



## PLANNING COMMISSION AGENDA

November 14, 2017  
7:00 PM  
CITY HALL

### A. Roll Call

### B. Approval of October 10, 2017 Minutes

### C. City Business Items:

1. **Comprehensive Plan Update.** Discussion of the schedule for the proposed five-year update to the 2033 Comprehensive Plan.

### D. Old Business:

1. **PH2017-007. Cinebistro at Town Center Elevations.** Request to approve building elevations for the movie theater building located at the Town Center in the 5200 Block of Peachtree Parkway, Dist. 6, Land Lot 301, Peachtree Corners, GA (deferred from October 10, 2017).

### E. New Business:

1. **RZ2017-003 & V2017-008. Holcomb Bridge Road Townhomes.** Request to rezone a 2.16-acre parcel from C-1 to R-TH along with associated variances to accommodate a new 17-unit townhome development at 3926 Holcomb Bridge Road, Dist. 6, Land Lot 313, Peachtree Corners, GA.
2. **RZ2017-004 & CIC2017-004. Roberts Properties.** Request to rezone two parcels consisting of 4.4 acres from C-2 to MUD along with associated change in conditions to accommodate a new mixed-use development at 4936 Peachtree Corners Circle and 5246 Peachtree Parkway, Dist. 6, Land Lot 301, Peachtree Corners, GA.

### F. Comments by Staff and Planning Commissioners.

### G. Adjournment.



**CITY OF PEACHTREE CORNERS**  
**PLANNING COMMISSION MINUTES**  
**October 10, 2017**  
**7:00 PM**

The City of Peachtree Corners held a Planning Commission meeting on Tuesday, August 8, 2017. The meeting was held at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Planning Commission: Matt Houser, Chairman, Post D  
Alan Kaplan, Post A  
Mark Middleton, Post B - Absent  
Mark Willis, Post C  
Italia Metts, Post E

Staff: Diana Wheeler, Community Development Director  
Rocio Monterrosa, Deputy City Clerk  
Jeff Conkle, Planning and Zoning Administrator

**MINUTES:**

**MOTION TO APPROVE THE MINUTES FROM THE AUGUST 8, 2017  
PLANNING COMMISSION MEETING.**

**By: Mark Willis**

**Seconded by: Alan Kaplan**

**Vote: Passed 3-0-1 (Willis, Kaplan, Metts) (Houser – abstain)**

**OLD BUSINESS:**

None

**NEW BUSINESS**

**PH2017-007. Cinebistro at Town Center Elevations.** Request to approve building elevations for the movie theater building located at the Town Center in the 5200 Block of Peachtree Parkway, Dist. 6, Land Lot 301, Peachtree Corners, GA.

Diana Wheeler, Community Development Director, gave a brief overview of the application. Cinebistro, a movie theater and restaurant, would like to occupy the

## DRAFT COPY

southwesternmost area of the property, adjacent to the Town Green. The entrance to building is located on the northern (front) building elevation. This front side of the building would be visible to vehicles traveling into the Town Center property from Peachtree Parkway. The opposite side of the building (facing south) is the rear of the building, abutting another private property owner to the rear. The west elevation faces a small parking area adjacent to the creek and the east elevation faces the Town Green. The submitted elevations include red brick as the primary material along with stone as an accent at the base of the front and Town Green side of the building. Additionally, awnings are provided over the movie artwork display areas, a generous marquee is provided over the main entrances, and a varied roofline with taller decorative elements is included on the front elevation. Finally, the windows at the front of the building wrap the east façade, providing an attractive look facing the Town Green.

Since the plans are not yet fully detailed, two of the requirements could not be evaluated but would still need to be incorporated into the final plans:

1. Requirement to screen rooftop mechanical equipment
2. Requirement to include landscape materials on or adjacent to the building

After review of the applicant's proposal and other relevant information, staff recommended that PH2017-007 be approved.

The applicant's representative, Kevin Floyd, Sr. Development Manager, spoke about the architecture of the building and how it would reflect the architecture of the Forum. The material choices for the building include brick at the bottom and high-grade stucco at the top portion with a landscaping plan for the rear of the building.

Commissioners asked applicant several questions about the material choices for building, landscaping on the side and rear of the building and how it would connect the Town Green to the Botanical Garden. The Commissioners also made comments on how the Cinebistro building, being the largest building in the Town Center a focal point for the project, does not stand out and not elegant enough. Further comments were made about the lack of detailing at the top and roof line of the building, the lack of accentuation of the front corners of the building, and the need for the rear to be more attractive.

Chairman, Matt Houser, opened the floor for public comment. There was no public comment.

A motion was made after discussion on how the applicant's rendering of the building is not a good representation of the Town Center and how they would like to see other designs before making any recommendation to Council.

**MOTION TO DEFER THE REQUEST TO APPROVE BUILDING ELEVATIONS FOR THE MOVIE THEATER BUILDING LOCATED AT THE TOWN CENTER IN THE 5200 BLOCK OF PEACHTREE PARKWAY, DIST. 6, LAND LOT 301, PEACHTREE CORNERS, GA TO GIVE APPLICANT TIME TO REVISE THE PROPOSED ELEVATIONS.**

**By: Alan Kaplan**

**Seconded: Italia Metts**

**Vote: (4-0) (Kaplan, Metts, Houser, Willis)**

**CITY BUSINESS ITEMS:**

**PH2017-008 Accessory Structures.** Consideration of an amendment to the zoning code to regulate the maximum size and height of residential accessory structures.

Diana Wheeler, Community Development Director, stated that currently there is no maximum size for residential accessory structures which could lead to a detached accessory structure dwarfing the size of the primary structure. A rear yard shed, for example, is currently not prohibited from being larger than the main house on a residential property. Research indicates that Gwinnett County limits the size of accessory structures to 50% of the main structure; Duluth limits the size to 20%; Johns Creek limits the size to 33%; and Norcross limits the size to 50%. Staff proposes to limit the size and height of accessory structures as detailed in the ordinance proposal.

Chairman, Matt Houser, opened the floor for public comment. There was no public comment.

**MOTION TO APPROVE CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE TO REGULATE THE MAXIMUM SIZE AND HEIGHT OF RESIDENTIAL ACCESSORY STRUCTURES AS REVISED TO REFLECT THAT THEY SHALL BE NO GREATER IN AREA THAN FIFTY PERCENT OF HABITABLE SQUARE FOOTAGE OF PRIMARY STRUCTURE OR 800 SQUARE FEET, WHICHEVER IS GREATER.**

**By: Alan Kaplan**

**Seconded: Mark Willis**

**Vote: (4-0) (Kaplan, Willis, Houser, Metts)**

**PH2017-009 Administrative Variances.** Consideration of an amendment to the zoning code to permit administrative variances for residential fence height and nonresidential building height.

Diana Wheeler, Community Development Director, stated that Residential properties are currently limited to the following fence heights: 4' in the front yard and 8' in the side and rear yards. Occasionally, circumstances arise when a property's front yard is directly adjacent to and surrounded by other properties' side and rear yards. In this scenario, the first property's front yard is limited to a 4' high fence which could adjoin fences of up to 8' in height, leading to an inconsistent streetscape along the public right-of-way. Staff proposes that an administrative variance option be added to Zoning Code Section 1610, Administrative Variances, to allow Staff the opportunity to facilitate fence height consistency when such requests are made. Currently, no administrative variances for fence heights are allowed.

Chairman, Matt Houser, opened the floor for public comment. There was no public comment.

**MOTION TO APPROVE CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE TO PERMIT ADMINISTRATIVE VARIANCES FOR RESIDENTIAL FENCE HEIGHT AND NONRESIDENTIAL BUILDING HEIGHT.**

**By: Mark Willis**

**Seconded: Italia Metts**

**Vote: (4-0) (Willis, Metts, Houser, Kaplan)**

**PH2017-010 Vehicle Rental Establishments.** Consideration of an amendment to the zoning code to permit vehicle rental establishments as a special use in the C-2 General Business District.

Diana Wheeler, Community Development Director, stated that Currently car rental facilities are permitted only in the C-3, M-1, and M-2 districts. New and used car sales are a special use in the C-2 district. Gwinnett County permits car rental businesses in the C-2 district; Duluth permits them in the Highway Commercial district (similar to Peachtree Corners' C-3 district); Johns Creek permits them in C-2; and Norcross does not permit this use. There are several long-standing car rental businesses in Peachtree Corners located in C-2 districts. These businesses were authorized by Gwinnett County prior to the city's incorporation. Staff proposes that car rental facilities be added as a special use to the C-2 district.

Chairman, Matt Houser, opened the floor for public comment. There was no public comment.

**MOTION TO APPROVE CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE TO PERMIT VEHICLE RENTAL ESTABLISHMENTS AS A SPECIAL USE IN THE C-2 GENERAL BUSINESS DISTRICT.**

**By: Alan Kaplan**

**Seconded: Mark Willis**

**Vote: (4-0) (Kaplan, Willis, Houser, Metts)**

**PH2017-011 Livestock and Fowl.** Consideration of an amendment to the zoning code to further define the regulations for the keeping of livestock or fowl on residential property.

Community Development Director, Diana Wheeler, explained that currently the definition of livestock includes fowl. The proposed ordinance separates the two and will increase the minimum lot size for the keeping of livestock from 3 acres to 8 acres and increase the minimum lot size for the keeping of fowl from 3 acres to 5 acres.

Chairman, Matt Houser, opened the floor for public comment. There was one comment regarding the community meeting at UPCCA which discussed backyard chickens.

Discussion by the Commission included their favorable opinion of separating the fowl and livestock uses and their dislike for the enlargement of minimum acreage for the keeping of fowl. They discussed how the new Gwinnett County regulations are more permissive and that staff and Council should look at the county's ordinance as a model. After discussion, two votes were made.

**MOTION TO APPROVE CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE TO SEPARATE LIVESTOCK AND FOWL.**

**By: Matt Houser**

**Seconded: Italia Metts**

**Vote: (4-0) (Houser, Metts, Kaplan, Willis)**

**MOTION TO DENY CONSIDERATION OF AN AMENDMENT TO THE ZONING CODE TO INCREASE THE MINIMUM ACREAGE REQUIRED FOR THE KEEPING OF LIVESTOCK OR FOWL.**

**By: Matt Houser**

**Seconded: Italia Metts**

**Vote: (4-0) (Houser, Metts, Kaplan, Willis)**

**PH2017-012 Ground Signs.** Consideration of an amendment to the sign ordinance to increase the number of permitted ground signs on nonresidential properties meeting certain criteria.

Chairman, Matt Houser, opened the floor for public comment. There was no public comment.

**MOTION TO APPROVE CONSIDERATION OF AN AMENDMENT TO THE SIGN ORDINANCE TO INCREASE THE NUMBER OF PERMITTED GROUND SIGNS ON NONRESIDENTIAL PROPERTIES MEETING CERTAIN CRITERIA.**

**By: Mark Willis**

**Seconded: Italia Metts**

**Vote: (4-0) (Willis, Metts, Houser, Kaplan)**

**COMMENTS BY STAFF AND PLANNING COMMISSION:**

Diana Wheeler, Community Development Director, informed the Commission that there will be a meeting for the month of November.

The Planning Commission meeting concluded at 8:16 PM.

Approved,

Attest:

\_\_\_\_\_

\_\_\_\_\_

Matt Houser, Commissioner

Rocio Monterrosa, Deputy City Clerk

**PH2017-007**  
**Cinebistro at Town Center**

**CITY OF PEACHTREE CORNERS  
COMMUNITY DEVELOPMENT DEPARTMENT**

**PUBLIC HEARING ANALYSIS**

PLANNING COMMISSION DATE: NOVEMBER 14, 2017

CITY COUNCIL DATE: NOVEMBER 20, 2017

CASE NAME: **CINEBISTRO BUILDING ELEVATIONS**

CASE NUMBER: **PH2017-007**

CURRENT ZONING: MUD (MIXED USE DEVELOPMENT)

LOCATION: 5200 BLOCK OF PEACHTREE PARKWAY

MAP NUMBERS: 6<sup>th</sup> DISTRICT, LAND LOT 301

ACREAGE: 5.1 ACRES

PROPOSED DEVELOPMENT: NEW THEATER AT TOWN CENTER

APPLICANT: FUQUA BCDC PEACHTREE CORNERS  
3575 PIEDMONT RD.  
ATLANTA, GA 30305

CONTACT: KEVIN FLOYD  
404-907-1709

OWNER: FUQUA BCDC PEACHTREE CORNERS  
3575 PIEDMONT RD.  
ATLANTA, GA 30305

**RECOMMENDATION: APPROVE**

**PROJECT UPDATE:**

The Planning Commission heard this case on October 10, 2017 and recommended changes to the elevations prior to the City Council hearing. The elevations have been revised (see Options 2 and 7 of the attachments) to reflect the Commission's desired changes. On the front of the building, the arrangement of brick and stone has been revised, awnings have been added to the windows, and taller building elements have been added to the front ends to give the building additional height and visual interest at and near the corners. On the side facing the small parking area and creek, additional detail has been provided around the exit doors to break up the large blank façade. On the side facing the Town Green, two windows have been added, awnings have been placed over the windows, and the portion of the building acting as a

backdrop to the Town Green stage has been enhanced with additional architectural detail. The rear of the building has been revised to show a modular trellis system that will allow plantings to grow in the shape of the letters "PCTC" (Peachtree Corners Town Center). This system is described by the applicant as a custom-designed, double-track, painted aluminum frame that is supported from the ground and braced to the building. The inlay area is painted, heavy-gauge aluminum with woven wire fabric attached to aluminum tracks. Additionally, the rear now has taller corner elements and the arrangement of brick and stucco has been revised.

#### PROJECT BACKGROUND:

The concept plans for the Town Center were approved July 21, 2015 with the adoption of Ordinance 2015-06-49. This Ordinance identifies specific appearance standards for all the buildings in the Town Center. Criteria for building elevations listed in the ordinance address items such as building walls, roof lines, parapets, building materials, and landscaping. In addition to this ordinance, Table 'B', the development regulations for the Town Center, also includes building requirements.

Cinebistro, a movie theater and restaurant, would like to occupy the southwesternmost area of the property, adjacent to the Town Green. The entrance to building is located on the northern building elevation. This side of the building would be visible to vehicles traveling into the Town Center property from Peachtree Parkway. The opposite side of the building (facing south) is the rear of the building, abutting another private property owner to the rear. The west elevation faces a small parking area adjacent to the creek and the east elevation faces the Town Green.

The submitted elevations include red brick as the primary material along with stone as an accent at the base of the front and Town Green side of the building. Additionally, awnings are provided over the movie artwork display areas, a generous marquee is provided over the main entrances, and a varied roofline with taller decorative elements is included on the front elevation. Finally, the windows at the front of the building wrap the east façade, providing an attractive look facing the Town Green.

Since the plans are not yet fully detailed, two of the requirements could not be evaluated but would still need to be incorporated into the final plans:

1. Requirement to screen rooftop mechanical equipment
2. Requirement to include landscape materials on or adjacent to the building

#### RECOMMENDATION:

**After review of the applicant's proposal and other relevant information, it is recommended that PH2017-007 be approved.**

Fuqua Development, LP

Wells Fargo Bank, N.A. of Georgia

14395

Fifteen Piedmont Center  
3575 Piedmont Rd., NE, Suite 800  
Atlanta, GA 30305

Atlanta, GA 30339

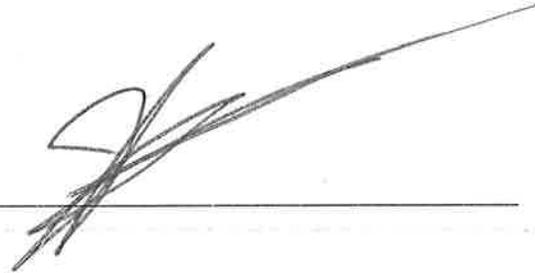
1000227 /

Check Date      Check #  
8/21/2017      14395      \*\*\*\*\*\$1,293.60\*\*

Pay      **\*\*One Thousand\*\***  
         **\*\*Two Hundred Ninety-Three Dollars And 60 Cents\*\***

To The  
Order  
Of

CITY OF PEACHTREE CORNERS  
147 TECHNOLOGY PKWY  
SUITE 200  
PEACHTREE CORNERS GA 30092



⑈014395⑈ ⑆061000227⑆ 9349057746⑈

Vendor:	CIPECORN CITY OF PEACHTREE C	Fuqua Development, LP	Check Date:	8/21/2017	Check #:	14395
				8/21/2017	Check #:	
Invoice #	Invoice Date	Reference	Invoice Amt	Discount	Retention	Net
20170818	08/18/2017	public hearing application	1,293.60	0.00	0.00	1,293.60
CIPECORN	CITY OF PEACHTREE CORNERS		<b>Totals:</b>	<b>1,293.60</b>	<b>0.00</b>	<b>0.00</b>
				<b>0.00</b>	<b>0.00</b>	<b>1,293.60</b>



## PUBLIC HEARING APPLICATION

### REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS

A properly completed application and fees are due at the time of submittal. **An incomplete application will not be accepted.** Original signatures are required for the Application.

REQUIRED ITEMS	NUMBER OF COPIES	CHECK
Completed Application Form	• 10 Copies	<input checked="" type="checkbox"/>
Boundary Survey with Legal Description	• 10 Copies	<input type="checkbox"/> N/A
Site Plan	• 2 full size Copies • 10- 8-1/2" x 11" or 11" x 17" reductions	<input checked="" type="checkbox"/>
Letter of Intent	• 10 Copies	<input type="checkbox"/> N/A
Applicant Certification with Notarized Signature	• 10 Copies	<input checked="" type="checkbox"/>
Property Owner Certification with Notarized Signature	• 10 Copies	<input checked="" type="checkbox"/>
Standards Governing Exercise of the Zoning Power	• 10 Copies	<input type="checkbox"/> N/A
Disclosure Report Form (Conflict of Interest Certification/Campaign Contributions)	• 10 Copies	<input checked="" type="checkbox"/>
Verification of Paid Property Taxes (most recent year)	• One (1) Copy (for each tax parcel included)	<input type="checkbox"/> N/A
Electronic copy of all of the above	• One (1) copy	<input checked="" type="checkbox"/>
Application Fee	• Make checks payable to the City of Peachtree Corners	<input checked="" type="checkbox"/>
<b>ADDITIONAL EXHIBITS (IF REQUIRED)</b>		
Additional site plan requirements for R-TH, R-ZT, Modified, CSO, OBP, HRR, R-SR, MUD or MUO rezoning requests	• 10 Copies	<input type="checkbox"/> N/A
Traffic Study	• 10 Copies	<input type="checkbox"/> N/A
Development of Regional Impact Review Form	• 2 Copies	<input type="checkbox"/> N/A
Building Compliance Inspection	• 2 Copies	<input type="checkbox"/> N/A

**REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF PEACHTREE CORNERS, GEORGIA

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>Fuqua BCDC Peachtree Corners Project Owner, LLC</u>	NAME: <u>Fuqua BCDC Peachtree Corners Project Owner, LLC</u>
ADDRESS: <u>3575 Piedmont Road, NE</u>	ADDRESS: <u>3575 Piedmont Road, NE</u>
CITY: <u>Atlanta</u>	CITY: <u>Atlanta</u>
STATE: <u>Georgia</u> ZIP: <u>30305</u>	STATE: <u>Georgia</u> ZIP: <u>30305</u>
PHONE: <u>(404) 907-1709</u>	PHONE: <u>(404) 907-1709</u>
E-MAIL: <u>jeff.fuqua@fuquadev.com</u>	E-MAIL: <u>jeff.fuqua@fuquadev.com</u>
CONTACT PERSON: <u>Kevin Floyd</u> PHONE: <u>(404) 907-1709</u>	
CONTACT'S E-MAIL: <u>kevin.floyd@fuquadev.com</u>	

**APPLICANT IS THE:**

- OWNER'S AGENT       PROPERTY OWNER       CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): MUD REQUESTED ZONING DISTRICT: N/A

LAND DISTRICT(S): 6TH LAND LOT(S): 301 ACREAGE: 1.248

ADDRESS OF PROPERTY: 5200 Medlock Bridge Road, Peachtree Corners, GA 30092

PROPOSED DEVELOPMENT: Peachtree Corners Town Center

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*Staff Use Only This Section*

Case Number: \_\_\_\_\_ Hearing Date: P/C \_\_\_\_\_ C/C \_\_\_\_\_ Received Date: \_\_\_\_\_

Fees Paid: \_\_\_\_\_ By: \_\_\_\_\_

Related Cases & Applicable Conditions:

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RESIDENTIAL DEVELOPMENT**

No. of Lots/Dwelling Units N/A

Dwelling Unit Size (Sq. Ft.): N/A

**NON-RESIDENTIAL DEVELOPMENT**

No. of Buildings/Lots: 6

Total Bldg. Sq. Ft.: 41,000

Gross Density: N/A

**FEE SCHEDULE**

**1. Rezoning, Change-in-Conditions and Special Use Permit Fees – Residential Zoning Districts**

(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

A. For the following single-family residential zoning districts: RA-200, R-140, R-LL, R-100, R-75, RL, MHS.

- 0 - 5 Acres = \$ 500
- > 5 - 10 Acres = \$ 1,000
- > 10 - 20 Acres = \$ 1,500
- > 20 - 100 Acres = \$ 2,000
- > 100 - Acres = \$ 2,500 plus \$40 for each additional acre over 100
- Maximum Fee: \$10,000

B. For the following single and multifamily residential zoning districts: R-TH, RMD, RM-6, RM-8, RM-10, RM-13, R-SR, MH, R-60, R-ZT, R-75 MODIFIED or CSO, and R-100 MODIFIED or CSO.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$40 for each additional acre over 100

**2. Rezoning, Change-in-Conditions and Special Use Permit Fees - Non-Residential Zoning Districts**

(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

For the following office, commercial and industrial zoning districts: C-1, C-2, C-3, O-1, OBP, M-1, M-2, HS, NS.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$50 for each additional acre over 100

**3. Mixed-Use (MUD and MUO) or High Rise Residential (HRR)** 1.248 ACRES X 75 \$/ACRE + \$1,200 = \$1,293.60

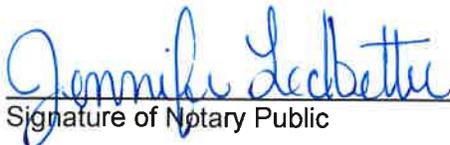
Application Fee – \$1,200 plus \$75 per acre (maximum fee - \$10,000)

- 4. Chattahoochee Corridor Review (involving a public hearing) - \$150.
- 5. Buffer Reduction (Greater than 50%) Application Fee - \$500.
- 6. Zoning Certification Letter - \$100 (per non-contiguous parcel).

**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 12 months from the date of last action by the city council unless waived by the city council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the city council.

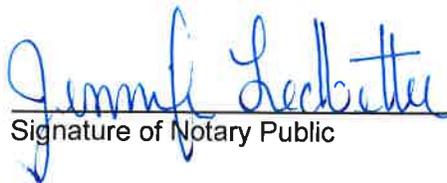
  
\_\_\_\_\_  
Signature of Applicant  
Date 8/17/17  
**Jeffrey S. Fuqua / Managing Member**  
\_\_\_\_\_  
Type or Print Name and Title

  
\_\_\_\_\_  
Signature of Notary Public  
Date 8/17/17  
Notary Seal  

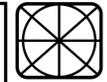

**PROPERTY OWNER'S CERTIFICATION**

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 12 months from the date of last action by the city council unless waived by the city council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the city council. As the property owner, I authorize the above noted applicant to act on my behalf with regard to this application.

  
\_\_\_\_\_  
Signature of Property Owner  
Date 8/17/17  
**Jeffrey S. Fuqua / Managing Member**  
\_\_\_\_\_  
Type or Print Name and Title

  
\_\_\_\_\_  
Signature of Notary Public  
Date 8/17/17  
Notary Seal  



OFFICE # 205-874-5458  
FAX # 205-874-5460  
E-mail: rls@rlsdesigngroup.com

RODNEY L. SARTAIN - ARCHITECT  
1904 COURTNEY DR. HOMEWOOD, ALABAMA 35204

EXTERIOR ELEVATIONS FOR PC  
OPTION 2 - STONE

10-12-17  
15-1795

PEACHTREE CORNERS  
CINEBISTRO  
ATLANTA, GEORGIA

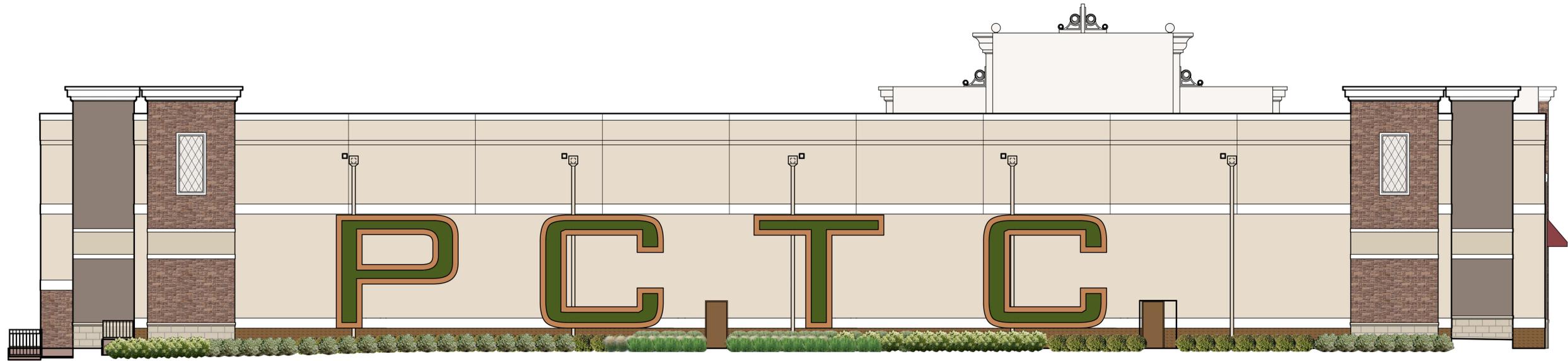
A3.1



A EXTERIOR ELEVATION - OPTION 2 - STONE  
A3.1 SCALE: 1/8"=1'-0"



B EXTERIOR ELEVATION - OPTION 2 - STONE  
A3.1 SCALE: 1/8"=1'-0"



**A**  
A3.2 EXTERIOR ELEVATION - OPTION 7 - PCTC LETTERS (3D MODULAR TRELLIS SYSTEM)  
SCALE: 1/8"=1'-0"



**B**  
A3.2 EXTERIOR ELEVATION - OPTION 7  
SCALE: 1/8"=1'-0"



**C**  
A3.2 EXTERIOR ELEVATION W/ PARK VIEW  
SCALE: 1/8"=1'-0"



OFFICE # 205-814-5458  
FAX # 205-814-5460  
E-mail: rls@rlsdesigngroup.com

RODNEY L. SARTAIN - ARCHITECT  
1904 COURTNEY DR. HOVENOOD, ALABAMA 35204

EXTERIOR ELEVATION FOR PC  
OPTION 7

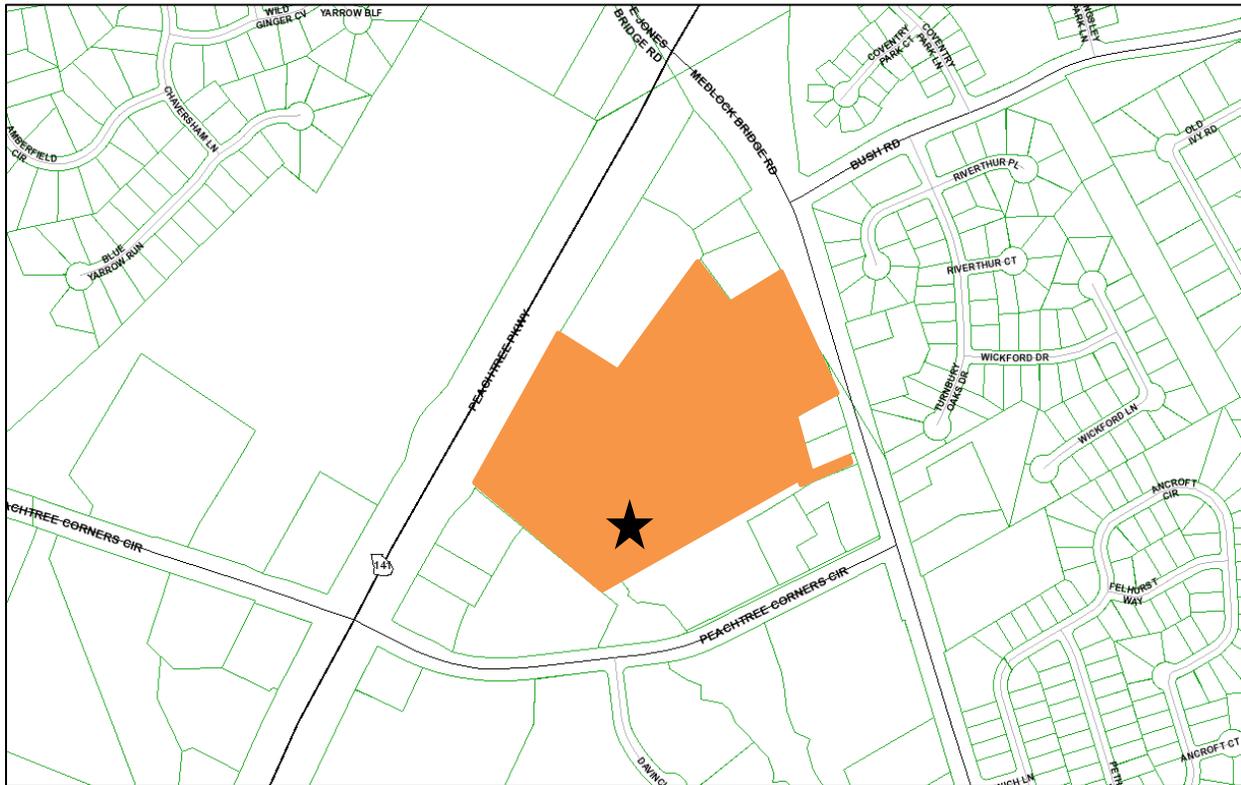
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15-1785

PEACHTREE CORNERS  
CINEBISTRO  
ATLANTA, GEORGIA

A3.2

## PROPERTY LOCATION MAP

### Cinebistro at Town Center



**CASE NUMBER:**

**PH2017-007**

**HEARING DATES:**

**PLANNING  
COMMISSION**

**Oct. 10, 2017  
Nov. 14, 2017**

**CITY COUNCIL  
1<sup>ST</sup> READING**

**Oct. 17, 2017**

**CITY COUNCIL  
2<sup>ND</sup> READING**

**Nov. 20, 2017**

**PROPERTY ADDRESS:**

**5200 Block of Peachtree Pkwy.**

**RZ2017-003 & V2017-008**  
**Holcomb Bridge Road**  
**Townhomes**

**CITY OF PEACHTREE CORNERS  
COMMUNITY DEVELOPMENT DEPARTMENT**

**REZONING AND VARIANCE ANALYSIS**

PLANNING COMMISSION DATE: NOVEMBER 14, 2017

CITY COUNCIL DATE: DECEMBER 19, 2017

CASE NAME: **HOLCOMB BRIDGE ROAD TOWNHOMES**

CASE NUMBER: **RZ-2017-003/ V2017-008**

CURRENT ZONING: C-1

LOCATION: 3926 HOLCOMB BRIDGE ROAD

MAP NUMBERS: 6<sup>th</sup> DISTRICT, LAND LOT 313

ACREAGE: 2.16 ACRES

PROPOSED DEVELOPMENT: REZONE FROM C-1 TO R-TH TO ACCOMMODATE A TOWNHOUSE DEVELOPMENT ALONG WITH ASSOCIATED VARIANCES

FUTURE DEVELOPMENT MAP: CHATTAHOOCHEE RIVER AREA

APPLICANT: R. W. LAMAR PROPERTIES, INC.  
1101 SAINT CHARLES PL  
ATLANTA, GA 30306

CONTACT: WAYNE LAMAR  
404-597-1761

OWNER: POWL INVESTMENTS, LLC  
5339 GARNABY LN  
PEACHTREE CORNERS, GA 30092

**RECOMMENDATION: APPROVE WITH CONDITIONS**

**PROJECT DATA:**

The applicant is seeking to rezone a 2.16-acre parcel located along the east side of Holcomb Bridge Road approximately 1500 feet south of Spalding Drive. The property adjoins single-family homes to the rear with commercial property to the sides and front, across Holcomb Bridge Road.

The applicant requests to rezone the above-mentioned parcel along Holcomb Bridge Road for a townhouse development. The proposal includes 17 townhomes in a gated community with a small resident amenity area along the front of the property.

Each proposed home contains a two-car garage and is three stories tall. Additional guest parking is also provided. An existing wooded buffer at the rear will be preserved; additional landscaping will be provided around the perimeter of the site.

**PARCEL DESCRIPTION**

The property is a 2.16-acre C-1 zoned parcel located on the east side of Holcomb Bridge Road approximately 1500 feet south of Spalding Drive. The parcel is between an office development to the south and a former single-family home that was converted to commercial use to the north. The proposal includes one entrance to the townhouse development from Holcomb Bridge Road which aligns with Primrose Hill Court directly across Holcomb Bridge Road. The R-TH zoning classification permits a development density of up to 8 units per acre. The proposed project is designed at a density of 7.8 units per acre.

**ZONING HISTORY:**

The subject property was rezoned from O-1 to C-1 by Gwinnett County Case REZ1990-125 in December 1990. At the same time, a special use permit for a restaurant was denied. In 2004, a rezoning request and special use permit were denied by Gwinnett County. That request, RZC2004-017, was to rezone from C-1 to C-2; the special use permit was for an automobile service facility. There were no further zoning actions on the property until the present application was submitted.

**ZONING STANDARDS:**

Zoning Code Section 1702 identifies specific criteria that should be evaluated when considering a zoning decision. These criteria are enumerated as 'A' through 'F' below. The applicant's responses and staff's comments are below:

**A. Will this proposed rezoning, special use permit, or change in conditions permit a use that is suitable in view of the use and development of adjacent and nearby property?**

*Applicant's Response: Yes. Adjacent property is single-family residential to the east, commercial to the north and south, and commercial and condominium to the west.*

*Staff's Comment:* The parcel requested to be rezoned is in an area mostly zoned O-I, but there is greater market demand for housing than office space. Additionally, the proposed R-TH zoning provides a transition between the single-family neighborhood to the rear and Holcomb Bridge Road.

**B. Will this proposed rezoning, special use permit, or change in conditions adversely affect the existing use or usability of adjacent or nearby property?**

*Applicant's Response:* No. Adjacent properties' highest and best use for redevelopment is townhouse or mixed-use commercial-residential.

*Staff's Comment:* The proposal will have minimal impact on adjacent O-I zoned properties. Additionally, the single-family properties to the rear will be buffered by existing wooded areas. Further, the applicant indicates that nearby residents are in support of this request.

**C. Does the property to be affected by a proposed rezoning, special use permit, or change in conditions have reasonable economic use as currently zoned?**

*Applicant's Response:* [no response]

*Staff's Comment:* The property has a reasonable economic use as currently zoned.

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

*Applicant's Response:* No. Proposed 17 townhouse units served by 4-lane Holcomb Bridge Road. Gwinnett County has provided sewer availability letter. Most buyers are unlikely to have school-aged children.

*Staff's Comment:* Holcomb Bridge Road at rush hour peaks is difficult to navigate. While this project will not add significant traffic to the road, there will likely need to be turn restrictions put in place at the project's entrance. Left turns out of the development will be difficult to make during peak traffic periods. City staff will evaluate the need as plans are refined. Gwinnett County Schools has calculated that this project is likely to generate 6 students at Peachtree Elementary School, 3 students at Pinckneyville Middle School, and 5 students at Norcross High School.

**E. Is the proposed rezoning, special use permit, or change in conditions in conformity with the policy and intent of the land use plan?**

*Applicant's Response:* Yes. Future land use plan calls for high density residential.

*Staff's Comment:* (see Comprehensive Plan heading, below.)

**F. Are there other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning, special use permit, or change in conditions?**

*Applicant's Response: Yes, for approval. Holcomb Bridge Overlay seeks and encourages redevelopment of the corridor. Additionally, the cost of bringing water and sewer to the site requires townhouse density.*

*Staff's Comment: The long-term vision for this area is for it to be an integral part of the redevelopment of the Holcomb Bridge Corridor.*

**COMPREHENSIVE PLAN:**

The 2033 City of Peachtree Corners Character Area Map indicates that the property is located within the Holcomb Bridge Corridor Character Area. Policies for this area encourage evolution into "a mixed-use corridor" with single-uses, including townhouses, located along the corridor between higher-intensity nodes.

**DEPARTMENT ANALYSIS:**

The proposed 2.16-acre development is located on the east side of Holcomb Bridge Road and is currently vacant. Townhomes in this location would not create a precedent, but would add a residential component to an area that already has a mix of uses.

The proposed 17 townhouses are not likely to place an excessive burden on existing streets, transportation systems, or utilities, and would not adversely affect surrounding residential properties as a 35-foot buffer with mature trees is provided along the rear property line. This buffer complies with the requirement in Zoning Ordinance Section 606.

Based on standard school generation rates, a 17 unit townhouse developed could be expected to generate up to 5 elementary school children, 2 middle school children, and 2 high school students and is, therefore, unlikely to burden the school system.

While the development is also unlikely to have a negative impact on existing streets, the applicant may need to restudy the entry to the neighborhood as it relates to left turns into and out of the property, especially during peak travel times. Installation of a right-turn deceleration lane along the east side of Holcomb Bridge Road should also be reviewed.

The applicant has requested concurrent variances to reduce the 40-foot side yard setback to 25 feet on the north (side) property line and to 20 feet on the south (side) property line. These two side property lines abut existing office development. Additionally, the applicant has requested a variance to allow encroachment of part of one townhouse unit over the 50-foot front setback line at the northwestern edge of the property. Staff supports the request for the concurrent variances as the layout of the proposed neighborhood with buffers along the rear and side property lines meets the intent of the Comprehensive Plan and would not cause substantial detriment to the public good if granted.

Staff recommends approval with conditions of the proposed project as it meets the intent of the Comprehensive Plan, is suitable in view of the use and development of adjacent and nearby property, and if approved, would not adversely affect the existing use of said properties.

**RECOMMENDATION:**

**After review of the applicant's proposal and other relevant information, it is recommended that RZ2017-003 and V2017-008 be approved with the following conditions:**

1. The site development shall not exceed 17 single-family townhomes with a minimum 2-car attached garage and a minimum unit width of 24-feet.
2. The property shall be developed in general conformance with the site plan prepared by O'Leary Design Group dated October 2, 2017, and submitted with this application with revisions to meet these conditions and the requirements of all city codes and ordinances.
3. That the side yard setback is reduced to 25-feet on the north (side) property line, 20-feet on the south (side) property line, and that encroachment is permitted into the 50-foot front setback to accommodate a portion of one townhouse at the northwest corner of the property.
4. Building elevations shall be in general conformance with the renderings prepared by O'Leary Design Group dated October 2, 2017, and submitted with this application with revisions, as needed, to be submitted to the Community Development Director for review and approval.
5. The green space at the front center of the development shall be used and maintained as landscaped, common, open space with at least one amenity feature provided. An amenity area plan, that includes a landscape plan, is required to be submitted and shall be subject to the review and approval of the Community Development Director.
6. Development shall include no more than one driveway on Holcomb Bridge Road, aligned with Primrose Hill Court directly across Holcomb Bridge Road.
7. Provide sidewalks as shown on the conceptual site plan.
8. If required by City Engineer or GDO, Development plans shall incorporate roadway improvements such as a deceleration lane.
9. A 50-foot wide landscaped strip shall be provided along the Holcomb Bridge Road frontage, allowing for the one townhouse encroachment detailed above, and shall include a decorative fence/wall and entrance monument to be approved by Staff.
10. Interior streets shall be private and maintained by the Homeowners Association.
11. Existing trees in buffers shall be preserved and buffers shall be enhanced with additional trees where sparse.



## PUBLIC HEARING APPLICATION

### REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS

A properly completed application and fees are due at the time of submittal. **An incomplete application will not be accepted.** Original signatures are required for the Application.

