



ZONING BOARD OF APPEALS AGENDA

**JANUARY 18, 2017
7:00 PM
CITY HALL**

- A. Roll Call**
- B. Approval of Minutes: September 21, 2016**
- C. Old Business: (None)**
- D. New Business:**
 - 1. V2016-006 Atlanta Best Use Cars. Consideration of a variance to the City of Peachtree Corners Buffer, Landscape and Tree Ordinance Section 4.3.1 in order to allow trees with tops removed to remain instead of being replaced at 4745 S. Berkeley Lake Rd., located in Dist. 6, Land Lot 258, Parcel 248, Peachtree Corners, GA**
 - 2. V2017-001 Storage Facility. Consideration of a variance from Zoning Code Sec. 1310 a., in order to allow a self-storage facility within the Central Business District contrary to Ordinance 2016-01-64 for property located at 4779 Peachtree Corners Circle (across from The Forum) in Dist. 6, Land Lot 301, Peachtree Corners, GA**
- E. City Business Items: (None)**
- F. Comments by Board Members.**
- G. Adjournment.**

CITY OF PEACHTREE CORNERS
ZONING BOARD OF APPEALS MINUTES
September 21, 2016

The City of Peachtree Corners held a Zoning Board of Appeals meeting. The meeting was held at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Zoning Board of Appeals: Wayne Knox, Post B
Marcia Brandes, Post A
Amreeta Regmi, Post C
Matthew Gries, Post D - Absent
James Blum, Post E

Staff: Diana Wheeler, Com. Dev. Director
Kym Chereck, City Clerk
Rocio Monterrosa, Deputy City Clerk

AGENDA: Approval of the September 21, 2016 agenda.

MOTION TO APPROVE THE SEPTEMBER 21, 2016 AGENDA.

By: James Blum

Seconded: Marcia Brandes

Vote: (4-0) (Blum, Brandes, Regmi, Knox)

MINUTES: Approval of July 20, 2016 Minutes.

MOTION TO APPROVE THE JULY 20, 2016 MINUTES.

By: Marcia Brandes

Seconded: Amreeta Regmi

Vote: (4-0) (Brandes, Regmi, Knox, Blum)

NEW BUSINESS:

V2016-005 3699 Allenhurst Dr. Request to encroach into the required 50 ft. stream buffer in order to accommodate a rear yard deck expansion for property located at 3699 Allenhurst Dr. in Dist. 6, Land Lot 303, Parcel 128, Peachtree Corners, GA

Diana Wheeler, Community Development Director, provided background information regarding the applicant's request. The applicant requests a stream buffer variance of approximately 10 ft. in order to expand an elevated outdoor deck on the rear of his house. The variance would allow the existing deck to

increase in width from 10 ft. to 18 ft. in order to better accommodate the 5-foot turning radius of his daughter's wheelchair. Currently, access to the backyard is difficult for the applicant's handicapped daughter; however, the additional deck space would give her the opportunity to spend more time outdoors. The city's stream buffer ordinance requires a 50-foot setback from streams. However, the existing residence and deck were constructed in 1980, before the city's or county's ordinance. Adopted in 1981, O.C.G.A. 12-5-453 requires a 25-foot stream buffer. The proposed deck expansion would encroach a maximum of eight feet into the 25-foot stream buffer. After reviewing the applicant's proposal and the variance criteria, staff finds that the buffer encroachment request is justified, as there are extraordinary conditions unique to the property that are not the result of any action of the property owner. If approval of the variance is considered, the following conditions are recommended: 1. Any specimen tree removal must be permitted by the city arborist. 2. Disturbance shall be limited to small holes for deck posts, or footings, and shall be performed manually, not with heavy equipment.

The applicant, Mr. Chris Moder, was present at the meeting. Mr. Moder stated that he is seeking permission to extend porch the to allow use of the area for his daughter and to enjoy the backyard. Mr. Moder also stated that per the current plan, no tree canopy would be removed.

Chairman Knox opened the floor to anyone wanting to speak in favor or opposition to the application. There were no comments.

Amreeta Regmi, requested to be excuse due to conflict of interest with applicant. Ms. Regmi is the chairman of the HOA and a neighbor of Mr. Moder. A motion was made after discussion concerning, among other items, the importance of the access to the property from Ryan Road.

BASED ON A THOROUGH REVIEW OF THE ENTIRE RECORD AND THE HEARING BEFORE THIS BODY, I MOVE THAT THE ZONING BOARD OF APPEALS MAKE THE FOLLOWING FINDINGS AND CONCLUSIONS AND APPROVE THE APPLICATION BEFORE IT ON THE BASIS THAT (1) THERE ARE EXTRAORDINARY OR EXCEPTIONAL CONDITIONS PERTAINING TO THIS PARTICULAR PROPERTY IN QUESTION BECAUSE OF ITS SIZE, SHAPE OR TOPOGRAPHY; AND, (2) THE APPLICATION OF THE ZONING RESOLUTION TO THIS PARTICULAR PIECE OF PROPERTY WOULD CREATE AN UNNECESSARY HARDSHIP; AND, (3) SUCH CONDITIONS ARE PECULIAR TO THE PARTICULAR PIECE OF PROPERTY INVOLVED; AND, (4) SUCH CONDITIONS ARE NOT THE RESULT OF ANY ACTIONS OF THE PROPERTY OWNER; AND, (5) RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD NOR IMPAIR THE PURPOSES OR INTENT OF THIS RESOLUTION. I WOULD ALSO LIKE TO ADD THE FOLLOWING CONDITIONS THAT THE REQUEST BE APPROVED ACCORDING TO THE PLANS THAT WERE PRESENTED IN THE MEETING AND IF CHANGES ARE MADE, THE

APPLICANT MUST REQUEST A NEW VARIANCE.

By: Marcia Brandes

Seconded: James Blum

Vote: (3-0-1) (Brandes, Blum, Knox) (Regmi Abstained)

CITY BUSINESS ITEMS:

Diana Wheeler, Community Development Director, informed the Board that there would be no meeting in October.

COMMENTS BY BOARD MEMBERS:

James Blum noted that a vice chair will need to be selected at next meeting.

The Zoning Board of Appeals meeting concluded at 7:39 PM.

Approved,

Attest:

Wayne Knox, Chairman

Rocio Monterrosa, Deputy City Clerk

V2016-006

Atlanta Best Used Cars

**City of Peachtree Corners
Zoning Board of Appeals
January 18, 2017**

CASE NUMBER:	V2016-006
PROPERTY LOCATION:	4745 South Berkeley Lake Road 6th District, Land Lot 258, Parcel 248
CURRENT ZONING:	C2
PARCEL SIZE:	1.47 acres
PROPERTY OWNER:	Eldon S. Smith
APPLICANT:	Eric Johansen (representing Atlanta Best Used Cars)

REQUEST

The applicant requests a variance from Section 4.3.1 of the City’s Buffer, Landscaping and Tree Ordinance which prohibits tree topping (the removal of the upper part of the tree consisting of all the branches and leaves above the trunk base.)

