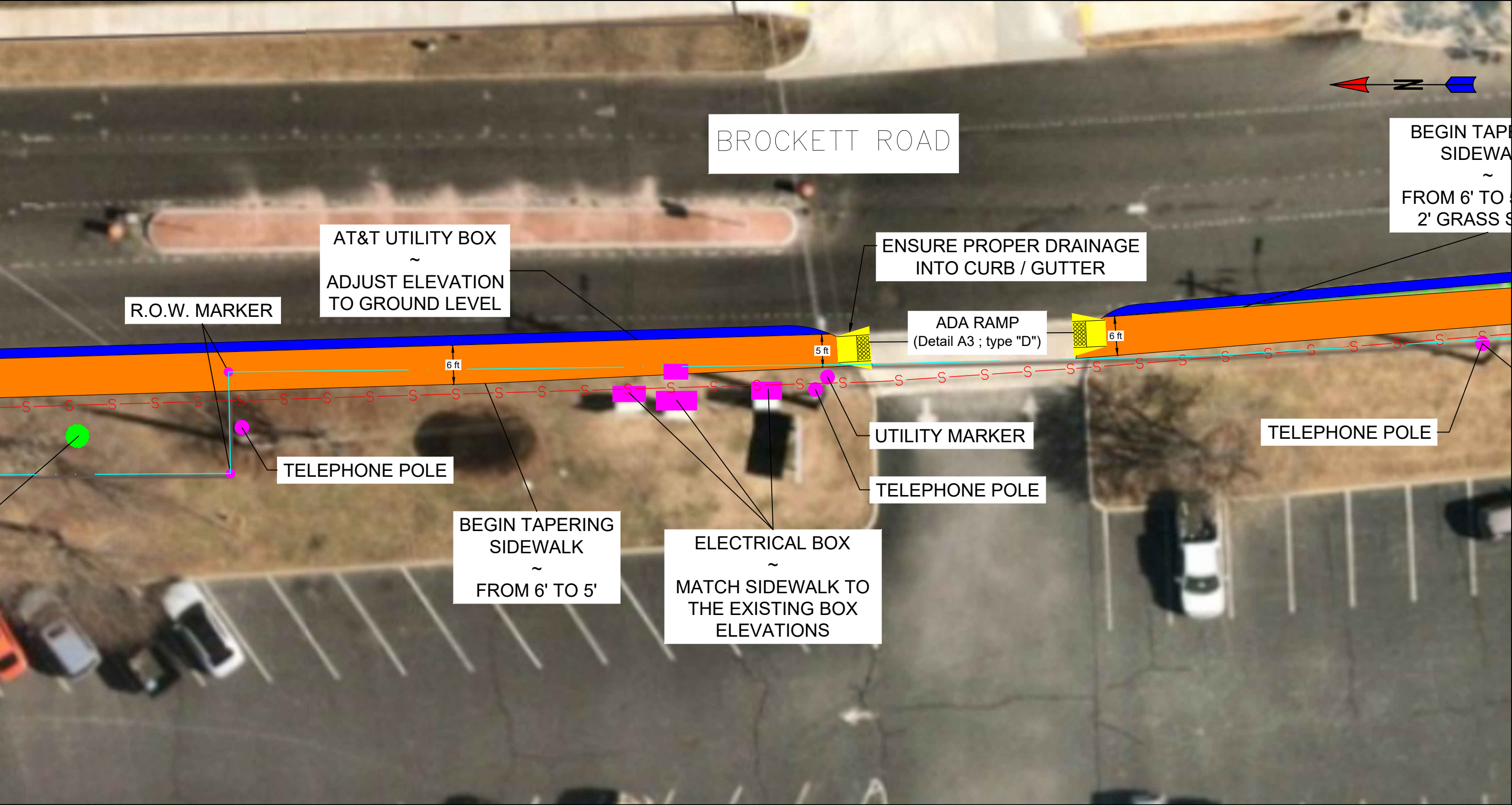
City of
Tucker

STATE

PROJECT

GA

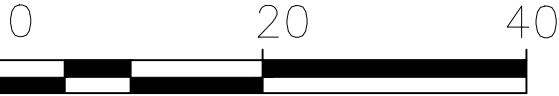
MATCHLINE SHEET C-001



MATCHLINE SHEET C-003

REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-002

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL

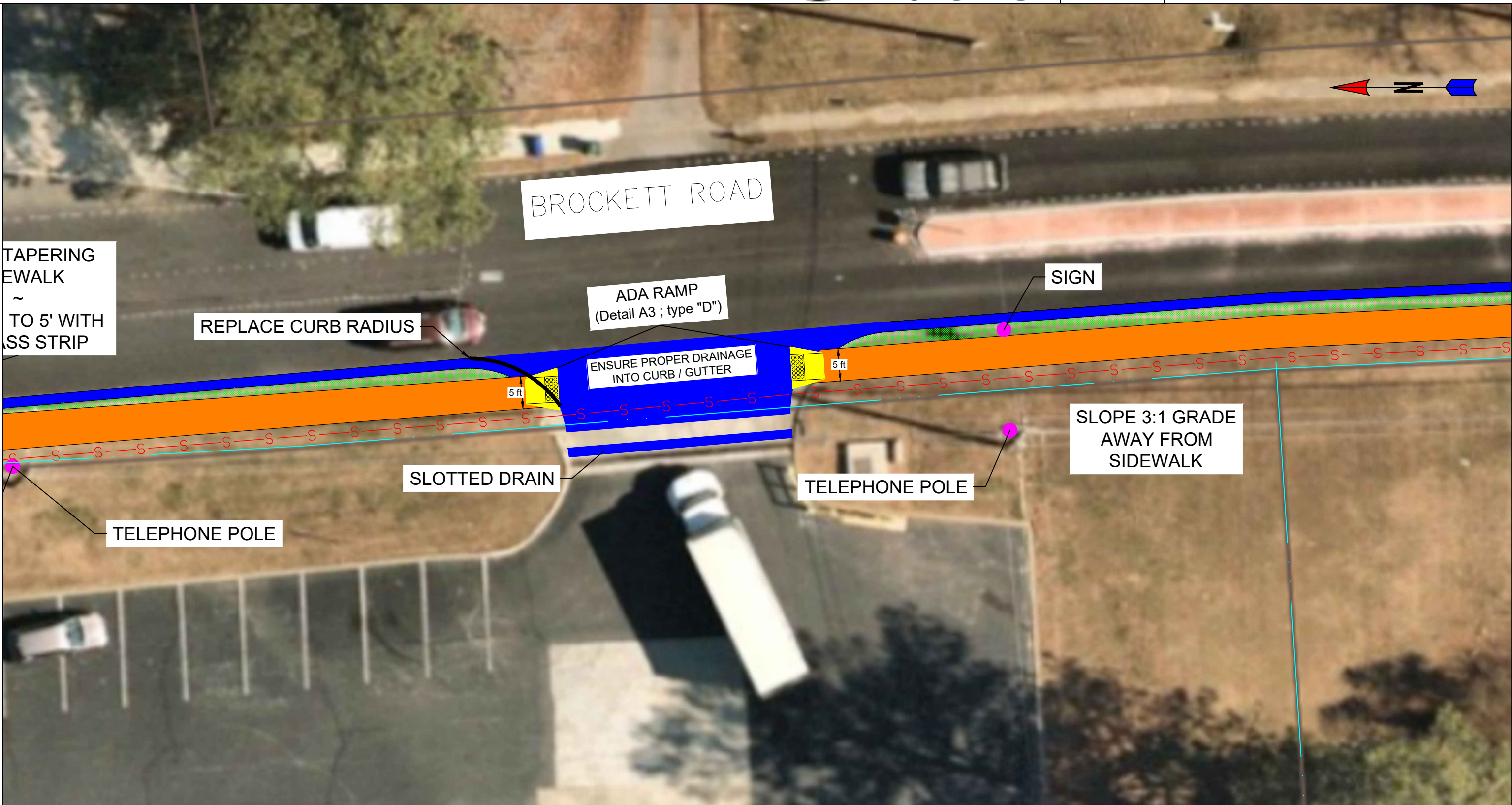


City of
Tucker

STATE

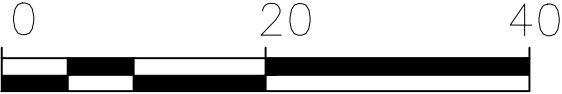
PROJECT

GA



REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-003

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



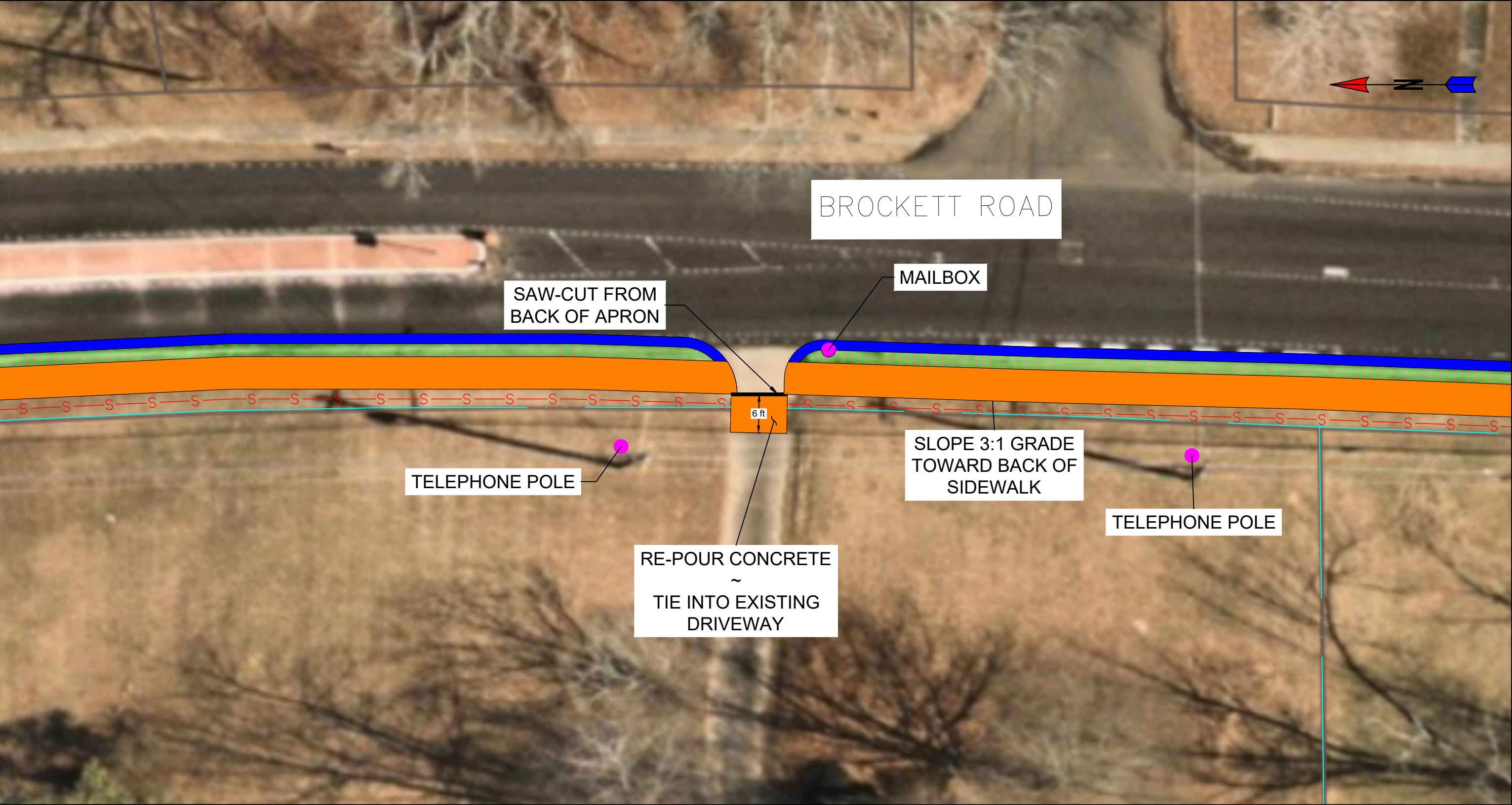
City of
Tucker

STATE

PROJECT