REQUIRED ITEMS	NUMBER OF COPIES	CHECK
Completed Application Form	• 1 original	<input checked="" type="checkbox"/>
Boundary Survey with Legal Description	• 1 full size copy • 1- 8-1/2" x 11" or 11" x 17" reduction	<input checked="" type="checkbox"/>
Site Plan	• 1 full size copy • 1- 8-1/2" x 11" or 11" x 17" reduction	<input checked="" type="checkbox"/>
Letter of Intent	• 1 copy	<input checked="" type="checkbox"/>
Applicant Certification with Notarized Signature	• 1 copy	<input checked="" type="checkbox"/>
Property Owner Certification with Notarized Signature	• 1 copy	<input checked="" type="checkbox"/>
Standards Governing Exercise of the Zoning Power	• 1 copy	<input checked="" type="checkbox"/>
Disclosure Report Form (Conflict of Interest Certification/Campaign Contributions)	• 1 copy	<input checked="" type="checkbox"/>
Verification of Paid Property Taxes (most recent year)	• One (1) Copy (for each tax parcel included)	<input checked="" type="checkbox"/>
Electronic copy of all of the above	• One (1) copy	<input checked="" type="checkbox"/>
Application Fee	• Make checks payable to the City of Peachtree Corners	<input checked="" type="checkbox"/>
<b>ADDITIONAL EXHIBITS (IF REQUIRED)</b>		
Additional site plan requirements for R-TH, R-ZT, Modified, CSO, OBP, HRR, R-SR, MUD or MUO rezoning requests	• 1 copy	<input type="checkbox"/>
Traffic Study	• 1 copy	<input type="checkbox"/>
Development of Regional Impact Review Form	• 1 copy	<input type="checkbox"/>
Building Compliance Inspection	• 1 copy	<input type="checkbox"/>

**REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF PEACHTREE CORNERS, GEORGIA

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>R. W. LAMAR PROPS. INC</u>	NAME: <u>POWL INVESTMENTS, LLC</u>
ADDRESS: <u>1101 ST. CHARLES PL</u>	ADDRESS: <u>5339 GARDARY LN</u>
CITY: <u>ATLANTA</u>	CITY: <u>PEACHTREE CORNERS</u>
STATE: <u>GA</u> ZIP: <u>30306</u>	STATE: <u>GA</u> ZIP: <u>30092</u>
PHONE: <u>404) 597-1761</u>	PHONE: <u>770) 365-3005</u>
E-MAIL: <u>RWLAMAR@BELSOUTH.NET</u>	E-MAIL: _____
CONTACT PERSON: <u>WAYNE LAMAR</u> PHONE: <u>404) 597-1761</u>	
CONTACT'S E-MAIL: <u>RWLAMAR@BELSOUTH.NET</u>	

**APPLICANT IS THE:**

OWNER'S AGENT     PROPERTY OWNER     CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): \_\_\_\_\_ REQUESTED ZONING DISTRICT: RTH

LAND DISTRICT(S): \_\_\_\_\_ LAND LOT(S): \_\_\_\_\_ ACREAGE: \_\_\_\_\_

ADDRESS OF PROPERTY: 3926 HOLCOMB BRIDGE RD

PROPOSED DEVELOPMENT: 17 TOWNHOUSE

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*Staff Use Only This Section*

Case Number: \_\_\_\_\_ Hearing Date: P/C \_\_\_\_\_ C/C \_\_\_\_\_ Received Date: \_\_\_\_\_

Fees Paid: \_\_\_\_\_ By: \_\_\_\_\_

**Related Cases & Applicable Conditions:**

\_\_\_\_\_

Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RESIDENTIAL DEVELOPMENT**

No. of Lots/Dwelling Units 17

Dwelling Unit Size (Sq. Ft.): 2867

**NON-RESIDENTIAL DEVELOPMENT**

No. of Buildings/Lots: \_\_\_\_\_

Total Bldg. Sq. Ft.: \_\_\_\_\_

Gross Density: \_\_\_\_\_

**FEE SCHEDULE**

**1. Rezoning, Change-in-Conditions and Special Use Permit Fees – Residential Zoning Districts**

(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

A. For the following single-family residential zoning districts: RA-200, R-140, R-LL, R-100, R-75, RL, MHS.

- 0 - 5 Acres = \$ 500
- > 5 - 10 Acres = \$ 1,000
- > 10 - 20 Acres = \$ 1,500
- > 20 - 100 Acres = \$ 2,000
- > 100 - Acres = \$ 2,500 plus \$40 for each additional acre over 100
- Maximum Fee: \$10,000

B. For the following single and multifamily residential zoning districts: R-TH, RMD, RM-6, RM-8, RM-10, RM-13, R-SR, MH, R-60, R-ZT, R-75 MODIFIED or CSO, and R-100 MODIFIED or CSO.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$40 for each additional acre over 100

**2. Rezoning, Change-in-Conditions and Special Use Permit Fees - Non-Residential Zoning Districts**

(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

For the following office, commercial and industrial zoning districts: C-1, C-2, C-3, O-1, OBP, M-1, M-2, HS, NS.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$50 for each additional acre over 100

**3. Mixed-Use (MUD and MUO) or High Rise Residential (HRR)**

Application Fee – \$1,200 plus \$75 per acre (maximum fee - \$10,000)

4. Chattahoochee Corridor Review (involving a public hearing) - \$150.

5. Buffer Reduction (Greater than 50%) Application Fee - \$500.

6. Zoning Certification Letter - \$100 (per non-contiguous parcel).

**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 12 months from the date of last action by the city council unless waived by the city council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the city council.

[Signature] \_\_\_\_\_ 9/30/17 \_\_\_\_\_  
Signature of Applicant Date

R. WAYNE LAMAR PRES. LAMAR PROPERTIES, LLC  
Type or Print Name and Title

[Signature] \_\_\_\_\_ 9/30/17 \_\_\_\_\_  
Signature of Notary Public Date



**PROPERTY OWNER'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 12 months from the date of last action by the city council unless waived by the city council. In no case shall an application or reapplication be acted upon in less than six (6) months from the date of last action by the city council. As the property owner, I authorize the above noted applicant to act on my behalf with regard to this application.

[Signature] \_\_\_\_\_ 9/30/17 \_\_\_\_\_  
Signature of Property Owner Date

R. WAYNE LAMAR [REDACTED] MEMBER POW INVESTMENTS, LLC  
Type or Print Name and Title

[Signature] \_\_\_\_\_ 9/30/17 \_\_\_\_\_  
Signature of Notary Public Date



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

Pursuant to section 1702 of the 2012 zoning resolution, the city council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

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

- A. Will this proposed rezoning, special use permit, or change in conditions permit a use that is suitable in view of the use and development of adjacent and nearby property?  
YES. ADJACENT PROPERTY IS SF RESIDENTIAL TO THE EAST, COMMERCIAL TO THE N+S AND COMMERCIAL + CONDOMINIUM TO THE WEST.
- B. Will this proposed rezoning, special use permit, or change in conditions will adversely affect the existing use or usability of adjacent or nearby property?  
NO. ADJACENT PROPERTIES HIGHEST AND BEST USE IS FOR REDEVELOPMENT IS TOWNHOUSE OR MIXED USE COMMERCIAL/RESIDENTIAL.
- C. Does the property to be affected by a proposed rezoning, special use permit, or change in conditions have reasonable economic use as currently zoned?
- D. Will the proposed rezoning, special use permit, or change in conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?  
NO. PROPOSED 17 TOWNHOUSE UNITS SERVED BY 4 LANE HOLCOMB BR. RD. GWIN. COUNTY HAS PROVIDED SEWER AVAILABILITY LETTER. MOST BUYERS ARE UNLIKELY TO HAVE SCHOOLS AND CHILDREN.
- E. Will the proposed rezoning, special use permit, or change in conditions is in conformity with the policy and intent of the land use plan?  
YES. FUTURE LAND USE PLAN CALLS FOR HIGH DENSITY RESIDENTIAL.
- F. Are there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning, special use permit, or change in conditions?  
YES FOR APPROVAL. HOLCOMB BR. OVERLAY SEEMS TO ENCOURAGE REDEVELOPMENT OF THE CORRIDOR. ADDITIONALLY, COST OF BRINGING WATER AND SEWER TO THE SITE REQUIRES TOWNHOUSE DENSITY.

**DISCLOSURE REPORT FORM**  
**CONFLICT OF INTEREST CERTIFICATION/CAMPAIGN CONTRIBUTIONS**

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT FOR THE REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT FOR THE REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS 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?

CHECK ONE:       YES       NO      P. WAYNE LATIMER  
 (If yes, please complete the "Campaign Contributions" section below)      Print Name

1. CAMPAIGN CONTRIBUTIONS

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

2. 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.

[Signature]      9/30/17      P. WAYNE LATIMER, PRST.  
 Signature of Applicant      Date      Type or Print Name and Title

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

Tracy W. O'Leary      9/30/17      \_\_\_\_\_  
 Signature of Notary      Date      Notary Seal



**VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING**

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED CERTIFIES THAT ALL CITY OF PEACHTREE CORNERS PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL A PUBLIC HEARING APPLICATION BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

**A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER: 6th - 313 - 001A  
(Map Reference Number) District Land Lot Parcel

[Signature] \_\_\_\_\_ 9/30/17 \_\_\_\_\_  
Signature of Applicant Date

R. WAYNE LAMAR, PRES. \_\_\_\_\_  
Type or Print Name and Title

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*Tax Commissioners Use Only*

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

\_\_\_\_\_  
NAME TITLE

\_\_\_\_\_  
DATE

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September 30, 2017

#### Letter of Intent for rezoning of 3926 Holcomb Bridge Road

POWL Investments, LLC seeks to rezone 3926 Holcomb Bridge Road from C-1 to RTH to allow for seventeen fee simple townhouses as shown on the attached site plan. This 2.16 acre site as presently zoned has sat fallow for many years in the densely developed Holcomb Bridge corridor. We feel that the site's present zoning, midblock location and lack of onsite water and sewer have prevented its development to date.

With respect to land use planning we feel that our proposed zoning will provide for a more desirable use, townhouse rather than commercial space, as a buffer from Holcomb Br. for the single family neighborhood to our north (rear). Other adjacent properties include, office commercial to the north and south and office/institutional and residential condominium across Holcomb Br. To the west. Our proposed development is aligned with Peachtree Corner's Holcomb Bridge zoning overlay which seeks to promote quality redevelopment to the Holcomb Bridge corridor as well as the Future Land Use Plan which calls for high density residential. Our site plan with seventeen units falls within the RTH maximum density of eight units per acre. The soundness of our zoning plan is reinforced by the letters of support we have received from the adjacent property owners.

Our proposed zoning will not have cause an excessive burden on existing streets, utilities or schools. At seventeen units our proposed development will have no effect on Holcomb Bridge, a major four lane arterial road. We have received a sewer availability letter from Gwinnett County. We do not expect a high percent of our residents to have school age children. The proposed community will be gated with private streets to be maintained by our HOA.



Case Number: \_\_\_\_\_ Received Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

**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>Wayne Lamar</u>	Name <u>POWL Investments</u>
Address (all correspondence will be mailed to this address): <u>1101 St Charles place</u>	Address _____ <u>5339 Garnaby lane</u>
City <u>Atlanta</u>	City <u>Peachtree Corners</u>
State <u>Georgia</u> Zip <u>30306</u>	State <u>Georgia</u> Zip <u>30092</u>
Phone <u>404-597-1761</u>	Phone <u>770-365-3005</u>
Contact Person Name: <u>Wayne Lamar</u> Phone: <u>404-597-1761</u>	
Email Address: <u>rwlamar@bellsouth.net</u>	
Applicant is the (please check or circle one of the following): <input checked="" type="radio"/> Property Owner <input type="radio"/> Owner's Agent <input type="radio"/> Contract Purchaser	

Address of Property 3926 Holcomb Bridge Road

Subdivision or Project Name \_\_\_\_\_ Lot & Block \_\_\_\_\_

District, Land Lot, & Parcel (MRN) 6th district Land lot 313, Parcel 001A

Proposed Development 17 fee simple townhouses

Permit Number (if construction has begun) \_\_\_\_\_

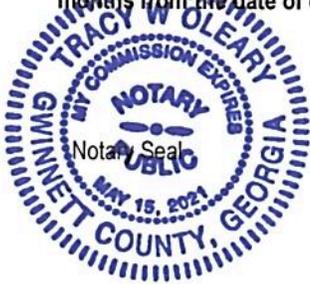
Variance Requested reduction of building setbacks , see below

A complete application includes the following:

- |  |   |
|--|---|
| <input type="checkbox"/> Application Form (1 original and 1 electronic copy)   | <input type="checkbox"/> Application Fee  |
| <input type="checkbox"/> Site Plan and/or Boundary Survey (1 original, 1 8 1/2"x11" or 11"x17" reduction and 1 electronic copy.) | <input type="checkbox"/> Adjacent owner(s) written support (1 original and 1 electronic copy) |
| <input type="checkbox"/> Letter of Intent (1 original and 1 electronic copy)   | <input type="checkbox"/> Additional Documentation as needed                                   |
| <input 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).



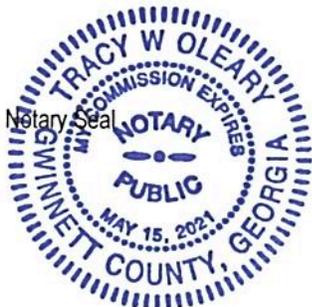
[Signature] 9/30/17  
Signature of Applicant Date

R. WAYNE LAMAR, PRES  
Typed or Printed Name & Title

Tracy W. O'Leary 9/30/17  
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] 9/30/17  
Signature of Property Owner Date

R. WAYNE LAMAR, MEMBER  
Typed or Printed Name & Title

Tracy W. O'Leary 9/30/17  
Signature of Notary Public Date

**Community Development Use Below Only**

Fees Paid: \_\_\_\_\_ By: \_\_\_\_\_

Related Cases & Applicable Conditions:

Variance Description: Reduce the south setback from 40 feet to 20 feet adjacent to the adjoining office park parking lot.

Reduce north setback from 40' to 25' adjacent to the adjoining commercial properties driveway.

allow the one building to encroach the 50 setback as shown on the attached site plan

## Variance Application Guidelines & Information

**Note: A variance application from a condition of zoning or special use must be approved by City Council and can neither be accepted nor processed through the Board of Zoning Appeals.**

### Application Process

The Zoning Board of Appeals (ZBA) variance process requires approval thru a public hearing and will take approximately 45 days. Please see the filing deadline and hearing date schedule. The ZBA meets on the third Wednesday of each month (unless otherwise published) at 7:00 PM, at the City of Peachtree Corners City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, Georgia. A public hearing notice sign shall be posted on the property under consideration at least 15 days before the public hearing. In addition, a legal advertisement will be published in the *Gwinnett Daily Post* at least 15 days prior to the hearing. Once advertised for public hearing, an application can NOT be withdrawn.

1. No less than one week prior to submitting an application for a Public Hearing, the applicant must complete a pre-submittal meeting with staff. The applicant should bring one copy of the completed submittal package with all required plans and supporting materials to the meeting.
2. On or before the appropriate "Submittal Deadline" day, the applicant should file one (1) original, plus 10 copies of the completed Application and supporting documents. Each set will be comprised of the completed Application with the required supporting documents attached. One full-size set of any drawings, surveys, and any other oversized materials shall be included with the original application. The additional 10 copies of these documents shall be submitted at a size no greater than 11" x 17" and shall each be folded to a size not to exceed 8.5" x 11".
3. The City of Peachtree Corners allows the applicant two (2) requests for extensions beyond the scheduled public hearing. If the request for extension is received after the Notice of Public Hearing has been published, a \$250 re-advertising fee must be paid by the applicant. If, after requesting a deferral, an applicant submits a revised application and/or site plan, a \$500 re-review fee will be assessed in addition to the \$250 re-advertising fee. An application may be withdrawn without prejudice (no waiting time to refile) at any time prior to the public hearing at which final action is taken. A request for such withdrawal must be made in writing.
4. All application fees must be paid at the time of submittal.
5. All taxes must be paid in-full and any and all outstanding code violations on the property must be rectified prior to the public hearing.
6. The applicant or an authorized agent of the applicant must be present for all public hearings to present the proposal.

### Application Requirements

Included in these guidelines are the informational requirements necessary to process an application. This documentation is important in demonstrating an "unnecessary hardship." For example, if the hardship is due to severe topography, topographic information must be submitted. If the justification is due to the location of an easement, a survey showing the easement must be submitted. In some circumstances, photographs can be used to substantiate a hardship.

The following items are necessary to process a variance application:





- Cross-sections of the buffer and its relationship to uses on adjacent property.
- Cross-sections indicating improvements on adjacent residential property as may be seen through the proposed improvements on the subject site.
- Complete planting plan indication existing vegetation and any proposed replanting. Indicate types of trees, name, size, quantity and spacing. Indicate trees proposed to be retained or planting on the cross sections and on the planting plan.
- Proposed screening fence and/or berm locations, etc., and details of same.
- Demonstrate compliance with the Buffer, Landscape & Tree Ordinance requirements.
- Show location of detention facilities and the direction of drainage flow.
- Provide details of building and parking lot lights adjacent to the proposed reduced buffer.
- Provide written consent from the adjacent property owner(s).

### Sign Applications

Applications requesting a sign variance must also answer these questions:

- Are there exceptional conditions pertaining to the property where the sign is to be located as a result of the property size, shape, or topography which are not applicable to other lands or structures in the area? If "yes," please explain.
- Would the applicant be deprived of rights that are commonly enjoyed by others similarly situated? If "yes," please explain.
- Would granting the variance confer on the applicant any significant privileges which are denied to others similarly situated? If "yes," please explain.
- Are the exceptional circumstances the result of actions of the applicant or the applicant's representatives? If "yes," please explain.
- Is the requested variance the minimum necessary to allow the applicant to enjoy rights commonly enjoyed by others similarly situated? If "no," please explain.
- Would granting of the variance violate more than one standard of the Unified Development Code? If "yes," please explain.
- Would granting the variance result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic?

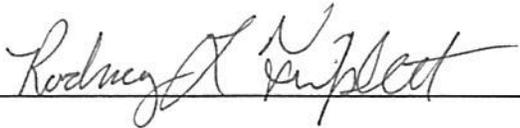
**If you have any questions regarding these requirements, please contact the  
Community Development Department at 678-691-1200.**

September 27, 2017

Planning Commission and Council Members:

As an adjacent property owner residing at 6377 Rosecommon Dr I would like to state my support for Lamar Properties' proposed rezoning of the property located at 3926 Holcomb Br. Rd from its present C-1 to RTH to allow for seventeen for sale townhome units. I have reviewed the proposed site plan for the community and feel that it will be an asset our neighborhood, Peachtree Corners and to the effort to revitalize the Holcomb Bridge corridor.

Respectfully:

  
\_\_\_\_\_

September 27, 2017

Planning Commission and Council Members:

As an adjacent property owner residing at 6367 ROSECOMMON DR I would like to state my support for Lamar Properties' proposed rezoning of the property located at 3926 Holcomb Br. Rd from its present C-1 to RTH to allow for seventeen for sale townhome units. I have reviewed the proposed site plan for the community and feel that it will be an asset our neighborhood, Peachtree Corners and to the effort to revitalize the Holcomb Bridge corridor.

Respectfully:

Linda McAleen  
Dylan McAleen

September 27, 2017

Planning Commission and Council Members:

As an adjacent property owner <sup>WJ</sup> ~~residing~~ <sup>ill</sup> at 3936 Holcomb Br I would like to state my support for Lamar Properties' proposed rezoning of the property located at 3926 Holcomb Br. Rd from its present C-1 to RTH to allow for seventeen for sale townhome units. I have reviewed the proposed site plan for the community and feel that it will be an asset our neighborhood, Peachtree Corners and to the effort to revitalize the Holcomb Bridge corridor.

Respectfully:

Carol L Burdges  
Kunille P Burdges

## Exhibit "A"

### Legal Description

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 313 OF THE 6<sup>TH</sup> DISTRICT, CITY OF PEACHTREE CORNERS, GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCE** AT AN IRON PIN FOUND AT THE INTERSECTION OF THE COMMON LAND LOT LINE OF LAND LOTS 305 AND 313, SAID DISTRICT AND COUNTY, AND THE NORTHEASTERN RIGHT-OF-WAY LINE OF HOLCOMB BRIDGE ROAD (VARIABLE R/W); RUNNING THENCE IN A NORTHWESTERN DIRECTION, ALONG SAID NORTHEASTERN RIGHT-OF-WAY LINE OF HOLCOMB BRIDGE ROAD, THE FOLLOWING COURSES AND DISTANCES:

ALONG THE ARC OF A CURVE TO THE RIGHT, AN ARC DISTANCE OF 158.64 FEET (SAID CURVE HAVING A RADIUS OF 1372.39 FEET, BEING SUBTENDED BY A CHORD BEARING NORTH 43 DEGREES 15 MINUTES 39 SECONDS WEST, A CHORD DISTANCE OF 158.56 FEET) TO AN IRON PIN FOUND;

NORTH 50 DEGREES 29 MINUTES 34 SECONDS EAST, A DISTANCE OF 10.12 FEET TO AN IRON PIN FOUND;

NORTH 39 DEGREES 43 MINUTES 14 SECONDS WEST, A DISTANCE OF 23.78 FEET TO AN IRON PIN FOUND;

SOUTH 50 DEGREES 58 MINUTES 03 SECONDS WEST, A DISTANCE OF 9.98 FEET TO AN IRON PIN FOUND;

NORTH 38 DEGREES 56 MINUTES 42 SECONDS WEST, A DISTANCE OF 99.92 FEET TO AN IRON PIN FOUND;

NORTH 50 DEGREES 38 MINUTES 06 SECONDS EAST, A DISTANCE OF 15.02 FEET TO AN IRON PIN FOUND;

NORTH 39 DEGREES 01 MINUTES 59 SECONDS WEST, A DISTANCE OF 24.99 FEET TO AN IRON PIN FOUND;

SOUTH 50 DEGREES 40 MINUTES 09 SECONDS WEST, A DISTANCE OF 14.96 FEET TO AN IRON PIN FOUND; AND

NORTH 39 DEGREES 04 MINUTES 04 SECONDS WEST, A DISTANCE OF 85.31 FEET TO AN IRON PIN FOUND;

THENCE LEAVING SAID NORTHEASTERN RIGHT-OF-WAY LINE OF HOLCOMB BRIDGE ROAD AND RUNNING NORTH 60 DEGREES 58 MINUTES 17 SECONDS EAST, A DISTANCE OF 273.37 FEET TO AN IRON PIN FOUND ON THE SOUTHWEST BOUNDARY LINE OF LOT 25, BLOCK A (SPALDING CORNERS SUBDIVISION UNIT II PB 11/PG 03);

RUNNING THENCE IN A SOUTHEASTERN DIRECTION, ALONG THE SOUTHWESTERN BOUNDARY LINES OF LOTS 25, 26 AND 27, BLOCK A (SPALDING CORNERS SUBDIVISION

UNIT II PB 11/PG 03), SOUTH 30 DEGREES 51 MINUTES 21 SECONDS EAST, A DISTANCE OF 394.09 FEET TO AN IRON PIN FOUND AT THE COMMON CORNER OF LAND LOTS 304, 305, 313 AND 314, SAID DISTRICT AND COUNTY;

RUNNING THENCE IN A SOUTHWESTERN DIRECTION, ALONG THE COMMON LAND LOT LINE OF LAND LOTS 305 AND 313, SAID DISTRICT AND COUNTY, SOUTH 63 DEGREES 39 MINUTES 13 SECONDS WEST, A DISTANCE OF 206.53 FEET TO AN IRON PIN FOUND AND THE POINT OF BEGINNING.

THE ABOVE-DESCRIBED TRACT OF LAND CONTAINS 2.16 ACRES AND IS SHOWN ON AND DESCRIBED ACCORDING TO THAT CERTAIN BOUNDARY SURVEY FOR R.W. LAMAR PROPERTIES, INC., PREPARED BY WATTS & BROWNING ENGINEERS, INC., VIRGIL T. HAMMOND, G.R.L.S. NO. 2554, DATED 1/25/2017.



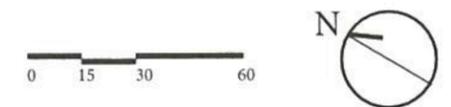




NOTE:  
 EACH UNIT HAS 4 PARKING SPACES  
 2 - IN GARAGE, AND 2 IN DRIVEWAY

8 ADDITIONAL PARKING SPACES ARE  
 AVAILABLE FOR ADDITIONAL GUEST

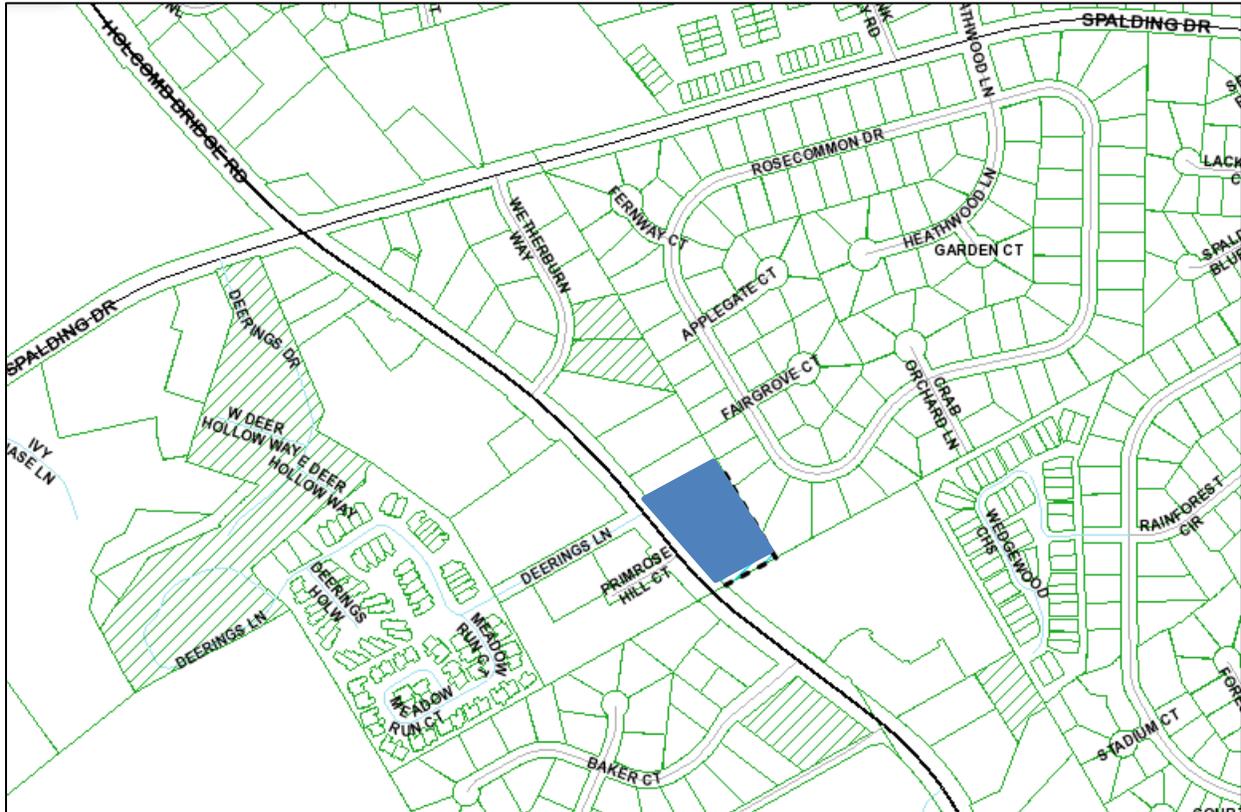
TOTAL ACREAGE = 2.16  
 TOTAL UNITS = 17  
 DENSITY = 7.87 Units/Acre





## PROPERTY LOCATION MAP

### Holcomb Bridge Townhomes



<b>CASE NUMBER:</b>	<b>RZ2017-003 &amp; V2017-008</b>		
	<b>PLANNING COMMISSION</b>	<b>CITY COUNCIL 1<sup>ST</sup> READING</b>	<b>CITY COUNCIL 2<sup>ND</sup> READING</b>
<b>HEARING DATES:</b>	<b>NOV. 14, 2017</b>	<b>NOV. 21, 2017</b>	<b>DEC. 19, 2017</b>
<b>PROPERTY ADDRESS:</b>	<b>3926 Holcomb Bridge Road</b>		

**RZ2017-004 & CIC2017-004**  
**Roberts Properties Mixed Use**

**CITY OF PEACHTREE CORNERS  
COMMUNITY DEVELOPMENT DEPARTMENT**

**REZONING AND CHANGE IN CONDITIONS ANALYSIS**

PLANNING COMMISSION DATE: NOVEMBER 14, 2017

CITY COUNCIL DATE: DECEMBER 19, 2017

CASE NAME: **ROBERTS PROPERTIES MIXED USE**

CASE NUMBER: **RZ-2017-004/ CIC2017-004**

CURRENT ZONING: C-2

LOCATION: 4936 PEACHTREE CORNERS CIRCLE AND 5246 PEACHTREE PARKWAY

MAP NUMBERS: 6<sup>th</sup> DISTRICT, LAND LOT 301

ACREAGE: 4.4 ACRES

PROPOSED DEVELOPMENT: REZONE FROM C-2 TO MUD TO ACCOMMODATE A MIXED-USE DEVELOPMENT ALONG WITH ASSOCIATED CHANGE IN CONDITIONS

FUTURE DEVELOPMENT MAP: PREFERRED OFFICE

APPLICANT: ROBERTS PROPERTIES PEACHTREE RETAIL, LLC  
375 NORTHRIDGE RD, STE 330  
ATLANTA, GA 30350

CONTACT: CLAY MASSEY  
404-881-4969

OWNER: ROBERTS PROPERTIES PEACHTREE RETAIL, LLC  
375 NORTHRIDGE RD, STE 330  
ATLANTA, GA 30350

**RECOMMENDATION: APPROVE WITH CONDITIONS**

## PROJECT DATA:

The applicant is seeking to rezone two parcels totaling 4.4 acres. The two parcels are located along Peachtree Parkway and Peachtree Corners Circle, adjacent to two developed C-2 parcels containing Chase Bank and Black Walnut Café, both of which are now owned by separate entities. The applicant's parcels are also adjacent to the Peachtree Corners Town Center site located along the northern boundary of the Peachtree Corners Circle parcel.

The applicant requests to rezone the above-mentioned parcels along Peachtree Parkway and Peachtree Corners Circle to allow for a mixed-use development. The proposal for the Peachtree Corners Circle parcel includes a boutique hotel and a mid-rise apartment building. Although the renderings label the hotel as a Hotel Indigo, the applicant has indicated that there are no contracts or agreements with the Indigo brand. The name is only intended as a representation of the type of hotel that could go on the site, but no hotel commitments are included as part of this application. The hotel is proposed to be adjacent to Peachtree Corners Circle while the apartment building would wrap in a U-shape from the interior to the site to the Peachtree Corners Circle frontage. Parking would be located in a shared garage at the base of the two buildings. Two swimming pools and amenity decks, one for each use, are shown located above the parking deck.

The proposal for the Peachtree Parkway parcel includes a one-story retail building located behind a small parking area along the street and adjacent to the main entryway into the larger development.

## PARCEL DESCRIPTIONS

**Parcel #1:** This property is a 0.677-acre C-2 zoned parcel located on the east side of Peachtree Parkway just north of Peachtree Corners Circle. The parcel is between Chase Bank to the south and Black Walnut Café to the north. The main driveway into the larger development enters this parcel from Peachtree Parkway. The property has previously been cleared and graded and is vacant. The proposed site plan shows this parcel housing a new one-story retail building with access from the existing driveway along Peachtree Parkway.

**Parcel #2:** This property is a 3.732-acre C-2 zoned parcel located on the north side of Peachtree Corners Circle just east of Peachtree Parkway. The parcel is to the east (rear) of Chase Bank and Black Walnut Café. The secondary driveway into the larger development enters this parcel from Peachtree Corners Circle. The property has previously been cleared and graded and is vacant. The proposed site plan shows this parcel housing a 7 story, 110-room hotel along with a 7 story, 169-unit rental apartment building, both of which are situated above one shared basement level of parking. The shared parking garage also extends to the first floor of both buildings. The first floor contains hotel lobby, hotel amenity, residential lobby, and residential amenity space but does not contain hotel sleeping rooms nor apartment dwelling units.

**ZONING HISTORY:**

The subject property was approved pursuant to Gwinnett County Case CIC-08-021 for commercial uses and to be developed in general conformity to the original approved concept plan or similar to a 'forum/avenue style' development. The approved conditions of zoning required implementation of a specific design concept for the proposed development so the applicant was required to submit final building elevation/plans for review and approval by the Planning Commission.

The building elevations were approved by subsequent City of Peachtree Corners Case SUP2015-001 along with associated variances for the plan as shown at the time. That plan included the retail building now being proposed along Peachtree Parkway. However, the Peachtree Corners Circle parcel, now being proposed for a hotel and apartment building, was shown as a retail/office building and had a substantially different layout than what is currently being proposed. Small parking lot encroachments into the 50' and 75' stream buffers were also approved but the new proposal shows portions of the apartment building within the buffer, necessitating the change to one of the previously approved conditions.

The applicant's letter of intent (page 3) states that the current request for rezoning is based, in part, on the claim that C-2 zoning is not economically viable. The letter cites vacancy rates and economic conditions; however, due in large part to significant city investments made since incorporation, positive trends have been experienced in Peachtree Corners over the past five years. For example, commercial building permits have increased 19% and the number of business licenses issued have increased 5.2%. Since 2012, the number of jobs in the city has increased by 14.8%. During the same time period, 3 bank facilities have been constructed along with 1 movie theater, 2 recreation / entertainment facilities, 3 grocery stores and several restaurants. There have also been significant office renovations in and around Technology Park.

The applicant's letter of intent also states that the original C-2 zoning was limited by conditions imposed at the previous zoning hearing. However, the letter does not include two important points regarding that previous hearing: 1.) The zoning conditions were voluntarily accepted by the applicant in exchange for the special use approval and the variance granted by the City Council. In fact, the City Council even took the unusual step of taking a recess during the zoning hearing in order to give the applicant's team sufficient time to consider the uses for the property; and 2.) the uses permitted on the applicant's property are identical to those permitted on the adjacent Town Center property.

**ZONING STANDARDS:**

Zoning Code Section 1702 identifies specific criteria that should be evaluated when considering a zoning decision. These criteria are enumerated as 'A' through 'F' below. Some of the applicant's responses were too lengthy to include in this report but can be found in the attached Letter of Intent. Those which were more succinct are below. Staff's comments are also included below:

**A. Will this proposed rezoning, special use permit, or change in conditions permit a use that is suitable in view of the use and development of adjacent and nearby property?**

*Applicant's Response: Yes. (See Sections I, II, and III of the Letter of Intent)*

*Staff's Comment:* The parcels requested to be rezoned are adjacent to existing MUD development at the Town Center. Expansion of the MUD zoning is suitable for this area and uses such as hotel, retail and residential are appropriate. However, the massing, intensity, scale, and density of the proposed project must also be considered in context with the surrounding area. Nearby retail and service uses in the surrounding area are characterized by 1 - 2 story buildings and residential properties are developed at no more than 3 - 4 stories. Office buildings in the Da Vinci Court area are also a maximum of 4 stories in height. Both the existing Forum and the future Town Center preserve these character traits. The proposed plan, however, has a much more intense character. And while the Town Center will have just under 12 units per acre of housing, the applicant is proposing 32 units per acre on the subject site.

**B. Will this proposed rezoning, special use permit, or change in conditions adversely affect the existing use or usability of adjacent or nearby property?**

*Applicant's Response: No. Rather, the proposed rezoning will provide substantial benefits to the adjacent and nearby properties.*

*Staff's Comment:* MUD zoning is appropriate for this area of the city. However, as described previously, the intensity and density of development proposed is not in character with the surrounding area. There is so much development proposed on the site that the only open space remaining on the applicant's property are the required setback areas and landscape strips.

**C. Does the property to be affected by a proposed rezoning, special use permit, or change in conditions have reasonable economic use as currently zoned?**

*Applicant's Response: No. [further explanation in letter of intent]*

*Staff's Comment:* Yes. The property is zoned C-2, commercial, and has a reasonable economic use as currently zoned. All surrounding retail properties have the same zoning and they are developed and operational. The retail store and hotel shown on the applicant's plan, for example, are uses that are already allowed by right under the current C-2 zoning designation. The only use shown on the plan that is not currently allowed is the rental apartments.

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

*Applicant's Response: No. According to a trip generation comparative analysis conducted by A&R Engineering, rezoning the subject property to MUD for RPPR's mixed-use development will result in a 40% decrease in daily traffic compared to the current Conditional C-2 zoning. Also, RPPR has installed*

handicap ramps, crosswalks, traffic signalization and other improvement to improve pedestrian connectivity at the intersection of Peachtree Parkway and Peachtree Circle, at no cost to the City. In addition, the apartment homes component of the development will include only one- and two-bedroom units, and MUD zoning of the property will not cause excessive or burdensome use of the city's schools. MUD zoning and the development also would not cause any excessive use of the city's utilities.

*Staff's Comment:* Staff evaluation of the trip generation analysis prepared by the applicant's consultant, A&R Engineers, found flaws in the calculations. (See chart on the next page.) Staff used the Trip Generation Manual, 9<sup>th</sup> Edition by the Institute of Transportation Engineers in its calculations. The difference between the two sets of calculations, (shown in red on the chart), translates to a 14.6% increase in P.M. peak traffic if the proposed zoning is approved, as calculated by staff, compared to a 29% decrease in the PM peak traffic as calculated by A&R Engineers.

Land Use	Size	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
		Enter	Exit	Total	Enter	Exit	Total	
<b>820 – Shopping Center</b>	56,900 sf	69	42	111	197	214	<del>411</del> 211	4,707
	<i>Pass-by Trips (0%) 34%</i>	0	0	0	-67	-73	<del>-140</del> -71	-1,400
<b>932 – Restaurant</b>	10,400 sf	62	50	112	61	41	<del>102</del> 116	1,322
	<i>Pass-by Trips (0%) 43%</i>	0	0	0	-26	-18	<del>-44</del> -48	-440
Total Trips without Reductions		131	92	223	258	255	<del>513</del> 327	6,029
<b>Total Trips with Reductions</b>		<b>131</b>	<b>92</b>	<b>223</b>	<b>165</b>	<b>164</b>	<del>329</del> 205	<b>4,189</b>

\*pass-by trips (AM) PM; 24 Hour pass-by trips estimated by considering PM pass-by as 10% of daily volume

Land Use	Size	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
		Enter	Exit	Total	Enter	Exit	Total	
<b>220 – Apartment</b>	169 Units	17	70	87	72	39	111	1,148
	<i>Mixed-Use Trips</i>	-1	-1	-2	-5	-3	-8	-93
<b>310 – Hotel</b>	110 rooms	34	24	58	34	32	66	611
	<i>Mixed-Use Trips</i>	-1	-1	-2	-2	-2	-4	-49
<b>820 – Shopping Center</b>	9,000 sf	22	14	36	57	62	119	1,420
	<i>Mixed-Use Trips</i>	-2	-2	-4	-5	-7	-12	-142
	<i>Pass-by Trips (0%) 34%</i>	0	0	0	-18	-19	-37	-370
Total Trips without Reductions		73	108	181	163	133	296	3,179
<b>Total Trips with Reductions</b>		<b>69</b>	<b>104</b>	<b>173</b>	<b>133</b>	<b>102</b>	<b>235</b>	<b>2,525</b>

\*pass-by trips (AM) PM; 24 Hour pass-by trips estimated by considering PM pass-by as 10% of daily volume

### TRIP GENERATION COMPARISON

The results of the trip generation comparison (shown in Table 3) indicate that the proposed zoning will see a 40% decrease in daily traffic over the existing zoning.

Trip Generation	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
	Enter	Exit	Total	Enter	Exit	Total	
Existing Zoning	131	92	223	165	164	<del>329</del> 205	4,189
Proposed Zoning	69	104	173	133	102	235	2,525
<b>Change in Trips</b>	<b>-62</b>	<b>12</b>	<b>-50</b>	<b>-32</b>	<b>-62</b>	<del>-94</del> +35	<b>-1,664</b>
<i>Percentage Change</i>	<i>-47%</i>	<i>+13%</i>	<i>-22%</i>	<i>-19%</i>	<i>-38%</i>	<del>-29%</del> +14.6%	<i>-40%</i>

\*Note: Staff calculations are shown in red.

In addition, Greg Stanfield, the planning director for Gwinnett County schools, has applied Gwinnett County's student generation rates to the proposed 169 apartment units and supplied the following student generation numbers for this project:

Simpson Elementary	49 students
Pinckneyville Middle School	25 students
Norcross High School	35 students

Although the actual student numbers could only be known if the project were built, even if Gwinnett County's projections turn out to have been overestimated by 75%, there would still be an additional 13 students added to Simpson Elementary School (the equivalent of one additional classroom), 7 students added to Pinckneyville Middle School and 9 students added to Norcross High School. While there may be some examples of mixed-use projects with lower resident student populations, those situations may be a function of the school district in which the development is located rather than the mixed-use nature of the project. Residents often make their housing choice based on school districts and families with school-age children are more inclined to locate close to a highly ranked school. Avalon, for example, tracks to Manning Oaks Elementary which is ranked #30 out of 58 elementary schools in Fulton County. By comparison, Simpson Elementary is ranked #1 out of 78 in Gwinnett County.

**E. Is the proposed rezoning, special use permit, or change in conditions in conformity with the policy and intent of the land use plan?**

*Applicant's Response: Yes. [further explanation in letter of intent]*

*Staff's Comment: (see Comprehensive Plan heading, below)*

**F. Are there other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning, special use permit, or change in conditions?**

*Applicant's Response: Yes, numerous supporting grounds exists for approval of the rezoning. Please see Sections I through III [in letter of intent]*

*Staff's Comment: The long-term vision for this area is for it to be an integral part of the central business district. And while mixed-use developments are suited for this area, the character of the development should be in keeping with its surroundings. In this case, the character of the proposed development is substantially different from its surroundings.*

**COMPREHENSIVE PLAN:**

The 2033 City of Peachtree Corners Character Area Map indicates that the property is located within the Central Business District Character Area. Policies for this area encourage "A mix of retail and commercial uses, offices, mixed-use, government and institutional properties, and open space." The Housing portion of the Comprehensive Plan identifies the need for housing

options for empty-nesters, such as high-end condominiums or cluster homes in a “live/walk/play” setting. While these are overarching goals for the City, the 2033 Comprehensive Plan identifies the need for further plan refinements through the Plan’s work program. Included in the work program, for example, are the following items:

- G4. Y25                    Explore the possibility of using the Downtown Development Authority to initiate redevelopment of multi-family housing in Transitional Growth areas.
- G4. Y26                    Further develop, refine, and implement land use recommendations for character areas.