LOCATION AND BACKGROUND

The property is located at the intersection of South Berkeley Lake Road and Buford Hwy. It is used by the Atlanta Best Used Car business as their location for washing and detailing vehicles that are being prepared to be sold. The property is long and narrow and once the vehicles have been cleaned, they are placed in the parking spaces located along the perimeter of the property adjacent to the existing landscape strip. There are 36 trees in the landscape strip around the perimeter of the property.

In this case, the business owner finds that the leaves, twigs, and other things that drop from the trees create a hardship for him because they land on the clean cars which must then be washed again. The business owner’s solution to this problem was to have all the tree limbs and leaves pruned from all 36 trees. The result is a row of tree trunks lining the edge of the property. Six of the trees have died. The remaining trees have re-sprouted and now have an unnatural shape. (see photos)

The applicant proposes to remove and replace the six dead trees. He would like approval to keep the remaining trees as they are and has offered to purchase a landscape bond to replace any additional trees that might die over the next two years. The applicant believes that the surviving trees will grow back and would like the two years’ time to see if that is the case.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and
- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

In his letter of intent, the applicant states the reason for the tree topping and his proposal to remedy some of the resulting problems. The City's Tree Ordinance, however, clearly requires perimeter landscaping on commercial property and specifically prohibits tree topping. While trees are valued by the community, they are a nuisance to this business at this location. The conflict appears to come from the decision in choosing this site for a car maintenance facility. This property is not well suited to the applicant's needs. A wider lot with interior parking located away from the required perimeter landscaping would have been a more appropriate choice.

CONCLUSION

After reviewing the applicant's proposal and the variance criteria, it appears that the applicant has a hardship; however, much of it may be self-imposed. Although this site is narrow and the parking is situated under the trees, these factors were known to the business owner when he leased the property. And while these site issues are a nuisance to this business, they would not pose a problem for many other businesses. There is a further concern that when a poor site selection occurs, using tree topping as the solution creates an undesirable precedent.



Case Number: V2016-006 Received Date: 12/2/2016 Hearing Date: 1/18/2017

**Variance Application from the Zoning Resolution
(Zoning Board of Appeals)**

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Atlanta Best Used Cars</u>	Name <u>Eldon S Smith Revocable Trust</u>
Address (all correspondence will be mailed to this address): <u>5141 Buford Highway</u>	Address <u>280 Knox Circle</u>
City <u>Peachtree Corners</u>	City <u>Lavonia</u>
State <u>GA</u> Zip <u>30071</u>	State <u>GA</u> Zip <u>30553</u>
Phone <u>(770) 449-9711 office</u>	Phone <u>(770) 365-3000 cell for Briggs Allen, RE Agent</u>
Contact Person Name: <u>Eric Johansen, Agent</u> Phone: <u>678-571-4843 cell</u>	
Email Address: <u>eric@inlandllc.com</u>	
Applicant is the (please check or circle one of the following): <input type="radio"/> Property Owner <input checked="" type="radio"/> Owner's Agent <input type="radio"/> Contract Purchaser	

Address of Property 4745 South Berkeley Lake Road, Peachtree Corners, GA 30071
 Subdivision or Project Name n/a Lot & Block n/a
 District, Land Lot, & Parcel (MRN) Gwinnett County Tax Parcel: 6258 248
 Proposed Development Existing Automotive Service Facility per CIC2010-00006
 Permit Number (if construction has begun) n/a
 Variance Requested See Attached Letter of Intent for specifics

A complete application includes the following:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Application Form (1 original and 9 copies) | <input checked="" type="checkbox"/> Application Fee |
| <input checked="" type="checkbox"/> Site Plan and/or Boundary Survey (1 original and 9 copies) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 9 copies) |
| <input checked="" type="checkbox"/> Letter of Intent (1 original and 9 copies) | <input checked="" type="checkbox"/> Additional Documentation as needed |
| <input checked="" type="checkbox"/> Signed & notarized Certification page | |



Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).

ANEES HUSSAIN
NOTARY PUBLIC, GWINNETT COUNTY, GEORGIA
MY COMMISSION EXPIRES SEPTEMBER 22, 2020

Notary Seal

ANEES HUSSAIN
NOTARY PUBLIC, GWINNETT COUNTY, GEORGIA
MY COMMISSION EXPIRES SEPTEMBER 22, 2020

Signature of Applicant _____ Date 12/1/16
Amer Habib Tennant
 Typed or Printed Name & Title _____
 Signature of Notary Public _____ Date 12-1-16

Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.

Signature of Property Owner _____ Date _____
 Typed or Printed Name & Title _____
 Signature of Notary Public _____ Date _____

Notary Seal

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____

November 13, 2016

Diana Wheeler
Community Development Director
City of Peachtree Corners
147 Technology Parkway
Suite 200
Peachtree Corners, GA 30092

Submitted via Hand Delivery to:
Community Development

**Re: 4745 South Berkeley Lake Road
Gwinnett County Tax Parcel 6258 248
City of Peachtree Corners, GA**

Dear Ms. Wheeler,

Atlanta Best Used Cars is the tenant on real property owned by Eldon S Smith Revocable Trust located at the intersection of South Berkeley Lake Road and Buford Highway at 4745 South Berkeley Lake Road, consisting of approximately ±1.47 acres and identified by Gwinnett County Tax Parcel 6258 248 (the "Subject Property"). The last known zoning actions taken on the Subject Property were from the Gwinnett County Board of Commissioners under CIC2010-00006 (Exhibit "A").

The Subject Property is presently zoned C-2 and is bordered by M-1 zoned property to the North, C-2 zoned property and South Berkeley Lake Road to the South, Buford Highway to the East, and CSX Rail Road Right of Way to the West. Just across Buford Highway, on the unincorporated Gwinnett County properties, and immediately adjacent on Simpson Circle the following zoning designations are present: C-1, C-2, M-1, and M-2, to include two (2) Heavy Metal Recycling Facilities, and one (1) of the Gwinnett County Bus Storage facilities. Immediately adjacent on the surrounding City of Peachtree Corners, GA (the "City") incorporated properties are the majority of the City's Industrial zoned district. According to the Gwinnett County Department of Transportation, and the Georgia Department of Transportation readily available 2015 traffic data, South Berkeley Lake Road has an average daily traffic count of 13,064 ADT and Buford Highway has an average daily traffic count of 28,000 ADT.