GA

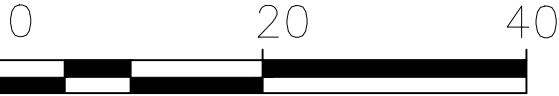
MATCHLINE SHEET C-003



MATCHLINE SHEET C-005

REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-004

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



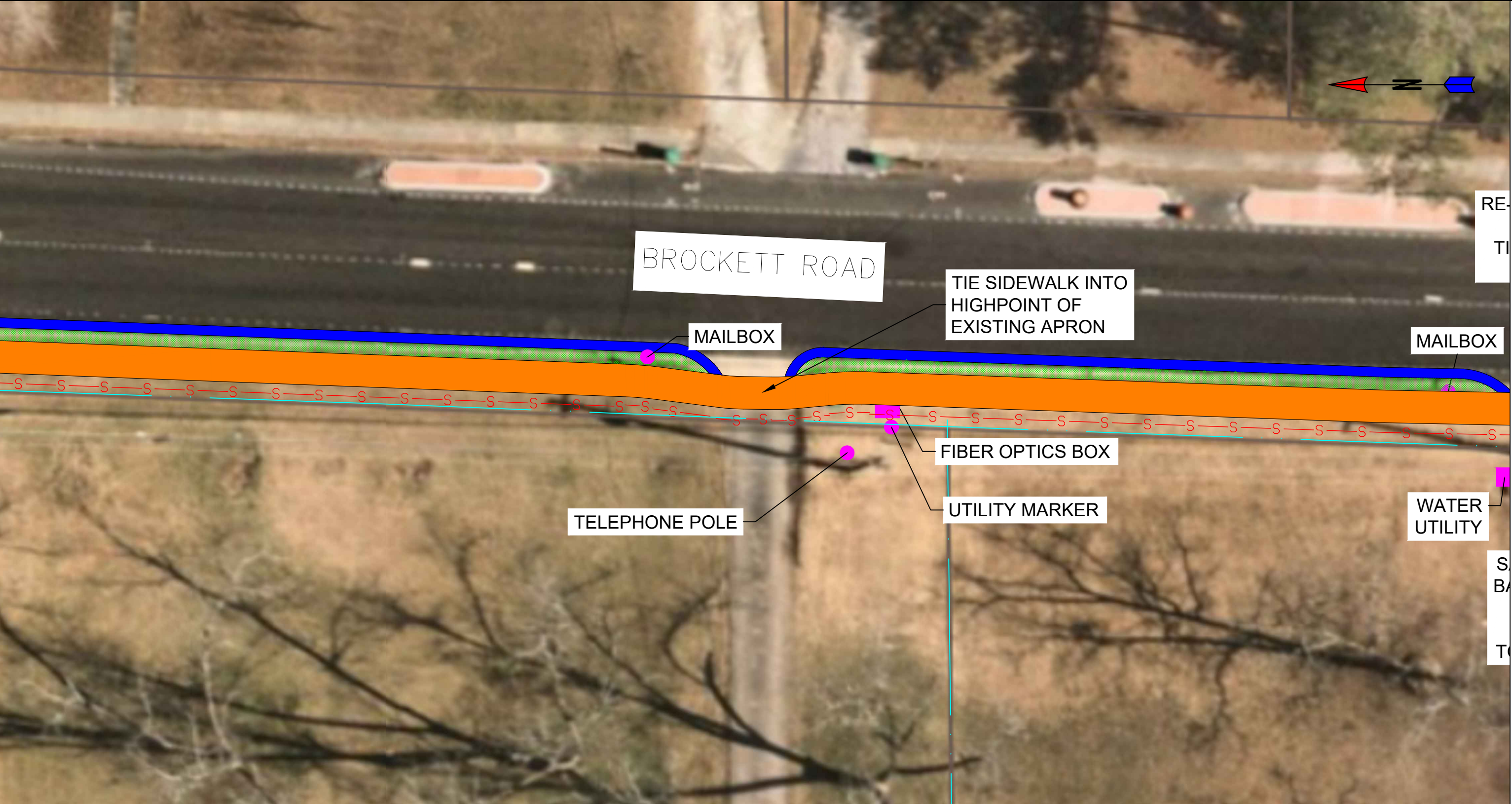
City of
Tucker

STATE

PROJECT

GA

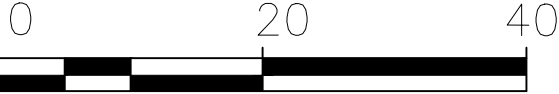
MATCHLINE SHEET C-004



MATCHLINE SHEET C-006

REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



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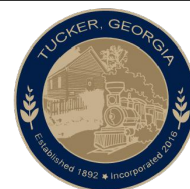
CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-005