These and other similar Comprehensive Plan work program items led to the development of the Town Center LCI study, Holcomb Bridge Road Corridor Study, Multi-use trail study, and incentive regulations that address the appropriateness of specific uses based on factors such as location, traffic, and character elements. The findings and recommendations in those studies are intended to further guide development. The City utilized those recommendations most recently in the development of the Town Center plans and with its assessment of the Twin Lakes (later named Echo Lakeside) apartment project.

#### HEIGHT AND DENSITY:

The Zoning Code Mixed-Use Development standards stipulate that heights of up to 25 stories and densities of up to 32 units per acre are allowed. However, Zoning Code Sec. 1318.5 also states that, ‘*The City Council may reduce maximum project density and building height on a case-by-case basis*’. The MUD standards were originally developed by Gwinnett County and were applicable county-wide. It’s possible that the maximum height and density allowed in MUD districts are appropriate along interstate highways or other comparable locations. However, the most comparable location to the applicant’s property is the Town Center where height and density maximums have been established at 4 stories and 12 units per acre.

#### VARIANCE:

The application requests a variance to the stream buffer requirements in order to accommodate the intrusion of a small portion of some of the proposed buildings into the buffer. A similar request was made and approved as part of the SUP2015-001 case. The variance that was accepted in that case stipulates the following:

*W. An encroachment into the 50- ft. undisturbed buffer and 75 ft. impervious stream setback line shall be permitted for the installation of a reinforced pervious slope along a portion of the northern property line as shown on LAI Engineering drawings dated 1-30-15.*

The current variance request is for the same part of the property. And since the hardship for this variance has already been established, only a minor modification is needed to the condition that would allow a building encroachment in addition to the pervious slope encroachment

already permitted. For this reason, the Change-in-Condition was added and it replaces the variance request included in the application.

#### DEPARTMENT ANALYSIS:

The proposed rezoning from C-2 to MUD is supported by the goals identified in the 2033 Comprehensive Plan and the more area-specific plans developed in the 2015 Peachtree Corners Town Center Livable Centers Initiative (LCI) study. Both documents promote the development of mixed-use, walkable projects. However, specific criteria are also established for the character and intensity of those projects based on location. This is key to establishing appropriate developments within the context of their surroundings. In this case, the character of the proposed plan is not in keeping with surrounding developments. So much development is shown for the site that the Common Area provision of the MUD regulations cannot be met. Zoning Code Sec. 1318 (Mixed- Use Development District) 8G stipulates the following:

*Common areas shall be distributed throughout the project to provide linkages, amenities and visual appeal for the development. Final Common Area design shall include provision of at least one (1) centrally located public gathering area (with related amenities and improvements) in the form of a town green, amphitheater, landscaped plaza, or similar approved element.*

In the previous zoning case SUP2015-001, the applicant voluntarily donated .9 acres of land behind the subject property to the Downtown Development Authority and was allowed to use that acreage in future calculations to meet zoning code requirements. With regard to this voluntary land contribution, Ordinance 2015-03-41 Z stipulates that “*this area may be utilized by the applicant in connection with any and all development density and/or construction related calculations and/or code requirements (including, for example, open space and tree density requirements, to the extent allowed by code).*” This means that the .9 acres can be used in the calculation to achieve the 20% open space requirement; however, that land, itself, cannot be utilized by the applicant as the plan’s required centrally located public gathering area. This donated land is not a part of the applicant’s property. Therefore, the intensity of the plan does not accommodate one of the key amenities of a mixed-use development, a central gathering space. While there are individual amenity areas incorporated into the plan, there is no ‘Common Area’ as Sec. 1318 8G stipulates.

While incorporating a mix of uses is generally encouraged throughout much of Peachtree Corners, the location for housing is identified specifically and strategically in the LCI study. Pages 32 and 33 of the LCI document (Attachments ‘A’ and ‘B’) identify the specific locations within the City that are intended for both ‘Young Professionals’ housing and ‘Empty Nester / Senior’ housing. Both of these housing types accommodate rental apartments and page 35 of the LCI study (Attachment ‘C’) shows a rendering of what those apartments could look like as part of an infill development project. The areas shown on the map of Attachment ‘A’ that are suitable for rental apartments constitute large parts of Peachtree Corners and include all of Technology Park and most of the Central Business District and the Holcomb Bridge Road corridor. However, other parts of Peachtree Corners, including both the Town Center property and the applicant’s property, are not a part of those areas.

When the City developed the Town Center plan, it had the option of incorporating rental apartments into the plan because the MUD zoning permits it. However, the MUD zoning doesn't mandate the use of apartments, nor the character of each project. Instead, the MUD zoning requires the submittal of an individual concept plan. Each concept plan is customized to its unique property. In the case of the Town Center, the concept plan was based on the previously developed studies for this area and the extensive community input associated with those efforts. Those factors led to the determination that rental apartments were not appropriate at this location. As a result, the Town Center incorporates townhomes as the residential component of its mixed-use plan. Based on its surroundings and the character of the neighboring area, the Town Center plan was designed as a low-rise, lower density concept. The applicant's property is similarly situated to the Town Center.

In addition, the LCI study Action Plan identifies Economic Development Initiative D3 which states, *'Modify Central Business District Zoning to accommodate millennial housing.'* This initiative was given a high priority and the City worked to develop an incentive program quickly in support of the effort to promote multi-family development. On 12/15/2015, the City Council adopted Ordinance 2015-11-59 (Attachment 'D'). This incentive program was instrumental in the approval and development of the Twin Lakes rental apartment project. This rental apartment is designed for the Young Professional market and is being built in Technology Park, one of the locations specifically identified in the LCI study as appropriate for apartment development. Ordinance 2015-11-59 also provides incentives for apartment development and redevelopment along the Holcomb Bridge Road corridor. In addition, the City's Downtown Development Authority has offered to participate in joint venture partnerships to enhance the financial arrangements and further incentivize apartment developments in appropriate locations as identified in the LCI study.

It is clearly evident through its demonstrated actions that the City strongly supports apartments developed in line with the LCI study. In fact, it was the City's proactive efforts that was instrumental in the development of Peachtree Corners most recent apartment project, Twin Lakes.

However, it is also well documented that that the applicant's property is not located within the extensive areas of Peachtree Corners identified in the LCI study as appropriate for apartment development. And, as noted previously, the Town Center property is also not within an apartment area and was, therefore, also unable to take advantage of any enhanced economics that an apartment development may have afforded the project.

#### SUMMARY:

After evaluating the application materials and the supplementary documents submitted, the following conclusions were reached:

- I. The 2033 Comprehensive Plan and the LCI study support mixed-use developments throughout the Central Business District and Holcomb Bridge Road corridor. And while apartment development is supported in large areas of Peachtree Corners, the applicant's property is not included in those locations. (Exhibits 'A', 'B', and 'C')

2. In areas of Peachtree Corners where apartment development is supported by studies and other planning efforts, the City offers incentives for apartment developments. (Exhibit 'D')
3. The MUD zoning classification requires a concept plan with each application and anticipates that height and density will be determined on a case-by-case basis.
4. The character, height, density, and type of residential development appropriate for this area were established by the Town Center plan based on adopted studies and extensive community input.
5. The uses currently permitted and prohibited on the subject property were characterized as "reasonable" by the applicant and voluntarily accepted. (Exhibit 'E')
6. Except for the rental apartments, all the uses shown in the submitted plan are allowed under the current zoning.
7. The permitted and prohibited uses on the applicant's property are the same as those on the adjacent Town Center property.
8. The project, as proposed, would have a greater impact to roads and schools than a project developed under current zoning.
9. Submitted renderings show a Hotel Indigo as part of the plans; however, there is no relationship between the applicant and the Indigo franchise and, therefore, no assurance that, if approved, an Indigo hotel will be developed.
10. A variance for the portion of the property adjacent to the creek was previously granted; therefore, only the terms associated with that variance need to be modified. No additional variances are necessary.
11. The applicant contends that his property is not financially viable unless the submitted plan with all of its proposed uses is approved and states that the Town Center plan would also not be viable if the City did not financially contribute to that development. This assertion is based on the incorrect premise that the City is only a participant in the Town Center project out of financial necessity. In reality, Town Center was intentionally developed as a joint public-private partnership and, as such, the City's financial participation was always contemplated, regardless of the economics or the specific uses included in the project.
12. The applicant states on page 7 of the letter of intent that, "It is proven that high-quality rental housing is necessary to support retail and other commercial components of successful mixed-use developments." Local examples are then cited including Avalon and the soon-to-open City Springs (Sandy Springs' town center). However, the assertion that mixed-use projects cannot be successful without apartments is also incorrect. There isn't only one formula for the success of mixed-use projects and these

types of projects don't only work when apartments are a component. The Forum, for example, includes retail, restaurant, and office uses and is surrounded by single family detached homes. These detached homes are not under the same ownership as the retail and office uses, but they are the residential component, not apartments, that support the Forum. Moreover, with numerous activities planned for the 2-acre Town Green, the Town Center is expected to attract many more visitors because of that amenity than an apartment building occupying the same area would have generated. A 300-unit apartment complex, for example, may generate 600-800 hundred residents; but, the same area used as a Town Green can accommodate up to 5000 visitors for events.

## **RECOMMENDATION:**

**After review of the applicant's proposal, it is recommended that RZ2017-004 / CIC2017/004 be approved subject to conditions (new conditions and previously adopted SUP2015-001 conditions), as follows:**

### **New Conditions:**

1. Residential development on the site shall be limited to the following:
  - a. Townhomes not to exceed 12 units per acre and 4 stories in height.
  - b. Assisted living facility not to exceed 4 stories in height.
2. Hotel development on the site shall be limited to the Indigo brand or comparable, as approved by the City Council.
3. Hotel construction shall be underway (foundation must have passed inspection) before residential building permit is issued.
4. Encroachment into the 50ft. undisturbed buffer and 75 ft. impervious stream setback line shall be permitted for the installation of a reinforced pervious slope and minor building intrusions along the northern property line.
5. Developer shall be responsible for deceleration lane or other project related right-of-way improvements if determined to be necessary by GDOT and Peachtree Corners' Public Works Director.
6. The developer shall be responsible for providing and funding a pedestrian access from the developer's property to the stream and over the stream in a manner and at a location approved by the Downtown Development Authority.
7. The landscape strip along the property's Peachtree Parkway frontage shall be planted with a single row of hardwood trees at least 12 ft. in height at installation and spaced 25 ft. on center. In addition, a staggered, double row of evergreen shrubs at least 3 feet in height at the time of installation shall

also be planted along the property's Peachtree Parkway frontage with spacing to be determined by staff so that such plant material screens the adjacent parking lot to the greatest extent possible from Peachtree Parkway's vehicle views.

8. **Architectural elevations for the hotel and retail building shall be substantially similar to the drawings submitted on October 2, 2017. Additionally:**
  - a. **Exterior building materials shall be primarily brick or stone on all building sides.**
  - b. **Planters with vegetation approved by the City's Arborist shall be placed along the building exterior or, as an alternate, climbing plant material shall be installed at the base of the buildings or next to trellises or arbors.**
  - c. **All mechanical equipment (roof top and on the ground) shall be screened from ground view.**
  
9. **Architectural elevations for residential buildings shall be primarily brick or stone with stucco accents on all sides. Roof material shall consist of slate, tile or architectural shingle with a slate or tile appearance.**
  
10. **Buildings located on external roadways must face, or appear to face, that roadway.**
  
11. **One centrally located public gathering area shall be provided. The size of the space shall be at least 2875 sq. ft. (1.5% of the project acreage)**
  
12. **Pursuant to condition DD of Ord. 2015-03-41, a 5- ft. high wooden screening fence and single row of evergreen shrubs shall be installed immediately along the Peachtree Corners Circle side of the property.**
  
13. **Permitted Commercial Uses: Retail, Cinema with dining, bakery and confectionary, Music venue, Performing Arts venue, boutique hotel, C-1 and C-2 permitted uses except as noted in Prohibited Uses, below, and Restaurant uses as follows:**
  - a) **Chef-driven dining concepts; local chain restaurants; regional chain restaurants; and national chain restaurants**
  - b) **National chain restaurants cannot exceed 50% of the total number of all restaurants**
  - c) **Local chain restaurants, regional chain restaurants, and national chain restaurants, combined, cannot exceed 85% of the total number of all restaurants**
  - d) **No more than two restaurants shall be permitted in any food category (i.e. Mexican, Thai, French)**
  - e) **The Community Development Director shall determine compliance with requirements b), c), and d) listed above.**

**Previous Conditions:**

- 14. Prohibited Commercial Uses:** Animal hospitals or veterinary clinics; retail bank (ATM permitted); tattoo and piercing parlors; adult bookstores or entertainment (general bookstores selling adult books on an incidental basis permitted); fast food restaurants with or without drive-thru window (pick-up/to go windows at non-fast food restaurants permitted); automotive related uses such as car wash or automotive parts store; billboards; building, electrical or plumbing contractors; funeral homes or mausoleums; crematory; furniture rental establishments; convenience food stores with or without fuel pumps, emission inspection stations; equipment rental; extended stay and limited service hotels; laundry or dry cleaning establishments; liquor stores, (specialty beer or specialty wine store permitted); plant nursery sales facility; recreation or fitness facilities which exceed 3500 square feet); industrial uses, automotive service stations with or without fuel pumps; building material sales with outdoor storage, taxi cab or limousine services; pest control businesses; pet shops or pet grooming establishments, (pet supplies store permitted); mattress store; nail salon; day care facility; driving school; discount stores; grocery store (gourmet and specialty food store permitted); second run movie theater; lottery ticket sales; tobacco products store; phone stores; precious metals store (jewelry store permitted); clothing resale stores; auto repair shops or tire stores; contractors offices or the outside storage of equipment or materials, heavy equipment and farm equipment sales and service and truck rental; mini-warehouse storage facilities; mobile home or mobile building leasing or sales lots; no outdoor storage of any type; lounges; and any temporary uses.
- 14. Drive-through businesses shall be prohibited.**
- 15. Abide by all requirements of Section 1315 (Activity Center/Corridor Overlay District).**
- 16. Bicycle racks shall be provided within the development in accordance with the overlay standards.**
- 17. Provide internal access to any outparcel development. No direct access to Peachtree Parkway other than one driveway shown on the submitted plan and located directly behind the Chase Bank property.**
- 18. No billboards are permitted.**
- 19. 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 8:00 a.m. and 6:00 p.m.**

20. **All street or walkway pavers internal to the development shall be of brick, stone, or paving material comparable in appearance and be limited to grey or natural-tone colors, which will coordinate with building architecture.**
21. **Provide landscaped islands through the parking area, including a minimum ten-foot wide landscaped island at the end of each parking bay and a minimum six-foot wide landscaped island for each 225-feet of continuous bay length, or alternate plan as may be approved by the Community Development Director.**
  - a. **Provide or relocate and reconstruct sidewalks, as required, a minimum of five feet in width adjacent to Peachtree Parkway (U.S. Hwy. 141) and Peachtree Corners Circle. Sidewalks may meander along these roads where feasible and per DOT approval. Provide internal sidewalks connecting office, retail, and outparcel development. Submit pedestrian access plan for review and approval of the Community Development Director.**
22. **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 nor to create a hazard for passing automobile traffic. Any lights located on the rear of the building must be directed downward.**
23. **Multi-tenant buildings shall be limited to wall signage only. Project signage shall be limited to one monument sign per road frontage. Monument signs shall coordinate with building architecture.**
24. **Any above ground detention ponds shall be visibly screened with landscape plantings to be approved by the Community Development Director.**
25. **No outside speakers shall be allowed other than a Muzak system which may be allowed provided no shrill or excessive noise and vibrations, amplified live entertainers, outside paging systems, phone bells, or loudspeakers will be allowed. Any Muzak system shall have downward facing speakers and shall be inaudible ten feet from the speakers.**
26. **Business hours are to be limited to Monday through Thursday from 7:00 a.m. to 12:00 midnight and Friday through Sunday from 7:00 a.m. to 2:00 a.m, (unless further restricted by other regulations). Business hours for a coffee/bagel shop and any specialty gourmet food store(s) shall be 6:00 a.m. to 2:00 a.m. seven days a week.**
27. **All food service facilities on the property, including outparcels, shall install odor scrubbers which remove 95% of cooking odors as determined by the Community Development Director.**

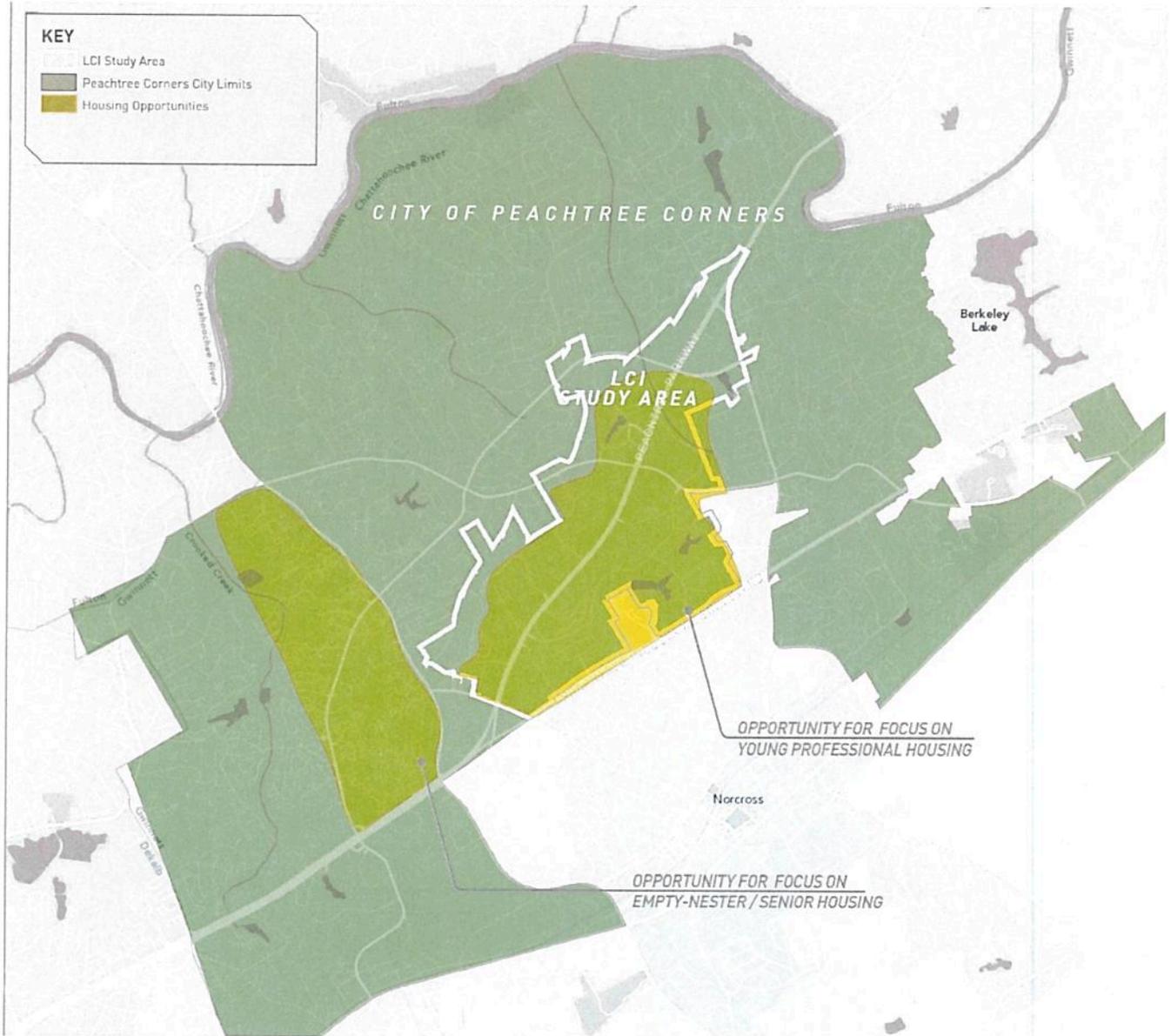
- 28. Truck delivery shall be limited to the hours of 8:00 a.m. to 6:00 p.m. and there shall be no overnight parking or idling of delivery trucks.**
- 29. Operation of parking lot cleaning machinery or other maintenance equipment that emits noise shall be limited to the hours of 8:00 a.m. to 9:30 p.m.**
- 30. Graded land that becomes inactive (no building permits pending) for more than 6 months shall be stabilized, seeded and shall meet all other ordinance requirements for graded property. Additional landscaping may also be required to be added to mitigate the appearance of the land disturbance.**
- 31. The landscape strip along the entrance driveway from Peachtree Parkway shall be planted with hardwood trees which are a minimum of 12 feet tall at the time of planting and are spaced on 25- foot centers in order to create a boulevard effect for the entrance drive.**
- 32. The entire development shall have a cohesive landscape plan which shall be approved by staff.**

## Facilitate Housing Choices

The LCI market study revealed that the City's concentration of single family homes and below-market-rate rental housing have created a sizable market gap currently in high demand. As noted earlier, LCI stakeholder interviews with former/current Technology Park stakeholders revealed an overwhelming corporate demand for a variety of housing types for a younger workforce. Given these conditions, the City should make it a major priority to facilitate the development of a wider range of housing types, including senior residences and, most importantly, younger workforce housing. This is especially true of the Technology Park area as if it is to transform into an

Innovation District offering walkable, mixed-use development for the soon-to-be-dominant "Millennial" generation (ages 10-29). Similarly, there are areas within the LCI where the market demand for empty-nesters and retirees can be met (an opportunity that is already being taken advantage of by developers). The opportunity to meet housing market demands should be approached as a City-wide strategy. However, the first steps of this strategy within the LCI should focus on making adequate changes to the area's current zoning to make it possible to develop market-viable uses "by right" without need for rezonings or variances. Concurrently, revisions should be made to development requirements to allow for more condensed horizontal and vertical mixed-use developments that help promote walkability.

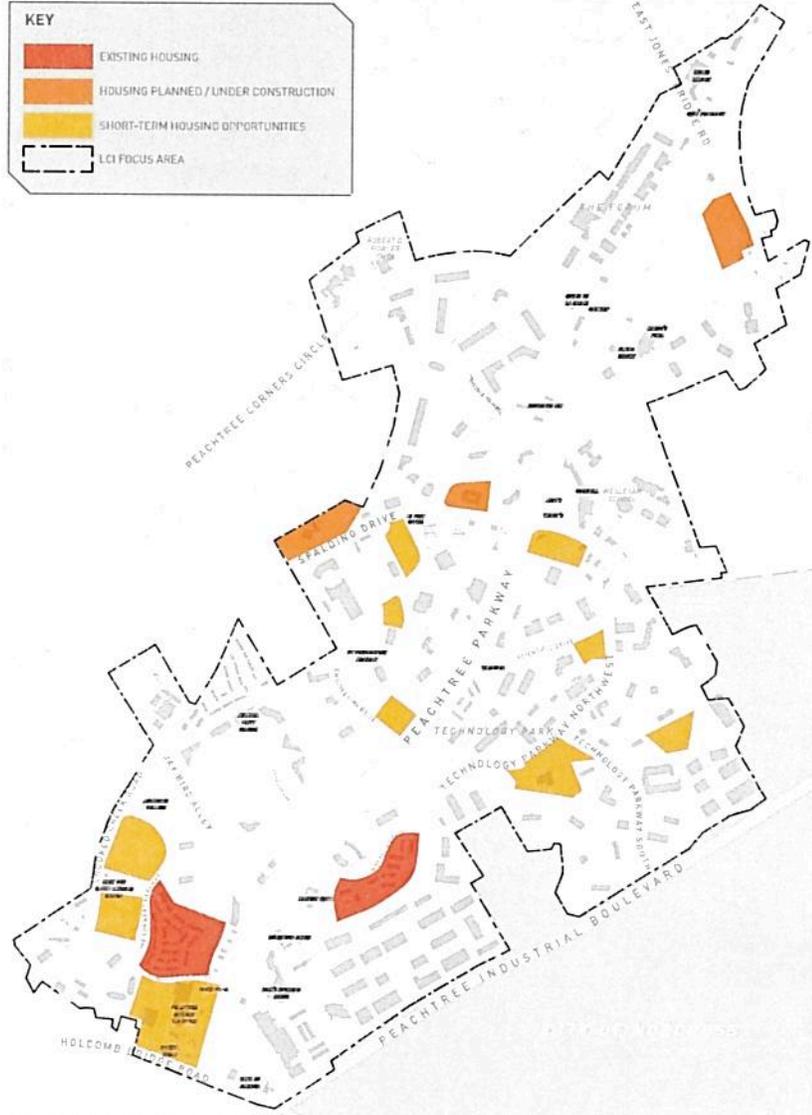
CITY-WIDE POTENTIAL TARGETS FOR INFILL OF HOUSING MARKET DEMAND



NOTE: THESE ARE GENERALIZED AREAS. FURTHER STUDY IS REQUIRED

# ATTACHMENT 'B'

## HOUSING IN LCI AREA: EXISTING, PLANNED & POTENTIAL AREAS



NOTE: THESE ARE PLANNING LEVEL SUGGESTIONS ONLY

### NATIONAL TRENDS ON HOUSING

**54%** of Americans prefer three or more community attributes associated with compact development

**71%** view home ownership as a good investment

**70%** place a high value on walkability when choosing a new community

**61%** would accept a smaller home in exchange for a shorter commute

### POSSIBLE HOUSING TYPES TO CONSIDER

#### MILLENNIALS (10-29)

- rental units in mixed-use settings
- accessory apartments (granny flats)
- moderately-priced town homes
- moderately-priced existing single-family homes

#### GENERATION X (30-48)

- trade-up single-family, 25% walkable urban places

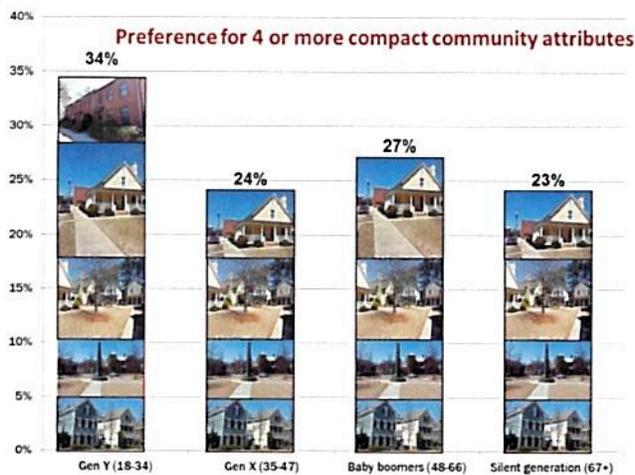
#### EMPTY NESTERS / BABY BOOMERS (50-69)

- condominium flats
- rental units in mixed-use settings
- town homes / cluster homes
- small-lot single-family

#### SILENT GENERATION / BABY BOOMERS (69+)

- active adult communities / developments
- adults-only rental / independent living facilities
- retirement centers

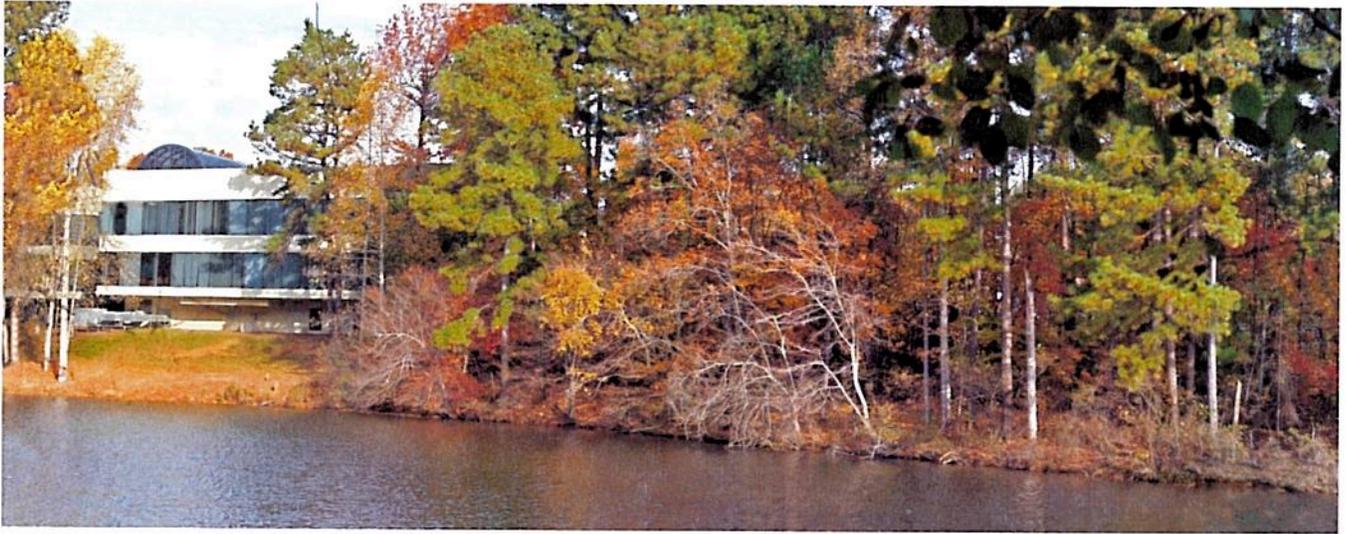
### GENERATION PREFERENCES FOR COMPACT COMMUNITIES



**REVITALIZED INNOVATION HUB:**

CONCEPTUAL VIEW SHOWING INTEGRATION OF RESIDENTIAL WITHIN TECHNOLOGY PARK

EXISTING OFFICE CAMPUS WITHIN TECH PARK



POTENTIAL REDEVELOPMENT OPPORTUNITY WITH THE ADDITION OF YOUNG PROFESSIONAL HOUSING



NOTE: NOT AN ACTUAL DEVELOPMENT PROPOSAL - FOR VISIONING PURPOSES ONLY

VISION & KEY STRATEGIES

# ATTACHMENT 'D'

CITY OF PEACHTREE CORNERS  
COUNTY OF GWINNETT, STATE OF GEORGIA

ORDINANCE 2015-11-59

**AN ORDINANCE TO AMEND CITY OF PEACHTREE CORNERS ZONING RESOLUTION ART. XII, BY ADDING SEC. 1319, TRAILS AND OPEN SPACE, ALONG WITH A 'T-O' ZONING MAP CLASSIFICATION; 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:

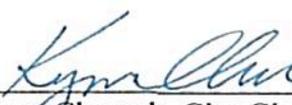
**SECTION 1319 T-O. Trails and Open Space**

1. **Purpose:** The purpose of the Trails and Open Space, T-O, zoning classification is to accommodate a multi-use trail system through Peachtree Corners along with the development of one or more multi-use trails and associated trail components. T-O lands are intended to serve passive recreational uses and as an alternative transportation corridor. T-O land is not intended to be used for sports facility buildings or athletic fields.
2. **Permitted Uses and Facilities:**
  - a. Paved and soft paths to accommodate pedestrians, bicycles, skateboards, rollerblades and other people-powered vehicles
  - b. Trail hubs to accommodate:
    - i. Vehicular parking lots at trail access points
    - ii. Restroom facilities
    - iii. Fitness related activities
  - c. Active Recreation including:
    - i. Boating (ramps, docks, etc.)
    - ii. Disc golf (course baskets)
    - iii. Exercise course (equipment at stations)
    - iv. Bicycling (lockers and bike racks)
  - d. Passive Recreation including:
    - i. Picnic (tables and shelters)
    - ii. Photography ( decks and overlooks)
    - iii. Nature hikes (boardwalks)

- 3. Definitions:**
- a. **Trail Segment - Land located within an adopted multi-use trail system that is rezoned T-O and contributed to that trail system**
  - b. **Density Credit – A development allocation awarded in exchange for land contributed to a trail system**
  - c. **Density Account- a record established to keep track of Density Credits awarded to a specific recipient.**
- 4. Applicability:**
- a. **Lands located along the Peachtree Corners Beltline and contributed to that multi-use trail will be reimbursed with Density Credits that can be utilized within the boundaries of the Central Business District, (as shown on CBD boundary map, attached).**
  - b. **Lands located along the Crooked Creek Trail and contributed to that multi-use trail will be reimbursed with Density Credits that can be utilized within the boundaries of the Holcomb Bridge Road Corridor Study area, (as shown on Holcomb Bridge Road Corridor boundary map, attached).**
- 5. Provisions:**
- a. **Trail Segments shall be contributed to the trail system through land donation, conservation easement, or other acceptable mechanism that preserves public access to the contributed land in perpetuity.**
  - b. **Individuals who contribute Trail Segments shall be reimbursed with Density Credits that can only be used within the boundary of the area associated with that trail.**
  - c. **Density Credits shall be granted at the rate of thirteen (13) multi-family units per acre of land contributed to a trail (or prorated portion thereof).**
  - d. **The City shall establish a Density Account for each individual that makes a Trail Segment contribution.**
  - e. **A Density Account holder may sell, assign, or convey his/her Density Credits in part or in total to one or more properties within the area associated with that trail (i.e. Beltline contribution can be utilized within the Central Business District; Crooked Creek Trail contribution can be utilized within the Holcomb Bridge Road Corridor Study area.)**
  - f. **The use of Density Credits shall be approved by the City Council.**

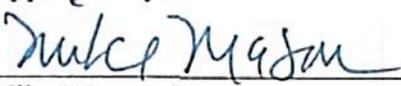
**Section 2**

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.  
Effective this 15th day of December, 2015.

  
Kym Chereck, City Clerk



Approved by:

  
Mike Mason, Mayor

SEAL

This is a portion of a verbatim transcript prepared by Ronica Parks, Certified Court Reporter, GA. Cert. No. 2820 and taken from the recording of SUP 2015-001 hearing on 4/21/15.

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MR. MAYOR: Do I hear a motion for a recess?

3 UNIDENTIFIED MALE SPEAKER: I motion.

4 UNIDENTIFIED MALE SPEAKER: Do I hear a second?

5 UNIDENTIFIED MALE SPEAKER: Second.

6 MS. WHEELER: Second.

7 THE MAYOR: All right. All in favor raise your right  
8 hand.

9 (RECESS)

10 UNIDENTIFIED MALE SPEAKER: Okay. Let's get back

11 together. All right. And I call this meeting to order.

12 Do I need to have a motion to come back into session? Do

13 I hear a motion to come back in session.

14 UNIDENTIFIED FEMALE SPEAKER:

15 UNIDENTIFIED MALE SPEAKER: Do I hear second?

16 UNIDENTIFIED MALE SPEAKER: Second.

17 UNIDENTIFIED MALE SPEAKER: All right. All in favor,

18 raise your right hand. All right. We're good. Okay. I

19 think where we left off was a discussion we had identified

20 one, two, three, four, five and then we remembered the

21 standardization and the uses and I think Counselor, why

22 don't you come up and tell us what you think.

23 MR. TUCKER: Thank you Mayor and Council and thank

24 you for letting us have a chance to look at that, because

25 I think we agree with the standards that you've set with

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1 two caveats that we'd like to ask. With respect to the

2 permitted uses in the commercial designated area, we would

3 like to eliminate the reference to ground floor and second

4 and all other floors so that it is just a list of things

5 that we can do on the property. And we understand what

6 those are, based on this. And then secondarily, with

7 respect to the special use permit, we would -- required

8 for chain restaurants, we would like to ask that that be

9 applied subsequent to this. Because obviously, Black

10 Walnut, that's what we're here with you tonight and so we

11 would not want to have to come back, assuming you see fit

12 to approve this, to get a special use permit for that

13 operation. Understanding on the back or otherwise that we

14 would have to. But we agree to the prohibited uses, think

15 it's reasonable, and thank you for the opportunity for us

16 to look at them.

17 UNIDENTIFIED MALE SPEAKER: Any questions for the

18 applicant before we go back to the motion? All right.

19 Thank you.

20 MR. TUCKER: Thank you.



**CITY OF PEACHTREE CORNERS  
COMMUNITY DEVELOPMENT**

147 Technology Parkway, Suite 200, Peachtree Corners, GA 30092  
Tel: 678.691.1200 | www.peachtreecornersga.gov

## PUBLIC HEARING APPLICATION

### REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS

A properly completed application and fees are due at the time of submittal. **An incomplete application will not be accepted.** Original signatures are required for the Application.

REQUIRED ITEMS	NUMBER OF COPIES	CHECK
Completed Application Form	• 1 original	<input checked="" type="checkbox"/>
Boundary Survey with Legal Description	• 1 full size copy • 1- 8-1/2" x 11" or 11" x 17" reduction	<input checked="" type="checkbox"/>
Site Plan	• 1 full size Copy • 1- 8-1/2" x 11" or 11" x 17" reduction	<input checked="" type="checkbox"/>
Letter of Intent Describing Reason for Request and Proposed Use of Property	• 1 copy	<input checked="" type="checkbox"/>
Applicant Certification with Notarized Signature	• 1 copy	<input checked="" type="checkbox"/>
Property Owner Certification with Notarized Signature	• 1 copy	<input checked="" type="checkbox"/>
Standards Governing Exercise of the Zoning Power	• 1 copy	<input checked="" type="checkbox"/>
Disclosure Report Form (Conflict of Interest Certification/Campaign Contributions)	• 1 copy	<input checked="" type="checkbox"/>
Verification of Paid Property Taxes (most recent year)	• One (1) Copy (for each tax parcel included)	<input checked="" type="checkbox"/>
Electronic copy of complete package	• One (1) copy	<input checked="" type="checkbox"/>
Application Fee	• Make checks payable to the City of Peachtree Corners	<input checked="" type="checkbox"/>
<b>ADDITIONAL EXHIBITS (IF REQUIRED)</b>		
Additional site plan requirements for R-TH, R-ZT, Modified, CSO, OBP, HRR, R-SR, MUD or MUO rezoning requests	• 1 copy	<input type="checkbox"/>
Traffic Study	• 1 copy	<input type="checkbox"/>
Development of Regional Impact Review Form	• 1 copy	<input type="checkbox"/>
Building Compliance Inspection	• 1 copy	<input type="checkbox"/>

**REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF PEACHTREE CORNERS, GEORGIA

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION
NAME: <u>Roberts Properties Peachtree Retail, LLC</u>	NAME: <u>Roberts Properties Peachtree Retail, LLC</u>
ADDRESS: <u>375 Northridge Rd. Suite 330</u>	ADDRESS: <u>375 Northridge Rd. Suite 330</u>
CITY: <u>Atlanta</u>	CITY: <u>Atlanta</u>
STATE: <u>GA</u> ZIP: <u>30350</u>	STATE: <u>GA</u> ZIP: <u>30350</u>
PHONE: <u>770-394-6000 ext. 209</u>	PHONE: <u>770-394-6000 ext. 209</u>
E-MAIL: <u>dphillips@robertsproperties.com</u>	E-MAIL: <u>dphillips@robertsproperties.com</u>
<b>APPLICANT CONTACT, IF DIFFERENT THAN ABOVE</b>	
CONTACT PERSON: <u>Clay Massey</u> PHONE: <u>404-881-4969</u>	
CONTACT'S E-MAIL: <u>clay.massey@alston.com</u>	

**APPLICANT IS THE:**

OWNER'S AGENT       PROPERTY OWNER       CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): C-2 REQUESTED ZONING DISTRICT: MUD w/ concurrent variances in Attachment A

LAND DISTRICT(S): 6 LAND LOT(S): 301 ACREAGE: 4.4\*

ADDRESS OF PROPERTY: 4936 Peachtree Corners Circle; 5246 Peachtree Parkway

PROPOSED DEVELOPMENT: Mixed Use Development

\*The Subject Property is 4.4 acres, but a total of 5.3 acres inclusive of adjacent land is designated to meet zoning, code and development requirements per agreement with the City.

*Staff Use Only This Section*

Case Number: \_\_\_\_\_ Hearing Date: P/C \_\_\_\_\_ C/C \_\_\_\_\_ Received Date: \_\_\_\_\_

Fees Paid: \_\_\_\_\_ By: \_\_\_\_\_

Related Cases & Applicable Conditions:

Description:

\*The rezoning is requested for the residential/commercial Mixed Use development described in the accompanying Letter of Intent and Concept Plan.

**RESIDENTIAL DEVELOPMENT\***

**NON-RESIDENTIAL DEVELOPMENT\***

**No. of Lots/Dwelling Units** 2/169  
Between approx. 800 SF and  
**Dwelling Unit Size (Sq. Ft.):** 1250 SF each

**No. of Buildings/Lots:** 2/2  
351,105 SF (total for retail,  
**Total Bldg. Sq. Ft.:** residential and hotel)  
FAR=1.52 (aggregate total for  
**Gross Density:** retail, residential and hotel)

**FEE SCHEDULE**

**1. Rezoning, Change-in-Conditions and Special Use Permit Fees – Residential Zoning Districts**  
(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

A. For the following single-family residential zoning districts: RA-200, R-140, R-LL, R-100, R-75, RL, MHS.

- 0 - 5 Acres = \$ 500
- > 5 - 10 Acres = \$ 1,000
- > 10 - 20 Acres = \$ 1,500
- > 20 - 100 Acres = \$ 2,000
- > 100 - Acres = \$ 2,500 plus \$40 for each additional acre over 100
- Maximum Fee: \$10,000

B. For the following single and multifamily residential zoning districts: R-TH, RMD, RM-6, RM-8, RM-10, RM-13, R-SR, MH, R-60, R-ZT, R-75 MODIFIED or CSO, and R-100 MODIFIED or CSO.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$40 for each additional acre over 100

**2. Rezoning, Change-in-Conditions and Special Use Permit Fees - Non-Residential Zoning Districts**  
(note: a Special Use Permit related to a rezoning case shall not incur an additional fee)

For the following office, commercial and industrial zoning districts: C-1, C-2, C-3, O-1, OBP, M-1, M-2, HS, NS.