Based on previous correspondence from the City, it was determined by Staff that the Subject Property is not in conformity with the current Buffer, Landscape, and Tree Ordinance. The City Staff recommended removing all of the trees that were topped and replacing them with similar trees in the approximate places from where they were removed. The City Buffer, Landscape, and Tree Ordinance is not that clear on how to handle this specific issue with respect to the topped trees, see below from the City ordinance as it pertains to this specific situation:

City of Peachtree Corners, GA
Buffer, Landscape & Tree Ordinance

Section 4.3.1 Quantity, Spacing, and Planting Standards

(H) Topping trees is not allowed. Trees removed or having had their tops cut after compliance with this Ordinance shall be replaced with the equivalent inches of removed trees.

Section (H) simply states to replace the equivalent inches of removed trees. In this specific case, there were no trees actually removed, only the tops of the trees removed. The tops of the trees that were removed were done so for several issues causing monetary damage to the Subject Property and monetary damages to the inventory of vehicles on the Subject Property that were placed there by the Tenant. The Tenant uses the Subject Property for the maintenance and washing of recently purchased vehicles from the various auction houses where they purchase vehicles. The purchased vehicles must be thoroughly inspected, minor repairs performed to make them showroom ready, and then property detailed. After this work has occurred, these vehicles are then parked along the perimeter of the Subject Property where the existing trees drop leaves, limbs, fruits and sometimes nuts on these vehicles causing further damage and additional work to be performed on vehicles that were previously prepared for sale and delivery to their customers.

Peachtree Corners Basic Letter of Intent Questions Answered by Applicant:

1. Any extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography. **Yes, the existing development is completely developed with a 10 foot landscape strip in the front of the property and 5 foot landscape strips on the sides of the property. The landscape strips have vehicles backed up to them and the frontage of the entire 10 foot landscape fence is enclosed in a black metal fence. There is NO ROOM to work with the vehicles and the existing conditions to simply remove and replace all trees on the Subject Property that do not conform to today's code.**
2. How the application of the Zoning Code standards would create an unnecessary hardship. **The simple implementation of the basic landscape strip requirements OR the removal and replacement of all topped trees will not work on the Subject Property for the reasons outlined in this Letter of intent and for the answers provide above in question #1.**
3. How such conditions are unique to the property involved. **To be honest, the conditions are unique today because Gwinnett County permitted all of the 52 required trees of the property to be pushed as far to the extreme outside of the property back in the 1990's and left no room in the middle of the property for landscape islands to provide some relief. This is perfectly evident today to the amount of the trees that have been removed over the years and their stumps left in the ground to rot away.**
4. How such conditions are not the result of any actions of the property owner. **Not sure we can answer this as the property owner has never occupied the site and only rented it out over the years to various tenants. The Applicant is the second tenant we believe to have rented the Subject Property while it was under the review and issuing authority of the City.**
5. Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? **The proposed relief we are asking to be granted would simply clean up the existing conditions and make this property comply with the conditions of the City front yard landscape conditions for the portion of the property fronting South Berkeley Lake Road and Buford Highway. Again, this is the in extreme corner of the City and located within a commuter industrial corridor, not the middle of the Forum Shopping District. This property was inherited by the City during the creation of the City and not a desired location of businesses and uses that are most compatible with the rest of the City elements.**

To simply remove all of the trees that were topped is not a simple act. It would require the removal of all of the vehicles from a property that has a monthly rent of \$5,000.00 per month, temporarily shut down of this much needed business operation that only occurs on the Subject Property, and temporarily relocate to another property that is more than likely NOT zoned correctly for this type of automotive activity, thus putting the Tenant in direct fire for new fines and upgrades from the City of other municipality where he would relocate these operations. Then it would require the Tenant to cut down to the stumps all of the tree that were topped, then take a stump grinder to remove all stumps and roots some 3 to 4 feet below the existing grade, then the removal of all of the wood grindings, then the replacement of the soils with good fertile soils for the new trees to be planted within, and finally the planting and proper care of the newly installed 6 to 8 foot tall trees. We have received a quote to do this work from Imagescapes, who is a highly reputable landscape provider in the Gwinnett County area, and their price was \$17,000.00 for the preparation work and then an additional \$15,000.00 to replant thirty six (36) new 6 to 8 foot tall trees with fertilizers and pine straw totaling \$35,000.00 plus the loss of use of the Subject Property for approximately two weeks for business purposes.

Some additional information regarding the existing trees on the Subject Property when developed and planted under the review and authority of Gwinnett County back in the mid 1990's, there were a total of fifty two (52) trees planted. Over the years, the Owner and/or the tenants of the Owner have removed or thinned out the original 52 trees down to 36 trees thus removing from the overall site sixteen (16) trees. Those 16 trees desperately need to be removed because all of the trees along the road frontage were install at approximately 8 feet on center which is too close for comfort for these larger shade trees. Ideally, in today's time frame, most landscape strips are installed at 20 feet to 25 feet on center for these types of same trees. So in summary from the beginning and original installation of the trees in the mid 1990's they were doomed and setup to fail.

Attached to the letter of intent is a Tree Inspection Summary dated June 17, 2016 from One Bark Consulting Arborists where they recommend a wait and see approach as we are describing below (Exhibit "B").

Our proposal to the City for review and consideration in lieu of simply removing everything is as follows:

1. Of the 36 trees that were topped all but the exception of six (6) trees have all come back with a full canopy of leaves and new limb growth (see Exhibit "C"). We would remove the stumps and roots of these trees and replant the 6 trees that have not established new growth from the topping exercise. The newly planted 6 trees would be of similar oak species and variety and would be installed at a height of 6 feet to 8 feet at the time of installation.
2. In addition, we would voluntarily plant six (6) additional trees to fill in the gaps along the road frontage of Buford Highway and South Berkeley Lake Road to provide a uniform look of trees. As mentioned above, we would remove any stumps and roots associated with these new plantings. The newly planted 6 trees would be of similar oak species and variety and would be installed at a height of 6 feet to 8 feet at the time of installation.
3. Finally, we would offer to the City a two (2) year Landscape Bond for the entire property to cover the new trees planted and the existing trees only that were topped. This Landscape Bond will give the City the protection it is looking for with respect to the health and overall survivability of all of the trees.

In summary, the Subject Property is firmly located on the extreme limits of the City on a heavily traveled industrial corridor. The Subject Property was originally zoned and developed under the Gwinnett County rules and regulations. We clearly understand that the Subject Property falls under

the issuing authority of the City but we talking about an industrial property that has always been used for either automotive or motorcycle sales and services for the duration of its existence. This is not the gateway to a high rent shopping district it is the continuation and creeping of an industrial corridor that spans from Duluth, Berkeley Lake, Peachtree Corners, and onto Norcross, including the entire other side of Buford Highway that is all governed by Gwinnett County. There are numerous properties surrounding the Subject Property both in the City and the County that have had similar type activity occur with respect to topping of trees, and in most instances all of the topped trees have made a comeback and are thriving trees in their exact same locations. We are simply asking the City to take a wait and see approach rather than a gut check approach of simply replacing everything. Our proposal will allow the wait and see approach to play out over the next two (2) years with an insurance policy given to the City in the form of a Landscape Bond.