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



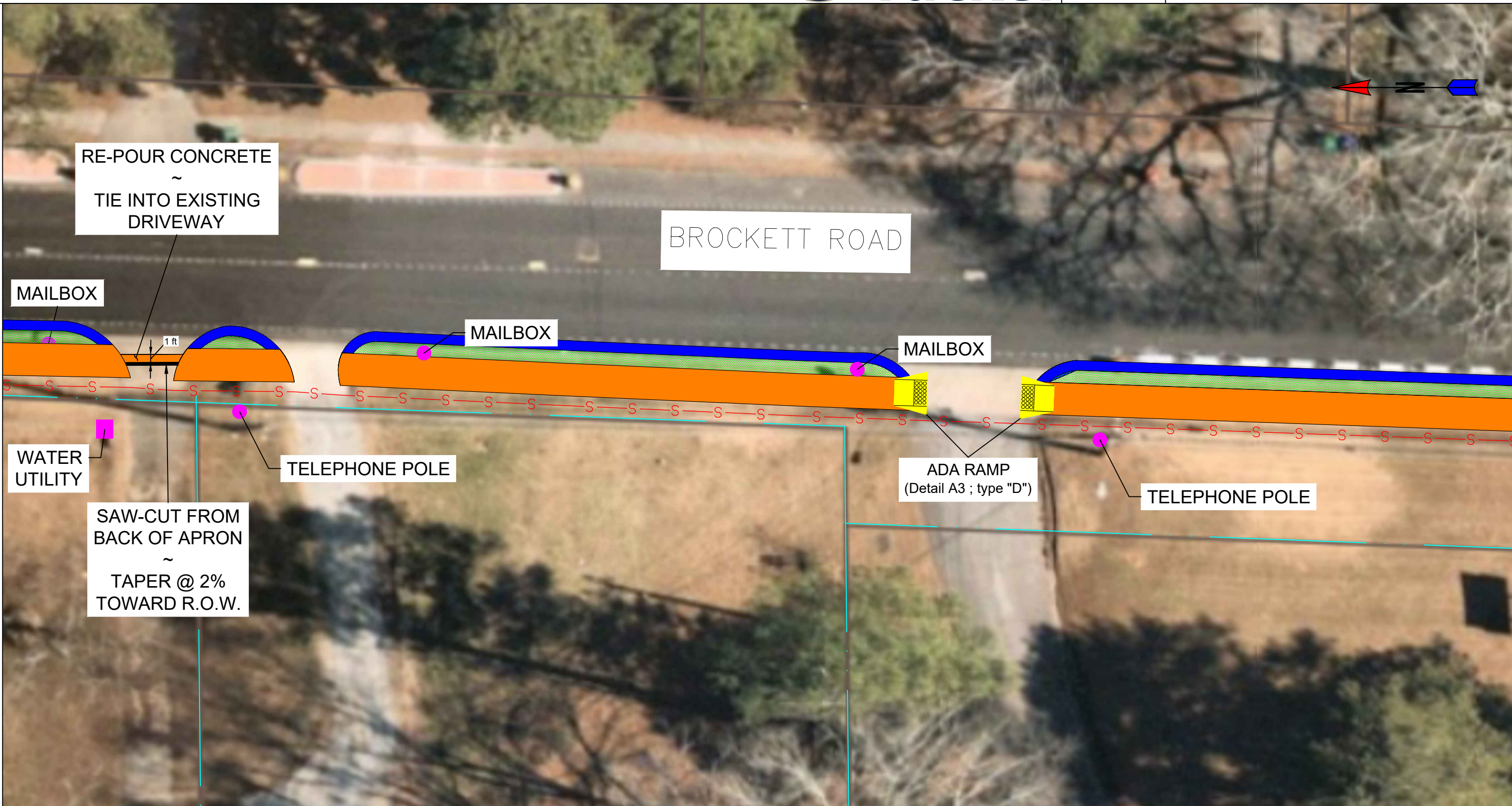
City of
Tucker

STATE

PROJECT

GA

MATCHLINE SHEET C-005



MATCHLINE SHEET C-007

REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



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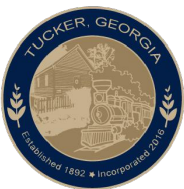
CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-006

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



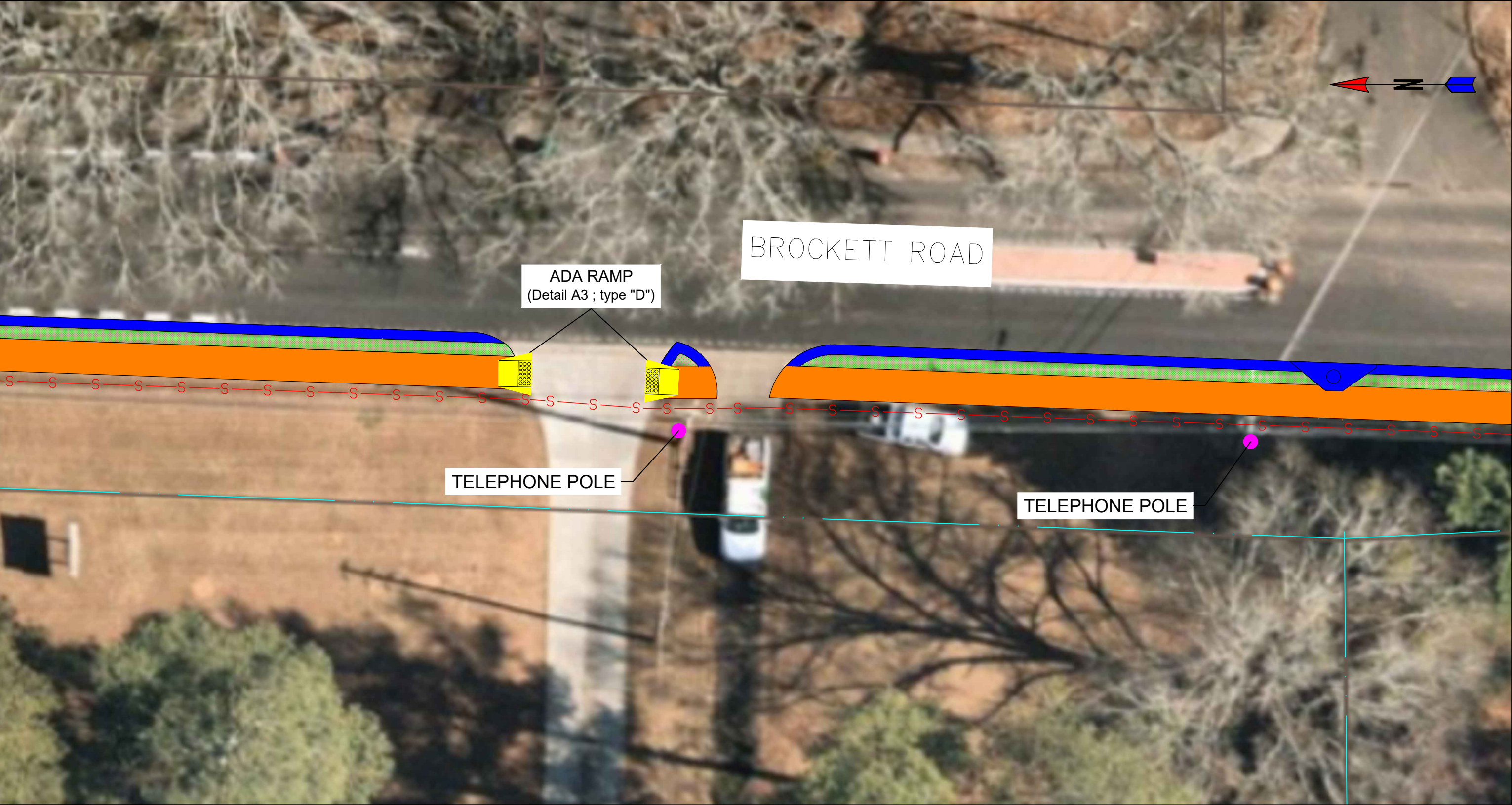
City of
Tucker

STATE

PROJECT

GA

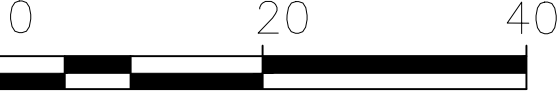
MATCHLINE SHEET C-006



MATCHLINE SHEET C-008

REVISIONS

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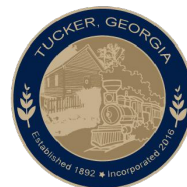
CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-007