- 0 - 5 Acres = \$ 850
- > 5 - 10 Acres = \$1,600
- > 10 - 20 Acres = \$2,100
- > 20 - 100 Acres = \$2,600
- > 100 - Acres = \$3,200 plus \$50 for each additional acre over 100

**3. Mixed-Use (MUD and MUO) or High Rise Residential (HRR)**

Application Fee – \$1,200 plus \$75 per acre (maximum fee - \$10,000)

- 4. Chattahoochee Corridor Review (involving a public hearing) - \$150.
- 5. Buffer Reduction (Greater than 50%) Application Fee - \$500.
- 6. Zoning Certification Letter - \$100 (per non-contiguous parcel).

## **ATTACHMENT A**

### **CONCURRENT VARIANCES REQUESTED**

1. Allowance of an 1800 SF land disturbance encroachment into the 50-foot undisturbed natural vegetative buffer under Section 18-51(a)(1) at the two locations shown in the Variance Plan.
2. Allowance of a 900 SF land development encroachment into the 75-foot impervious surface setback under Section 18-51(a)(2) at the three locations shown in the Variance Plan.



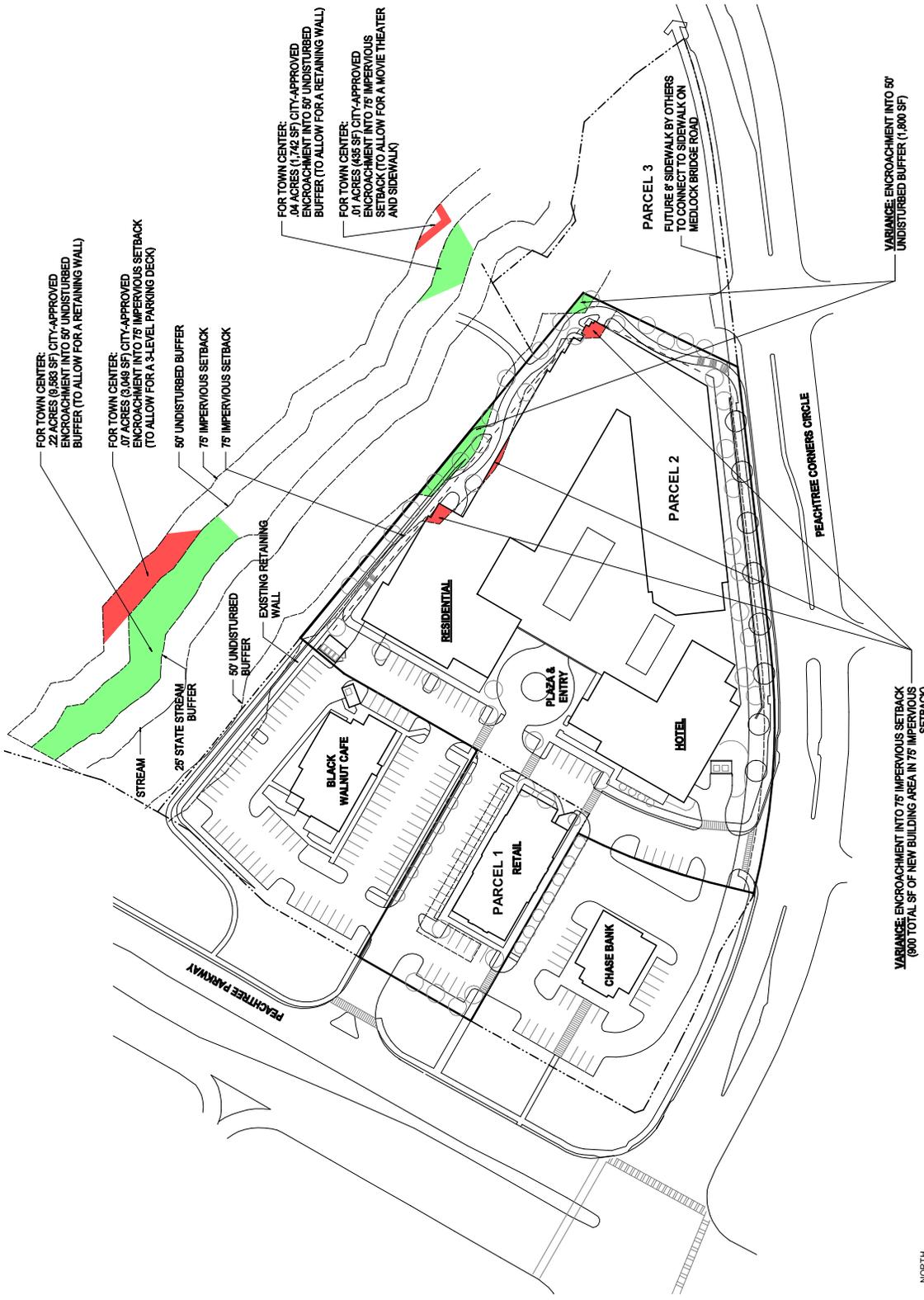
Roberts Properties, Inc.  
770-394-6000 www.robertsproperties.com  
275 Peachtree Corners Blvd, Suite 200, Atlanta, Georgia 30090

Issue Date: September 29, 2017

MIXED USE DEVELOPMENT  
PEACHTREE CORNERS, GEORGIA

VARIANCE PLAN

A-4



**DISCLOSURE REPORT FORM**  
**CONFLICT OF INTEREST CERTIFICATION/CAMPAIGN CONTRIBUTIONS**

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT FOR THE REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT FOR THE REZONING, SPECIAL USE PERMIT, OR CHANGE IN CONDITIONS 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?

Roberts Properties Peachtree Retail, LLC

CHECK ONE:       YES       NO

(If **yes**, please complete the "Campaign Contributions" section below)

\_\_\_\_\_  
Print Name

1. CAMPAIGN CONTRIBUTIONS

Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

2. 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.

APPLICANT:

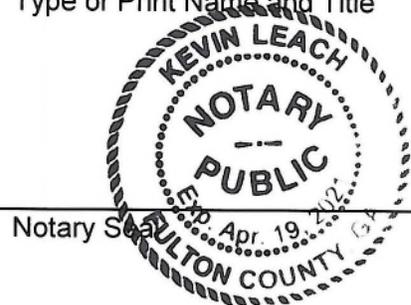
Roberts Properties Peachtree Retail, LLC,  
a Georgia limited liability company

By: Roberts Properties, Inc.,  
a Georgia corporation, Manager

By: \_\_\_\_\_ 9/14/2017  
Charles S. Roberts      Date  
President

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

*Kevin Leach*  
\_\_\_\_\_  
Signature of Notary      Date      9/14/2017









DATE	INVOICE NO.	DESCRIPTION	INVOICE AMOUNT	DEDUCTION	BALANCE
GWINNETT COUNTY TAX COMMISSION R6301 031					
10/15/17	R6301 031-2017		21779.15		21779.15
10/15/17	R6301 191-2017		3922.80		3922.80
<b>CHECK DATE</b>	9/08/17	<b>CHECK NUMBER</b>	1451	<b>TOTALS</b>	25701.95
			25701.95		25701.95

PLEASE DETACH THIS PORTION AND RETAIN FOR YOUR RECORDS.

RETURN THIS PORTION WITH YOUR PAYMENT

08/02/2017

TAX YEAR	PARCEL ID	DUE DATE	TOTAL DUE	AMOUNT PAID
2017	R6301 191	10-15-2017	\$3,922.80	3,922.80

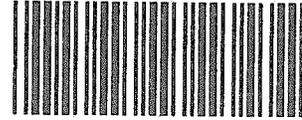
Address Change:

Check here and fill out the back of this remittance slip if your billing address or property location has changed.



R6301 191 33303  
 ROBERTS PROPERTIES PEACHTREE RETAIL  
 LLC  
 PARKWAY LP  
 375 NORTHRIDGE RD STE 330  
 ATLANTA GA 30350-3205

38,537



\*1111\*

1 17 186301001910000 0 00000392280 00000392280 6

RETURN THIS PORTION WITH YOUR PAYMENT

08/02/2017

TAX YEAR	PARCEL ID	DUE DATE	TOTAL DUE	AMOUNT PAID
2017	R6301 031	10-15-2017	\$21,779.15	21,779.15

Address  
Change:

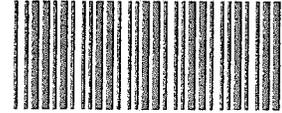
Check here and fill out the back  
of this remittance slip if your  
billing address or property  
location has changed.



R6301 031 10066

ROBERTS PROPERTIES PEACHTREE RETAIL  
LLC  
PARKWAY LP  
375 NORTHRIDGE RD STE 330  
ATLANTA GA 30350-3205

38,538



\*1111\*

1 17 186301000310000 8 00002177915 00002177915 0



**PAYMENT RECEIPT**  
 Department of Property Tax  
 Richard Steele  
 75 Langley Dr  
 Lawrenceville, GA 30046  
 770-822-8800

Receipt Number: U17.7364  
 Date Received: 09/14/2017  
 Received By: txltscot  
 Location: PCTB

www.GwinnettTaxCommissioner.com

Description	Balance	Net Tax	Interest	Fees/Late Charges	Current Due	Current Paid	Balance Remaining
Bill Number: 23163570 Bill Year: 2017 PIN: R6301 031 Primary Owner: ROBERTS PROPERTIES PEACHTREE RETAIL LLC Property Addr: 4936 PEACHTREE CORNERS CIR Property Desc: L4 PEACHTREE PARKWAY	21,779.15	21,779.15	0.00	0.00	21,779.15	21,779.15	0.00
Bill Number: 23355712 Bill Year: 2017 PIN: R6301 191 Primary Owner: ROBERTS PROPERTIES PEACHTREE RETAIL LLC Property Addr: 5246 PEACHTREE PKWY Property Desc: L2 PEACHTREE PARKWAY	3,922.80	3,922.80	0.00	0.00	3,922.80	3,922.80	0.00
<b>Totals:</b>	25,701.95	25,701.95	0.00	0.00	25,701.95	25,701.95	0.00

Tender Information:	Charge Summary:		
Check #1451	25,701.95	Real Property	25,701.95
Total Tendered	25,701.95	Total Charges	25,701.95

Thank you for your payment. Payments made with a check, credit or debit card are pending transactions. Your taxes will be considered paid when the funds are received from your financial institution. If there is a balance remaining, the amount due is good only for the date on this receipt. Additional fees and interest may be added to any unpaid balance; call 770-822-8800 for total amount due.

By Whom Paid:

ROBERTS PROPERTIES PEACHTREE RETAIL LLC  
 PARKWAY LP  
 375 NORTHRIDGE RD STE 330  
 ATLANTA GA 30350-3205

<b>CHARGES</b>	25,701.95
<b>PAID</b>	25,701.95
<b>BALANCE REMAINING</b>	0.00
<b>AMOUNT TENDERED</b>	25,701.95
<b>CHANGE</b>	0.00

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

Pursuant to section 1702 of the 2012 zoning resolution, the city council finds that the following standards are relevant in balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power.

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

- A. Will this proposed rezoning, special use permit, or change in conditions permit a use that is suitable in view of the use and development of adjacent and nearby property?  
Yes. See enclosed Letter of Intent.
- B. Will this proposed rezoning, special use permit, or change in conditions will adversely affect the existing use or usability of adjacent or nearby property?  
No. See enclosed Letter of Intent.
- C. Does the property to be affected by a proposed rezoning, special use permit, or change in conditions have reasonable economic use as currently zoned?  
No. See enclosed Letter of Intent.
- D. Will the proposed rezoning, special use permit, or change in conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?  
No. See enclosed Letter of Intent
- E. Will the proposed rezoning, special use permit, or change in conditions is in conformity with the policy and intent of the land use plan?  
Yes. See enclosed Letter of Intent.
- F. Are there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning, special use permit, or change in conditions?  
Yes, for approval. See enclosed Letter of Intent.



# ALSTON & BIRD

One Atlantic Center  
1201 West Peachtree Street  
Atlanta, GA 30309-3424  
404-881-7000 | Fax: 404-881-7777

W. Clay Massey

Direct Dial: 404-881-4969

Email: clay.massey@alston.com

October 2, 2017

VIA HAND DELIVERY

Ms. Diana Wheeler  
Community Development Director  
City of Peachtree Corners  
147 Technology Parkway NW,  
City Hall, Suite 200  
Peachtree Corners, Georgia 30092

Re: Letter of Intent to Rezone the Properties Located at 4936 Peachtree Corners Circle and 5246 Peachtree Parkway in Land Lot 301 of the 6<sup>th</sup> Land District, City of Peachtree Corners, Gwinnett County, Georgia (collectively, the "Subject Property")

Dear Ms. Wheeler:

My client Roberts Properties Peachtree Retail, LLC ("RPPR") requests the rezoning of the Subject Property<sup>1</sup> from Conditional C-2 (Commercial Business) to MUD (Mixed-Use Development) and the concurrent variances discussed below. I write to provide a description of the proposed use and development of the Subject Property, and to explain the need and justification for the requested rezoning and concurrent variances.

## I. The Subject Property

The Subject Property to be rezoned is approximately 4.4 acres of land located at the intersection of Peachtree Parkway and Peachtree Corners Circle, directly across from The Forum and adjacent to the forthcoming Town Center mixed-use development. Together with the adjacent 0.9 acres of undisturbed land RPPR transferred to the Downtown Development Authority of Peachtree Corners ("DDA") in 2016, the Subject Property totals 5.3 contiguous acres for RPPR's mixed-use development in compliance

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<sup>1</sup> A survey and legal descriptions of the Subject Properties are attached hereto as **Exhibit A**.

with Section 1318(5) of the Zoning Ordinance for MUD zoning.<sup>2</sup> Pursuant to Section 1318(5) of the Zoning Ordinance, this acreage allows a total of 169 rental apartment homes on the Subject Property, in addition to the 110-room boutique hotel and retail outparcel discussed below, under MUD zoning.<sup>3</sup>

The Subject Property was part of approximately 25.802 acres of contiguous land at the intersection of Peachtree Parkway and Peachtree Corners Circle (the “RPPP Property”) formerly owned by RPPR’s predecessor and affiliate, Roberts Properties Peachtree Parkway, L.P. (“RPPP”). As a result of litigation brought by RPPP, Gwinnett County approved RPPP’s request to rezone 18.3 acres of the RPPP Property to RM-13 (multi-family residential), which allowed RPPP to develop 237 apartments<sup>4</sup> on that acreage of the RPPP Property.<sup>5</sup> After incorporating in 2012, the City purchased those 18.3 acres of the RPPP Property and rezoned them to MUD.<sup>6</sup> The City subsequently sold those 18.3 acres to Fuqua Acquisitions II, LLC (“Fuqua”) for what is currently being developed as Town Center. The Subject Property is a portion of the former RPPP Property that is

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<sup>2</sup> RPPR transferred the adjacent 0.9 acres to the City with the express right to utilize the adjacent property “in connection with any and all development, density, and/or construction-related calculations and/or code requirements (including without limitation, open space and tree density requirements, to the extent allowed by law).” [Limited Warranty Deed, **Exhibit B** hereto; *accord* Zoning Ord. § 2015-03-41 (Condition 2.Z), attached hereto as **Exhibit C**.]

<sup>3</sup> Section 1318(5) of the Zoning Ordinance allows 32 rental apartments per acre on property zoned MUD. With 5.3 acres, RPPR is therefore authorized to develop a total of 169 rental apartments on the Subject Property under an MUD zoning.

<sup>4</sup> With additional adjacent parcels previously zoned RM-13 by Gwinnett County, RPPP was ultimately authorized to develop a total of 292 apartment units on contiguous land that included the RPPP Property.

<sup>5</sup> Gwinnett County rezoned the 18.3 acres to RM-13 as a result of litigation RPPP prosecuted against the County from 1999 to 2001. Gwinnett County had refused to rezone the property in an effort to block apartments on the property, which led to the litigation. The United States District Court found direct evidence that Gwinnett County committed discrimination under the Federal Housing Act by denying RPPP the RM-13 zoning, stating that RPPP had presented “evidence that strongly suggests that the Commission members acted directly in response to the homeowner’s discriminatory desires by voting to deny Plaintiff’s rezoning application.” [Order, **Exhibit D** hereto.] The Court also found evidence that the denial of the RM-13 zoning was an unconstitutional denial of RPPP’s substantive due process rights. [*Id.*] The Consent Order requiring Gwinnett County to provide the rezoning allowing the apartment units is attached as **Exhibit E** hereto.

<sup>6</sup> The City purchased the 18.3 acres to prevent the development of apartments on the property, in response to “numerous calls of concern from citizens over a proposed apartment development planned for that site.” [Press Release: City of Peachtree Corners Makes Strategic Move Toward Land Acquisition, **Exhibit F** hereto.] The City noted that “every effort has been made to avoid apartment development on this site.” [July 2, 2013 City of Peachtree Corners Council Meeting Minutes, **Exhibit G** hereto.] The City’s effort to prevent apartments on the property was reiterated in Mayor Mason’s recent July 2017 public comments. [From the Mayor’s Desk: Construction on New Town Center, July 2017, attached hereto as **Exhibit H**.]

adjacent to the acreage the City purchased and sold to Fuqua for the Town Center development, as reflected on page 6 of this letter.

The Subject Property is currently zoned Conditional C-2 (General Business), which is not an economically viable zoning of the Subject Property. The zoning allows only certain retail, office and public/semipublic uses, for which there is no economically viable market on the Subject Property. The substantial retail space and uses at the Forum and forthcoming Town Center development saturates the retail market at this location, rendering a full retail development on the Subject Property unviable. Moreover, the millions of dollars in incentives the City provided to Fuqua to construct Town Center (including incentives for a parking deck, rights-of-way, internal roads and other development costs) enable Town Center to be significantly more competitive than RPPR could be on rents and other terms in retail leases on the adjacent Subject Property. That advantage to Town Center draws the rental market to Town Center and away from new retail construction on the Subject Property. Such circumstances further eliminate any economic viability of the Subject Property as a retail development.

Further eliminating any viability of the Subject Property as a retail development are the zoning conditions that govern the Subject Property.<sup>7</sup> Those conditions substantially restrict any retail uses allowed on the Subject Property. For example, the only restaurants that are permitted on the Subject Property as a matter of right are Chef-driven restaurants, for which there is no market. Indeed, the lack of a sustainable market for such restaurants led the City to allow Fuqua to have chain restaurants<sup>8</sup> (rather than Chef-driven restaurants) for up to 85% of the restaurants at Town Center, a right the City has not provided RPPR on the Subject Property. The zoning conditions even prohibit a grocery store from being developed on the Subject Property, while allowing a Sprouts grocery store on a neighboring property across from The Forum at 5130 Peachtree Parkway. The zoning conditions also prohibit all of the following other retail uses, among others, which prohibition further eliminates any economic viability of a retail development on the Subject Property:

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<sup>7</sup> Zoning Ord. § 2015-03-41, attached hereto as **Exhibit C**.

<sup>8</sup> According to Mayor Mason's July 2017 public comments, those chain restaurants will include Marlow's Tavern, Firebirds Wood Fired Grill, Farm Burger, Vintage Pizzeria, Thais Express, Salata Salad Bar, Jim 'N' Nick's Bar-B-Q and Willy's Mexicana Grill, among others. [From the Mayor's Desk: Construction on New Town Center, July 2017, attached hereto as **Exhibit H**.]

- Animal hospitals or veterinary clinics
- Retail banks
- Chain restaurants
- Fast food restaurants
- Automotive parts stores
- Furniture rental establishments
- Convenience food stores
- Laundry or dry cleaning establishments
- Liquor stores that are not specialty wine or beer stores
- Plant nursery sales facilities
- Recreation or fitness facilities over 3500 SF
- Automotive service stations
- Clothing resale stores
- Auto repair shops or tire stores
- Building material sales with outdoor storage
- Pet shops or pet grooming establishments
- Mattress stores
- Nail salons
- Day care facilities
- Driving schools
- Discount stores
- Second run movie theaters
- Phone stores
- Precious metals stores
- Mini warehouse storage facilities
- Extended stay service hotels
- Hotels other than boutique hotels

New office development on the Subject Property also is unviable. Northeast Atlanta and Peachtree Corners, specifically, are two of the weakest office markets in the Atlanta area. Peachtree Corners' direct office vacancy rate of 20.6% is one of the highest in the Atlanta area and is 31% higher than the average direct office vacancy rate among the Atlanta markets.<sup>9</sup> Peachtree Corners' weak office market is evidenced by the occupancy rates for Class A and Class B office buildings within 3 miles of the Subject Property. Analysis of available data for those properties shows a weighted average occupancy rate of 63%. Notably, the nearby Class A office property located at 3930 E. Jones Bridge Road, at the north end of The Forum, has a 72% occupancy rate. This lack of demand for office space at the location of the Subject Property is further illustrated by Fuqua's request for, and the City's approval of, a 70% reduction in the office space

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<sup>9</sup> See, e.g., Cushman & Wakefield Office Q2 2017 Marketbeat Report attached hereto as **Exhibit I**.

required at the Town Center mixed-use development.<sup>10</sup> There is simply insufficient demand for office space in Peachtree Corners and at the Subject Property's location, specifically, for a new office development on the Subject Property to be economically viable.

RPPR's preference is to develop the Subject Property as 100% high-end apartment homes. However, the City has stated its desire for a boutique hotel to exist on the Subject Property. Such a hotel on the Subject Property is not feasible without the connected apartment development. Particularly without the development incentives the City has provided Fuqua for the Town Center development, the land and construction costs of the hotel and structured parking deck will be substantial. Nightly hotel room rates in the City are too low to support the investment necessary to cover those substantial costs because of the age of the City's hotel stock and low hotel room demand due in part to high office vacancy rates. Developing the hotel, alone, therefore is not economically viable. To be economically viable, the hotel must have the connected apartment development to subsidize its substantial land and construction costs. Without the apartments, the hotel simply cannot be developed.

## **II. The Proposed Rezoning and Mixed Use Development**

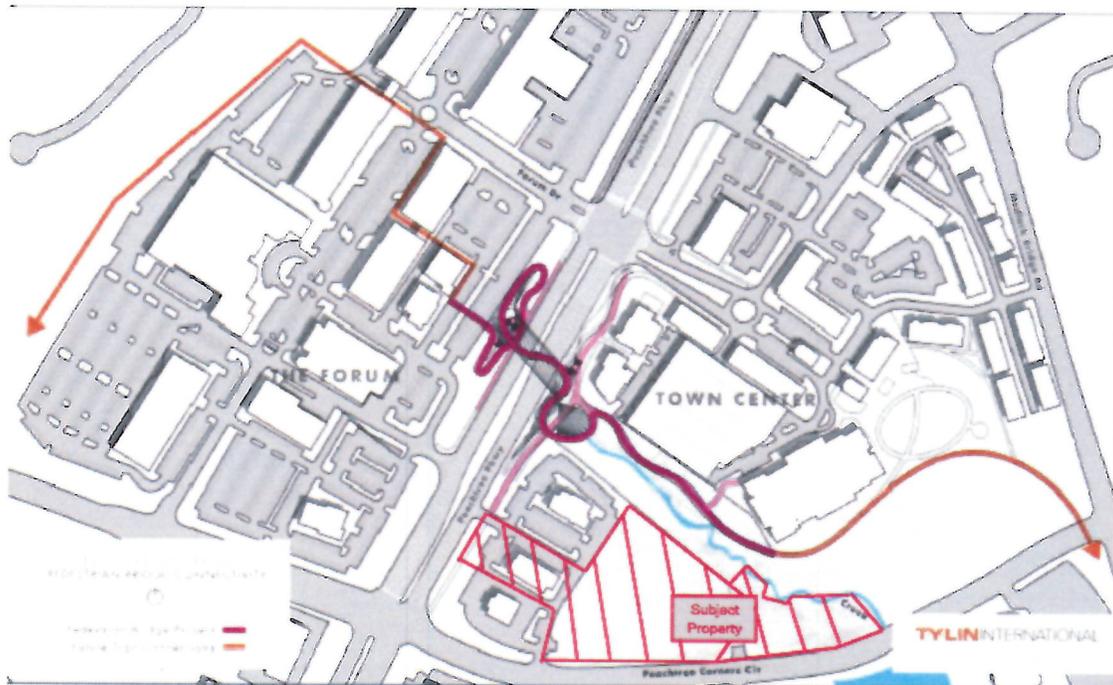
RPPR seeks MUD zoning for a residential/commercial mixed-use development on the Subject Property in accordance with the concept plan and related materials submitted herewith as **Exhibit K**.<sup>11</sup> The development's residential component will consist of 169 highly amenitized one- and two-bedroom apartment homes with granite countertops and stainless steel appliances. The apartment homes will be in an upscale, stylish and sophisticated mid-rise building with structured parking, elevators, conference facilities, a swimming pool and a fitness center. The apartment homes will be part of a shared structure with an upscale and highly amenitized 110-room boutique hotel constituting part of the commercial component of the mixed-use development. The boutique hotel will feature well-appointed rooms, meeting facilities, a fitness center, a swimming pool and a business center. The other commercial component of the development will be a small outparcel retail use as shown in the concept plan.

---

<sup>10</sup> See Ord. 2015-06-49, Town Center Special Use Permit Analysis, and Letter of Intent for Application for Special Use Permit and Changes to Conditions for Town Center Mixed Use Project, collectively attached hereto as **Exhibit J**.

<sup>11</sup> The renderings submitted in addition to the Concept Plan at **Exhibit K** hereto are conceptual in nature and intended to illustrate the general architectural concepts of the development. The features and elements of the renderings are not to scale, and certain colors and architectural features shown in the renderings are subject to change as the complete architectural drawings and building plans are finalized and submitted for permitting in compliance with the approved Concept Plan.

RPPR's proposed mixed-use development will connect the Subject Property's high-end multi-family residences and boutique hotel to the 580,000 SF of retail shops and restaurants at The Forum, and to the Town Center's forthcoming 14 restaurants, 983-seat theater, Town Green, Sprouts grocery store and 15,000 SF of other retail and office uses. RPPR's mixed-use development will have a direct connection to the planned pedestrian bridge across Peachtree Parkway, providing convenient walkable access to The Forum for apartment residents and hotel patrons:<sup>12</sup>



Regular pedestrian traffic and activity by City residents and visitors are pivotal to The Forum's and Town Center's economic success and sustainability, and to their identity as Peachtree Corners' city center through mixed-use planning. As confirmed by research at Georgia Tech's School of City and Regional Planning, a fundamental characteristic of a true mixed-use development is that it has "uninterrupted pedestrian connections" and is "pedestrian-oriented and contains elements of a live-work-play environment."<sup>13</sup> Indeed, "there is increased economic activity when there are more people in an area to shop," and attracting pedestrians onto city streets helps "revitalize community life."<sup>14</sup> RPPR's mixed-use development will clearly benefit the City in this regard. Active residents living

<sup>12</sup> Peachtree Corners Bridge Presentation, at p. 53, attached as **Exhibit L** hereto.

<sup>13</sup> Herndon, J. and Drummond, W., *Mixed-Use Development in Theory and Practice: Learning from Atlanta's Mixed Experiences*, Ga. Inst. of Tech. (May 5, 2011) at 12, 13, 14 and 41, available at <https://smartech.gatech.edu/handle/1853/40790>.

<sup>14</sup> *Id.* at 26.

at high-end apartments and City visitors staying at the high-end boutique hotel on the Subject Property will have direct, walkable connectivity to The Forum via the pedestrian bridge and to Town Center via the planned walking trails. These residents and hotel guests will stimulate day and night pedestrian activity along the shops and attractions in this desired city center, thereby promoting commerce and a downtown community development for the City.

It is proven that high-quality rental housing is necessary to support retail and other commercial components of successful mixed-use developments. Local examples of this include the Veranda and Haven apartments at Avalon in Alpharetta, The Collection apartments at the forthcoming City Springs mixed-use development in Sandy Springs, and The Residence at Buckhead Atlanta. In addition to providing direct and constant pedestrian commerce and activities within the mixed-use developments, such rental housing attracts educated and sophisticated residents who are capable and willing to pay higher rents, which provides a financially viable market for retail and restaurant businesses operating in the mixed-use development. The apartments on the Subject Property will reflect the same high-end quality as such mixed-use developments and provide the same economic and community benefits for The Forum, Town Center and the City, generally.

RPPR's mixed-use apartment homes will also surpass the Echo Lakeside apartment development in Technology Park, which the City unanimously approved in 2016. Echo Lakeside, which was marketed as "millennial housing" during the rezoning process, is a garden apartment complex in a suburban, wooded office park setting. Comparatively, RPPR's apartments will be a mid-rise apartment development in a walkable, urban setting. RPPR's apartment development will also have closed air-conditioned corridors and structured parking, compared to Echo Lakeside, which will have open breezeway connections and no structured parking. The characteristics of RPPR's apartments on the Subject Property will be attractive to sophisticated millennial and empty nester residents, and command higher rents. Moreover, Echo Lakeside is over a four-mile roundtrip walk to The Forum and Town Center, which will be a prohibitive or inconducive walking distance for residents of Echo Lakeside. Accordingly, Echo Lakeside is not located where it can furnish the necessary pedestrian patronage that RPPR's apartments on the Subject Property will provide the shops, restaurants and attractions at The Forum and Town Center. Also, RPPR's apartment development will provide sophisticated and walkable housing that is attractive to entrepreneurs engaged in the Prototype Prime technology startup incubator at Technology Park, which will help promote innovation and dynamic business development in the City.

In addition, the upscale boutique hotel on the Subject Property will offer travelers visiting Peachtree Corners distinctive and high-quality accommodations with first-class amenities, including well-appointed rooms, meeting facilities, a fitness center, swimming

pool, and a business center. RPPR's development will connect this high-end hotel directly to The Forum and Town Center via the proposed pedestrian bridge and walking trails, which will enhance and help showcase this area as the City's desired downtown center and central business district. The quality of the boutique hotel and its integration with the adjacent shops, restaurants and attractions will promote tourism in the City and provide City residents superior facilities for conferences, weddings and other events. The hotel will also be attractive to prospective businesses considering Peachtree Corners for their location or expansion, by providing sophisticated and convenient hotel accommodations and conference facilities with high-end amenities for business travelers.

In summary, RPPR's mixed-use development will seamlessly and naturally integrate with and support the City's dynamic commercial, cultural and entrepreneurial centers at The Forum, Town Center and Technology Park; attract sophisticated residents; and enhance a distinctive gateway and downtown center for the City. The development will be a significant benefit to the City.

### **III. Promotion of the City's Land Use Objectives**

RPPR's proposed mixed-use development will clearly promote the objectives of the City's Zoning Ordinance, Comprehensive Plan, and Livable Center Initiative.

The purpose of MUD zoning under the City's Zoning Ordinance is as follows:

to promote the development of properties in a manner that integrates commercial and/or office with residential land uses, promotes pedestrian accessibility among uses, reduces automobile trips, provides a livable environment for project residents, and enhances the value and aesthetics of the surrounding community. MUD's utilize connective streetscapes to promote an environment conducive to human activity through the provision of landscaping, street/shade trees, street furniture and sidewalks to unify and interconnect varying uses.<sup>15</sup>

RPPR's mixed-use development will distinctly serve this purpose. The development will integrate high-end apartment homes and an upscale boutique hotel on the Subject Property with commercial uses on adjacent properties and the Subject Property; promote pedestrian accessibility among uses at the Subject Property, The Forum and Town Center; reduce automobile trips by providing apartment homes and hotel accommodations for Peachtree Corners residents and visitors with walkable access to The Forum and Town Center; provide a livable environment for Peachtree Corners residents; and enhance the value and aesthetics of The Forum, Town Center and surrounding community. The Subject Property and mixed-use development also satisfy all of the requirements for MUD

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<sup>15</sup> Zoning Ord. § 1318.1

zoning, including being located within a Major Activity Center and adjacent to major thoroughfares where infrastructure is available to support the mix of uses on the Subject Property, pursuant to Zoning Ordinance § 1318.2.

In addition, the City's 2033 Comprehensive Plan calls for MUD zoning and mixed-use development on the Subject Property. Under the Comprehensive Plan, the City seeks to:

- (1) Offer a high quality of life for residents,
- (2) Provide a competitive environment for businesses,
- (3) Create a strong sense of community for all, and
- (4) Accommodate the best opportunities to live, work, learn, play and stay.<sup>16</sup>

RPPR's mixed-use development on the Subject Property will further each of these objectives, by, *inter alia*, providing high-end rental apartment homes and upscale boutique hotel facilities that enable and enhance the community's enjoyment of the City's cultural, culinary and shopping attractions; providing upscale boutique hotel accommodations and facilities that promote tourism and business in the area; providing City residents with upscale boutique hotel facilities and amenities for conferences, weddings and other events; providing desirable highly amenitized rental apartment homes for millennials whom businesses seek to employ; providing walkable rental apartment homes and boutique hotel components necessary to promote a vibrant city center community at and around The Forum, Town Center and the pedestrian bridge; and providing a true live, work, learn, play and stay opportunity in the City in conjunction with The Forum and Town Center.

Similarly, the Comprehensive Plan's formal goals for the City are the following:

- (1) Build and strengthen a unified and family-friendly multicultural community.
- (2) Maintain a high-quality natural and cultural environment.
- (3) Integrate transportation and accessibility into development decisions.
- (4) Enable redevelopment and capture high-quality new development.

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<sup>16</sup> 2033 Comprehensive Plan, Community Goals, p. 6, attached as **Exhibit M** hereto.

- (5) Emerge as the most desirable and advantageous community in the Atlanta region.<sup>17</sup>

These goals, in addition to the policies the City is to follow in achieving them, clearly support approval of RPPR's mixed-use development. Those policies include, *inter alia*, attracting and retaining young families; allowing for a broader range of housing options; supporting the aging and millennial populations; expanding publicly-accessible recreation; creating places for community members to gather and enjoy arts and culture; improving walkability, especially in activity centers; encouraging the development of a Peachtree Corners city center; promoting mixed-use development along key corridors; and promoting denser development in specific areas designated for mixed-use or higher-density multi-family.<sup>18</sup> Indeed, the City's following needs and opportunities underlying the aforementioned policies in the Comprehensive Plan clearly call for RPPR's mixed-use development:

- (1) "There is no mixed-use development in Peachtree Corners with both residential and retail components."
- (2) "Peachtree Corners has few housing options for empty nesters," including, "'live/walk/play' communities."
- (3) "[T]here is a need for higher-end rental apartments that appeal to young professionals and older adults."
- (4) "Allowing for and promoting mixed-use development in key locations can create opportunities for individuals to live, work, play and shop in one place."
- (5) "New development may be designed with access management policies, bicycle and pedestrian facilities, and mixed-uses, which all serve to reduce vehicular travel demand"
- (6) "The property across from The Forum presents prime development opportunities."<sup>19</sup>

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<sup>17</sup> *Id.* at p. 10.

<sup>18</sup> *Id.* at pp. 13, 15, 17, 20, 23, 24, 29-31, 33. It is unclear how the City's concern that "[a]partment dwellers are perceived as transient and not invested in the community" and the City's preference not to become "a 'melting pot' where all cultures blend" stated in the Comprehensive Plan factor into the City's land use decisions. [*Id.* at pp. 12 and 18.] However, as litigated with Gwinnett County, a zoning authority is not allowed to make zoning decisions on grounds that violate the Federal Housing Act and the Constitution. [See, e.g., Order, **Exhibit D** hereto.]

<sup>19</sup> *Id.* at pp. 13, 15, 24, and 29-31.

RPPR's mixed-use development will fit each of these needs and opportunities. Moreover, the Comprehensive Plan acknowledges that the City has "no 'downtown' or town center that functions as an economic, civic and social destination" and "no civic or public gathering places,"<sup>20</sup> while identifying land across the street from The Forum as "ideal for mixed use development . . . and development that helps meet the City's need for a downtown and more public gathering places."<sup>21</sup> In sum, RPPR's mixed-use development is a perfect fit for the Subject Property under the City's Comprehensive Plan.

The City has acknowledged that workers and empty nesters are moving to locations that are: walkable to retail stores, eating, and shopping; multi-story buildings and dense residential; and convenient for daily activities.<sup>22</sup> The City therefore has identified the following priorities for its growth: "Walkable – connect housing to work, shops, restaurants, activities" and "Millennial/empty nester style housing."<sup>23</sup> RPPR's mixed-use development will accomplish these priorities by providing a walkable mixed-use community in which City residents and visitors can live, stay, work and play, with housing that is appealing to millennials and empty nesters, and a boutique hotel that will provide business and leisure travelers the upscale and highly amenitized experience. These features and benefits clearly will enhance and showcase the live, stay, work and play vision the City has for this area.

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<sup>20</sup> 2033 Comprehensive Plan, Consolidated Needs and Opportunities, pp. 27, 31 attached as **Exhibit N** hereto.

<sup>21</sup> *Id.* at p. 26.

<sup>22</sup> Peachtree Corners Bridge Presentation, p. 4, attached as **Exhibit L** hereto.

<sup>23</sup> *Id.* at p. 5.

Moreover, the Subject Property is in the Central Business District Character Area (“CBD”) of the Comprehensive Plan:<sup>24</sup>

Figure 3 Key Features of the Central Business District



The Comprehensive Plan’s stated vision is for the CBD to have the following attributes: “Walkable town center”; “Community Gathering Place”; and “Quality mixed use development.”<sup>25</sup> In this regard, the Comprehensive Plan instructs that “high quality mid-rise mixed use development with significant residential components,” such as RPPR’s mixed-use development, is desired in the CBD.<sup>26</sup>

The City’s Livable Center Initiative Study (“LCIS”) also reiterates the need for RPPR’s mixed-use development within the CBD. The LCIS confirms that the lack of high-end rental housing within the City has created “gaps for two important groups in the housing market: young-professionals – e.g., those seeking a more upscale urban flat rental format – and empty nesters or retirees who are looking to downsize from a large-lot single family home to something that requires less maintenance and allows for a more walkable, connected lifestyle.”<sup>27</sup> The LCIS reports that businesses are focused on office space that has “easy access to quality rental housing, walkable access to hotels, retail and

<sup>24</sup> 2033 Comprehensive Plan, Community Goals, p. 43, attached as **Exhibit M** hereto.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at p. 44.

<sup>27</sup> Peachtree Corners Livable Center Initiative Study, p. 16, attached as **Exhibit O** hereto.

entertainment.”<sup>28</sup> The LCIS therefore instructs that “the City should make it a major priority to facilitate the development of a wider range of housing types, including senior residences and, most importantly, younger workforce housing.”<sup>29</sup> For both millennials and empty-nesters, the LCIS identifies “rental units in mixed-use settings” as appropriate housing options within the CBD, where the Subject Property is located.<sup>30</sup> This is clear support for RPPR’s mixed-use development on the Subject Property.

In summary, the City’s Zoning Ordinance, Comprehensive Plan, and land use analyses all call for RPPR’s mixed-use development on the Subject Property. There are simply no grounds to deny the requested MUD zoning for this mixed-use apartment, hotel and retail development.

**IV. RPPR’s Response to the Standards Governing the City’s Exercise of Zoning Power**

In accordance with the Public Hearing Application for RPPR’s MUD zoning request and Section 1703 of the Zoning Ordinance, RPPR provides the following responses to the Standards Governing the City’s Exercise of Zoning Power, as set forth in Section 1702 of the Zoning Ordinance.

**A. Will the proposed rezoning permit a use that is suitable in view of the use and development of adjacent and nearby property?**

Yes. Please see Sections I through III above.

**B. Will this proposed rezoning adversely affect the existing use or usability of adjacent or nearby property?**

No. Rather, the proposed rezoning will provide substantial benefits to the adjacent and nearby properties. Please see Sections I through III above.

**C. Does the property to be affected by the proposed rezoning have reasonable economic use as currently zoned?**

No. Please see Section I above.

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<sup>28</sup> *Id.* at p. 17.

<sup>29</sup> *Id.* at 32.

<sup>30</sup> *Id.* at 33.

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

No. According to a trip generation comparative analysis conducted by A&R Engineering,<sup>31</sup> rezoning the Subject Property to MUD for RPPR's mixed-use development will result in a 40% decrease in daily traffic compared to the current Conditional C-2 zoning. Also, RPPR has installed handicap ramps, crosswalks, traffic signalization and other improvements to improve pedestrian connectivity at the intersection of Peachtree Parkway and Peachtree Circle, at no cost to the City. In addition, the apartment homes component of the development will include only one- and two-bedroom units, and MUD zoning of the property will not cause excessive or burdensome use of the City's schools. MUD zoning and the development also would not cause any excessive use of the City's utilities.

**E. Is the proposed rezoning in conformity with the policy and intent of the land use plan?**

Yes. Please see Sections I through III above.

**F. Are there other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning?**

Yes, numerous supporting grounds exists for approval of the rezoning. Please see Sections I through III above.

**V. Concurrent Variances**

RPPR requests the following concurrent variances as part of its request for MUD zoning of the Subject Property:

**A. Allowance of an 1800 SF land disturbance encroachment into the 50-foot undisturbed natural vegetative buffer under Section 18-51(a)(1) at the two locations shown in the Variance Plan.**

RPPR requests this concurrent variance in order to (a) grade within the 50-foot buffer area for the installation of a landscaped pervious walking trail and (b) provide temporary access for equipment and scaffolding during construction of the mixed-use

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<sup>31</sup> A&R Engineering Inc. Trip Generation Comparison for Peachtree Corners Mixed-Use Development, July 26, 2017, attached as **Exhibit P** hereto.

development, at the locations shown in the Variance Plan attached hereto as **Exhibit Q**. No structures or impervious surfaces are proposed within the limited areas of this encroachment. In addition, the final grade and re-plantings of vegetation will meet the screening requirements contained in Section 50-52(b) of the City's Ordinance.