We respectfully request the City to accept our proposal of taking the wait and see approach as detailed above and continue to work with the Tenant on this outstanding issue. We are more than happy to meet on the Subject Property with member of the Variance Board and Staff to review and answer any questions that could arise.

Thanks you in advance for consideration of this request.

Respectfully submitted,



Eric Johansen, RLA
Agent for the Tenant

Attachments: Exhibit A – Current Gwinnett County zoning conditions
Exhibit B – One Bark Consulting Arborist Report dated 06/17/16
Exhibit C – Current Photos of the existing tree canopies

cc: Atlanta Best Used Cars, LLC
Briggs Allen, Real Estate Broker for the Owner
File

CASE NUMBER CIC2010-00006
GCID 2010-0185

BOARD OF COMMISSIONERS
GWINNETT COUNTY
LAWRENCEVILLE, GEORGIA
RESOLUTION

READING AND ADOPTION:

At the regular meeting of the Gwinnett County Board of Commissioners, held in the Justice and Administration Center Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

<u>Present</u>	<u>VOTE</u>
Charles Bannister, Chairman	<u>AYE</u>
Shirley Lasseter, District 1	<u>AYE</u>
Albert Nasuti, District 2	<u>AYE</u>
Michael Beaudreau, District 3	<u>AYE</u>
Kevin Kenerly, District 4	<u>ABSENT</u>

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

A RESOLUTION TO AMEND THE OFFICIAL ZONING MAP

WHEREAS, the Municipal-Gwinnett County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Gwinnett County Board of Commissioners upon an Application to Amend the Official Zoning Map from C-2 to C-2 by KELLY J. CALVO for a CHANGE IN CONDITIONS TO MODIFY USE RESTRICTIONS on a tract of land described by the attached legal description, which is incorporated herein and made a part hereof by reference; and

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

WHEREAS, a public hearing was held by the Gwinnett County Board of Commissioners on FEBRUARY 23, 2010 and objections were not filed.

NOW, THEREFORE, BE IT RESOLVED by the Gwinnett County Board of Commissioners this the 23RD day of FEBRUARY 2010, that the aforesaid application to amend the Official Zoning Map from C-2 to C-2 (CHANGE IN CONDITIONS) is hereby **APPROVED** subject to the following enumerated conditions:

1. To restrict the use of the property as follows:
 - A. Retail, service commercial and accessory uses, which may include heavy equipment rental and related outdoor storage, automobile repair and/or motorcycle repair as Special Uses. The following uses shall be prohibited:
 - adult bookstores or entertainment
 - automobile sales
 - contractors offices
 - emission inspection stations
 - extended stay hotels or motels
 - recovered materials processing facilities
 - smoke shops/novelty stores
 - taxidermists
 - yard trimmings composting facilities
2. To satisfy the following site development considerations:
 - A. Provide a ten-foot wide landscape strip outside the dedicated rights-of-way of Buford Highway and South Berkeley Lake Road.
 - B. Billboards shall be prohibited.

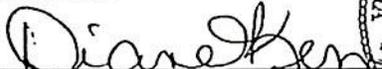
- C. Outdoor lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties.
- D. Dumpsters shall be screened by a solid fence or wall, a minimum 6 feet in height.
- E. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. Yard and/or bandit signs shall be prohibited.
- F. No outside sales, storage, or display of tires, parts, or inoperable vehicles or junk/debris shall be allowed.
- G. No outdoor loudspeakers shall be allowed.
- H. Provide a five-foot wide landscaped strip adjacent to the side and rear property line.
- I. Provide five-foot wide sidewalks along Buford Highway and South Berkeley Lake Road.
- J. Provide a decorative wrought iron fence along South Berkeley Lake Road and Buford Highway matching the fence around the facility located on the opposite site of South Berkeley Lake Road.
- K. Peddlers and/or parking lot sales shall be prohibited.
- L. The property owner shall repaint or repair any graffiti or vandalism that occurs on the property within 72 hours.

GWINNETT COUNTY BOARD OF COMMISSIONERS

By: 
Charles E. Bannister, Chairman

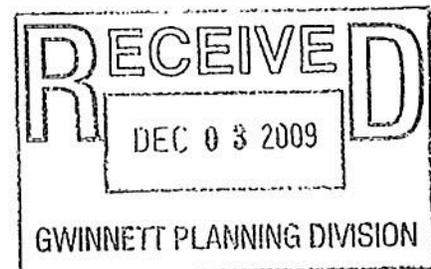
Date Signed: 3/2/10

ATTEST:


County Clerk/Deputy County Clerk



All that tract or parcel of land lying in Land Lot 258 of the 6th District of Gwinnett County, Georgia, and being more particularly described as follows: Beginning at the intersection of the northwesterly right-of-way line of Buford Highway with the southwesterly right-of-way line of South Berkeley Lake Road; thence from said point of beginning southwesterly along the said northwesterly right-of-way line of Buford Highway 112.86 feet to an iron pin corner on the northeasterly property line of Robert Slack, et al; thence N30°34'W along said dividing line between lands of Robert Slack, et al, and Sallie B. Smith, et al, 458.28' to an iron pin corner on the southeasterly right-of-way line of Southern Railway; thence N48°54'E along said southeasterly right-of-way line 133.85 feet to the southwesterly right-of-way line of South Berkeley Lake Road; thence southeasterly following the curvature of said southwesterly right-of-way line of South Berkeley Lake Road 465 feet more or less to the point of beginning. Said tract containing 1.37 acres.



CIC 100 06



PO BOX 870784
STONE MOUNTAIN GA 30087
O 678-344-6948 WWW.ONEBARK.COM

Tree Inspection Summary

Date of visit: June 17, 2016

Property:

Request by: Eric Johansen

Assignment

Visit site and inspect Oak trees along Berkley Lake Road and Buford Highway frontage. Assess pruning/topping impact and make recommendations.

Methodology

An inspection of the subject trees was conducted, using visual techniques and basic instruments standard for arboricultural inspection. The buttress roots, trunk, limbs, branches, twigs, leaves, and surrounding environment of the trees were reviewed.

This inspection and its conclusions are made without the expectation of a particular result.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms that fail in ways we do not fully understand. Conditions are often hidden within trees and below ground. Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise, remedial treatments cannot be guaranteed. Clients may choose to accept or disregard the recommendations of the arborists, or to seek additional advice.

Findings

Several planted trees along the frontage of S Berkley Lake Road and Buford Highway were recently pruned and the canopies cut back. The trees are Oak species. The pruning consisted of removal of most limbs and branches back to the trunks and limb bases, leaving the main stems intact.

At the time of my inspection, the trees were re-sprouting vigorously from dormant buds.

This pruning practice is often called **topping** or **heading**. In this case it is unclear as to whether the pruning meets the classical definition of topping, but for simplicity of this report I will use that term.