- LEGEND:
- PROPOSED SIDEWALK
 - PROPERTY LN/EXISTING PVMT
 - ADA RAMPS
 - LANDSCAPING

- EXISTING CURB AND GUTTER
- NEW CURB AND GUTTER
- OBSTRUCTIONS/UTILITIES
- EROSION CONTROL



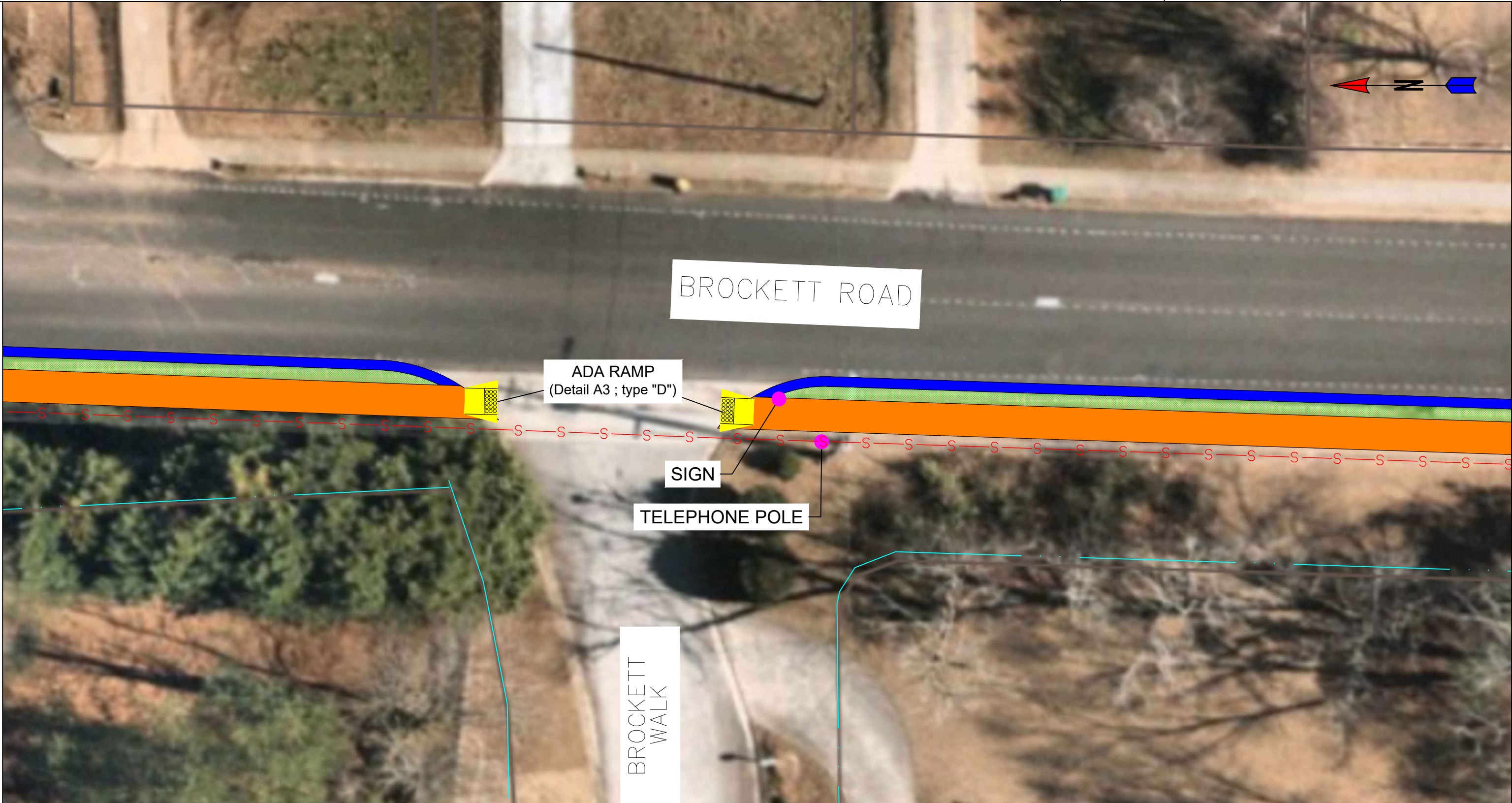
City of
Tucker

STATE

PROJECT

GA

MATCHLINE SHEET C-007



MATCHLINE SHEET C-009

REVISIONS

NOTE: ALL DISTURBED AREAS ARE TO BE GRASSED/SODDED BEFORE PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-008

LEGEND:
PROPOSED SIDEWALK
PROPERTY LN/EXISTING PVMT
ADA RAMPS
LANDSCAPING

EXISTING CURB AND GUTTER
NEW CURB AND GUTTER
OBSTRUCTIONS/UTILITIES
EROSION CONTROL



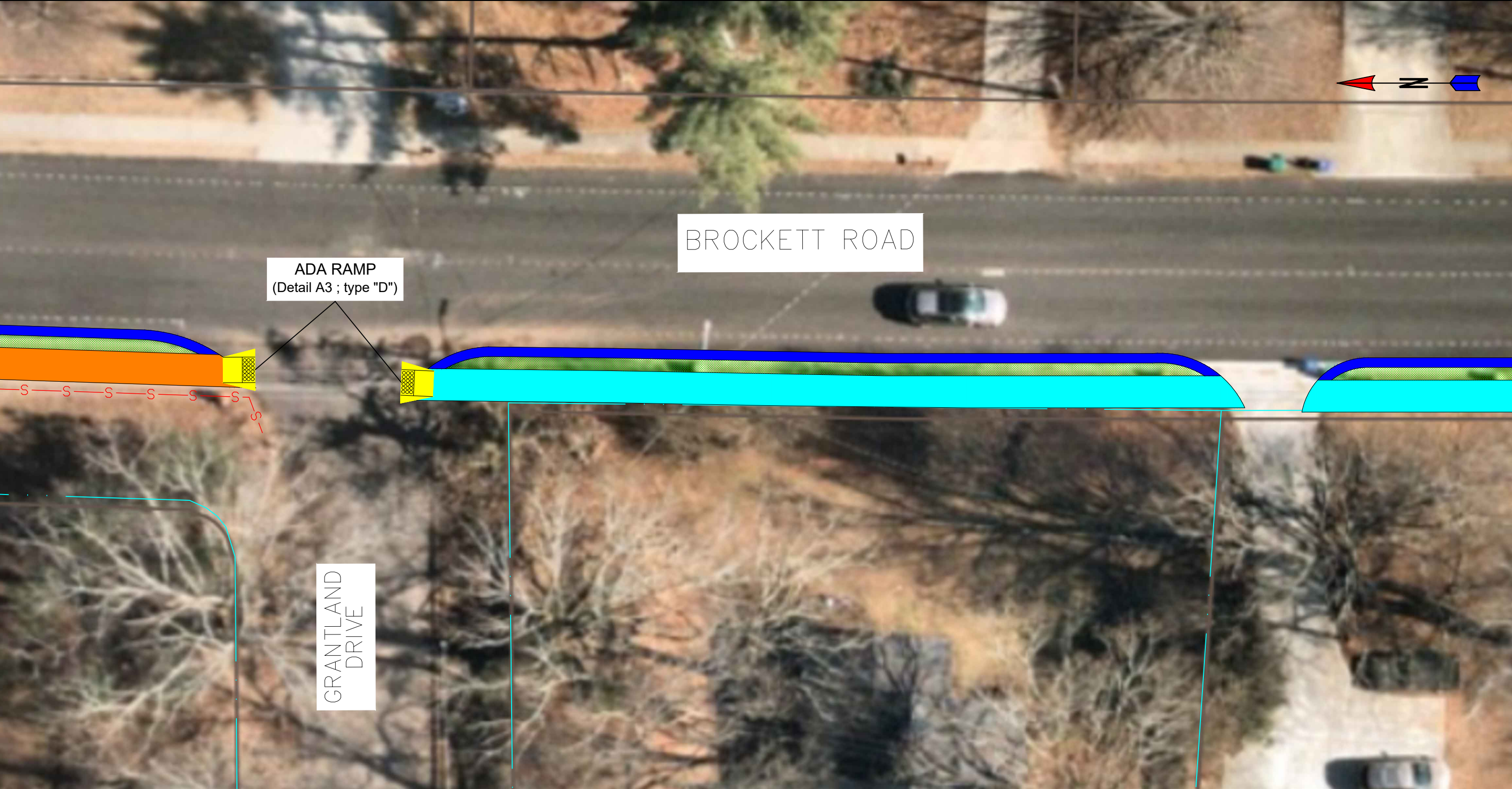
City of
Tucker

STATE

PROJECT

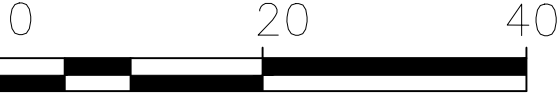
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MATCHLINE SHEET C-008



REVISIONS

NOTE: ALL DISTURBED AREAS ARE
TO BE GRASSED/SODDED BEFORE
PROJECT COMPLETION.



SCALE: 1" = 20'

CITY OF TUCKER

BROCKETT ROAD SIDEWALK
(PHASE II)

C-009

TYPICAL LOCATIONS FOR CURB CUT RAMPS - PLAN VIEW

BACK OF SIDEWALK MUST BE LOCATED AS SHOWN IN THE PLANS OR AS DIRECTED BY THE ENGINEER SO AS NOT TO ENCROACH INTO THE REQUIRED LEVEL LANDING AREA

SIDEWALK

CROSSWALK LINES

CONCRETE SIDEWALK

PAVEMENT EDGE

4' MIN.

4' MIN.

4' MIN.

SIDEWALK

SIDEWALK

MINIMUM WIDTH OF 5' MAY BE INCREASED, AS NECESSARY, TO OBTAIN 4' MIN. OFFSET FROM CROSSWALK LINE - OR FOR TIGHT RADIUS CURBS.

2.4' MIN.

2.4' MIN.

4' MIN.

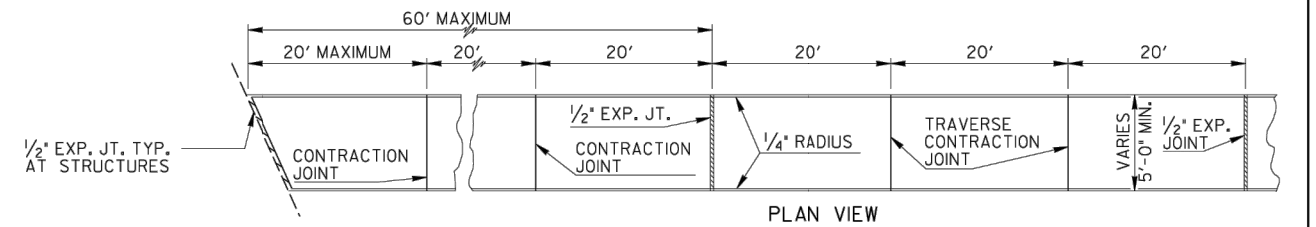
4' MIN.

CORNER TYPE CURB RAMP

NOTE: THE RAMP LENGTH IS NOT REQUIRED TO EXCEED 15 FEET. THE RAMP SLOPE MAY EXCEED 12:1 IF THE SITE CONDITIONS PREVENT THE USE OF A RAMP 15 FEET LONG.

NOTE: THE RAMP LENGTH IS NOT REQUIRED TO EXCEED 15 FEET. THE RAMP SLOPE MAY EXCEED 12:1 IF THE SITE CONDITIONS PREVENT THE USE OF A RAMP 15 FEET LONG.