The pervious walking trail for which the grading is required will provide the necessary pedestrian connectivity between RPPR's mixed-use development and the adjacent Town Center, the pedestrian bridge for access to The Forum, and the City's planned walking trails on adjacent Parcel 3. The existing topography in the areas of requested encroachment prevents the pervious walking trail from being developed in those areas without grading. Also, the location of the above-referenced areas to which the walking trail is to provide pedestrian connectivity do not allow for the walking trail to be placed in another location. In addition, the Subject Property's shape and size require temporary use of the identified limited encroachment areas for equipment and scaffolding access during construction of RPPR's mixed-use development.

Because the limited areas of buffer encroachment lack significant vegetation, and because the walking trails will be unpaved and pervious, the land disturbance activities described herein are authorized without a variance under Sections 18-50(b)(1)(d) and 50-52(e)(3) of the City's Ordinance. RPPR seeks this concurrent variance only as a precaution in order to facilitate RPPR's planned development amicably through the variance approval process, in case the City were to take a position in contradiction to those ordinance provisions and the nature of the described encroachments to require a variance. By requesting this variance, RPPR does not concede that a variance is required and does not waive any rights under the Ordinance or applicable law with respect to the requested rezoning and planned development.

RPPR notes that the City approved areas of encroachment into the 50-foot buffer for the Town Center development that are together approximately six times the size of the small encroachments RPPR requests, as shown in **Exhibits Q, R and S** hereto. The City should not treat RPPR disparately in connection with this concurrent variance request.

**B. Allowance of a 900 SF land development encroachment into the 75-foot impervious surface setback under Section 18-51(a)(2) at the three locations shown in the Variance Plan.**

This concurrent variance is required for small portions of RPPR's shared vertical hotel/apartment structure and underlying structured parking podium to exist within the 75-foot impervious surface setback. The size and shape of the Subject Property do not allow the parking necessary for the boutique hotel and apartment to be provided in a surface parking lot. The size and shape of the Subject Property therefore require the parking to be provided via a structured parking podium beneath the hotel and apartment

structures.<sup>32</sup> However, the size and shape of the Subject Property do not allow the necessary structured parking podium to be constructed without the small encroachments into the impervious surface setback requested herein. Attempts have been made to design and engineer the structure without these small encroachments, but the size and shape of the Subject Property has made avoiding the encroachments unachievable. Thus, to not allow the limited 900 SF of impervious surface setback encroachments requested herein would prevent the planned development and create an extreme hardship for RPPR.

RPPR notes that it is presently allowed 2600 SF of encroachment into the impervious surface setback at the locations shown in **Exhibit T** hereto.<sup>33</sup> RPPR has used only 450 SF of that allowed encroachment for existing development, leaving RPPR 2150 SF of allowed impervious surface encroachment on the Subject Property under its current zoning. Under the requested MUD zoning and this concurrent variance request, RPPR would encroach into the setback by only 900 SF at the locations identified in **Exhibit Q**, rather than use the remaining 2150 SF of encroachment allowed under the Subject Property's current zoning. Thus, the rezoning and this requested concurrent variance will reduce RPPR's encroachment into the 75-foot impervious surface setback by 1250 SF.

RPPR notes that the City approved areas of encroachment into the 75-foot impervious surface setback for the Town Center development that are collectively almost four times the size of the small encroachments RPPR requests, as shown in **Exhibits Q, R** and **S** hereto. The City should not treat RPPR disparately in connection with this concurrent variance request.

For the forgoing reasons, RPPR submits that the Subject Property should be rezoned to MUD and asks that the City approve its enclosed rezoning application and concurrent variance requests.<sup>34</sup>

Respectfully,

ALSTON & BIRD LLP



W. Clay Massey

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<sup>32</sup> In addition, among other visual and pedestrian benefits, structured parking is a more efficient use of land and requires less impervious surface area than surface parking to provide the necessary parking capacity.

<sup>33</sup> See **Exhibit H**, Condition 2W; **Exhibit T**.

<sup>34</sup> RPPR has attached its Constitutional Objections and Reservations of Rights hereto as **Exhibit U**, which RPPR incorporates by reference herein.

October 2, 2017

Page 17

## Attachments

cc: Mayor Mike Mason (via hand delivery w/ attachments)  
Councilmember Alex Wright (via hand delivery w/ attachments)  
Councilmember Phil Sadd (via hand delivery w/ attachments)  
Councilmember Eric Christ (via hand delivery w/ attachments)  
Councilmember Jeanne Aulbach (via hand delivery w/ attachments)  
Councilmember Lorri Christopher (via hand delivery w/ attachments)  
Councilmember Weare Gratwick (via hand delivery w/ attachments)  
Mr. Brian Johnson, City Manager (via hand delivery w/ attachments)  
Mr. Charlie Roberts (via email w/ attachments)  
Mr. David Phillips (via email w/ attachments)



**LEGAL DESCRIPTION**  
**LOT 2**

All that tract or parcel of land lying and being in Land Lot 301 of the 6<sup>th</sup> Land District, City of Peachtree Corners, Gwinnett County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF COMMENCEMENT, begin at the Southern End of the Mitered Right-of-Way between the Northerly Right-of-Way of Peachtree Corners Circle (Right-of-Way Varies) and the Easterly Right-of-Way of Peachtree Parkway (a.k.a. State Route 141, Right-of-Way Varies); THENCE traveling along said Miter, North 16 degrees 36 minutes 52 seconds West for a distance of 8.89 feet to a Point on the aforesaid Easterly Right-of-Way of Peachtree Parkway; THENCE traveling along said Right-of-Way along a curve to the right, having a radius of 11459.16 feet and arc length of 183.97 feet, being subtended by a chord of North 29 degrees 12 minutes 49 seconds East for a distance of 183.97 feet to an Iron Pin Set, said Point being THE POINT OF BEGINNING.

THENCE from said point as thus established and continuing along said Right-of-Way the following Two (2) courses and distances, along a curve to the right, having a radius of 11459.16 feet and arc length of 34.18 feet, being subtended by a chord of North 29 degrees 45 minutes 33 seconds East for a distance of 34.18 feet to a Point; THENCE North 29 degrees 50 minutes 43 seconds East for a distance of 91.81 feet to an Iron Pin Set; THENCE leaving said Right-of-Way, South 60 degrees 14 minutes 51 seconds East for a distance of 233.56 feet to an Iron Pin Set; THENCE South 29 degrees 42 minutes 49 seconds West for a distance of 126.33 feet to a PK Nail Set; THENCE North 60 degrees 09 minutes 53 seconds West for a distance of 22.01 feet to an Iron Pin Set; THENCE North 60 degrees 09 minutes 53 seconds West for a distance of 211.78 feet to an Iron Pin Set on the aforesaid Right-of-Way of Peachtree Parkway, said Point being THE POINT OF BEGINNING.

Said property contains 0.677 acres.

**LEGAL DESCRIPTION**  
**LOT 4**

All that tract or parcel of land lying and being in Land Lot 301 of the 6<sup>th</sup> Land District, City of Peachtree Corners, Gwinnett County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF COMMENCEMENT, begin at the Southern End of the Mitered Right-of-Way between the Northerly Right-of-Way of Peachtree Corners Circle (Right-of-Way Varies) and the Easterly Right-of-Way of Peachtree Parkway (a.k.a. State Route 141, Right-of-Way Varies); THENCE traveling along said Right-of-Way of Peachtree Corners Circle the following Four (4) courses and distances, South 61 degrees 56 minutes 43 seconds East for a distance of 74.92 feet to a Point; THENCE along a curve to the left, having a radius of 662.75 feet and arc length of 96.47 feet, being subtended by a chord of South 66 degrees 06 minutes 54 seconds East for a distance of 96.38 feet to a Point; THENCE South 59 degrees 11 minutes 43 seconds East for a distance of 64.08 feet to a Point; THENCE along a curve to the left, having a radius of 678.00 feet and arc length of 3.07 feet, being subtended by a chord of South 75 degrees 44 minutes 12 seconds East for a distance of 3.07 feet to an Iron Pin Set, said Point being THE POINT OF BEGINNING.

THENCE from said point as thus established and leaving said Right-of-Way, North 13 degrees 56 minutes 08 seconds East for a distance of 44.57 feet to a PK Nail Set; THENCE along a curve to the right, having a radius of 599.00 feet and arc length of 137.27 feet, being subtended by a chord of North 20 degrees 30 minutes 02 seconds East for a distance of 136.97 feet to an Iron Pin Set; THENCE South 60 degrees 09 minutes 53 seconds East for a distance of 22.01 feet to a PK Nail Set; THENCE North 29 degrees 42 minutes 49 seconds East for a distance of 126.33 feet to an Iron Pin Set; THENCE North 29 degrees 42 minutes 49 seconds East for a distance of 150.79 feet to an Iron Pin Set; THENCE North 39 degrees 20 minutes 24 seconds East for a distance of 54.98 feet to an Iron Pin Set; THENCE South 50 degrees 38 minutes 31 seconds East for a distance of 359.43 feet to an Iron Pin Set; THENCE South 50 degrees 38 minutes 31 seconds East for a distance of 77.53 feet to an Iron Pin Set; THENCE South 25 degrees 38 minutes 23 seconds West for a distance of 167.66 feet to an Iron Pin Set on the aforesaid Right-of-Way of Peachtree Corners Circle; THENCE Continuing along said Right-of-Way the following Two (2) courses and distances, South 83 degrees 22 minutes 24 seconds West for a distance of 273.35 feet to a Point; THENCE along a curve to the right, having a radius of 678.00 feet and arc length of 245.66 feet, being subtended by a chord of North 86 degrees 14 minutes 47 seconds West for a distance of 244.32 feet to an Iron Pin Set, said Point being THE POINT OF BEGINNING.

Said property contains 3.732 acres.

BK54299 PG0173

FILED AND RECORDED  
CLERK SUPERIOR COURT  
GWINNETT COUNTY GA

2016 MAY 20 PM 2: 00

RICHARD ALEXANDER, CLERK

**Return To:**

Melissa M. Stanford  
Commercial Real Estate Paralegal  
Baker Donelson  
Monarch Plaza, Suite 1600  
3414 Peachtree Road, N.E.  
Atlanta, GA 30326

PT-61 # 67-2016-012359  
GWINNETT CO GEORGIA  
REAL ESTATE TRANSFER TAX  
\$ None  
RICHARD T ALEXANDER, JR CLERK OF  
SUPERIOR COURT

~~After Recording Return To  
Mahaffey Pickens Tucker, LLP  
1550 North Brown Road, Ste 125  
Lawrenceville, GA 30043  
(File # 2552-0011/2895-0001) SML~~

**LIMITED WARRANTY DEED**

STATE OF GEORGIA  
COUNTY OF GWINNETT

THIS INDENTURE, made this 14 day of APRIL in the year of our Lord Two Thousand and Sixteen (2016) between,

ROBERTS PROPERTIES PEACHTREE RETAIL, LLC, a Georgia limited liability company,  
as party of the first part (hereinafter collectively referred to as 'Grantor'), and

DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF PEACHTREE  
CORNERS, a public body corporate and politic, created and existing under the Downtown  
Development Authorities Law (O.C.G.A. §36-41-1 et seq., as amended),

as party of the second part (hereinafter referred to as 'Grantee').

WHEREAS, Grantor is the owner of certain real property lying and being in Land Lot 301 of the 6th District, Gwinnett County, Georgia, and being more particularly described as Lots 2, 4, and 5 on the Final Plat of survey filed with the Clerk of Superior Court and recorded in Plat Book 133 Page 236, Gwinnett County, Georgia records and attached hereto as Exhibit "A" and incorporated herein by this reference (the "Grantor Property"), and

WHEREAS, Grantee is the owner of certain real property lying and being in Land Lot 301 of the 6th District, Gwinnett County, Georgia, which property is adjacent to Grantor Property, said tract being more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Grantee Property"), and

WHEREAS, the Grantor Property and the adjoining Lot 3 were the subject of that certain Ordinance to Amend the City of Peachtree Corners Zoning Map Pursuant to SUP2015-001, Roberts Properties, Request for Building Elevation Approval and Variances Associated with the

0042927 28

BK54299 PG0174

Development of a 6.47 Acre Parcel Zoned C-2 (Commercial Business) at 5242 Peachtree Parkway in District 6, Land Lot 301, Peachtree Corners, Georgia, being Ordinance 2015-03-41 (the "Ordinance")

WHEREAS, pursuant to the Ordinance, Grantee desires to obtain from Grantor, and Grantor agrees to grant to Grantee, that certain portion of the Grantor Property referred to as Lot 5 and as more particularly described in Exhibit "C" attached hereto and incorporated herein by this reference (the "Green Space"), and

WHEREAS, the transfer of the Green Space shall serve as consideration for the City of Peachtree Corners, Georgia (the "City") allowing the disturbance of and encroachment into the 50 foot undisturbed buffer and the 75 foot impervious stream setback line associated with the creek lying immediately to the north of the Grantor Property for the purpose of grading and constructing improvements upon the Grantor Property, and

WHEREAS, pursuant to Condition 2(Z) of the Ordinance, the Green Space may be utilized, but not occupied, by the Grantor, its heirs, successors and assigns, in connection with any and all development, density, and/or construction-related calculations and/or code requirements (including, for example, open space and tree density requirements, to the extent allowed by law);

NOW, THEREFORE, WITNESSETH. That the said Grantor for and in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, cash in hand paid, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, aliened, conveyed, and confirmed and does by these presents hereby grant, bargain, sell, alien, convey, and confirm unto the said Grantee, its successors and assigns, the Green Space as further described in Exhibit "C" attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE, subject to the following:

1 Grantor, its heirs, successors, and assigns, may utilize but not occupy the Green Space in connection with any and all development, density, and/or construction-related calculations and/or code requirements, (including without limitation, open space and tree density requirements, to the extent allowed by law)

2 The Green Space shall be utilized by Grantee, its successor and assigns, in accordance with the provisions of Section 1319 of The City of Peachtree Corners 2012 Zoning Resolution (being the T-O Trails and Open Space Zoning Classification) and the City of Peachtree Corners Multi-Use Trail Plan

AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of Grantor and all others claiming by, through or under Grantor.

BK54299 PG0175

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and affixed its seal the day and year above written.

Signed, sealed and delivered in the presence of

GRANTOR: ROBERTS PROPERTIES PEACHTREE, LLC

By Roberts Properties, Inc, Manager

David M Phillips  
Unofficial Witness

By [Signature]  
Charles S. Roberts, President

David Roberts  
Notary Public

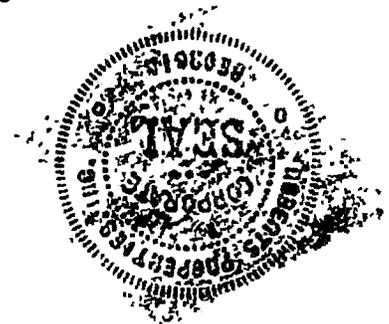
Attest:  
[Signature]  
Secretary

My Commission Expires: July 27, 2018

[NOTARY SEAL]



[CORPORATE SEAL]



**BK54299 PG0176****EXHIBIT "A"  
GRANTOR PROPERTY LEGAL DESCRIPTION**

All those tracts or parcels of land lying and being in Land Lot 301 of the 6th Land District, City of Peachtree Corners, Gwinnett County, Georgia, and be more particularly described on the Final Plat for Roberts Properties Peachtree Retail, LLC prepared by Randall W. Dixon, GA. RLS #1678, of Precision Planning, Inc., dated March 18, 2013, last revised May 12, 2015, filed in the Office of the Clerk of Superior Court, Gwinnett County, GA on June 19, 2015 at 8:32 a.m. and recorded in Plat Book 133, Pages 236-237 (the "Recorded Plat") as:

Lot 2 (0.677 acres),  
Lot 4 (3.732 acres); and  
Lot 5 (0.90 acres, the Green Space)

each having the metes and bounds legal descriptions for such particular Lot as set forth on page 2 of 2 of the Recorded Plat.

**BK54299 PG0177****EXHIBIT "B"  
GRANTEE PROPERTY LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in the City of Peachtree Corners, Land Lot 301 of the 6<sup>th</sup> Land District, Gwinnett County, Georgia and being more particularly shown as Tract Two (20.609 acres) on that certain Final Plat for Roberts Properties Residential, L.P., prepared by Randall W. Dixon, Georgia Registered Land Surveyor No. 1678 of Precision Planning, Inc., dated September 12, 2012, filed September 25, 2012, and recorded in **Plat Book 129, pages 136 and 137**, Gwinnett County, Georgia records, and incorporated herein by this reference.

**LESS AND EXCEPT THE FOLLOWING:**

All that tract or parcel of land lying and being in Land Lot 301 of the 6th District, Gwinnett County, Georgia, and being more particularly described as follows:

COMMENCING at a 1/2-inch rebar found at the intersection of the Southeasterly right-of-way line of Peachtree Parkway, a.k.a. Georgia Hwy 141 (variable right-of-way) and the Southwesterly right-of-way line of Medlock Bridge Road, (variable right-of-way), Thence along said Southwesterly right-of-way line of Medlock Bridge Road, South 28 degrees 55 minutes 58 seconds East, a distance of 352.48 feet to a 1.5-inch open top pipe found; Thence South 30 degrees 19 minutes 01 seconds East, a distance of 135.00 feet to a 1/2-inch rebar found, said point being the TRUE POINT OF BEGINNING; Thence continue along said right-of-way, South 30 degrees 19 minutes 01 seconds East, a distance of 165.05 feet to a point; Thence departing said right-of-way, South 56 degrees 54 minutes 16 seconds West, a distance of 207.92 feet to a point; Thence North 36 degrees 08 minutes 48 seconds West, a distance of 196.72 feet to a point; Thence North 34 degrees 57 minutes 42 seconds East, a distance of 15.22 feet to a point; Thence North 66 degrees 51 minutes 51 seconds East, a distance of 31.00 feet to a point; Thence North 66 degrees 51 minutes 51 seconds East, a distance of 184.52 feet to a 1/2-inch rebar found, said point being the TRUE POINT OF BEGINNING.

Said tract of land contains 0.920 Acres.

BK54299 PG0178

EXHIBIT "C"  
GREEN SPACE LEGAL DESCRIPTION

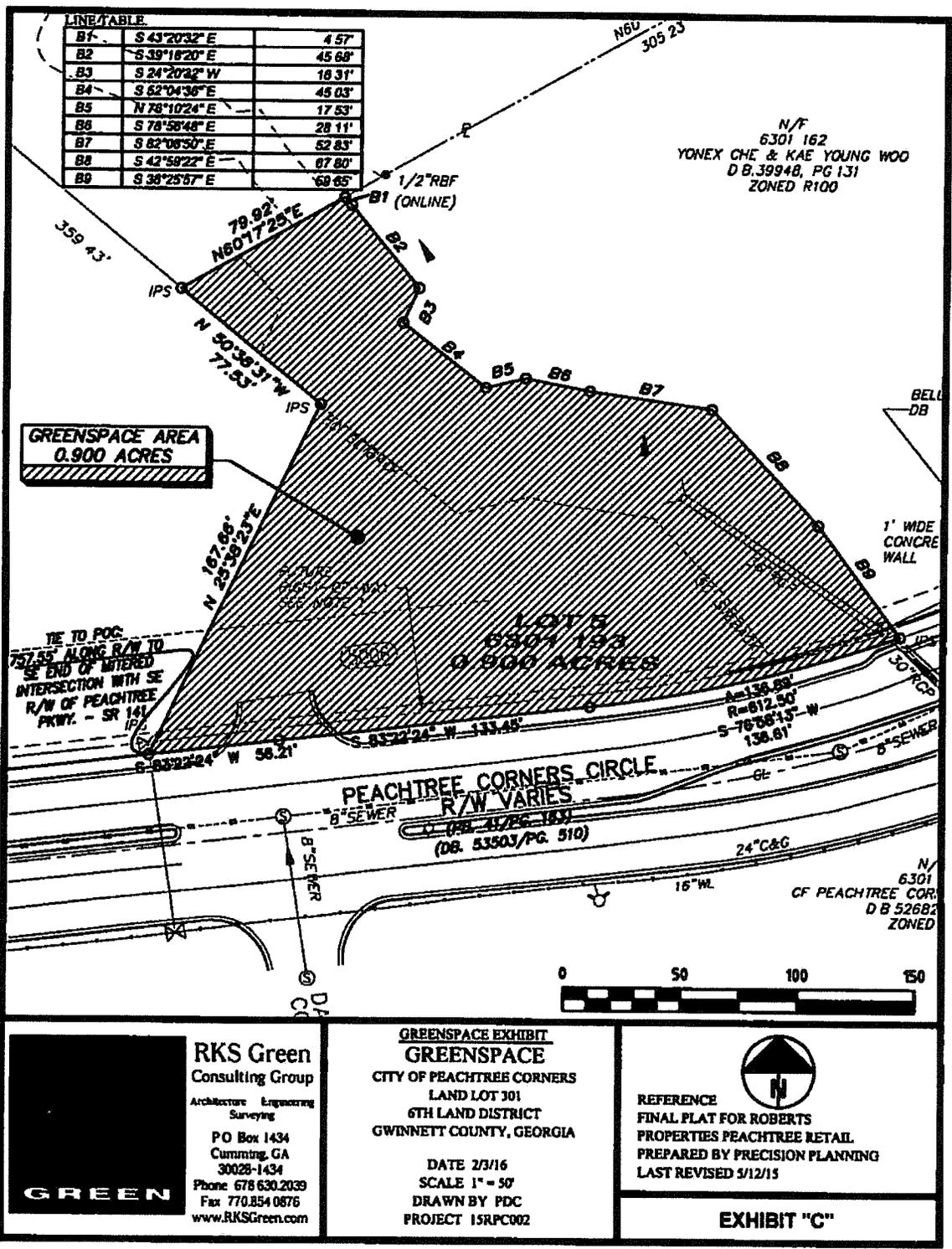
All that tract or parcel of land lying and being in Land Lot 301 of the 6th Land District, City of Peachtree Corners, Gwinnett County, Georgia and being more particularly described as follows:

TO FIND THE POINT OF COMMENCEMENT, begin at the Southern End of the Mitered Right-of-Way between the Northerly Right-of-Way of Peachtree Corners Circle (Right-of-Way Varies) and the Easterly Right-of-Way of Peachtree Parkway (a.k.a. State Route 141, Right-of-Way Varies), THENCE traveling along said Right-of-Way of Peachtree Corners Circle the following Six (6) courses and distances, South 61 degrees 56 minutes 43 seconds East for a distance of 74.92 feet to a Point, THENCE along a curve to the left, having a radius of 662.75 feet and arc length of 96.47 feet, being subtended by a chord of South 66 degrees 06 minutes 54 seconds East for a distance of 96.38 feet to a Point, THENCE South 59 degrees 11 minutes 43 seconds East for a distance of 64.08 feet to a Point, THENCE along a curve to the left, having a radius of 678.00 feet and arc length of 3.07 feet, being subtended by a chord of South 75 degrees 44 minutes 12 seconds East for a distance of 3.07 feet to an Iron Pin Set, THENCE along a curve to the left, having a radius of 678.00 feet and arc length of 245.66 feet, being subtended by a chord of South 86 degrees 14 minutes 47 seconds East for a distance of 244.32 feet to a Point; THENCE North 83 degrees 22 minutes 24 seconds East for a distance of 273.35 feet to an Iron Pin Set, said Point being THE POINT OF BEGINNING.

THENCE from said point as thus established and leaving said Right-of-Way, North 25 degrees 38 minutes 23 seconds East for a distance of 167.66 feet to an Iron Pin Set; THENCE North 50 degrees 38 minutes 31 seconds West for a distance of 77.53 feet to an Iron Pin Set, THENCE North 60 degrees 17 minutes 25 seconds East for a distance of 79.92 feet to an Iron Pin Set, THENCE South 43 degrees 20 minutes 32 seconds East for a distance of 4.57 feet to a Point; THENCE South 39 degrees 18 minutes 20 seconds East for a distance of 45.68 feet to a Point, THENCE South 24 degrees 20 minutes 32 seconds West for a distance of 16.31 feet to a Point; THENCE South 52 degrees 04 minutes 36 seconds East for a distance of 45.03 feet to a Point; THENCE North 76 degrees 10 minutes 24 seconds East for a distance of 17.53 feet to a Point; THENCE South 78 degrees 56 minutes 48 seconds East for a distance of 28.11 feet to a Point, THENCE South 82 degrees 06 minutes 50 seconds East for a distance of 52.83 feet to a Point, THENCE South 42 degrees 59 minutes 22 seconds East for a distance of 67.80 feet to a Point, THENCE South 36 degrees 25 minutes 57 seconds East for a distance of 59.65 feet to an Iron Pin Set on the aforesaid Right-of-Way of Peachtree Corners Circle, THENCE continuing along said Right-of-Way the following Three (3) courses and distances, along a curve to the right, having a radius of 612.50 feet and arc length of 136.89 feet, being subtended by a chord of South 76 degrees 58 minutes 13 seconds West for a distance of 136.61 feet to a Point, THENCE South 83 degrees 22 minutes 24 seconds West for a distance of 133.45 feet to a Point; THENCE South 83 degrees 22 minutes 24 seconds West for a distance of 56.21 feet to an Iron Pin Set, said Point being THE POINT OF BEGINNING

Said property contains 0.900 acres, and is designated as Lot 5 on the Final Plat last filed on June 19, 2015 and recorded in Plat Book 133 at page 236 in the Records of the Superior Court, Gwinnett County, GA

BK54299 PG0179



**AN ORDINANCE TO AMEND THE CITY OF PEACHTREE CORNERS ZONING MAP PURSUANT TO SUP2015-001, ROBERTS PROPERTIES, REQUEST FOR BUILDING ELEVATION APPROVAL AND VARIANCES ASSOCIATED WITH THE DEVELOPMENT OF A 6.47 ACRE PARCEL ZONED C-2 (COMMERCIAL BUSINESS) AT 5242 PEACHTREE PARKWAY IN DISTRICT 6, LAND LOT 301, PEACHTREE CORNERS, GEORGIA**

**WHEREAS:** Notice to the public regarding said requests and public hearing have 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 March 17, 2015 and April 21, 2015;

**NOW THEREFORE,** The Mayor and City Council of the City of Peachtree Corners while in Regular Session on April 21, 2015 hereby ordain and approve SUP2015-001, Roberts Properties, for the above referenced property with the following enumerated conditions:

**Gwinnett County Original Conditions (as modified):**

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

- A. 1. Permitted Uses: Retail, Chef-driven Restaurants, (Special Use approval required for chain restaurants), Cinema with dining, bakery and confectionary, Music venue, Performing Arts venue, boutique hotel, professional offices, administrative offices, service uses (i.e. salons, spas, travel agencies, fitness facilities [3500 sq. ft. or less], tutoring), entertainment uses (i.e. comedy and jazz clubs,) civic uses, and C-1, and C-2 permitted uses except as noted in Prohibited Uses, below.
2. Prohibited Uses: Animal hospitals or veterinary clinics; retail bank (ATM permitted); tattoo and piercing parlors; adult bookstores or entertainment (general bookstores selling adult books on an incidental basis permitted); fast food restaurants with or without drive-thru window (pick-up/to go windows at non-fast food restaurants permitted); automotive related uses such as car wash or automotive parts store; billboards; building, electrical or plumbing contractors; funeral homes or mausoleums; crematory; furniture rental establishments; convenience food stores with or without fuel pumps, emission inspection stations; equipment rental; extended stay and limited service hotels; laundry or dry cleaning establishments; liquor stores, (specialty beer or specialty wine store permitted); plant nursery sales facility; recreation or fitness facilities which exceed 3500 square feet); industrial uses, automotive service stations with or without fuel pumps; building material

VOTE:  Y  N  A Sadd /  Y  N  A Lowe /  Y  N  A Wright /  Y  N  A Mason /  Y  N  A Aulbach /  Y  N  A Christopher /  Y  N  A

sales with outdoor storage, taxi cab or limousine services; pest control businesses; pet shops or pet grooming establishments, (pet supplies store permitted); mattress store; nail salon; day care facility; driving school; discount stores; grocery store (gourmet and specialty food store permitted); second run movie theater; lottery ticket sales; tobacco products store; phone stores; precious metals store (jewelry store permitted); and clothing resale stores; auto body repair shops, auto repair shops or tire stores, automotive service stations with or without fuel pumps; building material sales with outdoor storage, contractors offices or the outside storage of equipment or materials, heavy equipment and farm equipment sales and service and truck rental; mini-warehouse storage facilities; mobile home or mobile building leasing or sales lots, taxi cab or limousine services and no outdoor storage of any type; pest control businesses; pet shops or grooming establishments; lounges; and any temporary uses.

- B. This is a concept specific zoning. Project is to be generally developed as a forum/avenues style development and should include office elements similar in "look and feel" to the existing development immediately across Peachtree Parkway from this property and currently known as "The Forum", or as set forth in the elevations prepared by HOK dated March 24, 2015, Wakefield, Beasley & Associates dated March 25, 2015, and the site plan prepared by LAI Engineering dated March 25, 2015. A forum/avenues type of development shall be defined as a retail development of small shops similar in design and concept to "The Forum". The landscape plan and architectural plans shall be submitted to the Planning Commission and approved by the Community Development Director prior to any permits being issued.
- C. Drive-through businesses shall be prohibited, except for banks/financial institutions which may include a drive-through facility as an integrated part of the primary banking operation if the following provisions are met. Any such drive-through facility shall be structurally attached to the bank/financial institution building. Any person-to-person communication shall be conducted only through a sealed (non-operable) window (which may include an associated bank deposit tray and/or tube) and speaker system. The volume control for the speaker system shall be set so that sound shall not be audible more than 10-feet from any such speaker. Any in-person "reach-through" opening and/or the passing of food through such opening shall be prohibited. To the extent that any allowed structure ceases to be used as a bank/financial institution, then the drive-through facility associated therewith shall be demolished.
- D. Abide by all requirements of Section 1315 (Activity Center/Corridor Overlay District).

VOTE:  Y  N  A Sadd /  Y  N  A Lowe /  Y  N  A Wright /  Y  N  A Mason /  Y  N  A Aulbach /  Y  N  A Christopher /  Y  N  A

- E. The dimensions of any bank/financial institution drive-through facility shall be constructed in general conformity with the site plan prepared by Wakefield, Beasley and Associates, dated October 17, 2008, and submitted for the record at the Planning Commission's October 21, 2008 meeting. Specifically, the drive aisle width at the drive-through entrance and exit shall be a maximum width of 24 feet and shall taper in accordance with the configuration depicted in the aforementioned site plan.

2. To satisfy the following site development considerations:

- A. Provide a 50-foot wide natural buffer adjacent to residential zoning. The developer shall be allowed to grade 20-feet into the buffer in order to reduce/eliminate retaining walls in accordance with the three buffer plan drawings prepared by Bilson and Associates, dated September 9, 2008, and submitted for the record at the Planning Commission's October 21, 2008 meeting. The graded area of the buffer shall be replanted in accordance with the buffer plan drawings with native Georgia trees including Tulip Poplar, Maple, Cryptomeria and Pine Trees in equal distribution to provide an effective visual screen. In no event will there be less than a 75-foot setback adjacent to the stream depicted on the site plan. The developer shall place the portion of the subject property within the stream buffer in a conservation easement.
- B. Provide bike racks within the development in accordance with the overlay standards.
- C. Provide internal access to any outparcel development. No direct access to Peachtree Parkway other than the shopping center entrance per Department of Transportation approval.
- D. Entrance/exits shall be allowed onto Peachtree Corners Circle per Department of Transportation approval.
- E. No billboards are permitted.
- F. 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 8:00 a.m. and 6:00 p.m.
- G. Buildings shall be finished with architectural treatments containing a mixture of glass, brick, stone and/or stucco comparable in design and appearance to 'The Forum'. All sides shall have a 32-inch or greater water table of brick or stone,

VOTE:  Y  N  A Sadd /  Y  N  A Lowe /  Y  N  A Wright /  Y  N  A Mason /  Y  N  A Aulbach /  Y  N  A Christopher /  Y  N  A

except where full length glass or doors are located. The elevations of the buildings shall be in general conformity with the plans presented to and approved by the City Council at its April 21, 2015 meeting. All mechanical appurtenances and equipment and/or ductwork shall be screened from view. Screening shall coordinate with the building architecture.

~~H. All buildings shall provide a variation in roof line similar to that of 'The Forum', which consists of a mixture of flat, pitched, pyramidal, conical, or mansard roof design. Corner/end unit towers shall incorporate a pyramidal or conical roof design consistent with a Forum style development.~~

~~I. Architectural design elements such as dormer windows shall be incorporated into the building roof line for structures larger than 4,000 square feet.~~

J. All street or walkway pavers internal to the development shall be of brick, stone, or paving material comparable in appearance and be limited to grey or natural-tone colors, which will coordinate with building architecture.

K. Provide landscaped islands through the parking area, including a minimum ten-foot wide landscaped island at the end of each parking bay and a minimum six-foot wide landscaped island for each 225-feet of continuous bay length, or alternate plan as may be approved by the Community Development Director.

L. Provide or relocate and reconstruct sidewalks, as required, a minimum of five feet in width adjacent to Peachtree Parkway (U.S. Hwy. 141) and Peachtree Corners Circle. Sidewalks may meander along these roads where feasible and per DOT approval. Provide internal sidewalks connecting office, retail, and outparcel development. Submit pedestrian access plan for review and approval of the Community Development Director.

M. 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 nor to create a hazard for passing automobile traffic. Any lights located on the rear of the building must be directed downward.

N. Multi-tenant buildings shall be limited to wall signage only. Project signage shall be limited to one monument sign per road frontage except for one subdivision entrance sign and one primary ground sign adjacent to Peachtree Parkway. Monument signs shall coordinate with building architecture.

O. Any detention ponds shall be visibly screened with landscape plantings to be approved by the Community Development Director.

- P. No outside speakers shall be allowed other than on a bank usage, if any, or a Muzak system may be allowed provided no shrill or excessive noise and vibrations, amplified live entertainers, outside paging systems, phone bells, or loudspeakers will be allowed. Any Muzak system shall have downward facing speakers and shall be inaudible ten feet from the speakers.
- Q. Business hours are to be limited to Monday through Thursday from 7:00 a.m. to 12:00 midnight and Friday through Sunday from 7:00 a.m. to 2:00 a.m., (unless further restricted by other regulations). Business hours for a coffee/bagel shop and any specialty gourmet food store(s) shall be 6:00 a.m. to 2:00 a.m. seven days a week.
- R. All food service facilities on the property, including outparcels, shall install odor scrubbers which remove 95% of cooking odors as determined by the Community Development Director.
- ~~S. Development shall provide a temporary 20-foot natural buffer, except for utility crossings, along the right-of-way of Peachtree Parkway and Peachtree Corners Circle. Temporary buffer may be removed upon issuance of a building permit.~~
- I. Truck delivery shall be limited to the hours of 8:00 a.m. to 6:00 p.m.
- II. No overnight parking or idling of delivery trucks shall be allowed.
- T. Operation of parking lot cleaning machinery or other maintenance equipment that emits noise shall be limited to the hours of 8:00 a.m. to 9:30 p.m.
- U. Prior to any grading or clearing, all buffers shall be clearly marked with bright orange tree save fencing to insure that no improper or accidental buffer intrusions occur.

**Peachtree Corners Additional Conditions:**

- V. A tree survey showing the location of specimen trees on the property shall be submitted prior to Land Disturbance Permit application.
- W. An encroachment into the 50 ft. undisturbed buffer and 75 ft. impervious stream setback line shall be permitted for the installation of a reinforced pervious slope along a portion of the northern property line as shown on LAI Engineering drawings dated 1-30-15.
- X. All Variances requested shall be approved subject to the following:

VOTE:  Y  N  A Sadd /  Y  N  A Lowe /  Y  N  A Wright /  Y  N  A Mason /  Y  N  A Aulbach /  Y  N  A Christopher /  Y  N  A

1. Landscaping along the property frontage shall, at a minimum, be comparable to the landscaping in front of the Sprouts shopping center, inclusive of the right-of-way. In addition, the developer maintain the right-of-way in front of his property in the same fashion as his own property so as to maintain the same appearance. At such time as a property owners association exists, they shall assume that landscape maintenance responsibility.
2. The landscape strip for the entire frontage of Peachtree Parkway shall include a staggered double row of evergreens at least three feet in height at time of installation with spacing to be determined by Staff to screen the parking lot from vehicle view on Peachtree Parkway. Landscaping to be approved by Staff to insure this condition is met.
3. Temporary disturbance area shown on the LAI plan dated 3/25/15 shall be replanted as approved by the City Arborist.
4. Internal landscape strips and parking areas shall be developed substantially as shown on the LAI plan dated 3/25/15. In addition, the internal landscape strip between the two buildings fronting Peachtree Parkway shall be heavily planted with hardwood trees which are 12ft. – 15 ft. in height at time of installation. The tree planting shall have a boulevard type effect and the tree spacing shall be approved by Staff.
5. Pervious pavers shall be installed as shown on the LAI plan dated 3/25/15.

Y. Building Elevations shall be approved subject to the following:

1. Exterior building materials shall be primarily brick or stone on all building sides.
2. Appearance of the buildings shall substantially conform to the drawings prepared by HOK plan dated 3/24/15 and Wakefield Beasley and Associates dated 3/25/15.
3. Planters with vegetation approved by the City Arborist shall be placed along the building exterior or, as an alternate, climbing plant material shall be installed at the base of the buildings or next to trellises or arbors.
4. All mechanical equipment (roof top and on the ground) shall be screened from ground view.

Z. A minimum of .9 acres of land located at the northeast corner of the property shall be dedicated to the DDA toward the development of a pedestrian trail system along the stream. However, this area may be utilized by the applicant in connection with any and all development, density and/or construction related

calculations and/or code requirements (including, for example, open space and tree density requirements, to the extent allowed by code).

- AA. A property owners association shall be established in order to assume responsibility for common area maintenance and other property related issues.
- BB. At least one pedestrian access location shall be identified on the plan. This location shall serve as the place where pedestrians can cross the stream and traverse from the subject property to the Town Center property.
- CC. The developer shall be responsible for providing pedestrian access from the parking lot of the developer's property to the stream.
- DD. Grading may be done internal throughout the site pursuant to a grading permit in accordance with the Precision Planning topography exhibit dated 3-25-15. In the event that development has not commenced on the eastern half of the property within 6 months after the issuance of the first certificate of occupancy for the two buildings to be constructed along the property's frontage on Peachtree Parkway, then applicant shall install a 5 foot tall wooden screening fence and single row of evergreen hedges along the property's frontage on Peachtree Corners Circle. If installed, the fence and plant material shall be approved by City staff.
- EE. Graded land that becomes inactive (no building permits pending) for more than 6 months shall be stabilized, seeded and shall meet all other ordinance requirements for graded property. Additional landscaping may also be required to be added in order to mitigate the appearance of the land disturbance.
- FF. Cross access and parking easements will be established between all of the individually owned parcels.
- GG. The landscape strip along the property's frontage along Peachtree Parkway shall be planted with a staggered, double row of evergreens at least 3 feet in height at the time of installation with spacing to be determined by staff so that such plant material screens the adjacent parking lot from vehicle view from Peachtree Parkway. This landscaping shall be inspected by staff post-installation to insure that it meets this condition.
- HH. The landscape strip along the entrance driveway from Peachtree Parkway shall be planted with hardwood trees which are a minimum of 12 feet tall at the time of planting and are spaced on 25 foot centers in order to create a boulevard effect for the entrance drive.

VOTE:  Y  N  O  A Sadd /  Y  N  O  A Lowe /  Y  N  O  A Wright /  Y  N  O  A Mason /  Y  N  O  A Aulbach /  Y  N  O  A Christopher /  Y  N  O  A

II. The entire development shall have a cohesive landscape plan which shall be approved by staff.

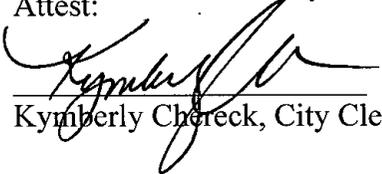
JJ. The applicant shall receive an easement from the City in order to allow applicant's storm water system outfall line to discharge within City property in the area identified for such purpose in the LAI plan dated 3-25-15.

Effective this 21st day of April, 2015.

So signed and Witnessed

Approved :

this 21<sup>st</sup> day of April, 2015  
Attest:

  
Kymberly Chereck, City Clerk

  
Mike Mason, Mayor



VOTE:  Y  N  A Sadd /  Y  N  A Lowe /  Y  N  A Wright /  Y  N  A Mason /  Y  N  A Aulbach /  Y  N  A Christopher /  Y  N  A

**ORIGINAL**

FILED IN CLERK'S OFFICE  
U.S.D.C. - ATLANTA

JAN 05 2001

LUTHER D. THOMAS, Clerk  
By: *[Signature]* Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ROBERTS PROPERTIES PEACHTREE :  
PARKWAY, L.P., :

Plaintiff, :

CIVIL ACTION NO. :

vs. :

1:99-CV-0764-CC

GWINNETT COUNTY, GEORGIA, and :  
WAYNE HILL, TOMMY HUGHES, PATTI :  
MUISE, JUDY WATERS, and KEVIN :  
KENNERLY, in their official capacity as :  
members of the GWINNETT COUNTY :  
BOARD OF COMMISSIONERS, :

Defendants. :

**ORDER**

Pending before the Court is Defendants' Motion for Summary Judgment [41-1].<sup>1</sup>

**I. BACKGROUND**

In July of 1998, Plaintiff Roberts Properties Peachtree Parkway, L.P. ("Plaintiff") submitted to Gwinnett County, Georgia an application to rezone 25.802 acres of real property it owns at the intersection of Peachtree Parkway and Peachtree Corners Circle in Gwinnett County (the "subject property") from office-institutional (OI) and office-business park (OBP) use to multi-family residential (RM) use.<sup>2</sup> After conducting a public hearing with respect to

<sup>1</sup> Plaintiff's Motion for Permission to File Sur-Reply Brief in Opposition to Defendants' Motion for Summary Judgment [51-1] is GRANTED.