Recommendations

No action, including removal, should occur at this time. The trees may re-sprout vigorously, which is common, in manner that allows the trees to be shaped, pruned, and managed. Topping is most often associated with problems in mature trees and not smaller, younger trees..

The affected trees should be reinspected in 2017 to assess pruning needs and any other maintenance issues they may arise. Fertilization is NOT recommended at this time. In the future, a growth regulator (Paclobutrazol) could be applied to the trees as a basal drench to help further reduce excess canopy growth.

Certification

I certify that all of the statements made in this report are true, complete and correct to the best of my knowledge and belief, and are made in good faith.



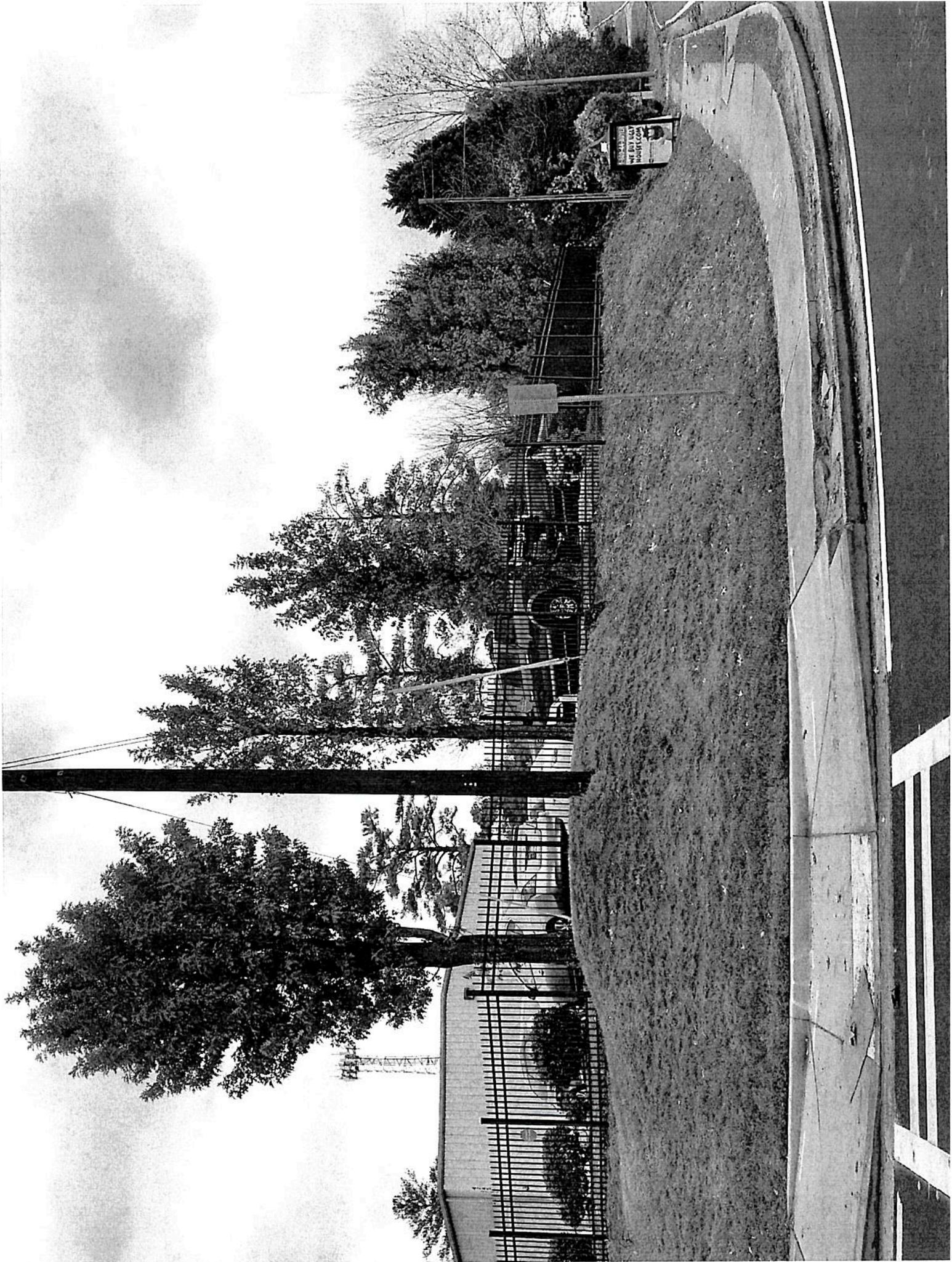
Jesse Milton

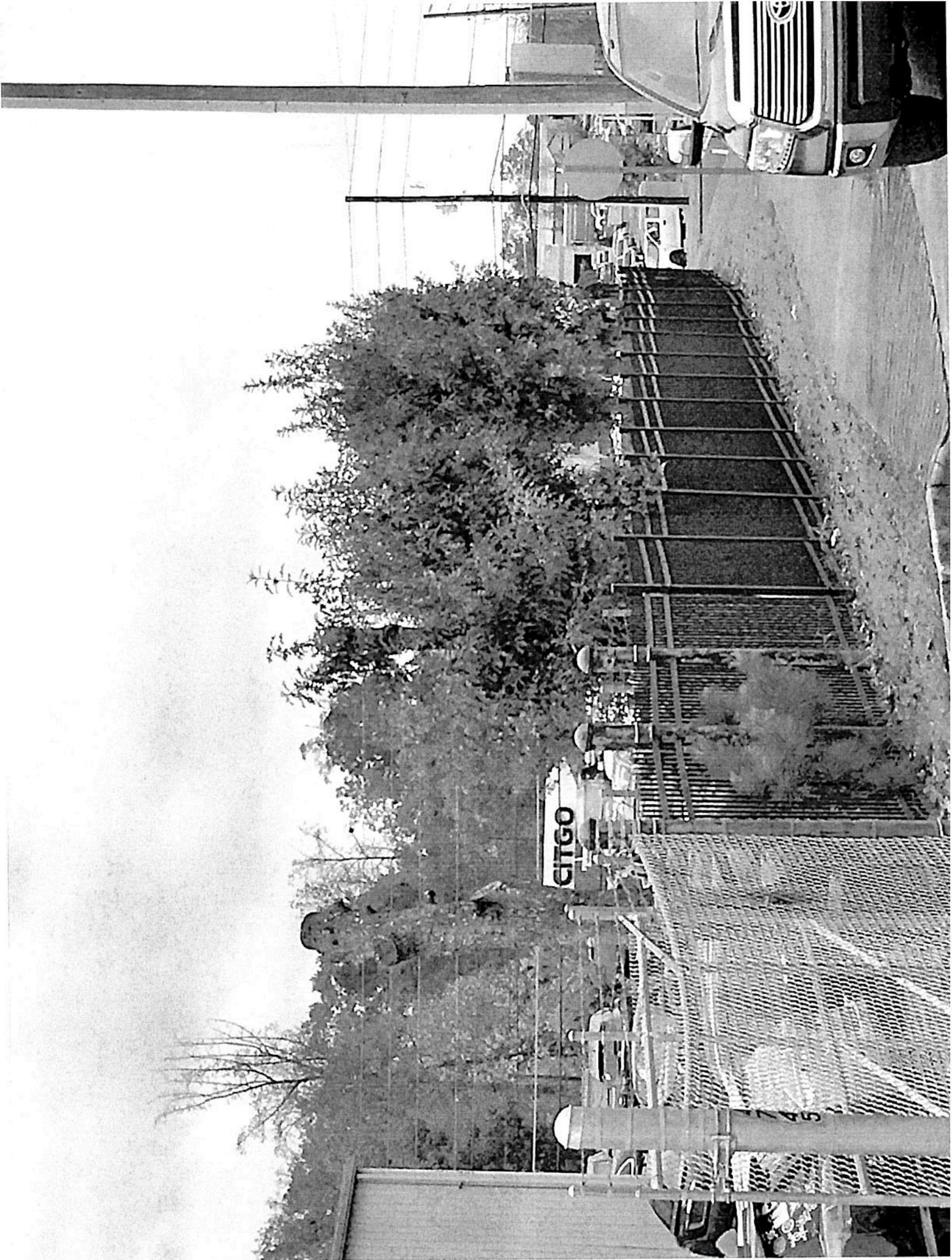
ISA Board Certified Master Arborist #SO-1170B