STATE	PROJECT NUMBER	SHEET NO.	TOTAL SHEETS
GA.	STP00-2868-00(001)	113	258



GUTTER TRANSITION DETAIL

SLOPE 2% OR LESS

NORMAL GUTTER SLOPE

REQUIRED GUTTER AT RAMP

WCR GRADE (8.33% max)

CONTRACTOR MAY ELECT TO PLACE ADDITIONAL CONCRETE. NO ADDITIONAL PAYMENT WILL BE MADE.

*16' SHOULDER RECOMMENDED
WITH THIS INSTALLATION

*5' MIN WIDTH WITH NO OBSTRUCTIONS
(MAILBOXES, SIGNS, ETC)

7' PREFERRED WIDTH WITH A 2' AREA
OF CONTRASTING COLOR & TEXTURE
ADJACENT TO THE CURB.
(COST OF TEXTURE, COLORING & HOLES
REQUIRED FOR MAILBOX AND SIGN POST
SHALL BE INCLUDED IN THE PRICE BID
FOR SIDEWALK)

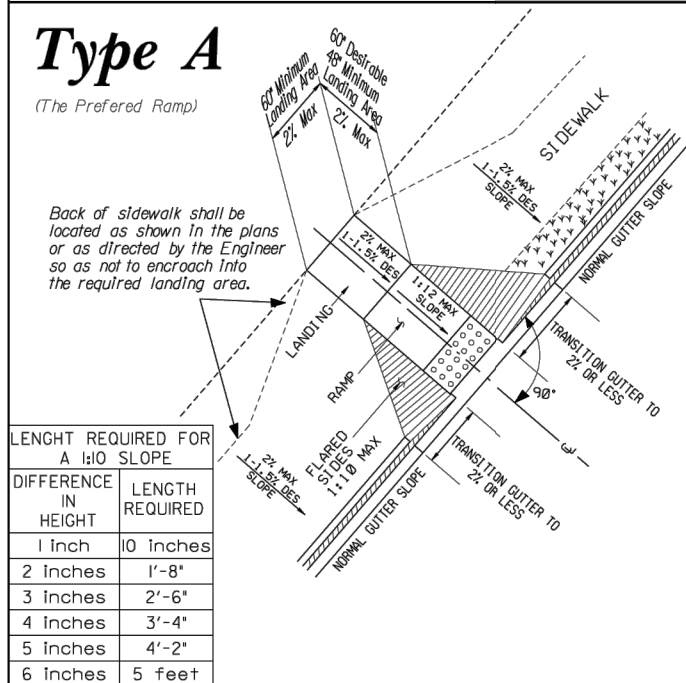
A. CONCRETE TO BE PLACED 4" THICK AND FINISHED WITH TAMPERS, WOOD FLOATS AND STIFF-BRISTLE BROOMS.

B. TRANSVERSE CONTRACTION JOINTS SHALL BE PLACED AT 20 FT. INTERVALS. ALL EDGES TO BE ROUNDED TO $1/4$ " RADIUS.

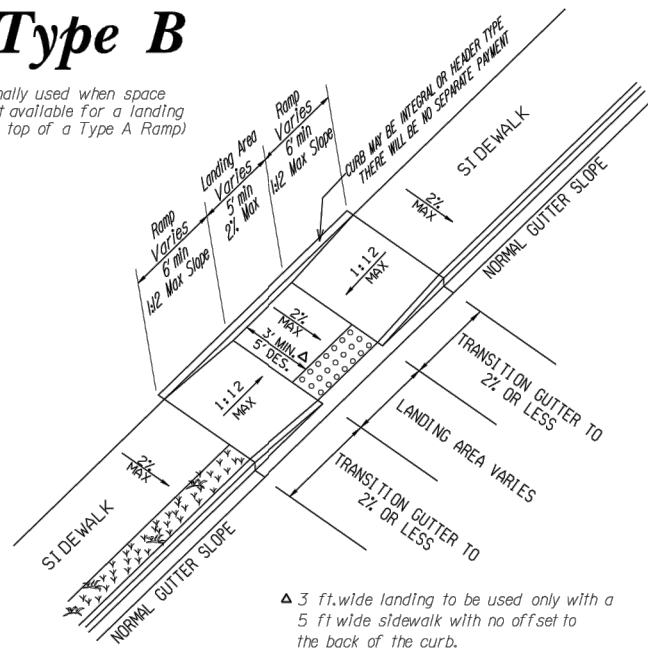
C. $1/2$ " EXPANSION JOINTS SHALL BE PLACED, WHERE SIDEWALK TIE INTO A STRUCTURE OR TERMINATE AT CURB, RAMPS OR DRIVEWAYS AND AT 60' INTERVALS.

1. CURB CUT RAMPs SHALL BE LOCATED AS FOLLOWS UNLESS PLANS OR CONTRACT SPECIFY OTHERWISE.
 - a) AT ALL PEDESTRIAN CROSSWALKS WHERE CURB IS CONSTRUCTED OR REPLACED.
 - b) WHERE THE SIDEWALK, CONCRETE OR UNPAVED, IS INTERRUPTED BY THE CURB AT TURNOUTS OR AT INTERSECTIONS.
 - c) AT OTHER LOCATIONS SUCH AS HOSPITALS, NURSING HOMES, REST AREAS, ETC., WHERE THE CURB WOULD OTHERWISE BE AN OBSTRUCTION TO THE PHYSICALLY DISABLED.
2. RAMPs SHALL BE CONSTRUCTED FROM CONCRETE. SPECIFICATIONS FOR RAMPs WILL BE THE SAME AS FOR CONCRETE SIDEWALK. RAMPs SHALL HAVE EITHER A ROUGH OR A TEXTURED FINISH.
3. DROP INLETS ARE NOT TO BE LOCATED DIRECTLY IN FRONT OF RAMPs. CATCH BASINS SHOULD BE LOCATED AT LEAST 10 FT. FROM RAMPs WHEN FEASIBLE.
4. WHERE RAMPs ARE LOCATED IN RADII, THE DIMENSIONS SHOWN FOR RAMP WIDTHS AND TAPERS ARE MEASURED PERPENDICULAR TO THE RAMP AND NOT ALONG THE CURVE.
5. WHERE UTILITY STRUCTURES CONFLICT, WHERE SIDEWALK GEOMETRY VARIES, AT SKEWED INTERSECTIONS, OR IN OTHER SPECIAL CASES, THE RAMP DESIGNS MAY BE MODIFIED BY THE DESIGNER OR ENGINEER, PROVIDED THAT THE WIDTH REMAINS A MINIMUM OF 48 INCHES, AND NO SLOPE ON THE ACCESSIBLE PART OF THE RAMP IS STEEPER THAN 12:1.
6. LIN. FT. OF CURB AND GUTTER WILL INCLUDE THE TRANSITIONED CURB IN FRONT OF RAMPs. SO. YDS. OF CONCRETE SIDEWALK AND CONCRETE MEDIAN PAVING WILL INCLUDE RAMPs. NO ADDITIONAL PAYMENT WILL BE MADE FOR CURB RAMPs. NO ADDITIONAL PAYMENT WILL BE MADE FOR SAWING AND REMOVING EXISTING SIDEWALK OR CURB WHERE NECESSARY FOR RAMP CONSTRUCTION.
7. WHEN A CURB RAMP IS PLACED ON EXISTING PAVEMENT. THE PAVEMENT SHALL BE REMOVED TO PROVIDE A MINIMUM THICKNESS OF 3 INCHES OF CONCRETE AT ALL LOCATIONS. NO SEPARATE PAYMENT WILL BE MADE FOR REMOVAL OF THE PAVEMENT.
8. DETECTABLE WARNING SURFACES ARE REQUIRED ON ALL INTERSECTIONS WITH PUBLIC STREETS, SIGNALIZED COMMERCIAL DRIVEWAYS, AND COMMERCIAL DRIVEWAYS WITH AN AADT OF 25 VPD.