<sup>2</sup> Several years prior to Plaintiff's purchase of the subject property, a portion of the property had been zoned RM. However, in 1986, the parcel was rezoned to OI, and later a portion of the parcel was rezoned as OBP. The property immediately adjacent to the subject property is zoned RM.

Plaintiff's request, on February 23, 1999, the individually-named defendants, members of the Gwinnett County Board of Commissioners, voted unanimously to deny Plaintiff's application to rezone the subject property.<sup>3</sup>

On March 25, 1999, Plaintiff filed the instant action for equitable relief and damages in this Court, alleging that Defendants' decision to deny its rezoning application violated the Fair Housing Act ("FHA"), 42 U.S.C. § 3601 *et seq.*, the Civil Rights Act, 42 U.S.C. § 1983, and Plaintiff's equal protection and due process rights under the Fourteenth Amendment to the United States Constitution. More specifically, Plaintiff contends that Defendants have adopted a policy and practice of excluding multi-family housing from certain areas in Gwinnett County in order to preserve districts that are comprised either exclusively or predominately of single-family homes. Plaintiff asserts that because a disproportionate number of racial minorities, particularly African-Americans and Hispanic Americans, live in multi-family housing, Defendants' exclusionary policy discriminates against persons on the basis of race, color, national origin, and family status.<sup>4</sup>

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<sup>3</sup> Both the Gwinnett County Planning and Development Department and the Gwinnett Planning Commission recommended denial of the application.

<sup>4</sup> On the same day that it instituted its action in this Court, Plaintiff also filed a complaint and petition for injunctive relief in the Superior Court of Gwinnett County, Georgia against the same defendants (the "State Court action"). In its State Court action, Plaintiff alleges that the denial of its rezoning application violates its rights to equal protection and due process under the Georgia Constitution and constitutes an impermissible taking of its property without just compensation. Plaintiff also alleges that Defendants violated the Georgia Quality Basic Education Act, O.C.G.A. §§ 20-2-130 to 20-2-322.1. The State Court action has been stayed pending a ruling by this Court on the pending motion for summary judgment.

## II. DISCUSSION

### A. Suit Against the Individually-Named Defendants in Their Official Capacities

As an initial matter, the Court agrees with the reasoning set forth by the district court in Housing Investors, Inc. v. City of Clanton, Ala., 68 F.Supp.2d 1287, 1296 (M.D.Ala. 1999), and concludes that suing the individually-named members of the Gwinnett County Board of Commissioners in their official capacities in this FHA and federal civil rights action is the same as suing Gwinnett County itself. *See also* Kentucky v. Graham, 473 U.S. 159, 165-66, 105 S.Ct. 3099, 3105, 87 L.Ed.2d 114 (1985). Because Gwinnett County is also named as a defendant, the individually-named defendants are unnecessary parties, and as such, they are HEREBY DISMISSED from this action.<sup>5</sup>

### B. Summary Judgment Standard

Summary judgment is proper only when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P 56(c). The movant carries the initial burden of showing the court that there is “an absence of evidence to support the nonmoving party’s case.” Celotex Corp. v. Catrett, 477 U.S. 317, 325, 106 S.Ct. 2548, 2554, 91 L.Ed.2d 265 (1986). “Only when that burden has been met does the burden shift to the non-moving party to demonstrate that there is

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<sup>5</sup> The Court notes here that in Housing Investors, Inc., the district court found that dismissal of the members of the City Council and Planning Commission (who, like the defendants in the instant case, were also named only in their official capacities) was also warranted because these defendants were entitled to legislative immunity with respect to their votes to reject a proposed housing project. 68 F.Supp.2d at 1296.

indeed a material issue of fact that precludes summary judgment.” Clark v. Coats & Clark, Inc., 929 F.2d 604, 608 (11<sup>th</sup> Cir. 1991). The non-movant is then required “to go beyond the pleadings” and present competent evidence in the form of affidavits, depositions, admissions and the like, designating “specific facts showing that there is a genuine issue for trial.” Celotex, 477 U.S. at 324, 106 S.Ct. at 2553.

In ruling on a motion for summary judgment, the Court must view all the evidence and factual inferences reasonably drawn from the evidence in the light most favorable to the nonmoving party. St. Charles Foods, Inc. v. American’s Favorite Chicken Co., 198 F.3d 815, 819 (11<sup>th</sup> Cir. 1999) (citations omitted); Samples v. City of Atlanta, 846 F.2d 1328, 1330 (11<sup>th</sup> Cir. 1988).

C. FHA Claim

The FHA makes it unlawful to “make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.” 42 U.S.C. § 3604(a). Both sides agree that the FHA applies to zoning decisions made by governmental entities. Defendants assert that discrimination claims under the FHA are analyzed under the burden-shifting framework set forth by the Supreme Court in McDonnell Douglas Corp. v Green, 411 U.S. 792, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973). While Plaintiff acknowledges that this framework applies in cases where the plaintiff is attempting to prove discriminatory treatment through circumstantial evidence, Plaintiff contends that it has presented direct evidence of discrimination, and that therefore the McDonnell Douglas framework does not govern this case. This Court agrees.

Direct evidence is “evidence, which if believed, proves existence of [the] fact in issue

without inference or presumption.” Merritt v. Dillard Paper Co., 120 F.3d 1181, 1189 (11<sup>th</sup> Cir. 1997) (citation omitted).<sup>6</sup> According to Plaintiff’s representative, Charles Roberts (“Roberts”), Patti Muise (“Muise”), the Commissioner in whose district the subject property is located, told Roberts that the homeowners in her district did not want apartments because they didn’t want any more Hispanics or Blacks or transient poor kids in the school, and that she was going to deny Plaintiff’s application to rezone the property because the people who elected her wanted it denied. The Chairman of the Board of Commissioners, Wayne Hill, also told Roberts that Muise’s constituents didn’t want any more of “those kinds of people” or any more apartments, and that the commission members were going to support and take care of Muise because she was one of their own.<sup>7</sup> Deposition of Charles Roberts, pp. 34-42. In addition, Commissioner Kevin Kennerly told Plaintiff’s Senior Vice President, Brian Sullivan (“Sullivan”), that the commissioners were going to vote along with Muise because of the pressure she was getting from her constituents.<sup>8</sup> Deposition of Brian Sullivan, pp. 56-58. While the Commission members contend that they themselves did not have improper motives with respect to their

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<sup>6</sup> In Wright v. Southland Corp., 187 F.3d 1287, 1293 (11<sup>th</sup> Cir. 1999), Judge Tjoflat, in an opinion in which the other judges on the panel concurred only in the result, defined direct evidence as “evidence from which a reasonable trier of fact could find, more probably than not, a causal link between an adverse [ ] action and a protected personal characteristic.”

<sup>7</sup> Roberts also testified that at the various meetings Plaintiff had with the homeowners in the district, many of the homeowners said that they did not want Blacks, Hispanics, or lower income people in their community or in the school system. Roberts Dep., p. 34.

<sup>8</sup> Contrary to Defendants’ position otherwise, the Court does not find that the statements made by members of the Board of Commissioners to Plaintiff’s representatives constitute hearsay. *See* Fed. R. Evid. 801(d)(2).

decision to deny Plaintiff's rezoning application, citizen comments may demonstrate bias on behalf of public officials "if the circumstances surrounding those statements strongly suggest that the public officials either adopted the citizens' biases or acted directly in response to the citizens' discriminatory desires." Jim Sowell Const. Co., Inc. v. City of Coppell, 61 F.Supp.2d 542, 551 (N.D.Tex. 1999). In the present case, Plaintiff has presented evidence that strongly suggests that the Commission members acted directly in response to the homeowner's discriminatory desires by voting to deny Plaintiff's rezoning application. Because the Court concludes that Plaintiff has presented direct evidence of discrimination, summary judgment is not appropriate (*see, e.g., Carter v. Three Springs Residential Treatment*, 132 F.3d 635, 641 (11<sup>th</sup> Cir. 1998)), and Defendants' motion for summary judgment with respect to Plaintiff's FHA claim must be denied.<sup>9</sup>

The Court also notes here that a genuine issue of material fact exists with respect to whether Plaintiff's rezoning application complied with the goals and objectives of Gwinnett County's 2020 Comprehensive Land Use Plan (the "Comprehensive Plan" or the "Plan"). Defendants have presented testimony that the proposed apartment complex would not be consistent with the Comprehensive Plan because the Plan designates a portion of the site at the Peachtree Corners Circle/Peachtree Parkway intersection as suitable for office/professional uses

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<sup>9</sup> Simply because Plaintiff's apartments may be directed at executives and middle management rather than the "stereotypical apartment renter," does not mean that classes protected by the FHA have not been affected by Defendants' decision to deny Plaintiff's rezoning application. Indeed, Plaintiff's evidence demonstrates that in the five apartment developments owned and operated by Plaintiff's affiliated companies in Gwinnett County, the aggregate percentage of minority residents at these developments is approximately thirty percent, as compared to a ten percent minority population in Gwinnett County as a whole. *See* Deposition of Charles Elliott, Ex. 30; Deposition of Michael Williams, Ex. 9, p. 4.

and recommends that the balance of the land be used for office/distribution/technology uses. On the other hand, Plaintiff has presented the testimony of several expert witnesses who state that Plaintiff's proposal to build apartments is in accord with the Comprehensive Plan because it would provide the missing multi-family component in an area designated as a mixed-use activity center by the Plan.

D. Equal Protection Claim

In order to establish its equal protection claim, Plaintiff must show: (1) that it was treated differently than similarly situated persons; and (2) that Defendants denied Plaintiff's rezoning application for a discriminatory purpose. GJR Investments, Inc. v. County of Escambia, Fla., 132 F.3d 1359, 1367 (11<sup>th</sup> Cir. 1998); Strickland v. Alderman, 74 F.3d 260, 264 (11<sup>th</sup> Cir. 1996).<sup>10</sup> Because Plaintiff has failed to show that it has been treated differently than similarly situated persons, its equal protection claim must fail. Plaintiff has adduced no evidence that any other landowner applied to rezone property from office-institutional and office-business park use to multi-family residential use in the relevant geographical area and obtained such rezoning. In fact, Plaintiff admits and argues that in the Simpson Elementary School attendance zone, which it believes to be the appropriate geographical area for comparison, Defendants have never approved a request to rezone property for apartment

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<sup>10</sup> The case of Bannum, Inc. v. City of Fort Lauderdale, Florida, 157 F.3d 819 (11<sup>th</sup> Cir. 1998), cited by Defendants in support of their motion for summary judgment with respect to Plaintiff's equal protection claim, is inapplicable to the present case insofar as this action does not involve a challenge to a statute or ordinance that is discriminatory on its face. As such, the Court does not apply a rational basis test to Plaintiff's equal protection (or due process) claims.

development. As Plaintiff has failed to show differential treatment,<sup>11</sup> summary judgment with respect to Plaintiff's equal protection claim is appropriate.

E. Substantive Due Process Claim

Plaintiff's substantive due process claim is premised upon its allegation that Defendants' policy and practice of excluding multi-family housing from certain areas in Gwinnett County and their decision to deny Plaintiff's rezoning application are arbitrary and capricious, and lack any rational basis. Assuming that Plaintiff has a vested property right in its proposed multi-family development project (*see Villas of Lake Jackson, Ltd. v. Leon County*, 121 F.3d 610 (11<sup>th</sup> Cir. 1997)),<sup>12</sup> and that Defendants' decision to deny Plaintiff's application to rezone the subject property was a legislative act, in light of the direct evidence of discrimination proffered by Plaintiff as discussed in Section C above, the Court finds that genuine issues of material fact exist with respect to whether Defendants' decision to deny Plaintiff's application was arbitrary and capricious. Accordingly, Defendants' motion for summary judgment with respect to Plaintiff's due process claim is denied.

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<sup>11</sup> According to Plaintiff, in Gwinnett County Commission District 2, the district where both the subject property and the Simpson Elementary School attendance zone are located, a majority of the multi-family rezoning requests have been approved. However, insofar as Plaintiff argues that the Simpson Elementary School attendance zone, rather than District 2 as a whole, is the relevant geographical area for consideration before the Court, Plaintiff has failed to establish its equal protection claim because it has not shown any differential treatment between it and any other persons who have applied for multi-family rezoning within the Simpson Elementary School attendance zone.

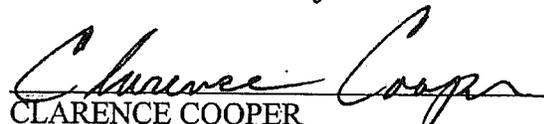
<sup>12</sup> Neither side has argued the issue of whether Plaintiff has a vested property right in its proposed development project.

III. CONCLUSION

For the above-stated reasons, Defendants' Motion for Summary Judgment [41-1] is GRANTED in part, DENIED in part. The motion is GRANTED with respect to Plaintiff's equal protection claim. The motion is DENIED with respect to Plaintiff's claim under the Fair Housing Act and with respect to Plaintiff's substantive due process claim.

The individually-named members of the Gwinnett County Board of Commissioners, Wayne Hill, Tommy Hughes, Patti Muise, Judy Waters, and Kevin Kennerly, are HEREBY DISMISSED as defendants in this lawsuit.

It is SO ORDERED this 5<sup>th</sup> day of January, 2001.

  
CLARENCE COOPER  
UNITED STATES DISTRICT JUDGE

OCT 22 2001

LUTHER D. THOMAS, Clerk  
By: *Patsy R. Springs*  
Deputy Clerk

*Orig*

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

ROBERTS PROPERTIES PEACHTREE  
PARKWAY, L.P.,

Plaintiff,

v.

GWINNETT COUNTY, GEORGIA,

Defendant.

CIVIL ACTION FILE

NO. 1 99-CV-0764-CC

**CONSENT ORDER**

This cause having been scheduled for trial on October 22, 2001 at 9:30 A.M. and the parties, upon call of the case, having announced that they have settled, compromised and agreed to all matters in controversy between them pertaining to the pending action and the Court being fully advised as to the terms of the agreement,

The Court hereby finds as follows:

- (1) That the Plaintiff owns approximately 25.802 acres of real property located at the intersection of Peachtree Parkway (Georgia Highway 141) and Peachtree Corners Circle in Gwinnett County (hereinafter the "Subject Property"), which property is more particularly described in Exhibit A to Plaintiff's Complaint seeking equitable relief and damages.
- (2) That the Defendant is a political subdivision of the State of Georgia and that Defendant denied Plaintiff's application to rezone the Subject Property to permit a portion of the Subject Property to be developed for multi-family housing.

(3) That, on or about March 25, 1999, Plaintiff commenced this action by filing Plaintiff's Complaint seeking equitable relief and damages, alleging in part that the Defendant's denial of its rezoning application violated the Fair Housing Act, 42 U.S.C.A. § 3601 et. seq.

IT IS HEREBY ORDERED, ADJUDGED AND ADJUDICATED as follows:

- (1) Defendant shall forthwith and in any event within fourteen (14) days of entry hereof, amend the Gwinnett County Zoning Resolution so as to designate an RM-13 zoning classification on approximately 18.3 acres of the Subject Property (included in the pending lawsuit and as shown on the attached site plan dated January 28, 1999 which is incorporated herein as Enclosure 1) for the purpose of allowing a gated apartment project on the Subject Property at a density of 13 units per acre, or a total of 237 apartment units.
- (2) The parties have acknowledged, and the Court hereby affirms, that approximately 7.5 acres of the Subject Property (included in the pending lawsuit and as shown on the attached site plan) are properly zoned O-I for office development and may be developed for any use allowed under the O-I classification at a height not to exceed four floors and at a density not to exceed 100,000 square feet.
- (3) The parties have agreed, and the Court hereby affirms, that the zoning of the Subject Property shall be subject to the conditions set forth on Enclosure 2 attached hereto and incorporated herein.
- (4) Defendants shall pay to Plaintiff the sum of \$390,000 within a reasonable time following the entry of this Consent Order, but in no event later than forty-five (45) days from the date of such entry. The parties agree that this sum represents payment of legal

costs, including expert fees and attorneys' fees, and does not constitute payment of damages of any kind.

(5) The parties have agreed, and the Court hereby affirms, that the construction of the proposed development on the Subject Property shall conform in all respects to the development regulations of Defendant, except as provided for in this Order. Defendant shall process all requests for permits and approvals by Plaintiff pertaining to the Subject Property in the same timely manner and subject to the same reasonable standards that it imposes upon any other developer of similar property.

(6) The entry of this Order is solely for the purpose of terminating the litigation between the parties and that, by its consent of this Order, Defendant does not admit and specifically denies any violation of the Federal Fair Housing Act or any state or federal constitutional provision, or any other state or federal law.

(7) The parties hereby each to the other waive and release all claims for indemnification, damages, attorneys fees or costs which may or could be levied by them against the other party relating to claims asserted in Plaintiff's Complaint or in the related state court proceeding, except as specifically provided for in this Order.

(8) The Court shall retain jurisdiction of this cause for the purpose of enforcing the provisions of this Decree.

(9) This is a Consent Decree entered pursuant to the remedial powers of the Federal Court, and the parties hereto waive the right to appeal the entry of this Decree.

(10) The Settlement Agreement dated October 20, 2001, between the parties is attached hereto as Enclosure 3 and is specifically incorporated into this Order. The parties are hereby ordered to comply in full with the terms of said Settlement Agreement.

(11) That pursuant to the provisions of this Order, this cause be and is hereby dismissed with prejudice and without costs except as provided herein.

IT IS SO ORDERED this 22nd day of October, 2001.

  
CLARENCE COOPER  
UNITED STATES DISTRICT JUDGE

CONSENTED TO BY:

ALSTON & BIRD, LLP

By:   
PETER M. DEGNAN  
Georgia Bar No. 216150  
CHARLES S. CONERLY  
Georgia Bar No. 180720

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1201 West Peachtree Street  
Atlanta, Georgia 30309-3424  
(404) 881-7000 (Phone)  
(404) 881-7777 (Facsimile)

Attorneys for Plaintiff  
Roberts Properties Peachtree Parkway, L.P.

**ENTERED ON DOCKET**

OCT 24 2001

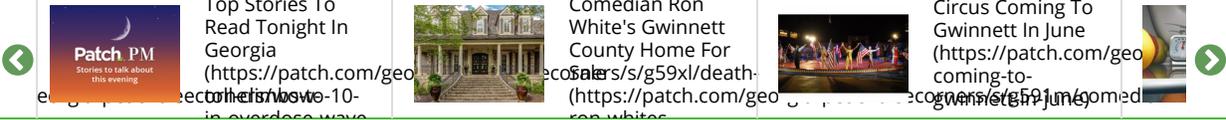
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DEPUTY CLERK

CAROTHERS & MITCHELL, LLC

By:   
RICHARD A. CAROTHERS  
Georgia Bar No. 111075  
THOMAS M. MITCHELL  
Georgia Bar No. 513597

4350 South Lee Street  
Buford, Georgia 30518  
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Attorneys for Defendant  
Gwinnett County, Georgia



Politics & Government (/georgia/peachtreecorners/politics)

# PRESS RELEASE: City of Peachtree Corners Makes Strategic Move Toward Land Acquisition

Mayor and City Council propose pormation of a Downtown Development Authority to purchase and determine future development of a large land tract in heart of the city.

By Judy Putnam (Patch Staff) - (<https://patch.com/users/judy-putnam>) February 19, 2013 2:36 pm ET



# Peachtree

**February 18, Peachtree Corners** – Citing their responsibility to protect the quality of life in Peachtree Corners, Mayor Mike Mason and the City Council have voted unanimously to move forward and purchase a tract of land that has been a point of discussion for many years. The Council had received numerous calls of concern from citizens over a proposed apartment development planned for that site.

The property was recently acquired by Lennar Corporation, a national homebuilder and planned to break ground on a 250+ apartment development on the site in the Spring. Since Peachtree Corners is currently at the 50/50 tipping point of single family vs. multi-family housing, the Council felt it was their duty to keep the City's housing balanced in order to protect property values.

The City is actively negotiating with the seller and hopes to have an agreement within the week. Lennar made their purchase based on the current apartment zoning of RM-13. If the City acquires the property, the zoning will be changed to a C-2 commercial zoning consistent with surrounding properties.

“Since the current zoning was the result of a lawsuit in 2001, there was no legal process to stop apartment development on this property through regulations,” explains Mayor Mike Mason. “We exhausted all other options to prevent apartments before resorting to purchase of the property.

“Our citizens should have input into the land use on that location, not be subject to a judicial ruling that happened in 2001. Our purchase of the land is not a unique action taken by this City. Other cities have acquired properties to support their city vision including Decatur, Dunwoody, Milton, Smyrna, Suwanee, and Woodstock. This land acquisition will not affect our millage rate and will be financed with a 10 year bond.”

Suwanee's former Mayor Nick Masino shares some insight into Suwanee's history; “Big ideas are sometimes hard to fully envision. When we first started on our efforts in Suwanee, it was difficult to appreciate or envision what Suwanee Town Center could eventually become. But now that Town Center is in place, it is now hard to imagine Suwanee without it.”

Mayor Mason further explains, “Apartments certainly have a place within our community and currently we are above the ideal balance of single family to multi-family homes. There is also an overwhelming sentiment from our citizens that this unique tract would be much better suited for a development consistent with existing properties along this important transportation corridor.

“Our only regret is that there was not enough time to hold a referendum. The idea of the City buying the property only occurred to us in mid-January after we had exhausted all other options—persuasion, joint ventures, another buyer—to stop the apartments. Since the County still conducts our elections, we were told that the first feasible date for a referendum would be in the Spring and

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"If we had delayed for much longer, either the cost of the property would have gone up beyond reason or they would have been too far along with their construction process to stop. It became a timing issue that had to be addressed immediately. We couldn't even discuss it in public for legal reasons once we began to talk to Lennar about a purchase. Holding a special called meeting on Monday, a holiday, was simply because we wanted everyone present and there was scheduling difficulties with all of the Councilmen attending our regularly scheduled meeting Tuesday."

In order to acquire the property, the city must form a Downtown Development Authority (DDA). Downtown Development Authorities – currently in use by many cities, including Duluth, Lawrenceville, Norcross and Suwanee – serve as an invaluable tool to develop or revitalize central municipal business districts. Peachtree Corners' Downtown Development Authority will consist of citizen representatives to coordinate the acquisition and ultimate disposition of the property.

There is also a great opportunity for citizen input into what to do with this property through the Comprehensive Land Use Planning process, which is currently underway. The first public hearing on the Comprehensive Plan is Thursday, February 21, at City Hall. Please attend and give us your input into the future of the City.

**Editor's note: Please read the Q&A posted on Patch which provides a good bit of information on the land purchase, how it will be financed, what will be done with the property and more. Click [HERE](#) to be directed to the Q&A.**

For more information, visit [www.peachtreecornersga.org](http://www.peachtreecornersga.org) (<http://www.peachtreecornersga.org>)

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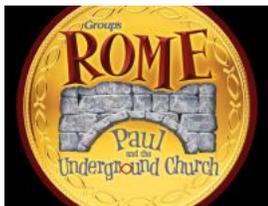
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Jun 10



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bible-school-all-roads-lead-to-rome)

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vacation-bible-school-all-roads-

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Go to the Peachtree Corners calendar > (<https://patch.com/georgia/peachtreecorners/calendar>)

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**CITY OF PEACHTREE CORNERS**  
**COUNCIL MEETING**  
**July 2, 2013, @ 7:00PM**

The Mayor and Council of the City of Peachtree Corners held a Council Meeting at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. The following were in attendance:

Mayor	Mike Mason
Council Member	Phil Sadd – Post 1
Council Member	James Lowe – Post 2
Council Member	Alex Wright – Post 3
Council Member	Jeanne Aulbach – Post 4
Council Member	Lorri Christopher – Post 5
Council Member	Weare Gratwick – Post 6
City Attorney	Don Henderson
City Manager	Julian Jackson
City Clerk	Kym Chereck
Director, Com. Dev.	Diana Wheeler

**PLEDGE OF ALLEGIANCE:** Mayor Mason led the Pledge of Allegiance.

**MAYOR'S OPENING COMMENTS:** Mayor Mason presented the Official City Seal.

**MINUTES:**

**MOTION TO APPROVE THE MINUTES FROM THE JUNE 18, 2013 COUNCIL MEETING.**

**By: Council Member Christopher**

**Seconded by: Council Member Gratwick**

**Vote: (7-0) (Christopher, Gratwick, Mason, Sadd, Wright, Lowe, Aulbach)**

**CONSIDERATION OF THE MEETING AGENDA:**

There was no change in the agenda.

**PUBLIC COMMENT:** Ms. Ali Stinson stated that she is in support of rezoning the property owned by the Downtown Development Authority (located across

from The Forum), but she would like for the City to think carefully and take their time in selecting a developer for the site.

Mr. Bob Martell stated that he would like the City to consider hiring a consultant to help with the development process concerning the property owned by the Downtown Development Authority.

**REPORTS and PRESENTATIONS:** Community Development Director, Diana Wheeler, a provided her report on staff activities that occurred during the period of June 16, 2013 – June 28, 2013. These activities included, among other items, a meeting with Partnership Gwinnett, a Founders Day Stakeholder Committee meeting, Comprehensive Plan draft maps, and responding to phone calls and e-mails from residents, business people and others.

**OLD BUSINESS:**

**O2013-06-16**

Second read and consideration of an Ordinance to amend the City of Peachtree Corners zoning map pursuant to SUP2013-006 – request to allow the addition of check cashing, money orders and similar services at a shell gas station zoned C-2 and located at 6405 Peachtree Industrial Blvd; District 6, Land Lot 275; 1.47 acres.

Mrs. Diana Wheeler, Community Development Director, presented the case to the Mayor and Council and provided background information concerning the applicant's request. The applicant is requesting to provide check cashing services within an existing convenience store. The store is located at the southwest quadrant of the intersection of Peachtree Industrial Boulevard and Jimmy Carter Boulevard. No changes will be made to the building. This item was approved by the Planning Commission on June 11, 2013.

The applicant, Mr. Nadeem Raza, introduced himself to the Council, and stated that he was available for any questions that Council may have.

Mayor Mason opened the floor for public comment. There were no comments.

**MOTION TO APPROVE O2013-06-16.**

**By: Council Member Aulbach**

**Seconded by: Council Member Christopher.**

**Vote: (7-0) (Aulbach, Christopher, Mason, Sadd, Lowe, Wright, Gratwick)**

**O2013-06-17**

Second read and consideration of 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.

Mrs. Wheeler presented the case to the Mayor and Council. The applicant is requesting to rezone a .72-acre portion of property from C-2 (General Business District to M-1 (Light Industrial District). The subject property is located on the eastern side of a larger, 6.78-acre parcel currently zoned M-1. The applicant would like to consolidate the entire site so that the regulations are consistent throughout the property. The purpose of doing that is to better accommodate the construction of an 87,000 square-foot, climate controlled self-service storage facility with associated office space and owner apartment. The proposed building would be constructed with three stories on a basement. The site has been partially cleared and graded in anticipation of development. The subject site is located within the Peachtree Corners Overlay District and is subject to those requirements. Mrs. Wheeler stated that this application was before the Planning Commission on June 11, 2013, and was approved with conditions as outlined in the Council Packet.

Mr. Ben Cowart represented the applicant, D.D.B.C, Inc. Mr. Cowart introduced himself to the Council, and informed them that he had no issue with the Planning Commission's conditions.

Mayor Mason opened the floor for public comment. There were no comments.

A motion was made after discussion concerning, among other things, the hours of operation.

**MOTION TO APPROVE O2013-06-17.**

**By: Council Member Lowe**

**Seconded by: Council Member Sadd**

**Vote: (7-0) Lowe, Sadd, Mason, Wright, Aulbach, Christopher, Gratwick)**

**O2013-06-18**

Second read and consideration of an Ordinance to amend the City of Peachtree Corners zoning map pursuant to RZ2013-003 – request to rezone property from RM and RM-13 to M-U-D in order to accommodate a mixed-use development on property located in the 5200 block of Peachtree Parkway; District 6; Land Lot 301.

Mrs. Wheeler presented the case to the Mayor and Council. The applicant, the City's Downtown Development Authority (DDA), is requesting to rezone from RM and RM-13 (multi-family) to M-U-D (mixed use development). A request for a proposal for this site has been issued by the DDA and is expected to be approved this summer. Mrs. Wheeler gave a brief history of the site. Currently, the only type of development that the existing zoning allows on the property is for apartments. Since every effort has been made to avoid apartment development on this site, it would be counterproductive to sell the property with the existing zoning attached to it. Therefore, the request is to rezone the property from multi-family to mixed use development. The recommendation from Staff is to rezone the property with the condition that the concept plans and the associated regulations for the development of the property come back before the Planning Commission and the City Council for full review and approval.

Mayor Mason opened the floor for public comment. There were no comments.

**MOTION TO APPROVE O2013-06-18.**

**By: Council Member Christopher**

**Seconded by: Council Member Aulbach**

**Vote: (7-0) Christopher, Aulbach, Mason, Sadd, Lowe, Wright, Gratwick)**

**NEW BUSINESS:**

**PUBLIC HEARING**

Presentation of the 2013 Millage Rate

Mr. Julian Jackson, City Manager, informed the Mayor and Council that the proposed millage rate will be zero.

Mayor Mason opened the floor for public comment. There were no comments.

**ACTION ITEM**

Approval of the 2013 Millage Rate

**MOTION TO APPROVE THE 2013 MILLAGE RATE.**

**By: Council Member Gratwick**

**Seconded by: Council Member Sadd**

**Vote: (7-0) (Gratwick, Sadd, Mason, Lowe, Wright, Aulbach, Christopher)**

**R2013-07-14**

A Resolution adopting the 2013-2014 budget for the City of Peachtree Corners, Georgia; appropriating amounts as shown in each budget as expenditures; adopting the revenue projections; and prohibiting expenditures to exceed appropriations.

**MOTION TO APPROVE R2013-07-14.**

**By: Council Member Lowe**

**Seconded by: Council Member Christopher**

**Vote: (7-0) (Lowe, Christopher, Mason, Sadd, Wright, Aulbach, Gratwick)**

**ACTION ITEM**

Residential Sanitation Services – RFP Discussion/Approval of Vendor and Services.

**MOTION TO AUTHORIZE THE MAYOR TO ENTER INTO NEGOTIATIONS WITH WASTE PRO FOR RESIDENTIAL SANITATION SERVICES.**

**By: Council Member Aulbach**

**Seconded by: Council Member Christopher**

**Vote: (7-0) (Aulbach, Christopher, Mason, Sadd, Lowe, Wright, Gratwick)**

**EXECUTIVE SESSION:** There was no Executive Session.

**ADJOURNMENT:**

**MOTION TO ADJOURN AT 7:35 PM.**

**By: Council Member Gratwick**

**Seconded by: Council Member Sadd**

**Vote: (7-0) (Gratwick, Sadd, Mason, Lowe, Wright, Aulbach, Christopher)**

Approved,



Mike Mason, Mayor

Attest:



Kimberly Chereck, City Clerk



July 2017

### *From the Mayor's Desk*

## Construction Begins on New Town Center

On June 30, the eve of the city's 5<sup>th</sup> anniversary, we celebrated the groundbreaking of our new town center which will also serve as Peachtree Corners' downtown. On that rainy Friday afternoon last month we also celebrated the tangible beginnings of the community's vision for a city center that will serve as a gathering place for our citizens.



When the town center is complete next fall, it will feature entertainment venues, restaurants, shops, office space, townhomes – and a town green designed to be the heart of a community gathering area. The town green will also be the site of a veterans' monument which will honor our men and women who served or are serving our country.

Cinebistro, an upscale dinner and movie theater, is the anchor tenant for the mixed-use development. Also planned is a restaurant that offers roof-top dining overlooking the town green. Among the restaurants are Marlow's Tavern, Firebirds Wood Fired Grill, Farm Burger, Vintage Pizzeria, Thai Express, Salata Salad Bar, Jim 'N' Nick's Bar-B-Q and Willy's Mexicana Grill.



The town green will undoubtedly be one of the most popular spots. This 2+ acre area is located in the heart of the town center and is designed for the community to enjoy the outdoors. The area includes an open air pavilion, an amphitheater, fire pit, open lawn, café tables and a community garden. Also planned for the area is an interactive water feature, playable art, projection screen and stage.

And over 70 upscale townhomes, some overlooking the town green, will be constructed by Marietta-based InLine Communities. The residences will be two and three story units with

parking garages. The price point has not yet been determined but will likely be in the \$400,000 to \$500,000 range.

As a new city we took a big leap of faith buying the prime piece of real estate within our first year after incorporation. But we knew there was a better use for the 21-acre tract of land than the 270 garden-style apartments that was planned for the property. The next step was to determine what to put there. We conducted a Livable Cities Initiative (LCI) study that involved a number of public hearings at which we received feedback from citizens on how they would like to see the property developed.

The overwhelming response from our citizens was the need for creating a city center – a gathering place for the community. That feedback shaped our thinking and we then began working on a design to shape it into a place to make memories.

Peachtree Corners had been incorporated only six months when the city council made the unanimous decision to step in and purchase the property. The new city council showed real courage and confidence when it agreed to take on the risk of buying the land.

But first our new city had to establish a Downtown Development Authority (DDA) to purchase the land and acquire financing and find a development partner. The DDA was formed, headed by Dan Graveline. Then the DDA moved forward and purchased the land in 2013 from property owner Lennar for \$11.5 million. The next step was to issue RFPs to find a developer. Three responded and Fuqua Development, an Atlanta-based developer was chosen.

When the city closed on the property, it paid off the \$11.5 million loan. That means the city will have no debt on the town center, a rarity indeed for any city – and almost unprecedented for a city that is only 5 years old. For you, it means you will continue living in a municipality with no property tax, another rarity as only a few cities in Georgia can claim a zero millage tax rate.

We are indeed proud of this achievement, it took extraordinary vision from the council and staff and persistence in overcoming a myriad of obstacles. We will all watch the progress over the next 18 months as our new town center unfolds. When it's complete in the fall of 2017 and look forward to a grand ribbon-cutting celebration.

***Mike Mason, Mayor***

Construction timeline:

Complete Parking Deck Pad: 9/21/17

Complete Parking Deck Aggregate Piers: 10/21/17

Complete Residential Pad: 10/21/17

Complete Pads for Buildings 4, 5, 6: 11/20/17

Complete Parking Deck Concrete Foundations at Buildings 1, 2, 3: 1/22/18

Complete all Parking Deck Foundations: 1/30/18

Complete Parking Deck Precast Concrete: 3/31/18  
Complete Parking Deck Detention Vault: 4/14/18  
Substantial Completion of Parking Deck: 7/14/18  
Complete Outparcel 1 & 2 Pad: 5/14/18  
Complete Asphalt First Lift: 5/29/18  
Complete Traffic Signal: 5/29/18  
Final Completion of Parking Deck: 8/29/18  
Complete City Park Pad: 6/15/18  
Complete Asphalt Second Lift: 6/30/18  
Substantial Completion of Site Work: 8/31/18  
Final Completion of Site Work: 9/29/18

ATLANTA OFFICE

Economic Indicators

	Q2 16	Q2 17	12-Month Forecast
Atlanta Employment	2.6 mil	2.7 mil	▲
Atlanta Unemployment	5.1%	4.8%	▼
U.S. Unemployment	4.9%	4.4%	▼

Market Indicators (Overall, All Classes)

	Q2 16	Q2 17	12-Month Forecast
Vacancy	16.0%	16.7%	▼
Net Absorption (sf)	274k	405k	▲
Under Construction (sf)	3.1 mil	3.2 mil	▼
Average Asking Rent*	\$23.07	\$24.10	▲

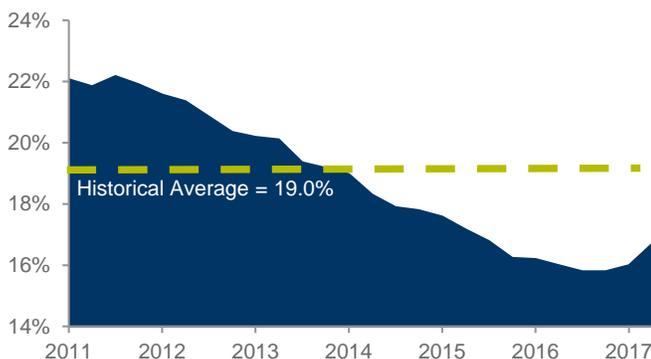
\*Rental rates reflect gross asking \$psf/year

Overall Net Absorption/Overall Asking Rent

4-QTR TRAILING AVERAGE



Overall Vacancy



Economy

The Atlanta economy continued the momentum of healthy job growth. Metro Atlanta has added 82,400 non-farm jobs since the second quarter of 2016. The unemployment rate dropped 30 basis points to 4.8 percent from 5.1 percent a year ago. Employment in the office-using sectors grew 5.1% year-over-year and continues to boost demand for office space throughout metro Atlanta.

Market Overview

The Atlanta office market experienced continued positive momentum to start the first half of 2017. Overall average asking rental rates continue to reach new heights. During the second quarter of 2017, overall average rates climbed to a new record of \$24.10 per square foot (psf), an increase of \$0.59 psf from last quarter's record of \$23.51 psf. Buckhead leads all submarkets with the highest Class A rate of \$34.63 psf, the first time in Atlanta's history that class A rates have eclipsed \$34 per square foot.

Because of a large influx of new deliveries, the Atlanta overall vacancy rate in the second quarter of 2017 increased to 16.7 percent from 16.0 percent last quarter. Atlanta added over 1.3 million square feet of deliveries this quarter, which is the largest amount of deliveries since the first quarter of 2010. The Buckhead submarket experienced the most amount of completions with 731,579 square feet of deliveries. The completion of the 506,000-square-foot Three Alliance development made up most of the new inventory in Buckhead this quarter. 8000 Avalon also delivered 228,000 square feet of new inventory to the GA 400 submarket. Another significant completion was the delivery of Riverwood 200 in the Northwest submarket, which added another 300,000 square feet of new space. Overall net absorption for Atlanta rebounded in the second quarter of this year with 405,038 square feet of occupancy gains from negative overall absorption last quarter. The Northwest submarket led the pack with 210,124 square feet of absorption, followed by Midtown with 153,167 square feet of net occupancy gains.

Leasing activity continued its momentum with over 1.3 million square feet of leases signed in the second quarter of 2017. The Central Perimeter submarket dominated leasing activity this quarter with 311,304 square feet of leases signed, followed by the Buckhead submarket with 194,242 square feet of leases signed.

Even after the delivery of over 1.3 million square feet of space, under construction activity in Atlanta remains relatively strong. 3.2 million square feet of office product is underway. Coda Tech Square in Midtown is the largest speculative office project under construction at 760,000 square feet, followed by NCR's 485,000 square-foot-build-to-suit, which is expected to be completed early 2018.

**OVERALL AVERAGE ASKING RENTAL RATES REACHED A NEW RECORD IN THE SECOND QUARTER OF 2017 AT \$24.10 PER SQUARE FOOT**

**Outlook**

Big block space in the Atlanta office market during 2016 was relatively scarce. In 2017, the market has started to experience some relief as over 1.3 million square feet of new inventory was added. We expect the Atlanta market to continue to relieve the tightening of space with the delivery of 2.5 million square feet of speculative product over the next two years. These developments include the 430,000-square-foot 725 Ponce project, and the 355,000-square-foot Perimeter Summit development. The new deliveries will give Atlanta more options, but we expect pre-leasing activity to increase as the developments progress.

**Office Highlights**

- Overall average asking rental rates continue to reach new heights. During the second quarter of 2017, overall average rates climbed to a new record of \$24.10 per square foot.
- Buckhead led all submarkets with the highest class A rate of \$34.63 psf. This marks the first time in Atlanta's history that class A rates have eclipsed the \$34 per square foot threshold.
- Atlanta added over 1.3 million square feet of deliveries this quarter, which is the largest amount of deliveries since the first quarter of 2010.
- Overall net absorption for Atlanta rebounded in the second quarter of this year with 405,038 square feet of occupancy gains.