Georgia Soil and Water Conservation Commission Level 1B Certified Inspector #26905







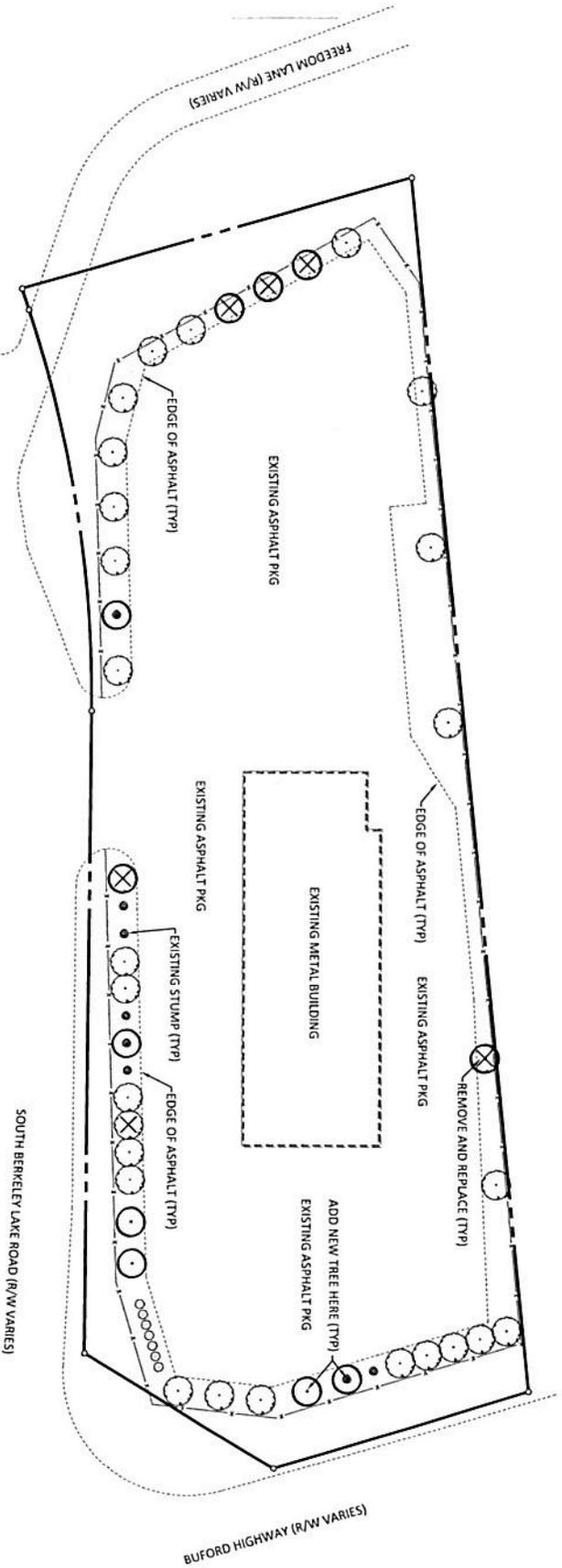






A TREE PLAN

SOUTH BERKELEY LAKE ROAD



TREE SUMMARY:

1. REMOVE AND REPLACE - (6) TREES AS DESIGNATED WITH X'S
 2. SUPPLEMENTALLY REPLANT TO MAKE LS STRIPS BALANCED - (6) TREES AS SHOWN ON PLAN
- A. TOTAL OF (12) TREES TO BE PLANTED UNDER THIS PROPOSAL
B. ALL (12) TREES WILL BE QUERCUS PHELLOS, OR WILLOW OAKS THAT ARE AT LEAST 6' TO 8' TALL AT TIME OF PLANTING AND INSTALLED AS DESIGNATED ON THIS PLAN OR BY CITY DIRECTION

PLAN DATED: NOVEMBER 13, 2016
GRAPHIC SCALE: 1" = 40'







V2017-001
Storage Facility

**City of Peachtree Corners
Zoning Board of Appeals
January 18, 2017**

CASE NUMBER:	V2017-001
PROPERTY LOCATION:	4779 Peachtree Corners Circle 6th District, Land Lot 301, Parcel 049
CURRENT ZONING:	M1
PARCEL SIZE:	6.78 acres
PROPERTY OWNER:	Benjamin Cowart
APPLICANT:	Mark Gary

REQUEST

The applicant would like to build a self-storage facility on property located within both the Peachtree Corners overlay district and the Central Business District on Peachtree Corners Circle across from The Forum. The property is zoned M1, a zoning classification that does not allow the development of self-storage facilities within the Central Business District (see attached Ordinance 2016-01-64).

LOCATION AND BACKGROUND

In 2013, the owner of 4779 Peachtree Corners Circle applied to rezone a portion of his property to accommodate a self-storage facility. The self-storage building had previously been approved in Gwinnett County, but had not been built prior to the incorporation of the City. After public hearing, the City Council approved the plans for the self-storage facility in July, 2013 subject to several conditions. (See Ordinance 2013-06-17, attached).