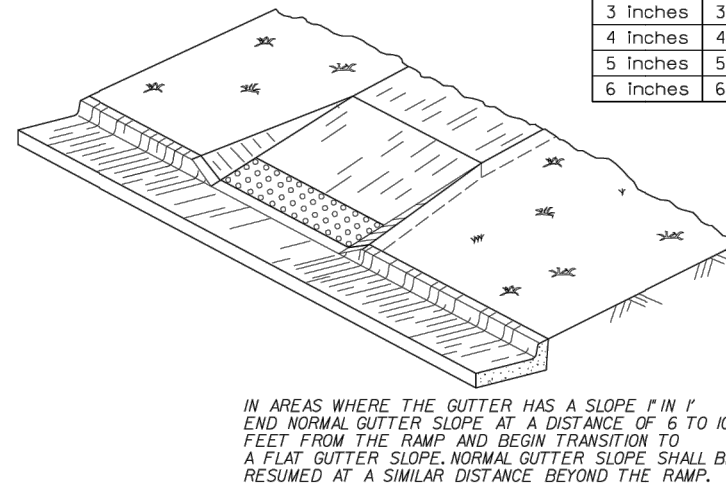
(The Preferred Ramp)



(Normally used when space is not available for a landing at the top of a Type A Ramp)



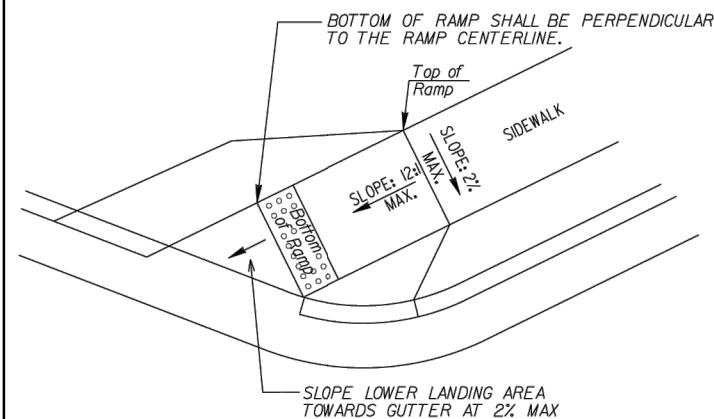
(Normally used when the sidewalk
ties directly into the crosswalk)



Type C

(Applies to Type A ¹Type D Ramps Only)

WHEN THE RAMP CENTERLINE IS NOT PERPENDICULAR TO THE CURB
A LEVEL LANDING AREA WITH SLOPES LESS THAN 2% MUST BE
PROVIDED AT THE BOTTOM OF THE RAMP.



Guidelines For Usage On Metric Projects

When these details are incorporated into plans and or projects that are being prepared or constructed in metric units, exact or precise conversion to metric units is not required. The dimensions shown that are in feet and inches may be converted to corresponding metric units using the following "Rounded-Off" conversion factors: 1"=25mm, 4"=100mm, and 12" or 1'=300mm. All measurement notes that refer to linear feet and square yards shall be interpreted to mean linear meters and square meters.

[illegible]



CONTRACT AGREEMENT

ITB 2023-025 Brockett Road Sidewalk Project (Phase II)

This Agreement made and entered into this ___ day of ___ in the year 202_; by and between the City of Tucker, Georgia, having its principal place of business at 1975 Lakeside Pkwy Suite 350, Tucker, Georgia 30084 and _____ ("Contractor"), located at _____.

WHEREAS, the City of Tucker is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Tucker; and

WHEREAS, the City of Tucker has caused **Invitation to Bid #2023-025** to be issued soliciting bids from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with these specifications. Selected ("Contractor") is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a bid in response to **ITB #2023-025**; and

WHEREAS, the Contractor's bid was deemed by the City to be the lowest reliable bid per the scope of services; and

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

That the Contractor has agreed and by these present does agree with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out as delineated in "**Exhibit A**" (**Scope of Services**) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A - SCOPE OF SERVICE

EXHIBIT B - COST PROPOSAL

EXHIBIT C- W-9

EXHIBIT D - CERTIFICATE OF INSURANCE

EXHIBIT E – E-VERIFY AFFIDAVIT

EXHIBIT F- CONTACT INFORMATION
EXHIBIT G - ADDENDUMS
EXHIBIT I – PERFORMANCE AND PAYMENT BONDS (if applicable)

2.0 Key Personnel

The City of Tucker enters into this Agreement having relied upon Contractor's providing the services of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

- 3.1.** Pricing. The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the bid and final pricing documents as incorporated into the terms of the Contract. All prices are firm and fixed and are not subject to variation. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as **Exhibit "B" (Cost Proposal)** and incorporated herein, shall be firm throughout the term of this Contract. The maximum costs owed by the City, unless otherwise agreed to in writing, shall not exceed **\$00.00**

Billings. If applicable, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract.

Invoices are to be emailed to invoice@tuckerga.gov and must reference the PO# (see top of contract). A W-9 Request for Taxpayer Identification Number and Certification Form must be submitted **"Exhibit C" (W-9)**.

- 3.2.** Delay of Payment Due to Contractor's Failure. If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

- 3.3. Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

- 4.1. Contract Term. The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution. The term of this contract shall align with the City's fiscal year from July 1 to June 30 and shall be from commencement of services and until all services are rendered. All invoices postmarked by the City during said term shall be filled at the contract price.
- 4.2. Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay.

This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

- 5.1. The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Tucker. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Tucker Representative within ten (10) day after issuance.
- 5.2. Inasmuch as the City of Tucker and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Tucker without

the express knowledge and prior written consent of the City.

6.0 Indemnification

- 6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.
- 6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City of Tucker Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have thirty (30) days to remedy the situation.

If requirements are not remedied City of Tucker has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- i. Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- ii. Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents submit to City a Notice of any outstanding disputes or claims between Contractor and any of its subcontractors, including the amounts and other details thereof. Neither Final Acceptance nor final payment shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising Contractor's failure to perform the work in accordance with the Contract Documents.
- iii. Acceptance of final payment by Contractor, or any subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of

City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 8.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Insurance

- 10.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$3,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.
- 10.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect. **"Exhibit D" (Certificate of Insurance).**

11.0 Termination

- 11.1. Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
 - (i) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

- (ii) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;
- (iii) The Contractor fails to comply with confidentiality laws or provisions; and/or
- (iv) The Contractor furnished any statement, representation or certification which is materially false, deceptive, incorrect or incomplete.

11.2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause or the City to declare the Contractor in default of its obligations under the Contract:

- (i) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- (ii) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- (iii) The Contractor fails to make substantial and timely progress toward performance of the contract;
- (iv) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- (v) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- (vi) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- (vii) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

11.3. Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- (i) Immediately terminate the Contract without additional written notice; and/or
- (ii) Procure substitute goods or services from another source and charge the difference

between the Contract and the substitute contract to the defaulting Contractor; and/or,

- (iii) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

11.4. Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Vendor for work performed to date in accordance with Section 7 herein. The City shall have no further liability to Vendor for such termination.

City shall pay Contractor for work performed to date in accordance with Section herein. The City shall have no further liability to Contractor for such termination.

11.5. Payment Limitation in the event of Termination. In the event termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Contract.

11.6. The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- (i) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- (ii) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- (iii) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- (iv) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and

- (v) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

12.0 Claims and Dispute Resolution

12.1 Claims Procedure

- (i) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City- directed work as provided in section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- (ii) Contractor shall file its Claim within the earlier of: 120 Days from City's final instructions in accordance with section 8; or the date of Final Acceptance,
- (iii) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- (iv) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- (v) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- (vi) After Contractor has submitted a fully documented Claim, the City shall respond, in writing, to Contractor with a decision within sixty (60) days of the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

12.2 Arbitration

- i) If Contractor disagrees with City's decision rendered in accordance with section 12. If, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim, failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its subcontractors,

ii) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:

1. Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
 - All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of DeKalb County.
 - If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
 - Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within DeKalb County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
 - All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or subcontractor of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

13.0 Confidential Information

- 13.1. Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all

information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- (i) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- (ii) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- (iii) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- (iv) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

- 13.2. No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.
- 13.3. Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.
- 13.4. Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.
- 13.5. Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

14.0 Inclusion of Documents

Contractor's documents submitted in response to any RFP or other solicitation from the City, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the RFP or other city solicitation, as amended, and the Contractor's submittal, the language in the former shall govern.

- 14.1 Counterparts: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

15.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

15.1 Federal Requirements.

15.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Tucker contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

1. Equal Employment Opportunity - The Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 1 1246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
2. Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded;
3. Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - a. Any patent that shall result under this contract; and
 - b. Any patent rights to which the Contractor purchases ownership with grant support
4. Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - a. The copyright in any work developed under this contract; and

- b. Any rights of copyright to which the Contractor purchases ownership with grant support.
- 5. Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States, or any of their duly authorized representatives; and
- 6. Retention of all required records for three years after the City makes final payment and all other pending matters are closed.

15.2 Georgia Security and Immigration Compliance Act

- a. The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "**Exhibit E**" (**E-Verify Form**) and incorporated herein by reference and made a part of this contract.
- b. The Contractor further certifies that any subcontractor employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c. Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

16.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Tucker's prior written consent.

17.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

18.0 Drug-Free and Smoke-Free Workplace

- 18.1 A drug-free and smoke-free workplace will be provided for the Contractor's employees during the performance of this Agreement; and

18.2 The Contractor will secure from any sub-Contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

18.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

18.3.1 The Contractor has made false certification herein; or

18.3.2 The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

19.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, Invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

20.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Tucker all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Tucker pursuant hereto.

21.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a quarterly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

22.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of DeKalb County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

23.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

24.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable:)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF TUCKER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

Attest:

Bonnie Warne, City Clerk

(Seal)

Approved as to form:

Ted Baggett, City Attorney

CITY OF TUCKER

ACKNOWLEDGE RECEIPT OF ADDENDUM #1 FORM

ITB #2025-025

BROCKETT ROAD SIDEWALK PROJECT – PHASE II

Upon receipt, please print and add to your proposal.