**New Supply**

NEW SUPPLY IN 2017 HAS ALREADY SURPASSED THE HISTORIC AVERAGE



**Atlanta Investment Sales**



**CLASS A Asking Rent Trend**

CBD AVERAGE ASKING RATES CONTINUE TO CLIMB



# MARKETBEAT

## Atlanta

Office Q2 2017



SUBMARKET	INVENTORY (SF)	OVERALL VACANCY RATE	DIRECT VACANCY RATE	LEASING ACTIVITY (SF)	UNDER CONSTRUCTION (SF)	DIRECT NET ABSORPTION (SF)	OVERALL NET ABSORPTION (SF)	OVERALL AVERAGE ASKING RENT (ALL CLASSES)*	DIRECT AVERAGE ASKING RENT (CLASS A)*
Downtown	15,119,952	21.0%	20.1%	115,421	124,000	(8,315)	9,803	\$23.54	\$24.24
Midtown	17,556,475	13.2%	12.7%	181,664	1,815,000	173,958	153,167	\$28.83	\$33.83
Buckhead	17,396,401	15.2%	14.3%	194,242	0	127,598	123,152	\$33.82	\$34.63
<b>CBD</b>	<b>50,072,828</b>	<b>16.3%</b>	<b>15.5%</b>	<b>491,327</b>	<b>1,939,000</b>	<b>293,241</b>	<b>286,122</b>	<b>\$28.59</b>	<b>\$30.41</b>
Central Perimeter	22,327,080	14.4%	12.7%	311,304	355,000	(23,180)	50,192	\$25.52	\$28.00
Georgia 400	17,938,981	16.4%	16.3%	181,553	107,643	(36,471)	(44,559)	\$21.75	\$24.37
I-75 Northside Drive	1,624,143	14.1%	12.9%	0	0	0	0	\$28.34	\$31.69
NW/Cumberland/Galleria	18,104,231	19.7%	18.7%	148,752	654,906	181,327	210,124	\$23.54	\$26.43
GA 120/Johnson Ferry Rd	232,533	5.6%	5.6%	0	0	0	0	\$17.21	\$0.00
I-75 North/Marietta	2,891,017	7.2%	5.6%	0	0	(6,526)	(6,526)	\$18.26	\$25.75
<b>Northwest Subtotal</b>	<b>22,851,924</b>	<b>17.6%</b>	<b>16.5%</b>	<b>148,752</b>	<b>654,906</b>	<b>174,801</b>	<b>203,598</b>	<b>\$23.52</b>	<b>\$26.63</b>
I-85/I-285/NE Atlanta	6,724,808	10.6%	10.5%	14,888	0	(33,200)	(34,456)	\$19.18	\$22.66
I-85 NE/Gwinnett Co./I-985	6,696,133	22.3%	22.1%	87,150	0	(51,842)	(58,766)	\$17.91	\$21.19
Peachtree Corners	6,443,933	21.5%	20.6%	24,126	0	(27,662)	(5,281)	\$17.03	\$20.92
<b>Northeast Subtotal</b>	<b>19,864,874</b>	<b>18.1%</b>	<b>17.7%</b>	<b>126,164</b>	<b>0</b>	<b>(112,704)</b>	<b>(98,503)</b>	<b>\$17.82</b>	<b>\$21.22</b>
Decatur	1,321,458	7.8%	7.8%	14,531	0	7,248	7,248	\$20.84	\$29.25
Northlake/Stone Mountain	2,895,281	30.5%	21.5%	12,329	78,000	(14,369)	(4,409)	\$19.77	\$20.50
<b>Northlake/Decatur Subtotal</b>	<b>4,216,739</b>	<b>23.4%</b>	<b>17.2%</b>	<b>26,860</b>	<b>78,000</b>	<b>(7,121)</b>	<b>2,839</b>	<b>\$19.88</b>	<b>\$22.64</b>
I-20 West	470,049	11.6%	11.6%	0	0	0	0	\$8.75	\$0.00
Airport/South Atlanta	3,085,620	16.1%	16.0%	32,929	20,000	8,216	5,349	\$17.90	\$20.95
<b>South Subtotal</b>	<b>3,555,669</b>	<b>15.5%</b>	<b>15.4%</b>	<b>32,929</b>	<b>20,000</b>	<b>8,216</b>	<b>5,349</b>	<b>\$16.99</b>	<b>\$20.95</b>
<b>SUBURBAN</b>	<b>90,755,267</b>	<b>16.9%</b>	<b>15.7%</b>	<b>827,562</b>	<b>1,215,549</b>	<b>3,541</b>	<b>118,916</b>	<b>\$21.79</b>	<b>\$25.52</b>
<b>ATLANTA TOTAL</b>	<b>140,828,095</b>	<b>16.7%</b>	<b>15.7%</b>	<b>1,318,889</b>	<b>3,154,549</b>	<b>296,782</b>	<b>405,038</b>	<b>\$24.10</b>	<b>\$27.70</b>

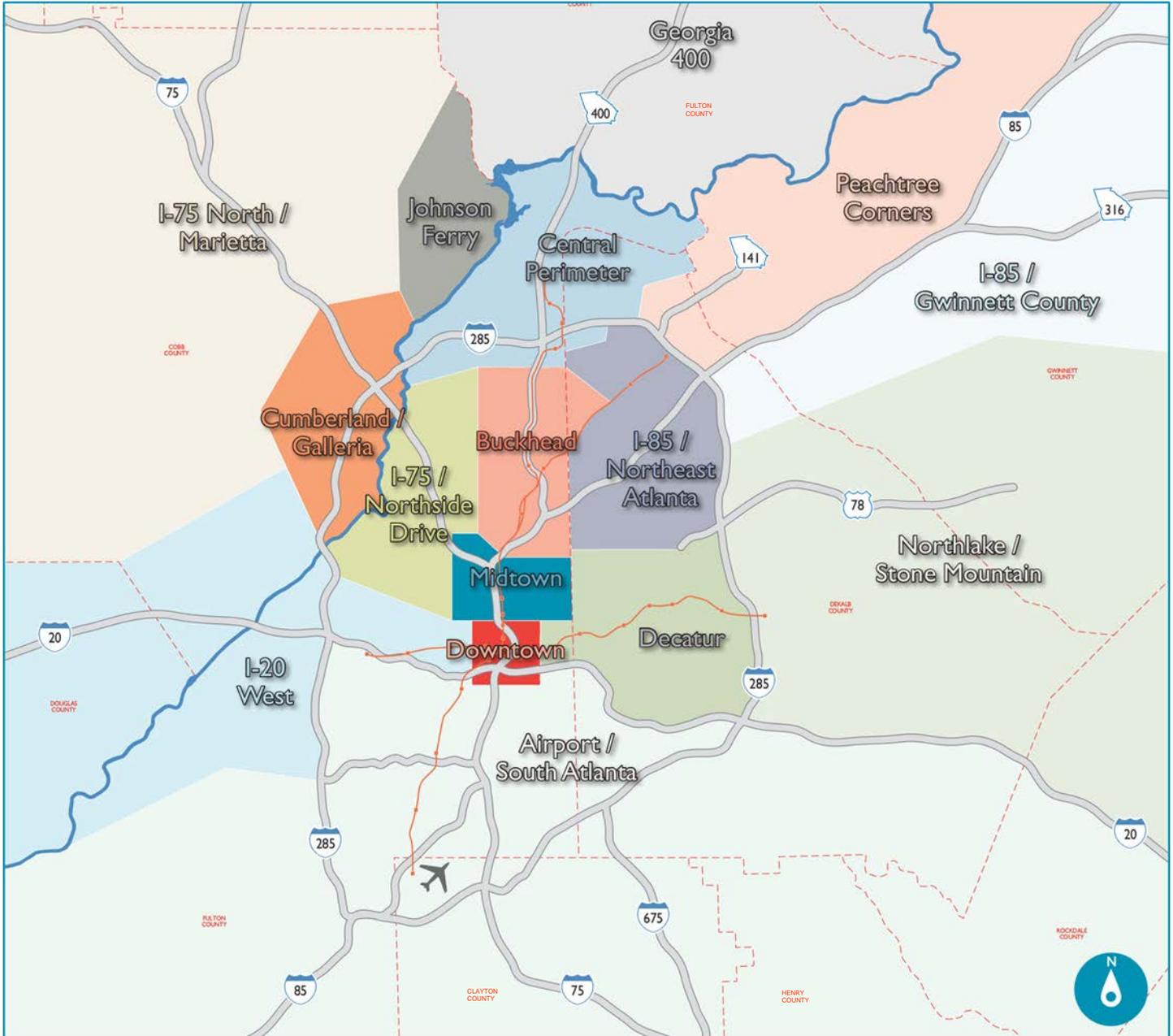
\*Rental rates reflect gross asking \$psf/year

### Key Lease Transactions Q2 2017

PROPERTY	SF	TENANT	TRANSACTION TYPE	SUBMARKET
1600 Terrell Mill Road	138,981	Q Squared Solutions	Lease	NW/Cumberland/Galleria
1000 Abernathy Road	100,000	WestRock Co	Lease	Central Perimeter
211 Perimeter Center Parkway	84,339	Suntrust	Lease	Central Perimeter
1775 West Oak Commons Court	79,854	Mimedx Group, Inc	Lease	I-75 North/Marietta

### Key Sales Transactions Q2 2017

PROPERTY	SF	SELLER/BUYER	PRICE / \$PSF	SUBMARKET
100 Peachtree Street	622,084	Five Mile Capital Partners/Zeller Realty Group	\$79,450,000/ \$127.72	Downtown
271 17th Street NW	541,789	CBRE Global Investors/Lionstone Investments	\$182,000,000/ \$335.92	Midtown
400 Northridge Road	272,914	Los Angeles County Employees/The Dilweg Companies	\$29,421,408/ \$107.80	Central Perimeter
500 Northridge Road	157,207	Los Angeles County Employees/The Dilweg Companies	\$16,728,592/ \$107.80	Central Perimeter



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**AN ORDINANCE TO APPROVE TOWN CENTER DEVELOPMENT DRAWINGS AND PERMITTED RESTAURANTS, AND AMEND SPECIFIC TOWN CENTER REGULATIONS PURSUANT TO SUP2015-003, TOWN CENTER / DDA PROPERTY FOR 20.6 ACRES OF PROPERTY LOCATED IN THE 5200 BLOCK OF PEACHTREE PARKWAY.**

**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 meetings were held by the Mayor and City Council of Peachtree Corners on June 16, 2015 and July 21, 2015;

**NOW THEREFORE,** The Mayor and City Council of the City of Peachtree Corners while in Regular Session on July 21, 2015 hereby ordain and approve Zoning Case SUP2015-003 for the following:

1. Approve the architecture of the commercial and residential buildings.
2. Amend the Town Center Standards, Table 'A' to expand the type of restaurants permitted.
3. Amend the Town Center Standards, Table 'B', to allow Townhouses to be 4 stories with a maximum height of 50 ft. (instead of 3 stories and 40 ft.)
4. Amend the Town Center Standards, Table 'B', to allow the width of Townhouses to be 22 ft. instead of 24 ft.
5. Amend the height standards for retail / office buildings to allow a minimum of 2 stories or 2 stories in appearance.

These approvals shall be subject to the following conditions:

**I. With regard to Building Elevations:**

**A.** Project shall be developed in general conformity with the renderings submitted with the application package for SUP2015-003, and commercial property shall be developed with a similar level of detail as the Forum Shopping Center including the following:

1. Walls visible from streets or walkways shall be at least 3/4 brick or stone (excluding window area).
2. Pitched roofs shall be slate, tile, or dimensional architectural shingle in brown, beige, taupe, or light gray color. (Dark gray, charcoal, and black roof colors are prohibited.)
3. Parapets on free standing buildings shall be placed around the entire perimeter of the roof and shall screen rooftop mechanical equipment.
4. Parapets on end units of multi-tenant buildings shall be placed around the entire perimeter of the end unit roof that is visible to pedestrians.
5. Corners of the retail / office buildings shall incorporate taller elements with pyramidal or conical roofs similar to Barnes and Noble at the Forum.
6. A change in roof style, material, color or roof plane shall occur at least every 40 ft. (for changes in roof plane, a minimum 18" offset shall be provided)

7. Each commercial building shall incorporate at least one room (accessible from the rear) for the collection of trash and storage of dumpsters, compactors, and recycling bins.
  8. Commercial buildings surrounding the parking deck shall be designed to screen the parking deck, cars, and people on the highest level of the deck from ground views.
  9. Plant material shall be incorporated along front and side elevation of buildings, as approved by Staff.
  10. Heavy landscaping shall be placed between commercial buildings and the stream buffer.
  11. Contrasting accent bands on walls, water tables at base of buildings, roof top finials, window box planters, and other decorative elements shall be utilized to enhance the building aesthetic.
  12. Awnings shall be provided throughout the commercial areas to protect pedestrians from inclement weather.
- B. Residential buildings shall be at least 3/4 brick or stone on all sides.
  - C. Residential buildings located on the Town Green shall be designed to face the Town Green and have upper level decks or balconies overlooking the Town Green.
  - D. Each residential building located on the Town Green shall be separated from the Town Green by a landscaped front yard surrounded by a 4 foot wrought iron (or similar) fence with decorative gate.
  - E. Residential buildings shall face (or appear to face) the main roads on which they are located including Medlock Bridge Rd. and the main internal project road.
  - F. Fences in residential areas shall be limited to decorative wrought iron (or similar material) and, if located in the front yard, fences shall not exceed 4 ft. in height.
  - G. No backyard type appliances or storage (i.e. barbeque grills, bicycles, garbage cans, play equipment) shall be located in the front yard or visible from the Town Green.
2. With regard to amending Town Center Standards Table 'A', the list of permitted uses shall be modified as follows:

Within 'Commercial'

Designated Area: Ground Floor: Retail, ~~Chef-driven Restaurants, (Special Use approval required for chain restaurants),~~ Cinema with dining, bakery and confectionary, Music venue, Performing Arts venue, boutique hotel, ~~and C-1 and C-2 permitted uses except as noted in Prohibited Uses,~~ below, and Restaurant uses as follows:

1. Chef-driven dining concepts; local chain restaurants; regional chain restaurants; and national chain restaurants
2. National chain restaurants cannot exceed 50% of the total number of all restaurants



**CITY OF PEACHTREE CORNERS  
COMMUNITY DEVELOPMENT DEPARTMENT**

**SPECIAL USE PERMIT ANALYSIS**

PLANNING COMMISSION DATE: JUNE 9, 2015  
CITY COUNCIL DATE: JULY 21, 2015

CASE NUMBER :**SUP2015-003**  
ZONING :MIXED USE DEVELOPMENT (MUD)  
LOCATION :5100 BLOCK PEACHTREE PARKWAY  
MAP NUMBERS :6<sup>th</sup> DISTRICT, LAND LOT 301, PARCEL 183  
ACREAGE :20.6 ACRES  
REQUEST :APPROVAL OF BUILDING ELEVATIONS AND RESTAURANTS,  
AND CHANGE TO TOWN CENTER STANDARDS  
FUTURE DEVELOPMENT MAP: PREFERRED OFFICE

APPLICANT: HEATHER CORREA ON BEHALF OF FUQUA  
ACQUISITIONS II, LLC

CONTACT: HEATHER CORREA

OWNER: CITY OF PEACHTREE CORNERS DOWNTOWN  
DEVELOPMENT AUTHORITY

**PLANNING COMMISSION  
RECOMMENDATION: DENY (4-1 [Middleton])**

**STAFF RECOMMENDATION: APPROVE WITH CONDITIONS**

**PLANNING COMMISSION ACTION:**

At their June 9<sup>th</sup> meeting, the Planning Commission reviewed the building elevations, restaurant list, and proposed changes to the Town Center regulations that the applicant submitted. During the course of their discussion, the Planning Commission expressed concerns about the changes that had been made to the site plan from the previous version that had been presented to the Commission. Specifically, concern was expressed about placing some of the townhouses and two of the restaurant buildings directly on the town green. It was felt that placing buildings there made the town green seem closed off, separated from the rest of the development and less open and accessible to the public. Although the site plan was not among the items for review, the Planning Commission felt that this item was significant enough to warrant their attention. After discussing the matter, the majority of the Commission felt that the site plan changes were unacceptable and voted to deny the applicant's request. No public comments were received on this item.

**BACKGROUND:**

The subject property, located across Peachtree Parkway from the Forum Shopping Center, was rezoned to Mixed Use Development in July 2, 2013. A master plan with development regulations were adopted for the site on December 16, 2014. The master plan calls for a mixed use project with retail, restaurants, theater, townhomes, deck parking and a town green. In addition, the development standards identify specific uses that would be allowed and the architectural treatment of the buildings to be developed. There is also a requirement that building aesthetics, signage, lighting, and street furniture be approved by the Planning Commission.

#### REQUEST:

The applicant would like approval of the submitted architectural renderings that show the development intent for the proposed commercial and residential buildings. The approval requested would be for the building style, features, materials, and colors. The renderings also suggest what landscaping, lighting, signage, and street furnishings might look like within the project; however, it is early in the design development and exact items to be used have not yet been specified. In addition to aesthetic approval for the buildings, the applicant would like to modify some of the development regulations to better suit the proposed project. These modifications include an increased height for townhomes and a decrease to the number of stories for the retail / office buildings. In addition, the development standards also stipulate that chef-driven restaurants are permitted by right, but chain restaurants must receive special approval. In order to avoid multiple public hearings, the applicant has submitted a list of potential restaurants that, if approved, will be used to solicit prospective tenants to the project.

In summary, the applicant's request is as follows:

1. Approve the architecture (including the materials and colors) of the commercial and residential buildings.
2. Approve the submitted restaurant list
3. Amend the Town Center Standards, Table 'B', to allow Townhouses to be 4 stories with a maximum height of 50 ft. (instead of 3 stories and 40 ft.)
4. Amend the Town Center Standards, Table 'B, to allow the width of Townhouses to be 22 ft. instead of 24 ft.
5. Amend the height standards for retail / office buildings to allow a minimum of 2 stories or 2 stories in appearance.

#### DEPARTMENT ANALYSIS:

The regulations for the Town Center property require the architecture of the commercial buildings to be similar in appearance to the Forum. The purpose of matching this aesthetic is to promote a common visual identity and capitalize on an existing, successful brand. As the Town Center LCI documented, many people already identify the Forum as the commercial focal point of the City. Visually matching the two properties on either side of Peachtree Parkway and then joining them with a bridge will undoubtedly strengthen both projects. The Forum will then provide most of the retail offerings while the Town Center contributes most of the entertainment. One side will enhance the other and, together, they will create an unparalleled destination that will serve both the community and the region.

As mandated, the applicant's drawings reflect the aesthetics of the Forum. Buildings shown are primarily earth-tone stone and brick with stucco bands, delineated water tables, awnings, and decorative lighting. Both pitched roofs with dormers and flat roofs with parapets are shown. The commercial building in front of the parking deck is designed to look like a two-story building in order to screen the deck; however, the applicant intends to build it as a one-story structure. The applicant believes that there is limited demand for second story office space and is concerned that on-going vacancy on the second floor would be detrimental to the project.

The applicant intends to assign the development of the residential portion of the project to John Wieland Homes, a highly-regarded regional homebuilder. The elevations submitted by John Wieland Homes appear compatible with the architecture of the commercial buildings. They include similar materials, roof lines, and design details. Although all the design details have not yet been submitted, the quality of the builder's previous projects ensures that a level of detail comparable to the Forum will be met on the townhome buildings.

The Town Center project will likely include eight or nine restaurants. Ideally, all would be chef-driven, innovative dining concepts. However, in order for multiple restaurants to succeed within a shared venue, there needs to be a wide variety of culinary options. Additionally, there also needs to be a constancy of tenants within that venue. Chain restaurants can bring both variety and stability to the Town Center. While many chain restaurants do not fit the character of the Town Center and are not desirable, having some within the project may be advantageous. They will bring concept recognition, loyal customers, and a history of financial viability to the Town Center project. This will reduce tenant turnover which is high in the untested restaurant business and which would be very disruptive to the Town Center. Limiting chain restaurants to those that are local and regional will ensure variety. Adding a few, quality, high-end, national chain restaurants will provide the stability of well-known, tested brands that have the financial resources to ensure longevity. These restaurants will help draw visitors to a new venue and will, in a sense, serve as the anchor tenants for the Town Center.

**Therefore, after review of the applicant's proposal and other relevant information, it is recommended that SUP2015-003 be approved with the following conditions:**

- I. With regard to Building Elevations:
  - A. Project shall be developed in general conformity with the renderings submitted with the application package for SUP2015-003, and commercial property shall be developed with a similar level of detail as the Forum Shopping Center including the following:
    1. Walls visible from streets or walkways shall be at least 2/3 brick or stone (excluding window area).
    2. Pitched roofs shall be slate, tile, or dimensional architectural shingle in brown, beige, taupe, or light gray color. (Dark gray, charcoal, and black roof colors are prohibited.)
    3. Parapets on free standing buildings shall be placed around the entire perimeter of the roof and shall screen rooftop mechanical equipment.

4. Parapets on end units of multi-tenant buildings shall be placed around the entire perimeter of the end unit roof that is visible to pedestrians.
  5. Corners of the retail / office buildings shall incorporate taller elements with pyramidal or conical roofs similar to Barnes and Noble at the Forum.
  6. A change in roof style, material, color or roof plane shall occur at least every 40 ft. (for changes in roof plane, a minimum 18" offset shall be provided)
  7. Each commercial building shall incorporate at least one room (accessible from the rear) for the collection of trash and storage of dumpsters, compactors, and recycling bins.
  8. Commercial buildings surrounding the parking deck shall be designed to screen the parking deck, cars, and people on the highest level of the deck from ground views.
  9. Plant material shall be incorporated along front and side elevation of buildings, as approved by Staff.
  10. Heavy landscaping shall be placed between commercial buildings and the stream buffer.
  11. Contrasting accent bands on walls, water tables at base of buildings, roof top finials, window box planters, and other decorative elements shall be utilized to enhance the building aesthetic.
  12. Awnings shall be provided throughout the commercial areas to protect pedestrians from inclement weather.
- B. Residential buildings shall be at least 2/3 brick or stone on all sides.
  - C. Residential buildings located on the Town Green shall have upper level decks or balconies overlooking the Town Green.
  - D. Residential buildings shall face (or appear to face) the main roads on which they are located including Medlock Bridge Rd. and the main internal project road.
  - E. Fences in residential areas shall be limited to decorative wrought iron (or similar material) and, if located in the front yard, fences shall not exceed 4 ft. in height.

2. With regard to applicant proposed restaurants:

- A. In addition to chef-driven restaurants, the following local and regional chain restaurants and high-end national chain restaurants shall be permitted:

Brixx Pizza	Soban Korean Southern
Fresh to Order	Heirloom Market BBQ
Chicken Salad Chick	Tin Lizzy
Yeah Burger	Big Ketch
Tin Drum	Marlow's Tavern
Del Frisco	Flip Burger
Figo Pasta	Brio
Mirko Pasta	Dancing Goat
Novo Pizza	

3. With regard to Town Center Standards, 'Table B':

- A. Regulations shall be amended to allow townhomes up to 4 stories with a maximum height of 50 ft.

- B. Regulations shall be amended to allow retail / office buildings to be a minimum of 2 stories or have a 2 story appearance.
  - C. Townhouse width shall be amended to allow 22 ft. units.
4. With regard to remaining Town Center development:
- A. Commercial buildings located on the Town Green (not including the theater) shall be developed as restaurants.
  - B. At a minimum, those restaurants located on the Town Green shall provide roof top dining overlooking the Town Green.
  - C. All food service facilities on the property, including outparcels, shall install odor scrubbers which remove 95% of cooking odors.
  - D. Decorative string lights shall be hung across the main boulevard for the length of that roadway from the commercial buildings closest to the traffic circle to the Town Green.
  - E. Pedestrian walkways and crosswalks shall incorporate decorative paving treatments, as approved by Staff.
  - F. All mechanical equipment shall be screened from view. Screening shall coordinate with building architecture.
  - G. Bike racks, electric vehicle recharge station, and car pool spaces shall be provided.
  - H. Applicant shall submit sign package, lighting standards, street furnishings, landscaping plan, theater building elevations, and outparcel building elevations for review and approval by Planning Commission and City Council.

# LETTER OF INTENT

## Application for Special Use Permit and Changes to Conditions

### Peachtree Corners Mixed Use Project

### Fuqua Development

The purpose of this Letter of Intent is to:

1. Request a Special Use Permit for the inclusion of the restaurants on the attached list to be allowed as tenants in the Project.
2. To request the following modifications to Table “B” of the Town Center Standards:
  - a. Reduce the required number of stories under the Commercial category to one (1) with the requirement that the buildings must appear to have a 2nd story.
  - b. Increase the height in the Townhouse category to 50’
  - c. Increase the number of stories in the Townhouse category to 4.
  - d. Decrease the minimum lot width in the Townhouse category to 22’

### EXPLANATION FOR REQUESTS

#### SPECIAL USE PERMIT

1. **Allow restaurants listed on the attached Exhibit to be tenants in the Project.**
  - a. We understand the intent of the “chef driven” language in Table “A” of the Town Center Standards is to provide a level of quality in the restaurants operating in the Town Center but also add a variety of concepts not readily available in the Peachtree Corners area. There are many exceptional restaurant concepts that are not necessarily “chef driven” that provide a high end quality product in their particular food category and are not represented in the immediate area. These are listed on the attached Exhibit.

#### CHANGE IN CONDITIONS - TABLE “B” OF THE TOWN CENTER STANDARDS

1. **Reduce the number of stories under the Commercial category to one (1).**
  - a. Requiring all retail buildings to include a 2<sup>nd</sup> story office is a hardship due to the following reasons:
    - i. The total amount of office square footage required under the current Town Centers standard is 35,800 SF. Leasing this amount of square footage is not marketable.
    - ii. The lending institutions require a minimum amount of pre-leased space before committing to a construction loan. Since the minimum pre-leasing

requirement of the lender cannot be met in this market, it will either delay the start of the project until the pre-leasing threshold is met or require an undue burden on the financial balance of the project due to the increased amount of equity required.

- iii. There is not enough parking in the surface parking lot immediately behind the 17,400 SF retail building for both retail and office users. Office users will be the first to arrive and will occupy the majority of the parking spaces leaving inadequate parking for the retail and restaurant tenants. Therefore, retail and restaurant tenants will be reluctant to lease space. A requirement in the office leases requiring the office tenants to park in the parking structure will only make it more difficult to lease the office space. If such language were in the office leases, very little could be done in the way of enforcement and the retail and restaurant users know this from previous experiences in situations like this. The result is making the development less attractive to lease space in.

- b. However, we are proposing to provide 10,800 SF of 2<sup>nd</sup> floor office space in the 10,800 SF retail building adjacent to the parking structure.

**2. Increase the number of floors of the Townhomes to four (4).**

- a. The Town Home product will have roof top terraces with an in-law suite. This requires a fourth floor.

**3. Increase the height of the Townhomes to 50'.**

- a. Being a 4 floor product, the ceiling heights of the town homes will be 10', not including the structure between ceiling and floor. Therefore, the additional height is required.

**4. Decrease the minimum lot width of the Townhomes to 22'.**

- a. The 4 story, Town Home product with roof top terraces will have a minimum of 3,200 SF, therefore a minimum width of 24' is not required to produce the quality and price point desired for the Town Center.

Peachtree Corners Town Center and Mixed Use Development  
 – Potential Restaurant Tenants

TENANT	BLDG S.F.
Black Finn	4,500
Blaze Pizza	2,600
Brixx Pizza	3,000
Pie Five Pizza	2,200
Fresh to Order	2,800
Chicken Salad Chick	2,800
Grub Burger Bar	4,000
Burger 21	3,600
Burger Fi	3,000
Yeah Burger	3,400
Menchies	1,700
Miller Ale House	8,500
Firebirds	6,500
La Madeliene	4,000
Outback	5,700
Bonfish	6,000
Tin Drum	2,600
Starbucks	1,900
Freebirds Burritos	2,200
Del Frisco	7,500
First Watch	3,400
Another Broken Egg	3,400
Newk's Café	4,500
Capriotti's	1,800
Figo Pasta	2,500
Mirko Pasta	2,500
Novo Pizza	5,000
Soban Korean Southern	3,000
Heritage BBQ	2,500
Tin Lizzy	3,500
Big Ketch	3,500
Marlow's Tavern	4,500
Flip Burger	4,000
Pure Taqueria	3,500
PeiWei (Fast Casual Asian)	2,800
Dancing Goat	2,400
Brio	5,000
Chuy's	3,800

TENANT	BLDG S.F.	Website	Local Chain	Regional Chain	National Chain	Type of Food	Price (Google)	Order Method	Comments
Black Finn	4,500	<a href="http://blackfinnameripub.com/">http://blackfinnameripub.com/</a>			X	American	\$\$	Table	Restaurant and Bar with Craft Beers and Signature Cocktails
Blaze Pizza	2,600	<a href="http://www.blazepizza.com/">http://www.blazepizza.com/</a>			X	Pizza	\$	Counter	Fast Casual - Crispy pizza with creative toppings & sauces
Brixx Pizza	3,000	<a href="http://brixxpizza.com/">http://brixxpizza.com/</a>		X		Pizza	\$\$	Table	Wood-fired brick oven - Casual Sit down restaurant with craft beer
Pie Five Pizza	2,200	<a href="http://www.piefivepizza.com/">http://www.piefivepizza.com/</a>			X	Pizza	\$	Counter	Fast Casual - Customized pizzas baked in 5 minutes
Fresh to Order	2,800	<a href="http://www.freshtoorder.com/">http://www.freshtoorder.com/</a>		X		American	\$	Counter	Fast Casual with chef-quality meal - "Fine food fast"
Chicken Salad Chick	2,800	<a href="http://www.chickensaladchick.com/">http://www.chickensaladchick.com/</a>		X		Sandwich	\$	Counter	Sandwich, soup, and salads - 15 different chicken salads
Grub Burger Bar	4,000	<a href="http://www.grubburgerbar.com/">http://www.grubburgerbar.com/</a>			X	Burger	\$	Table	Gourmet burgers & non-beef options plus spiked milkshakes & creative cocktails
Burger 21	3,600	<a href="https://www.burger21.com/">https://www.burger21.com/</a>			X	Burger	\$	Counter	Creative Burgers, fries & shakes with a sauce bar
Burger Fi	3,000	<a href="http://burgerfi.com/">http://burgerfi.com/</a>			X	Burger	\$	Counter	Gourmet burgers with beer & wine
Yeah Burger	3,400	<a href="http://www.yeahburger.com/">http://www.yeahburger.com/</a>	X			Burger	\$\$	Counter	Real Food with Local ingredients - Natural & Organic burgers
Menchie's	1,700	<a href="http://www.menchies.com/">http://www.menchies.com/</a>			X	Frozen Yogurt	\$	Counter	Self-serve frozen yogurt with toppings
Miller Ale House	8,500	<a href="http://www.millersalehouse.com/">http://www.millersalehouse.com/</a>			X	American/Seafood	\$\$	Table	Casual Sports Pub
Firebirds	6,500	<a href="http://firebirdsrestaurants.com/">http://firebirdsrestaurants.com/</a>			X	American/Steak House/Seafood	\$\$	Table	Wood-fired steak & seafood - upscale lodge like setting at a modest price
La Madeleine	4,000	<a href="http://lamadeleine.com/">http://lamadeleine.com/</a>			X	French	\$\$	Counter	County French Café with bakery
Outback	5,700	<a href="http://www.outback.com/">http://www.outback.com/</a>			X	Steak House	\$\$	Table	Australian Outback themed - Casual atmosphere
Bonefish	6,000	<a href="https://www.bonefishgrill.com/">https://www.bonefishgrill.com/</a>			X	Seafood	\$\$	Table	Fun, stylish, conversational atmosphere - finest of fresh seafood
Tin Drum	2,600	<a href="http://tindrumcafe.com/">http://tindrumcafe.com/</a>	X			Asian	\$	Counter	Pan-Asian with noodles & curries
Starbucks	1,900	<a href="http://www.starbucks.com/">http://www.starbucks.com/</a>			X	Coffee	\$	Counter	Seattle- based coffeehouse with tea
Freebirds Burritos	2,200	<a href="http://freebirds.com/">http://freebirds.com/</a>			X	Mexican	\$	Counter	Fast causal - Custom burritos

Del Frisco	7,500	<a href="http://delfriscos.com/">http://delfriscos.com/</a>			X	Steak House	\$\$\$	Table	Table Cloth - Trendy upscale
First Watch	3,400	<a href="http://www.firstwatch.com/">http://www.firstwatch.com/</a>			X	Breakfast	\$\$	Table	Fresh food made to order - open for breakfast, brunch, and lunch
Another Broken Egg	3,400	<a href="http://www.anotherbrokenegg.com/">http://www.anotherbrokenegg.com/</a>			X	Breakfast	\$\$	Table	Gourmet Café - open for breakfast, brunch, and lunch
Newk's Café	4,500	<a href="http://www.newks.com/">http://www.newks.com/</a>			X	American	\$	Counter	Sandwich, soup, salads, and pizza - Casual setting
Capriotti's	1,800	<a href="http://www.capriottis.com/">http://www.capriottis.com/</a>			X	Sandwich	\$	Counter	Relaxed setting with signature subs and salads
Figo Pasta	2,500	<a href="http://www.figopasta.com/">http://www.figopasta.com/</a>	X			Italian	\$\$	Counter	Build-your-own pasta dishes plus panini & salads
Mirko Pasta	2,500	<a href="http://www.mirkopasta.com/">http://www.mirkopasta.com/</a>		X		Italian	\$\$	Table	Made-from scratch pasta
Novo Pizza	5,000	<a href="http://www.novopizzeria.com/">http://www.novopizzeria.com/</a>	*one location - Canada			Pizza	\$\$	Table	Authentic Neapolitan wood fired pizza and Italian dishes
Soban Korean Southern	3,000	<a href="http://www.sobban.com/">http://www.sobban.com/</a>	*one location - Atlanta			Korean	\$\$	Table	Korean classics with a southern twist
Heritage BBQ	2,500	(No Information available)							
Heirloom Market BBQ		<a href="http://www.heirloommarketbbq.com/">http://www.heirloommarketbbq.com/</a>	*one location - Atlanta			Barbecue	\$	Counter	Barbecue with Asian accent
Tin Lizzy	3,500	<a href="http://www.tinlizzyscantina.com/">http://www.tinlizzyscantina.com/</a>	X			Mexican	\$	Table	Casual Tex-Mex spot with over 25 gourmet soft tacos
Big Ketch	3,500	<a href="http://www.thebigketch.com/">http://www.thebigketch.com/</a>	*one location - Atlanta			Seafood	\$\$	Table	Fresh casual seafood with beachy modern atmosphere
Marlow's Tavern	4,500	<a href="http://www.marlowstavern.com/">http://www.marlowstavern.com/</a>		X		American	\$\$	Table	Relaxed spot with custom cocktails
Flip Burger	4,000	<a href="https://flipburgerboutique.com/">https://flipburgerboutique.com/</a>		X		Burger	\$\$	Table	Gourmet burgers and shakes - Modern
Pure Taqueria	3,500	<a href="http://www.puretaqueria.com/">http://www.puretaqueria.com/</a>		X		Mexican	\$\$	Table	Authentic Mexican taqueria
PeiWei	2,800	<a href="https://www.peiwei.com/">https://www.peiwei.com/</a>			X	Asian	\$	Counter	Pan-Asian with noddle and rice dishes
Dancing Goat	2,400	<a href="http://www.batdorfcoffee.com/">http://www.batdorfcoffee.com/</a>		X		Coffee	\$	Counter	Coffee bar with industrial feel
Brio	5,000	<a href="http://www.brioitalian.com/">http://www.brioitalian.com/</a>			X	Italian	\$\$\$	Table	Table Cloth - Tuscan-inspired grill fare - warm and relaxed atmosphere
Chuy's	3,800	<a href="http://www.chuys.com/">http://www.chuys.com/</a>			X	Mexican	\$\$	Table	Tex-Mex with big portions



Innovation Lofts & Boutique Hotel



WEST ELEVATION



NORTH ELEVATION



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375 Northridge Road Suite 330 Atlanta, Georgia 30350

Issue Date: September 29, 2017

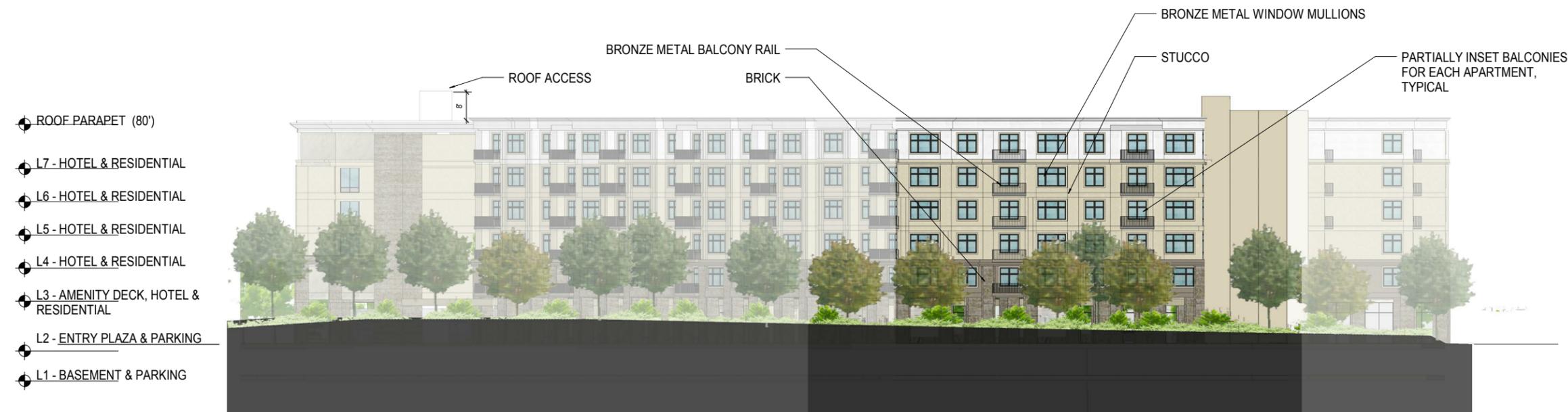
MIXED USE DEVELOPMENT  
PEACHTREE CORNERS, GEORGIA

CONCEPT ELEVATIONS & MATERIALS

Innovation Lofts & Boutique Hotel



**SOUTH ELEVATION**



**EAST ELEVATION**



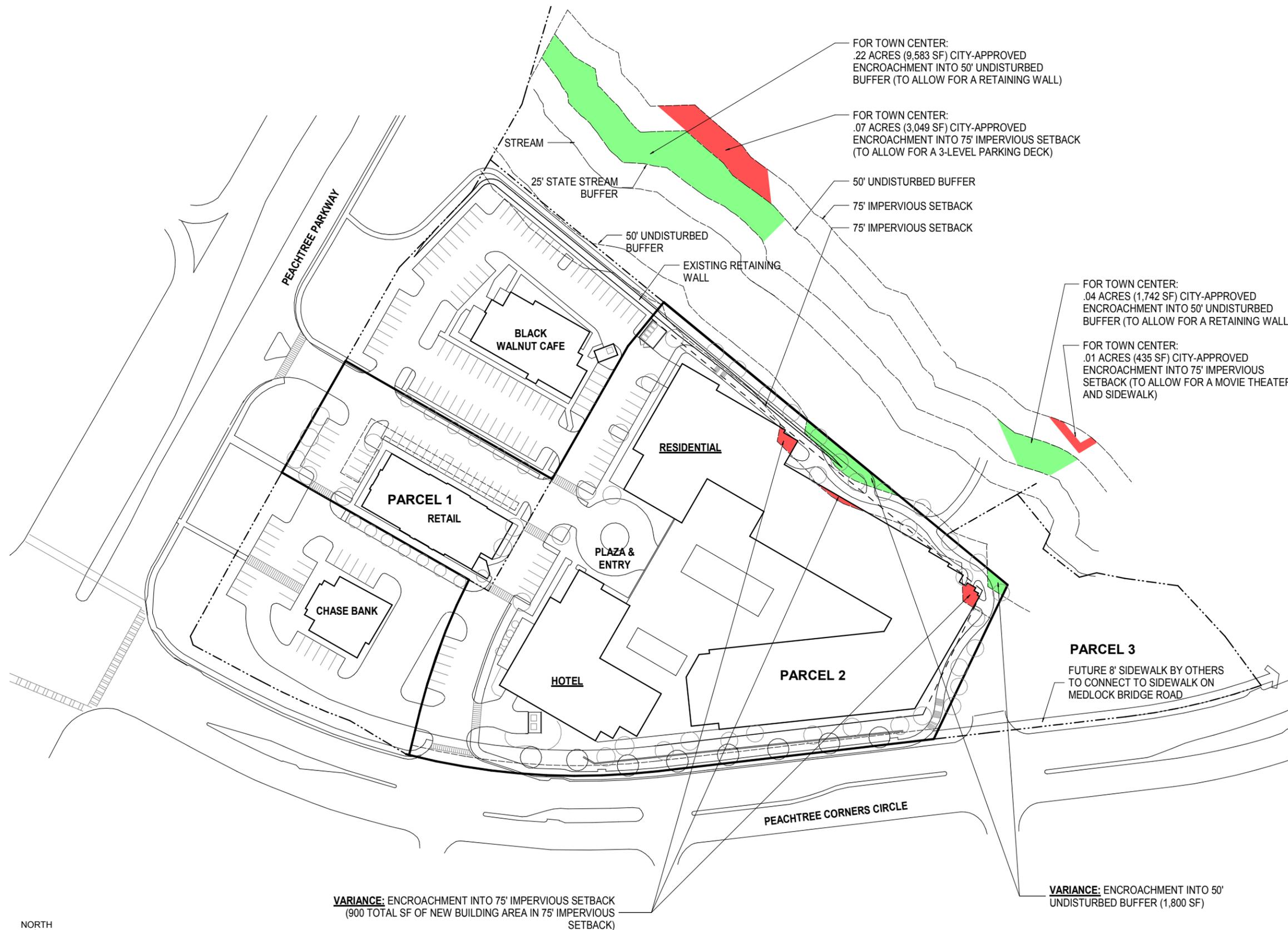
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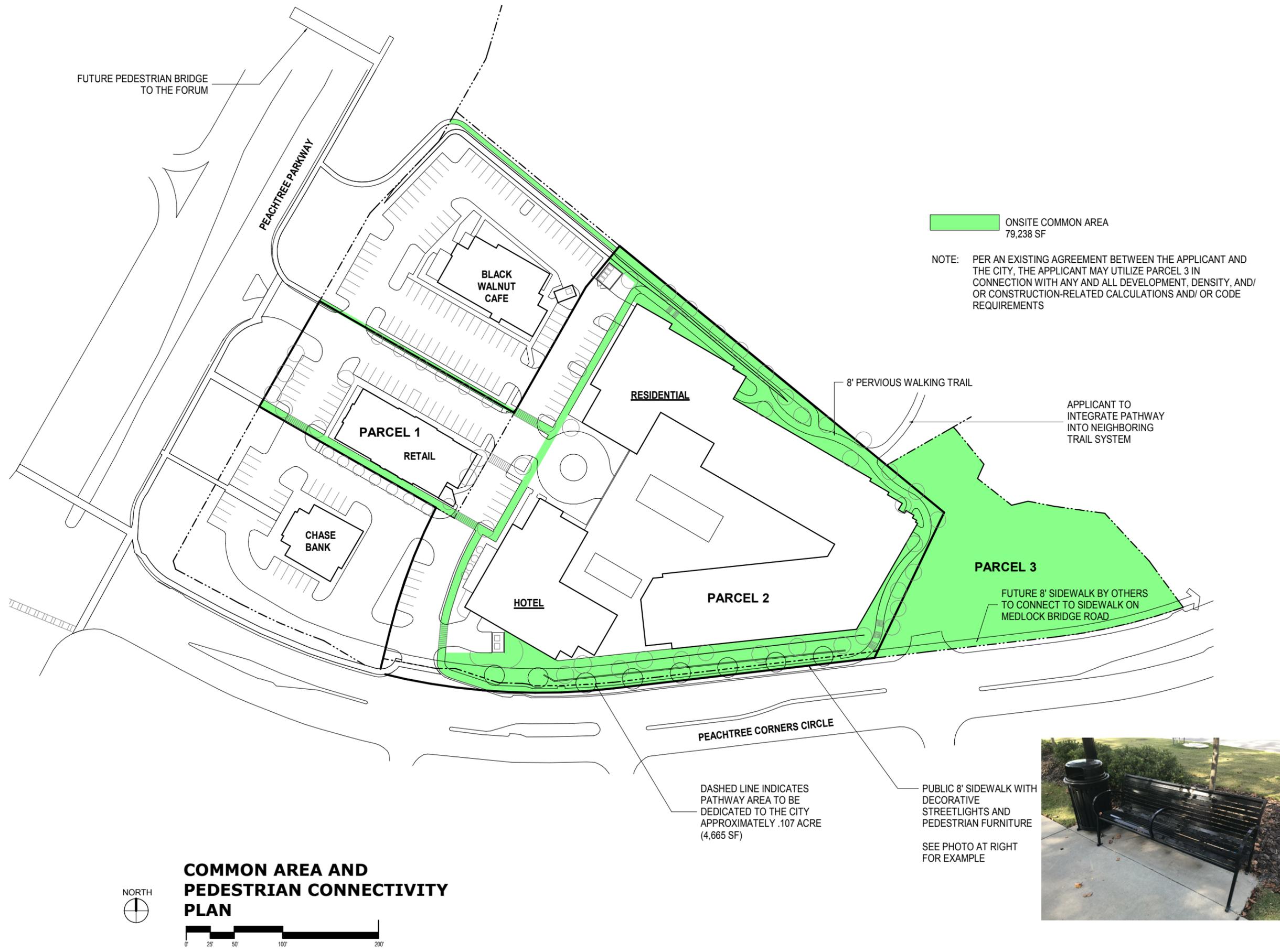