Over the next few years, several city-wide studies were conducted to identify, among other things, the way in which Peachtree Corners citizens wanted their community to grow and develop. One of these studies was titled The Town Center LCI and it focused on the city's Central Business District. Among the follow-up projects resulting from the study and listed in the Town Center LCI work program was a directive to, '*Develop overlay standards specific to the Central Business District.*'

This directive was implemented by the City in the form of Ordinance 2016-01-64 which stipulates that certain light-industry type uses are not conducive to the development of a CBD and are, therefore, not permitted to be developed within the CBD. In addition, the ordinance states the following:

c)Uses listed in a) that were authorized by zoning hearing, building permit, land disturbance permit or other similar approval, shall be void if the use did not become operational as evidenced by the issuance of a business license by 2/16/16.

This provision specifically addresses situations where a use was authorized but never developed, as is the case with the applicant's property. In other words, the zoning hearing and approval alone, do not vest a property with the right to a use that is no longer allowed in the Central Business District.

VARIANCE REQUIREMENTS

Sec. 1605.3 identifies specific findings that must be made in order for a variance to be granted. These findings are as follows:

- A. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography, and
- B. the requirements on this particular piece of property would create an unnecessary hardship, and
- C. such conditions are peculiar to the particular piece of property involved, and
- D. such conditions are not the result of any actions of the property owner, and
- E. relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this Resolution.

ANALYSIS

The applicant's letter of intent indicates that his hardship is derived from the fact that building plans have already been developed and approved for the facility. While this is true, the property owner did have 2 ½ years to build the facility before the restricted use ordinance went into effect.

The original zoning approval which authorized the development of a self-storage facility on the subject property did not include a 'sunset' provision because representations made at the public hearing suggested that construction was imminent. Although grading was started and dirt was stockpiled two years ago, the building, itself, was never constructed.

CONCLUSION

After reviewing the applicant's request and the variance criteria, staff finds that a hardship would be difficult to justify since there was ample opportunity to develop a self-storage facility prior to the enactment of O2016-01-64. In the nearly three years between the time the storage facility was originally approved and the ordinance restricting uses in M1 was enacted, many changes took place within the CBD. These changes include the development of plans for the Town Center, and the Botanical Gardens, the design of the first phase of a multi-use trail and the construction of new shops and restaurants such as Noble Fin, Sprouts, and Earth Fare. The character of the CBD has been evolving and now includes a business incubator in Tech Park and will soon include millennial housing with amenities (Twin Lakes project) to support even more new businesses. The purpose of adopting O2016-01-64 was to protect these investments and ensure that the CBD would continue to grow in the manner envisioned through the LCI process.



Case Number: 2017-001 Received Date: 1/3/2017 Hearing Date: 1/18/2017

Variance Application from the Zoning Resolution

Please complete this application & submit it with all attachments as stated in the Variance Application Guidelines. A variance cannot be processed unless all information accompanies the application; a variance from a condition of zoning or special use cannot be accepted.

Applicant Information	Property Owner Information
Name <u>Seed Capital Investments LLC</u>	Name <u>Benjamin Lowart</u>
Address (all correspondence will be mailed to this address): <u>5701 Spalding Drive</u>	Address <u>5805 State Bridge Rd</u> <u>Suite 6359</u>
City <u>Peachtree Corners</u>	City <u>Johns Creek GA 30097</u>
State <u>GA</u> Zip <u>30092</u>	State <u>GA</u> Zip <u>30097</u>
Phone <u>678-776-5137</u>	Phone <u>770-798-9366</u>
Contact Person Name: <u>Mark Gary</u> Phone: <u>678-776-5137</u>	
Email Address: <u>mark@garyholdingsgroup.com</u>	
Applicant is the (please check or circle one of the following): <input type="checkbox"/> Property Owner <input type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser	

Address of Property 4779 Peachtree Corners Circle Peachtree Corners GA 30092

Subdivision or Project Name _____ Lot & Block _____

District, Land Lot, & Parcel (MRN) Land Lot 301 - 6th District - Parcel 6301049

Proposed Development Self-Storage Facility

Permit Number (if construction has begun) _____

Variance Requested From Zoning Code Section 1310A to allow a self-storage facility within the CBD contrary to Ordinance 2016-01-64

A complete application includes the following:

- Application Form
- Site Plan and/or Boundary Survey
- Letter of Intent (with variances listed)
- Application Fee
- Signed & notarized Certification page
- Additional Documentation as needed

Letter of Intent

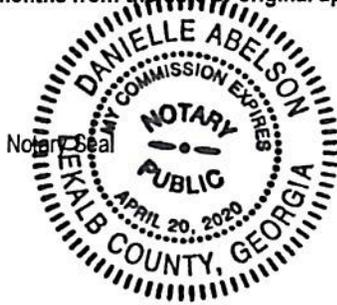
The proposed use is a variance to allow a four story 88,000 square foot climate-controlled self-storage. The following is the justifications and hardships related to this unique and specific piece of property:

1. This property was zoned site specific for a four story self storage facility in 2013 and after that time but prior to the current owner selling or building the facility an "Overlay District" was put in place. The placing of the Zoning Code Section 1310 A within Ordinance 2016-01-64 has now restricted self-storage and has created an extraordinary detrimental condition to this property.
2. Current application of the Zoning Code Section 1310 A creates a hardship to this property and is unique to this specific piece as the plans have been prior to and continue to be to build the 88,000 square foot self-storage. Without relief from the zoning board of appeals the property has little to no current market use. Furthermore the current applicant desires to build the same facility as anticipated from the original zoning in 2013.
3. The current property owner did not create this hardship through any actions of himself but rather the changing of the "Overlay District" restrictions has placed an unnecessary hardship to this individual piece of property. The zoning was approved and monies spent in good faith to actively develop and build the approved self-storage facility.
4. Should relief be granted the public would benefit by having a safe, well lighted and secure climate controlled self-storage within close proximity. Additionally the use will have little traffic, no burden on schools and add to the tax base. Further the "Zoning Code" intent including Section 1310 A within Ordinance 2016-01-64 would not be violated as this is a unique property that was zoned prior for this use and is being in essence confirmed.



Applicant Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608).



Mark B. Gary 12/20/16
Signature of Applicant Date

Mark B. Gary Member
Typed or Printed Name & Title

Danielle Abelson 12/20/16
Signature of Notary Public Date

Property Owner Certification

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that an application or reapplication for a variance denied by the Board of Zoning Appeals may not be made earlier than 12 months from the date of original application (Article XVI, Section 1608). I, as the property owner, authorize the above noted applicant to represent me with regards to this application.