**I hereby acknowledge receipt of the supplement pertaining to the
above referenced bid.**

COMPANY NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

PHONE: _____ **FAX:** _____

EMAIL ADDRESS: _____

SIGNATURE

DATE

ITB #2025-025
ADDENDUM #1

	QUESTION	ANSWER
1	Confirm the erosion control items that should be included in the Lump Sum.	Silt fence and any other temporary measures needed to ensure silt and other disturbed material does not escape into the roadway.
2	Confirm the location of the 30lf of curb & gutter in the project.	The 30LF of curb and gutter is located on page C-003 in the radius of the highlighted curb cut. The 30LF header curb, 6in. quantity shall be used as a retainage structure on the backside of sidewalk for locations that cannot achieve a 3:1 slope, or as identified by City CEI.
3	Verify the quantities for the Driveway Concrete, 6in item.	Driveway concrete, 6in. quantity is primarily for the curb cut on page C-003 to ensure that proper drainage can be attained. Additional quantity may be used for repairs on additional driveways as identified by City CEI.
4	Confirm the location of the fence to be adjusted.	The fence to be adjusted is located on page C-001, at the curb cut for Shery's Produce on the corner lot. The fence is to be adjusted and aligned along the backside of the new sidewalk.
5	Is it necessary for us to possess pre-qualification certification by GDOT as either a prime contractor or subcontractor?	We did not require GDOT pre-qualification, however, experience with similar projects and references will be a consideration.



MEMO

To: Honorable Mayor and City Council Members
From: Beverly Hilton, Finance Director
CC: Tami Hanlin, City Manager
Date: September 6, 2023
RE: Memo for Budget Amendment FY2024

Description for on the Agenda:

Budget Amendment FY2024

Issue:

Staff is seeking approval for recommended amendment to FY2024 Operating and Capital Budgets.

Recommendation:

Review and approval of proposed amendment to Fiscal Year 2024 Operating and Capital Budgets.

Background:

The Operating and Capital Budgets for Fiscal Year 2024 were approved by the Mayor and Council on June 12, 2023, with Ordinance O2023-05-09. Since approval, there have been several developments that require a change in the appropriated totals in the general fund and the capital funds. The contract for Phase 1 renovations at Fitzgerald Park was approved at the July 10, 2023, Regular Meeting. The approved budget for this project was developed with estimated costs provided by the contracted engineer. When bids were opened, the low bid was over budget by \$1,000,000. In addition to this project, there was a contract approved in February 2022 for a sewer project at Fitzgerald Field that cost approximately \$700,000. This project was funded using ARPA funds. Since project completion, staff have been advised by the City Attorney to reimburse these funds due to requisite federal procurement language missing from the construction contract. Revenue in the General Fund for Streetlights and Traffic Calming Special Assessments were budgeted with an expectation of receiving 12 months of fees. This requires a reduction of \$228,000 in anticipated revenue.

Summary:

After a thorough investigation of funds in SPLOST and Capital Funds, staff determined that \$700,000 is available and eligible for use in Parks and Recreation for the Fitzgerald Projects. A transfer of \$1,000,000 of fund balance from the General Fund is needed to cover the remainder.

Financial Impact:

The additional \$1,700,000 needed for the Fitzgerald Field projects will be a combination of existing SPLOST funds of \$377,280, use of existing contingency funds of \$322,720 in the Capital fund and a transfer of \$1,000,000 from Fund Balance in the General Fund to the Capital Fund for the total.

A RESOLUTION TO AMEND FISCAL YEAR 2024 BUDGET

WHEREAS, the Mayor and City Council adopted the FY2024 budget on June 12, 2023; and

WHEREAS, O.C.G.A. § 36-81-3(d) and Section 5.04 of the City Charter allow the Mayor and City Council to amend the operating or capital budget; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the City of Tucker while at a regularly called meeting on September 11, 2023, that the attached FY2024 amendment to operating and capital budget is approved for the fiscal year 2024 and becomes effective upon its adoption;

SO ORDAINED, this the 11th day of September, 2023.

Approved:

Frank Auman, Mayor

Attest:

Bonnie Warne, City Clerk

(SEAL)

Attachment to R2023-09-20

Fiscal Year 2024

Budget Amendment 1

Monday, September 11, 2023

GL Number	Description	23-24 Adopted Budget	23-24 Amended Budget	Change
300-6210-54.12000-PR2305	FITZGERALD PARK IMPROVEMENTS	\$ 325,000	\$ 1,325,000	\$ 1,000,000
300-6211-54.12000-PR2201	FITZGERALD PARK IMPROVEMENTS FY22	\$ 626,250	\$ 926,250	\$ 300,000
300-1513-57.90000-OC2001	CONTINGENCIES	\$ 406,170	\$ 106,170	\$ (300,000)
300-9000-39.30000	TRANSFER FROM GENERAL FUND	\$ -	\$ 1,000,000	\$ 1,000,000
100-9000-61.30000	TRANSFER TO CAPITAL FUND	\$ -	\$ 1,000,000	\$ 1,000,000
320-0000-31.32003	SPLOST- SITE IMPROVEMENTS PARKS	\$ 738,000	\$ 1,138,000	\$ 400,000
320-6211-54.12000-SP2406	FITZGERALD PARK RENO PHASE 2 FY24	\$ 725,000	\$ 1,125,000	\$ 400,000
100-0000-34.32000	SPECIAL ASSESSMENT - STREETLIGHTS	\$ 437,000	\$ 218,500	\$ (218,500)
100-0000-34.32001	SPECIAL ASSESSMENT - TRAFFIC CALMING	\$ 18,300	\$ 9,150	\$ (9,150)



MEMO

To: Honorable Mayor and City Council Members
From: Ted Baggett, City Attorney
CC: Tami Hanlin, City Manager
Date: September 11th, 2023
RE: Memo for Franchise Agreement with City of Norcross

Description for on Agenda:

Electric Franchise Agreement with the City of Norcross

Issue: Norcross Power, the electric utility of the City of Norcross, provides electricity to two businesses within the city limits of Tucker. In order to treat Norcross similarly to other electric utilities operating within the city limits and to collect franchise fee revenues from them, a franchise agreement is necessary.

Recommendation:

Approve the franchise agreement with the City of Norcross in order to treat all electric utility providers the same and to ensure that the city is properly compensated for the use and occupancy of its rights-of-way.

Background:

Cities in Georgia are authorized to enter into franchise agreements with electrical, gas, phone, and cable companies. In exchange for the payment of a fee, such utilities are authorized to utilize and occupy the rights-of-way of the city. Cities must take care to require franchise agreements from all electric utility providers in their city limits under the substantially same terms and conditions. The City of Norcross is one of approximately 50 cities in Georgia that operate an electric utility. The City of Tucker adopted a franchise ordinance back in July of 2021 applicable to the City of Norcross. Due to apparent miscommunication, the City of Norcross has not been paying the franchise fee. Legal counsel for the city reached out to legal counsel for the City of Norcross and negotiated a proposed franchise agreement which was adopted by the Norcross City Council on September 5, 2023. In the agreement, the City of Norcross agrees to the applicable fees dating back to the date of the adoption of Tucker's ordinance and to pay the applicable fees going forward.

Summary: Adopting this agreement resolves an issue regarding the franchise relationship with Tucker and the City of Norcross, a municipal electric utility provider. In the agreement, which contains standard language, Norcross agrees to make franchise fee payments in arrears and going forward for occupying the rights-of-way of the City of Tucker.

Financial Impact: Anticipated back payment of approximately \$31,000 to Tucker by October 31, 2023 and approximately \$14,000 or more of annual revenue to Tucker going forward for the next 30 years, depending upon the amount of electricity sold by the City of Norcross to customers within the city limits of Tucker.

**ELECTRIC FACILITIES FRANCHISE AGREEMENT BETWEEN THE CITY OF
NORCROSS, GEORGIA, NORCROSS POWER AND THE CITY OF TUCKER,
GEORGIA**

THIS ELECTRIC FACILITIES FRANCHISE AGREEMENT, (the “Agreement”) is made this ____ day of _____ 2023 by and between the City of Norcross, Georgia, a municipal corporation of the State of Georgia (“Norcross”), Norcross Power, a Municipal Power Corporation (the “Franchisee”), and the City of Tucker, Georgia, a municipal corporation of the State of Georgia (hereinafter, “Tucker” or “Franchisor”). (Norcross, Franchisee, and Tucker are, collectively, the “Parties”).

WHEREAS the Franchisee is wholly owned and controlled by Norcross and is engaged in the sale of electrical power;

WHEREAS the Franchisee provides power within and without the City of Norcross;

WHEREAS the Franchisee has provided power to two commercial developments within the corporate boundaries of Tucker and has utilized rights of way and other municipal services and assets controlled by or within the jurisdiction of Tucker;

WHEREAS Tucker, on or about July 12, 2021, executed a certain Ordinance Granting Permission and Consent to Norcross (the “Franchise Ordinance”) and the Franchisee to occupy the streets and public places within Tucker for the purpose of installing and maintaining certain electrical-service utilities;

WHEREAS the Franchise Ordinance was countersigned by neither Norcross nor the Franchisee; and

WHEREAS the lack of a signed agreement has come to the Parties’ attention and the Parties have agreed to execute an enforceable agreement concerning the use of Tucker’s public right of way and other assets for the purpose of providing power to certain developments within the municipality;

NOW THEREFORE, in consideration of the sum of Ten and No/100ths Dollars (\$10.00), the foregoing recitals and the representations, warranties, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound hereby, the Parties hereto hereby agree as follows:

TERMS AND CONDITIONS

SECTION I. Recitals The above Recitals are true, correct, form a material part of this Agreement and are incorporated herein by reference.