[Signature] 12-20-16
Signature of Property Owner Date

Ben Cowart President
Typed or Printed Name & Title

Danielle Abelson 12-20-16
Signature of Notary Public Date

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____



Applicant Certification

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Mark A. Gary 12/20/16
Signature of Applicant Date

Mark A. Gary Member
Typed or Printed Name & Title

Danielle Abelson 12/20/16
Signature of Notary Public Date

Property Owner Certification

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[Signature] 12-20-16
Signature of Property Owner Date

Ben Count President
Typed or Printed Name & Title

Danielle Abelson 12-20-16
Signature of Notary Public Date

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____



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[Signature] 12/20/16
Signature of Applicant Date

Mark DeLoay Member
Typed or Printed Name & Title

[Signature] 12/20/16
Signature of Notary Public Date

Property Owner Certification

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[Signature] 12-20-16
Signature of Property Owner Date

Ben Court President
Typed or Printed Name & Title

[Signature] 12-20-16
Signature of Notary Public Date

Community Development Use Below Only

Fees Paid: _____ By: _____

Related Cases & Applicable Conditions:

Variance Description: _____

**AN ORDINANCE TO AMEND THE CITY OF PEACHTREE CORNERS ZONING MAP
PURSUANT TO RZ2013-002 - REQUEST TO REZONE A PORTION OF PROPERTY
FROM C-2 TO M-1 IN ORDER TO ACCOMMODATE A CLIMATE CONTROLLED
SELF STORAGE FACILITY AT 4779 PEACHTREE CORNERS CIRCLE; DISTRICT 6;
LAND LOT 301; .7 ACRES**

WHEREAS: Notice to the public regarding said modification to conditions of zoning has been duly published in The Gwinnett Daily Post, the Official News Organ of Peachtree Corners; and

WHEREAS: Public Hearings were held by the Mayor and City Council of Peachtree Corners on June 18, 2013 and July 2, 2013;

NOW THEREFORE, The Mayor and City Council of the City of Peachtree Corners while in Regular Session on July 2, 2013 hereby ordain and approve the Zoning Case RZ2013-002 for the above referenced property with the following enumerated conditions:

1. That the use and development of the property be restricted to a climate controlled self- storage facility.
2. All requirements of Section 1315 (Activity Center/Corridor Overlay District) shall be met.
3. The height of the building shall be limited to three (3) stories above grade.
4. No disturbance or impervious area shall be located within the 25-foot stream buffer without prior consent and approval from the State of Georgia, Environmental Protection Division of the Department of Natural Resources.
5. The placement of billboards or oversized signs shall be prohibited on the property.
6. Dumpsters shall be screened by an opaque decorative wall, at least six (6) feet in height, which will coordinate with the building architecture, and with a gated entry. Pick-up for dumpsters shall be limited to between the hours of 6:00 a.m. and 6:00 p.m.
7. Buildings shall be finished with architectural treatments containing a mixture of glass, brick, stone and/or stucco. All sides shall have a 32-inch or greater water table of brick or stone, except where full length glass or doors are located. The elevations of the buildings shall be in general conformity with the applicant submitted building elevations prepared by Gary Johnson and dated 5/16/13.
8. All mechanical appurtenances and equipment and/or ductwork shall be screened from ground view. Screening shall coordinate with the building architecture.
9. Sidewalks shall be a minimum of five feet in width and shall be constructed or relocated along the length of the property contiguous with Peachtree Corners Circle.
10. Parking lot lighting shall be contained in cut-off type luminaries and shall be directed in toward the property so as not to reflect into adjacent properties or create a hazard for passing automobile traffic. Any lights located on the rear of the building must be directed downward. Decorative fixtures shall be utilized on the portions of the building visible from the road.
11. Signage shall be limited to a monument type sign with a minimum two-foot high brick or stacked stone base. The ground sign shall not exceed six feet in height.
12. Any detention ponds visible from roadways shall be screened with landscape plantings to be approved by the Director.
13. No overnight parking or idling of trucks shall be allowed.

- 14. No vehicle rental shall be allowed on the property.
- 15. No exterior storage including storage containers shall be allowed on the property.

Effective this 2nd day of July, 2013.

Approved by:

So Signed and Witnessed

This 2nd day of July, 2013

Attest:


Mike Mason, Mayor


Kimberly Chereck, City Clerk

SEAL



**AN ORDINANCE TO AMEND CITY OF PEACHTREE CORNERS ZONING
RESOLUTION ART. XII, BY AMENDING SEC. 1310, M-1, LIGHT INDUSTRY
DISTRICT, IN ORDER TO LIMIT PERMITTED USES WITHIN THE CENTRAL
BUSINESS DISTRICT; REPEALING CONFLICTING REGULATIONS; AND SETTING
AN EFFECTIVE DATE**

WHEREAS, the Mayor and Council of the City of Peachtree Corners are charged with the protection of the public health, safety, and welfare of the citizens of Peachtree Corners; and

WHEREAS, pursuant to Section 1.12(a) of the City Charter, the City is charged with exercising the powers of zoning; and

WHEREAS, the Mayor and Council desire to amend the 2012 Zoning Resolution;

NOW THEREFORE, the Council of the City of Peachtree Corners hereby ordains, as follows:

Section 1: The City of Peachtree Corners 2012 Zoning Resolution shall be amended by adding the following (underlined words):

SECTION 1310 M-1 LIGHT INDUSTRY DISTRICT

Permitted Uses

Only the following uses shall be permitted within the M-1 Light Industry District and no structure shall be erected, structurally altered or enlarged for any use other than as permitted herein with the exception of a) uses lawfully established prior to the effective date of this amendment, b) special uses as permitted herein, c) accessory uses as defined in Article III, Definitions, or d) other uses which are clearly similar to and consistent with the purpose of this district, or e) limited uses (listed at the end of this section) for property located within the Central Business District (see CBD boundary map).

Permitted Uses within the Central Business district (see CBD boundary map)

a) **All permitted M-1 uses shall be allowed on M-1 zoned property in the Central Business District except the following:**

Automobile Body Repair Shop
Automobile Repair Shop
Baking Plant
Cold Storage Plant
Funeral Homes and Crematories
Ice Manufacturing/Packing Plant
**Laundry / Dry Cleaning Plant (does not
apply to retail pick-up facility)**
**Maintenance Shop (automobile fleet
vehicles)**

Mini-Warehouse or Self-Storage facility
Outdoor Storage
Plastics Extrusion Plant
Recovered Materials Processing Facility
Sexually Oriented Businesses
Soft Drink Bottling/ Distribution Plant
Truck Rental or Leasing
Truck Fleet Maintenance Shop

- b) Businesses with an active business license that operate a use listed in a) shall be considered a legal, non-conforming use and may continue to operate for as long as the business license stays active and the business is not discontinued for six months or longer.
- c) Uses listed in a) that were authorized by zoning hearing, building permit, land disturbance permit or other similar approval, shall be void if the use did not become operational as evidenced by the issuance of a business license by 2/16/16.

Section 2

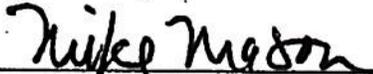
All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.
Effective this ~~16th~~ day of February, 2016.

15th March 16



Kym Chereck, City Clerk

Approved by:



Mike Mason, Mayor

SEAL



PROPERTY LOCATION MAP

Self-Storage Facility



CASE NUMBER:

V2017-001

HEARING DATE:

January 18, 2017

PROPERTY ADDRESS:

4779 Peachtree Corners Circle