SECTION II. Grant of Franchise. The Franchisee, for a period of thirty (30) years from the date of the Franchisee’s acceptance hereof, shall have the right to occupy and use the streets, alleys, and public places of Tucker within the present and future corporate limits of the Tucker as from time to time the Franchisee may deem proper or necessary for the overhead or underground construction,

maintenance, operation, and extension of poles, towers, lines, wires, cables, conduits, insulators, transformers, appliances, equipment, connections, and other apparatus (hereinafter referred to collectively as the "Power Facilities") for the business and purpose of transmitting, conveying, conducting, using, supplying, and distributing electricity for light, heat, power, and other purposes for which electric current may be or become useful or practicable for public or private use, and to re-enter upon such streets, alleys, and public places from time to time as the Franchisee may deem proper or necessary to perform these functions, and to cut and trim trees and shrubbery when and where necessary, in the judgment of the Franchisee, to insure safe and efficient service.

SECTION III. Payment of Franchise Fees After Execution. Tucker's grant of franchise as provided herein shall be subject to the following conditions and obligations by the Franchisee, which are affirmed and guaranteed by Norcross:

1. The Franchisee shall pay into Tucker's treasury on a quarterly basis no later than thirty (30) days after the last day of March, June, September and December throughout the term of this Agreement a sum of money equal to four percent (4%) of the gross sales of electric energy to customers served under residential, commercial, and industrial rate schedules within the corporate limits of Tucker. The Franchisee shall implement the franchise fee immediately upon execution. If any payment required by this Agreement is not actually received by Tucker on or before the applicable date fixed in this Agreement, the Franchisee shall pay interest thereon, from the due date to the date paid, at a rate of one percent (1%) per month. Upon agreement of the Parties, the Franchisee may pay franchise fee by electronic funds transfer and in such event, Tucker agrees to provide to Franchisee bank routing & account information for such purpose upon request of the Franchisee. No acceptance of any payment by Tucker shall be construed as an accord and satisfaction that the amount paid is in fact the correct amount or a release of any claim that Tucker may have for further or additional sums under this Agreement. Tucker may conduct an audit to ensure payments have been made in accordance with the Agreement and the audit period will be limited to three (3) years preceding the end of the quarter of the most recent payment.

2. The amount, if any, of any tax, fee, charge, or imposition of any kind required, demanded, or exacted by Tucker on any account, other than ad valorem taxes on property, shall operate to reduce to that extent the amount due from the percentage of gross sales provided for in paragraph 1 of this Section II.

3. The Franchisee shall fully protect, indemnify, and save harmless Tucker from all damages to persons or property caused by the construction, maintenance, operation, or extension of the Facilities, or conditions of streets, alleys, or public places resulting therefrom, for which Tucker would otherwise be liable. Provided, however, that such obligation to indemnify shall not be extended, by guaranty or otherwise, to Norcross.

4. The Franchisee shall, in constructing, maintaining, operating, and extending the Facilities, submit and be subject to all reasonable exercises of the police power by Tucker. Nothing contained herein, however, shall require the Franchisee to surrender or limit its property rights created hereby without due process of law, including adequate compensation, for any other purpose at the instance of Tucker or for any purpose at the instance of any other entity, private or governmental.

5. For purposes of paragraph 6 of this Section II, the term "Distribution Facilities" means poles, lines, wires, cables, conductors, insulators, transformers, appliances, equipment, connections, and other apparatus installed by or on behalf of the Franchisee (whether before or after the adoption of this ordinance) in the streets, alleys, or public places of Tucker for the purpose of distributing electricity within the present and future corporate limits of Tucker. Distribution Facilities

do not include any of the following: (i) electric transmission lines with a design operating voltage of 46 kilovolts or greater (hereinafter referred to as "Transmission Lines"); (ii) poles, towers, frames, or other supporting structures for Transmission Lines (hereinafter referred to as "Transmission Structures"); (iii) Transmission Lines and related wires, cables, conductors, insulators, or other apparatus attached to Transmission Structures; (iv) lines, wires, cables, or conductors installed in concrete-encased ductwork; or (v) network underground facilities.

6. In the event that Tucker or any other entity acting on behalf of Tucker requests or demands that the Franchisee relocate any Distribution Facilities from their then-current locations within the streets, alleys, and public places of Tucker in connection with a public project or improvement to secure the public health and welfare or is otherwise required by Tucker in the exercise of a government function, then the Franchisee shall relocate, at its expense, the Distribution Facilities affected by such project or improvement. In the event of such relocation, Tucker shall provide replacement access to other right of way or streets, alleys, and public places to the extent necessary for the Franchisee to reinstall Distribution Facilities necessary to service those properties that the Franchisee serviced immediately before the relocation. Notwithstanding the foregoing provisions of this paragraph 6, the Franchisee shall not be obligated to relocate, at its expense, any of the following: (i) Distribution Facilities that are located on private property at the time relocation is requested or demanded; (ii) Distribution Facilities that are relocated in connection with sidewalk improvements (unless such sidewalk improvements are related to or associated with road widenings, the creation of new turn lanes, or the addition of acceleration/deceleration lanes); (iii) streetscape projects or other projects undertaken primarily for aesthetic purposes; or (iv) Distribution Facilities that are converted from an overhead configuration or installation to an underground configuration or installation.

7. Tucker and the Franchisee recognize that both parties benefit from economic development within Tucker. Accordingly, when it is necessary to relocate any of the Franchisee's Distribution Facilities (whether Distribution Facilities, Transmission Lines, Transmission Structures, or other facilities) within the municipality, Tucker and the Franchisee shall work cooperatively to minimize costs, delays, and inconvenience to both parties while ensuring compliance with applicable laws and regulations. In addition, Tucker and the Franchisee shall communicate in a timely fashion to coordinate projects included in the Tucker's five-year capital improvement plan, the Tucker's short-term work program, or the Tucker's annual budget in an effort to minimize relocation of facilities. Such communication may include, but is not limited to, (i) both parties' participation in the Georgia Utilities Coordinating Council, Inc. (or any successor organization) or a local utilities coordinating council (or any successor organization) and (ii) both parties' use of the National Joint Utility Notification System (or any successor to such system mutually acceptable to both parties)

Section IV. Payment for Prior-Use. The Parties acknowledge that the Franchisee has made use of Tucker's rights of way, streets, alleys, and public places for the installation and maintenance of electrical facilities servicing developments within the jurisdiction and that no such franchise fees have been paid to the City on account of such use. The Parties dispute as to whether such an obligation is enforceable, however, have agreed to the payment of the Franchisee's prior use accordingly: Norcross and the Franchisee shall, before October 31, 2023, pay to Tucker \$31,138.96 ("Prior Use Fees"). Upon payment of Prior Use Fees, Tucker agrees and shall be deemed to have released Norcross, the Franchisee, its elected officials, officers, employees, agents, or independent contractors of any obligation arising from the Franchisee's use of Tucker's rights of way, streets, alleys, and public places, any obligation related to the Franchisee's provision of electricity to customers in Tucker and from any obligation to pay franchise fees, or any other associated fee, costs, or damages arising from the installment of electrical facilities and the Franchisee's provision of power to customers in Tucker's municipal jurisdiction at any point prior to Norcross or the Franchisee's execution of this agreement. For the avoidance of doubt and as an illustration of this release, if this

Agreement is executed on September 5, 2023, Tucker shall have agreed to release Norcross and the Franchisee from any obligation for their prior-use of rights of way or municipal property or assets before September 1, 2023.

SECTION V. No Restrictions on Customer's Right to Selection. Nothing contained in this Agreement shall limit or restrict the right of customers within the corporate limits of Tucker to select an electric supplier as may hereafter be provided by law.

SECTION VI. Amendments or Modifications to this Agreement. From time to time after the approval of this ordinance, Parties may enter into such additional agreements, modifications or amendments as the Parties deem reasonable and appropriate; provided, however, that such agreements shall not be inconsistent with the terms and conditions of the franchise granted in this Agreement, shall not extend beyond the term of the franchise, and shall be enforceable separate and apart from the franchise unless committed to writing and executed by both parties.

SECTION VII. Warranty of Authority. Each of the Parties warrant that the undersigned has the authority to execute this agreement and that such authority was lawfully delegated in accordance with applicable law.

SECTION VII. Execution in Counterparts. Each of the Parties shall be permitted to sign in separate counterparts.

[Intentionally Blank]

[Execution on Following Page]

Agreed to by:

Mayor of The City of Tucker

Certified by:

Clerk for the City of Tucker

*Certification shall affirm that the execution above was witnessed by the clerk, authorized at a duly noticed and held meeting, at which a quorum was present, and that at such meeting the authority to enter into such an agreement was authorized by the City of Tucker's City Council.

Approved as to Form:

Ted Baggett, City Attorney

Agreed to by:

Mayor of The City of Norcross

Certified by:

Clerk for the City of Norcross

*Certification shall affirm that the execution above was witnessed by the clerk, authorized at a duly noticed and held meeting, at which a quorum was present, and that at such meeting the authority to enter into such an agreement was authorized by the City of Norcross's City Council.

Approved as to Form:

J. Patrick O'Brien, City Attorney

Agreed to by:

Norcross Power, a Municipal Power Corporation

By: _____

Its: _____