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MIXED USE DEVELOPMENT  
PEACHTREE CORNERS, GEORGIA

VARIANCE PLAN



ONSITE COMMON AREA  
79,238 SF

NOTE: PER AN EXISTING AGREEMENT BETWEEN THE APPLICANT AND THE CITY, THE APPLICANT MAY UTILIZE PARCEL 3 IN CONNECTION WITH ANY AND ALL DEVELOPMENT, DENSITY, AND/OR CONSTRUCTION-RELATED CALCULATIONS AND/OR CODE REQUIREMENTS

8' PERVIOUS WALKING TRAIL

APPLICANT TO INTEGRATE PATHWAY INTO NEIGHBORING TRAIL SYSTEM

PARCEL 3

FUTURE 8' SIDEWALK BY OTHERS TO CONNECT TO SIDEWALK ON MEDLOCK BRIDGE ROAD

RESIDENTIAL

PARCEL 1  
RETAIL

PARCEL 2

HOTEL

CHASE BANK

BLACK WALNUT CAFE

FUTURE PEDESTRIAN BRIDGE TO THE FORUM

PEACHTREE PARKWAY

PEACHTREE CORNERS CIRCLE

DASHED LINE INDICATES PATHWAY AREA TO BE DEDICATED TO THE CITY APPROXIMATELY .107 ACRE (4,665 SF)

PUBLIC 8' SIDEWALK WITH DECORATIVE STREETLIGHTS AND PEDESTRIAN FURNITURE

SEE PHOTO AT RIGHT FOR EXAMPLE



**COMMON AREA AND PEDESTRIAN CONNECTIVITY PLAN**



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MIXED USE DEVELOPMENT

PEACHTREE CORNERS, GEORGIA

COMMON AREA AND PEDESTRIAN CONNECTIVITY PLAN

Innovation Lofts  
&  
Boutique Hotel



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**MIXED USE DEVELOPMENT**  
PEACHTREE CORNERS, GEORGIA

**LANDSCAPE CONCEPT PLAN**

Innovation Lofts  
&  
Boutique Hotel



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MIXED USE DEVELOPMENT  
PEACHTREE CORNERS, GEORGIA

CONCEPT PERSPECTIVE VIEW

Innovation Lofts  
&  
Boutique Hotel



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PEACHTREE CORNERS, GEORGIA

CONCEPT PERSPECTIVE VIEW

Innovation Lofts  
&  
Boutique Hotel



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CONCEPT PERSPECTIVE VIEW

Innovation Lofts  
&  
Boutique Hotel



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MIXED USE DEVELOPMENT  
PEACHTREE CORNERS, GEORGIA

CONCEPT PERSPECTIVE VIEW



SHOPS AT  
THE CORNERS



SHOPS AT  
THE CORNERS



SHOPS AT  
THE  
CORNERS







## A&R Engineering Inc.

2160 Kingston Court, Suite O  
Marietta, GA 30067  
Tel: (770) 690-9255 Fax: (770) 690-9210  
www.areng.com



### Memorandum

To: Roberts Properties, Inc.  
From: Abdul K. Amer, PE, PTOE  
Date: July 26, 2017  
Subject: Trip Generation Comparison for Peachtree Corners Mixed-Use Development

The purpose of this memorandum is to determine the amount of traffic that will be generated from the proposed development relative to the allowed zoning for the site. The site is located in the northeast corner of the intersection of SR 141 (Peachtree Parkway) at Peachtree Corners Circle in Peachtree Corners, Georgia.



Figure 1: Site Location

#### SITE INFORMATION

The trip generation reference for this site is based on the existing remaining zoning as well as a separate potential development scenario:

- Existing (remaining) zoning: 56,900 square feet retail  
10,400 square feet restaurant
- Proposed zoning: 169 apartments  
110 hotel rooms  
9,000 square feet retail

**METHODOLOGY**

Trip generation estimates for the project were based on the rates and equations published in the 9th edition of the Institute of Transportation Engineers (ITE) Trip Generation report. This reference contains traffic volume count data collected at similar facilities nationwide. The trip generation was based on the following ITE Land Uses: 220 – Apartment, 310 – Hotel, 820 – Shopping Center and 932 – High-Turnover (Sit-Down) Restaurant.

**CALCULATIONS**

The trip generation for existing zoning is shown below in Table 1 and the trip generation for the proposed zoning is shown in Table 2.

TABLE 1 – TRIP GENERATION (EXISTING ZONING)								
Land Use	Size	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
		Enter	Exit	Total	Enter	Exit	Total	
<b>820 – Shopping Center</b>	56,900 sf	69	42	111	197	214	411	4,707
<i>Pass-by Trips (0%) 34%</i>		0	0	0	-67	-73	-140	-1,400
<b>932 – Restaurant</b>	10,400 sf	62	50	112	61	41	102	1,322
<i>Pass-by Trips (0%) 43%</i>		0	0	0	-26	-18	-44	-440
Total Trips without Reductions		131	92	223	258	255	513	6,029
<b>Total Trips with Reductions</b>		<b>131</b>	<b>92</b>	<b>223</b>	<b>165</b>	<b>164</b>	<b>329</b>	<b>4,189</b>

*\*pass-by trips (AM) PM; 24 Hour pass-by trips estimated by considering PM pass-by as 10% of daily volume*

TABLE 2 – TRIP GENERATION (PROPOSED ZONING)								
Land Use	Size	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
		Enter	Exit	Total	Enter	Exit	Total	
<b>220 – Apartment</b>	169 Units	17	70	87	72	39	111	1,148
<i>Mixed-Use Trips</i>		-1	-1	-2	-5	-3	-8	-93
<b>310 – Hotel</b>	110 rooms	34	24	58	34	32	66	611
<i>Mixed-Use Trips</i>		-1	-1	-2	-2	-2	-4	-49
<b>820 – Shopping Center</b>	9,000 sf	22	14	36	57	62	119	1,420
<i>Mixed-Use Trips</i>		-2	-2	-4	-5	-7	-12	-142
<i>Pass-by Trips (0%) 34%</i>		0	0	0	-18	-19	-37	-370
Total Trips without Reductions		73	108	181	163	133	296	3,179
<b>Total Trips with Reductions</b>		<b>69</b>	<b>104</b>	<b>173</b>	<b>133</b>	<b>102</b>	<b>235</b>	<b>2,525</b>

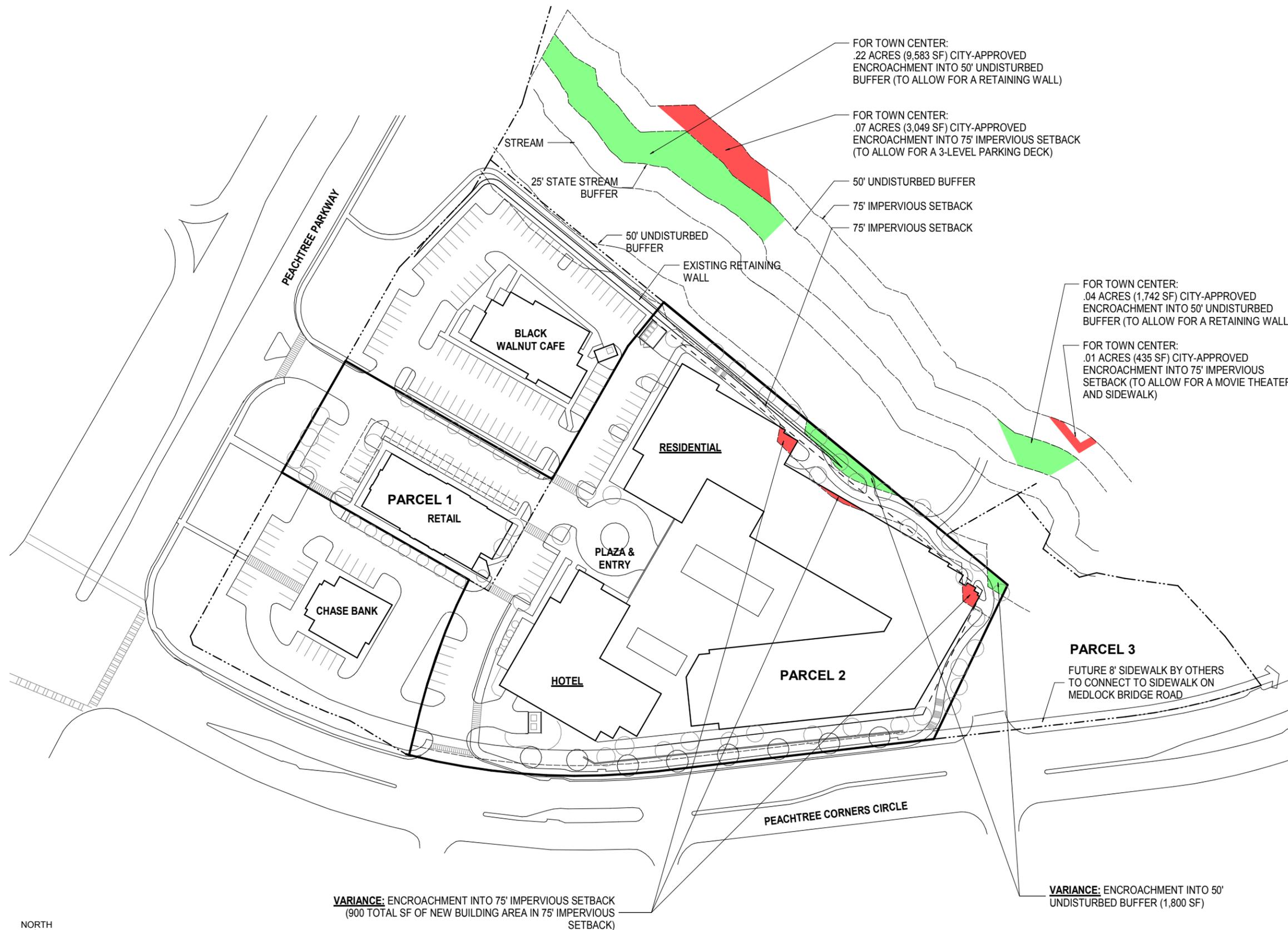
*\*pass-by trips (AM) PM; 24 Hour pass-by trips estimated by considering PM pass-by as 10% of daily volume*

**TRIP GENERATION COMPARISON**

The results of the trip generation comparison (shown in Table 3) indicate that the proposed zoning will see a 40% decrease in daily traffic over the existing zoning.

TABLE 3 – TRIP GENERATION COMPARISON							
Trip Generation	A.M. Peak Hour			P.M Peak Hour			24-Hour 2-way
	Enter	Exit	Total	Enter	Exit	Total	
Existing Zoning	131	92	223	165	164	329	4,189
Proposed Zoning	69	104	173	133	102	235	2,525
<b>Change in Trips</b>	<b>-62</b>	<b>12</b>	<b>-50</b>	<b>-32</b>	<b>-62</b>	<b>-94</b>	<b>-1,664</b>
<i>Percentage Change</i>	<i>-47%</i>	<i>+13%</i>	<i>-22%</i>	<i>-19%</i>	<i>-38%</i>	<i>-29%</i>	<i>-40%</i>

# Innovation Lofts & Boutique Hotel



Roberts Properties, Inc.  
770-394-6000 www.robertsproperties.com  
375 Northridge Road Suite 330 Atlanta, Georgia 30350

Issue Date: September 29, 2017

**MIXED USE DEVELOPMENT**  
PEACHTREE CORNERS, GEORGIA

**VARIANCE PLAN**



**CITY OF PEACHTREE CORNERS**  
**COUNCIL MEETING MINUTES**  
**MARCH 15, 2016 @ 7:00PM**

The Mayor and Council of the City of Peachtree Corners held a Council Meeting at City Hall, 147 Technology Parkway, Suite 200, Peachtree Corners, GA, 30092. An audible copy of the meeting is available from the City Clerk's office. The following were in attendance:

Mayor	Mike Mason
Council Member	Phil Sadd – Post 1
Council Member	Post 2 - Vacant
Council Member	Alex Wright – Post 3
Council Member	Jeanne Aulbach – Post 4
Council Member	Lorri Christopher – Post 5
Council Member	Weare Gratwick – Post 6
City Manager	Julian Jackson
City Clerk	Kym Chereck
Com. Dev. Director	Diana Wheeler
City Attorney	Bill Riley
City Attorney	Joe Leonard
Public Works Director	Greg Ramsey
Comm. Director	Judy Putnam
Finance Director	Brandon Branham

Council Member Sadd attended via telephone conference call, but was not permitted to vote.

**PLEDGE OF ALLEGIANCE:** Mayor Mason led the Pledge of Allegiance.

**MINUTES:**

**MOTION TO APPROVE THE MINUTES FROM THE FEBRUARY 16, 2016 COUNCIL MEETING.**

**By: Council Member Christopher**  
**Seconded by: Council Member Gratwick**  
**Vote: (5-0) (Christopher, Gratwick, Mason, Wright, Aulbach)**

**MOTION TO APPROVE THE MINUTES FROM THE FEBRUARY 28, 2016 SPECIAL CALLED COUNCIL MEETING.**

**By: Council Member Christopher**  
**Seconded by: Council Member Gratwick**  
**Vote: (5-0) (Christopher, Gratwick, Mason, Wright, Aulbach)**

**PUBLIC COMMENT:** There was no public comment.

**CONSENT AGENDA:**

**APH 2015-09-029**

Consideration of Approval of an Alcoholic Beverage License Application for Consumption on Premise, Wine & Malt Beverage License for Pub Ten Inc. at 5270 Peachtree Pkwy, Ste 118B, Peachtree Corners, GA 30092.

**MOTION TO APPROVE APH 2015-09-29.**

**By: Council Member Wright**  
**Seconded: Council Member Christopher**  
**Vote: (5-0) (Wright, Christopher, Mason, Aulbach, Gratwick)**

**APH 2015-09-030**

Consideration of Approval of an Alcoholic Beverage License Application for Consumption on Premise, Wine & Malt Beverage License for PK International Food Merchant Inc DBA: Royal Bistro at 6365 Spalding Dr, Ste A, Peachtree Corners, GA 30092.

**MOTION TO APPROVE APH 2015-09-30.**

**By: Council Member Wright**  
**Seconded: Council Member Christopher**  
**Vote: (5-0) (Wright, Christopher, Mason, Aulbach, Gratwick)**

**APH 2015-09-031**

Consideration of Approval of an Alcoholic Beverage License Application for Retail/Package, Wine & Malt Beverage License for Express Point 2, LLC DBA: Express Food Mart at 3426 Holcomb Bridge Road, Peachtree Corners, GA 30092.

**MOTION TO APPROVE APH 2015-09-31.**

**By: Council Member Wright**

**Seconded: Council Member Christopher**

**Vote: (5-0) (Wright, Christopher, Mason, Aulbach, Gratwick)**

**PRESENTATIONS AND REPORTS:**

**P2016-03-12 Proclamation for James Lowe**

Mayor Mason presented a proclamation to James Lowe. Mr. Lowe was the first Council Member for Post two, and resigned to seek election for State Representative. The Mayor recognized Mr. Lowe's accomplishments and thanked him for his contributions.

**P2016-03-11 Proclamation for Arbor Day**

Mayor Mason presented a proclamation declaring March 19, 2016 as Arbor Day. Mayor Mason invited everyone to the Arbor Day Celebration on Saturday, March 19, 2016 at 11:00 AM, at Simpsonwood Park.

**Staff Activity Report – Community Development**

Mrs. Diana Wheeler, Community Development Director, provided her report on staff activities that occurred during the period of February 22, 2016 – March 11, 2016. These activities included, among other items, meetings with a consultant to discuss the Multi-Family Housing Redevelopment Strategies Study, meeting with the Attorney to discuss the Town Center contract extension, meeting with the Festival Committee to discuss booth setup, and preparing a preliminary department budget.

**Staff Activity Report – Public Works**

Mr. Greg Ramsey, Public Works Director, provided his report on staff activities that occurred in the period ending with March 15, 2016. These activities included, among other items, attending a meeting for the Peachtree Parkway sewer extension, attending a meeting with the Bridge Committee, attending a meeting concerning pedestrian crossings with GCDOT, and attending a GCDOT Comprehensive Transportation Plan Stakeholder Meeting.

**OLD BUSINESS:**

**O2016-02-66**

Second Read and Consideration of an Ordinance to amend the City of

Peachtree Corners Zoning Map pursuant to RZ2016-001/ SUP2016-001, South Old Peachtree Rd. Auto Repair, request to rezone and approve a special use permit for an auto repair and storage facility on 6.89 acres at 4285 South Old Peachtree Rd., in District 6, Land Lots 259 and 268, Parcels 016, 373 and 374, Peachtree Corners, GA.

**MOTION TO APPROVE O2015-02-66 WITH 14 CONDITIONS.**

**By: Council Member Aulbach**

**Seconded: Council Member Gratwick**

**Vote: (5-0) (Aulbach, Gratwick, Mason, Wright, Christopher)**

*Approved Conditions for O2015-02-66*

- 1) *Vehicle storage shall not be located within the front yard.*
- 2) *Vehicle storage shall be screened by a solid wood fence, masonry wall, or slatted chain-link fence at least eight (8) feet high.*
- 3) *Vehicle storage shall be limited to one automobile per parking space. All vehicles must be parked in designated spaces and no 'tandem' or 'valet' parking shall be permitted. A parking plan shall be submitted to Staff for approval.*
- 4) *No inoperable (junk/salvage) vehicles shall be stored outdoors.*
- 5) *No vehicles shall be located on unpaved surfaces.*
- 6) *Vehicles or materials stored outdoors shall not be placed or stacked at a height exceeding that of the screening fence.*
- 7) *All vehicle maintenance and mechanical work shall be conducted within an enclosed building.*
- 8) *The existing magnolia trees at the front of the property shall be preserved and no new parking spaces shall be constructed between the existing office structure and South Old Peachtree Road.*
- 9) *No billboards shall be permitted on the property.*
- 10) *Dumpsters shall not be located in front of the existing office structure and shall be screened by an opaque decorative wall, at least six (6) feet in height, which will coordinate with the building architecture.*

- 11) *Outdoor lighting shall be contained in cutoff-type luminaries and shall be directed inward toward the property so as not to reflect into adjacent properties or to create a hazard for passing automobile traffic.*
- 12) *Permanent freestanding project signage shall be limited to one monument sign to be located at the front of the property.*
- 13) *Any outside speakers shall not be audible from adjacent properties.*
- 14) *All conditions must be met before a business license can be issued.*

**O2016-02-67**

Second Read and Consideration of an Ordinance to amend the City of Peachtree Corners Zoning Map pursuant to RZ2015-006 / SUP 2015-005 / V2016-002 Twin Lakes, Request to rezone ten parcels in District 6 of Peachtree Corners, Georgia, to allow commercial, multi-family, and trail development and approve a special use permit for a liquor store and associated variances on a total of 38.73 acres, as follows:

- Parcel #1 Rezone from M-1, Light Industry, to TO, Trails and Open Space, an 8.87 acre tract located in LL284, parcel 015 at 3550 Engineering Dr.
- Parcel #2 Rezone from M-1, Light Industry, to C2, Commercial, a 1.9 acre tract LL284, parcel 016 and 018 on Peachtree Parkway at Engineering Dr.
- Parcel #3 Rezone from M-1, Light Industry, to C2, Commercial, and approve a special use permit for a liquor store on a 4.7 acre tract located in LL284, parcel 018 on Peachtree Parkway at Engineering Dr.
- Parcel #4 Rezone from M-1, Light Industry, to C2, Commercial, and TO, Trails and Open Space, a 1.23 acre tract located in LL 285, parcel 056 on Technology Parkway near Westech Dr.
- Parcel #5 Rezone from M-1, Light Industry, to TO, Trails and Open Space, a .73 acre tract located in LL284, parcel 040 on Technology Pkwy. near Westech Dr.
- Parcel #6 Rezone from M-1, Light Industry, to TO, Trails and Open Space, a .35 acre tract located in LL284, parcel 041 on Technology Pkwy. near Westech Dr.
- Parcel #7 Rezone from M-1, Light Industry, to TO, Trails and Open Space, a 4.33 acre tract located in LL285, parcel 010 on Technology Pkwy. near Westech Dr.
- Parcels #8, #9, #10 Rezone from M-1, Light Industry, to RM-13, Multi-Family Residence, three tracts consisting of 14.03 acres located in LL272, parcels 061, 062, and 064 on Peachtree Industrial Blvd. and 510 and 520 Guthridge Ct.

**MOTION TO APPROVE THE ORDINANCE PROVIDED WITH “RED LINES” WITH THE ADDITION OF COUNCIL MEMBER AULBACH’S CONDITION NUMBER 30, WHICH STATES THAT THE APPLICANT WILL JOIN THE MULTI-FAMILY CRIME FREE PREVENTION PROGRAM; AND, ADDING IN CONJUNCTION WITH THE TRANSFERS, THE PROPERTY OWNER SHALL CAUSE \$41,250.00 TO BE CONTRIBUTED TO AN ACCOUNT DESIGNATED BY THE CITY OF PEACHTREE CORNERS (AS STATED IN THE CONDITIONS BELOW).**

**By: Council Member Christopher**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Aulbach, Gratwick, Mason, Wright, Christopher)**

*Approved Conditions for O2015-02-67*

*With regard to Parcels #1, 6, and 7 as shown on ‘Attachment A’, Property Zoning Map, dated 1/2/16:*

- 1. These properties shall be rezoned T-O, Trails and Open Space*
- 2. Prior to the issuance of the first Certificate of Occupancy on Parcels zoned C-2 or RM-13, Parcels #1, 6 and 7 shall be deeded to the City of Peachtree Corners Downtown Development Authority. In conjunction with the transfers, the property owner shall cause \$41,250.00 to be contributed to an account designated by the City of Peachtree Corners which funds shall be used by the City (or its designee) to construct a multi-use trail (and/or related infrastructure such as a lake dock) between the termination of the Engineering Drive extension and Technology Park lake (within Parcel 7).*
- 3. Pursuant to Ordinance 2015-11-59, Trails and Open Space, the 13.55 acres attributed to the T-O zoned parcels shall be assigned 13 multi-family density unit credits per acre for a total of 176 density units. 113 of the 176 total density units shall be allocated to the multi-family residential development shown on Parcels #8, #9, and #10. The remaining 63 surplus density units shall be credited to an account established for the property owner.*

*With regard to Parcels #2, 3, 4 and 5 as shown on ‘Attachment A’, Property Zoning Map, dated 1/2/16:*

- 4. The properties shall be rezoned C-2, commercial and shall be developed in general conformity with the submitted site plan prepared by Planners and Engineers Collaborative dated 11/15/15 (except as noted in condition #11).*
- 5. A Special Use Permit shall be approved on Parcel #3 for a Liquor Store use.*

6. *The property owner or subsequent developer shall construct an 8' wide paved path along the Engineering Drive extension. The paved path shall be completed prior to the issuance of the first Certificate of Occupancy for the first building constructed on the C-2 zoned parcels.*
- 6.5. *For the portion of the property which is developed to accommodate the commercial pads, the landscape strip adjoining the paved path shall be planted with hardwood trees which are a minimum of 10 feet tall at the time of planting and are spaced on 25 foot centers in order to create a boulevard effect along Engineering Drive. The entire C-2 development shall have a cohesive landscape plan which shall be approved by staff.*
7. *If the City's Multi-Use Trail winds around back of the convenience store, the right-in only driveway shall be designed to accommodate a trail crossing.*
8. *The property owner or subsequent developer shall be responsible for all traffic and roadway improvements required to construct a new intersection at Engineering Drive and Peachtree Parkway and to extend Engineering Drive to Technology Parkway. These improvements shall include, but not be limited to: traffic light, crosswalks, the paved path referenced in Condition 6, bike lane, and, where necessary, deceleration lanes.*
9. *Development parcels shall be designed to mitigate the amount of impervious surface associated therewith as is reasonably possible in order to retain as much of the existing topography, trees, and stream as reasonably practicable. Retaining walls shall be built to minimize the footprint of the commercial buildings and parking areas. Setback requirements may be reduced if doing so benefits the preservation of trees or stream. However, the landscape strip along Peachtree Parkway required by Overlay Design Standards (and as modified by Condition 10) shall be provided.*
10. *Prior to an issuance of the Certificate of Occupancy for each building, an enhanced landscape strip shall be planted along the entire frontage of the property frontage along Peachtree Parkway. This enhanced landscape strip shall consist of, at a minimum, double staggered rows of evergreen plants, to be at least 3 feet at maturity, sufficient to prevent, within one year of planting, the view of all pavement surrounding the gas pumps and buildings by passengers in vehicles traveling along Peachtree Parkway. Said landscape strip shall be approved by the Community Development Director and maintained for this purpose at all times by the property owner.*
11. *To retain as many of the natural features at the rear of the properties, surface parking spaces shall be located to the front and sides of the buildings.*

12. *Architectural elevations for the gas station and liquor store shall be substantially similar to the drawings submitted via letter and dated 1/29/16. The gas pump canopy columns shall be clad in masonry and the design and material approved by the Director of Community Development.*
13. *Stream setback requirements shall be waived in order to accommodate the developments on C-2 zoned properties. Piping of the stream shall be permitted provided that only the least amount of piping that can be demonstrated to be reasonably necessary is installed.*
14. *The property owner or subsequent developer shall be responsible for median landscaping (installation and maintenance) in Peachtree Parkway for the length of the median contiguous to the application property. Landscaping plans shall be subject to Staff's approval.*
15. *Sanitary Sewer line relocation shall be accomplished in the manner that will have the least environmental impact to the site.*
16. *Detention ponds visible from roadways shall be screened with landscape plantings to be approved by Staff.*

*With regard to Parcels #8, #9, and #10 as shown on 'Attachment A', Property Zoning Map, dated 1/2/16:*

17. *The property owner or subsequent developer shall be responsible for all traffic and roadway improvements required at Peachtree Industrial Boulevard and Guthridge Ct. and along Guthridge Ct in connection with the development of the subject property for millennial housing.*
18. *The property owner or subsequent developer shall make every reasonable effort to acquire a pedestrian / bicycle access easement between the Guthridge Ct. residential development and Technology Parkway South. The residential development shall include a dedicated pedestrian / bicycle access at the closest point of the easement.*
19. *Millennial housing development shall not exceed 295 units. The units shall be limited to one and two bedroom floor plans. Two bedroom plans shall be limited to a maximum of 30% of the units.*
20. *Site development shall be substantially similar to plans prepared by Planners and Engineers Collaborative dated 11/18/15 except that buildings located along Guthridge Ct. and Peachtree Industrial Boulevard shall maintain a 10 ft. setback from the property line and that 10 ft. strip shall be landscaped with plant material approved by Staff.*

21. *The owner or subsequent developer shall landscape and maintain the right-of-way immediately in front of the millennial housing project along Peachtree Industrial Boulevard.*
22. *Site amenities shall include: pedestrian / bike trail; fitness facility, a dog park, an electric car recharge station, and a lake dock; No children's playground equipment shall be permitted.*
23. *A central mail kiosk and a trash and recycling station shall be designed to match the main buildings and shall be located near Guthridge Ct.*
24. *Every reasonable effort shall be made to preserve specimen trees near the lakes.*
25. *Building designs shall incorporate features that are compliant with Peachtree Corners' Green Building Ordinance wherever practical.*
26. *Interior features for residential units shall be in general conformity with the pictures presented to the Planning Commission on February 9, 2016 and include:*
  - *Stainless appliances*
  - *Gourmet kitchens with granite countertops*
  - *Designer ceramic tile back splashes*
  - *Wood cabinets*
  - *Upscale plank or engineered wood flooring*
  - *Designer lighting*
  - *Granite countertops and ceramic tile tub surrounds in bath*
  - *Nine foot ceilings*
  - *Ceiling fans in primary living space*
  - *Generous closets*
  - *Connections for full size, stackable washer/dryer units*
  - *Walkout balconies*
27. *Community features for millennial housing shall be in general conformity with the pictures presented to the Planning Commission on February 9, 2016 and include:*
  - *Resort-style pool and courtyard with tanning deck*
  - *Dock with aquatic amenities (i.e. paddle boards and kayaks)*
  - *Expansive clubhouse with cyber café / wi-fi and business center*
  - *Outdoor grilling and entertainment space with fireplace and bocce ball court*
  - *State-of-the-art fitness center*
28. *Prior to the issuance of the first Certificate of Occupancy on Parcels zoned RM-13, the property owner shall deed a 25' wide strip along the subject*

*property's western boundary and the area of the property beginning 25' from the top of the lake bank and extending to the property line within the lake to the City of Peachtree Corners Downtown Development Authority. Prior to such transfer, the property owner and/or developer shall install a 12' wide multi-use trail and lake dock within said area.*

29. *If there are any material changes to the site plans and/or architectural elevations, as applicable, for the C-2 and/or RM-13 components of the development, then the property owner and/or developer shall submit such revised site and architectural plans to the Planning Commission for approval.*
30. *The millennial housing development shall participate in the crime-free multi-family housing program.*

**O2016-02-68**

Second Read and Consideration of an Ordinance to amend the City of Peachtree Corners Zoning Map pursuant to V2016-001, Town Center, Request for a stream buffer variance (in conjunction with SUP2015-003 approved 6/9/2015) for a portion of a 19.6 acre property located at Peachtree Parkway near Forum Dr. in District 6, Land Lot 301, Parcel 183, Peachtree Corners, GA.

**MOTION TO APPROVE O2015-02-68.**

**By: Council Member Gratwick**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Gratwick, Aulbach, Mason, Wright, Christopher)**

*Approved Conditions for O2015-02-68.*

- 1) *An encroachment into the 50 ft. undisturbed buffer and 75 ft. impervious stream setback line shall be permitted for the improvements planned along a portion of the southern property line as shown on the submitted Hanes Gibson and Associates drawings dated 1-22-16.*
- 2) *The face of the Gabion retaining wall shall be vegetated as shown on the submitted Hanes Gibson and Associates drawings dated 1-22-16.*

**O2016-01-64**

Second Read and Consideration of an Ordinance to amend the City of Peachtree Corners Zoning Resolution Article XII, pursuant to PH2015-008 by amending Sec. 1310, M-1, Light Industry District, in order to limit permitted uses within the Central Business District.

**MOTION TO APPROVE O2015-02-64.**

**By: Council Member Gratwick**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Gratwick, Aulbach, Mason, Wright, Christopher)**

**O2016-02-65**

Second Read and Consideration of an Ordinance to amend the Code of Ordinances of the City of Peachtree Corners, Georgia, Article II, Sec. 42-24, Noise, to limit the hours of operation for lawn maintenance equipment and trash hauling vehicles, and extend construction hours.

**MOTION TO APPROVE O2015-02-65.**

**By: Council Member Aulbach**

**Seconded: Council Member Christopher**

**Vote: (5-0) (Aulbach, Christopher, Mason, Wright, Gratwick)**

**NEW BUSINESS:**

**R2016-03-58**

Consideration of a Resolution to Approve and Participate in the Georgia Municipal Association Defined Compensation Plan for the City of Peachtree Corners and for Other Purposes.

**MOTION TO APPROVE R2016-03-58.**

**By: Council Member Gratwick**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Gratwick, Aulbach, Mason, Wright, Christopher)**

**R2016-02-56**

Consideration of a Resolution for a call of Election, to announce qualifying dates and fees, and to appoint Election Officials.

**MOTION TO APPROVE R2016-02-56.**

**By: Council Member Wright**

**Seconded: Council Member Christopher**

**Vote: (5-0) (Wright, Christopher, Mason, Aulbach, Gratwick)**

**ACTION ITEM**

Consideration of Awarding a Multi-Family Housing Redevelopment Study for the Holcomb Bridge Road Corridor to Bleakley Advisory Group.

**MOTION TO AWARD A MULTI-FAMILY HOUSING REDEVELOPMENT STUDY FOR THE HOLCOMB BRIDGE ROAD CORRIDOR TO BLEAKLY ADVISORY GROUP.**

**By: Council Member Wright**

**Seconded: Council Member Christopher**

**Vote: (5-0) (Wright, Christopher, Mason, Aulbach, Gratwick)**

**ACTION ITEM**

Consideration of an Intergovernmental Agreement between the City of Peachtree Corners and the Gwinnett County Board of Registrations and Elections for City Elections Using Election Equipment.

**MOTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PEACHTREE CORNERS AND THE GWINNETT COUNTY BOARD OF REGISTRATIONS AND ELECTIONS FOR CITY ELECTIONS USING ELECTION EQUIPMENT.**

**By: Council Member Gratwick**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Gratwick, Aulbach, Mason, Wright, Christopher)**

**ACTION ITEM**

Consideration of Awarding a Task Order from the On Call Consulting Contract for a Comprehensive Transportation Plan.

**MOTION TO AWARD POND AND COMPANY THE CONTRACT FOR A COMPREHENSIVE TRANSPORTATION PLAN.**

**By: Council Member Christopher**

**Seconded: Council Member Gratwick**

**Vote: (5-0) (Christopher, Gratwick, Mason, Wright, Aulbach)**

**ACTION ITEM**

Consideration of Awarding a Construction Contract for installation of landscaping in the Peachtree Parkway Median from Medlock Bridge Road to the Chattahoochee River.

**MOTION TO AWARD A CONSTRUCTION CONTRACT TO RUSSELL LANDSCAPING FOR INSTALLATION OF LANDSCAPING IN THE PEACHTREE PARKWAY MEDIAN FROM MEDLOCK BRIDGE ROAD TO THE CHATTAHOOCHEE RIVER.**

**By: Council Member Gratwick**

**Seconded: Council Member Aulbach**

**Vote: (5-0) (Gratwick, Aulbach, Mason, Wright, Christopher)**

**ACTION ITEM**

Nomination and Election of Mayor Pro tem.

Council member Wright nominated Council Member Gratwick for Mayor Pro tem.

**VOTE FOR COUNCIL MEMBER GRATWICK AS MAYOR PRO TEM.**

**Vote: 5-0 (Wright, Mason, Aulbach, Christopher, Wright)**

**WORK SESSION:**

**Discussion concerning Community Theater.**

Council Member Wright informed the Council that he requested Staff to conduct preliminary research into the components and logistics of a community theater. After discussion it was determined that the City would form an Arts Council. It was requested that the Mayor and each Council member select two members to be appointed to the Arts Council, and for Staff to search for a professional consultant.

**Discussion on Traffic Study for SR 141/Peachtree Parkway intersections.**

Mr. Greg Ramsey, Public Works Director, informed the Mayor and Council that the ARC will be starting their traffic study, which is managed by GDOT, for State Road 141 and Peachtree Parkway intersections.

**Update on Town Center Financing**

Mr. Julian Jackson, City Manager, informed the Mayor and Council that the financing for the town center is due on May 13, and that Ameris Bank has agreed to extend the financing for another year at the at the same interest rate.

**Discussion on Posting Guidelines for Social Media and Community Calendar.**

Mrs. Judy Putnam, Communications Director, presented the Mayor and Council posting guidelines for the Community Calendar and Social Media. After discussion it was determined that this item would come before the Mayor and Council at the next meeting in the form of a Resolution.

### **Update on Multi-Family Housing**

Mr. Brandon Branham, Finance Director, gave a brief update of the apartment inspections. Mr. Branham stated that the inspections will be completed in May 2016 and he will give a final report in June 2016.

### **Update on GIS database**

Mr. Brandon Branham, Finance Director, gave a presentation on our current GIS database and gave an option for an advanced, user friendly GIS database. It was determined that a RFQ would be released for a GIS user interface.

**EXECUTIVE SESSION:** There was no Executive Session.

### **ADJOURNMENT:**

**MOTION TO ADJOURN AT 9:54 PM.**

**By: Council Member Gratwick**

**Seconded by: Council Member Christopher**

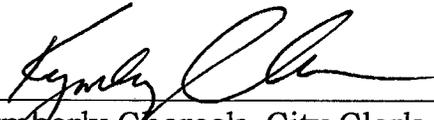
**Vote: (5-0) (Gratwick, Christopher, Mason, Wright, Aulbach)**

Approved,

Attest:



Mike Mason, Mayor



Kymberly Chereck, City Clerk  
(Seal)





Case Number: V-2016-001 Received Date: \_\_\_\_\_ Hearing Date: PC - 2/9/16  
CC - 3/15/16

**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
<b>Name</b> <u>Haines, Gipson &amp; Associates, Inc.</u>  <b>Address</b> (all correspondence will be mailed to this address): <u>1550 North Brown Road, Suite 100</u>  <b>City</b> <u>Lawrenceville</u>  <b>State</b> <u>Ga</u> <b>Zip</b> <u>30043</u>  <b>Phone</b> <u>770-491-7550</u>	Downtown Development Authority of the City <b>Name</b> <u>of Peachtree Corners</u>  <b>Address</b> <u>147 Technology Parkway, Suite 200</u>  <b>City</b> <u>Peachtree Corners</u>  <b>State</b> <u>Ga</u> <b>Zip</b> <u>30092</u>  <b>Phone</b> <u>678-691-1200</u>
<b>Contact Person Name:</b> <u>Luke Ferguson</u> <b>Phone:</b> <u>770-491-7550</u> <b>Email Address:</b> <u>lferguson@hainesgipson.com</u>	
Applicant is the (please check or circle one of the following): <input type="checkbox"/> Property Owner <input checked="" type="checkbox"/> Owner's Agent <input type="checkbox"/> Contract Purchaser	

**Address of Property** 5200 Medlock Bridge Road, Peachtree Corners, Georgia

**Subdivision or Project Name** Peachtree Corners Marketplace **Lot & Block** N/A

**District, Land Lot, & Parcel (MRN)** 6th District, Land Lot 301, PIN 6301 183

**Proposed Development** Office/Retail development, including Public Park, and Future Residential

**Permit Number (if construction has begun)** N/A

**Variance Requested** Code of Ordinance, Chapter 18, Article III. Encroachment into 50' Undisturbed Buffer & 75' Impervious Setback of ex. creek. ⊕

A complete application includes the following:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Application Form                         | <input checked="" type="checkbox"/> Application Fee                       |
| <input checked="" type="checkbox"/> Site Plan and/or Boundary Survey         | <input checked="" type="checkbox"/> Signed & notarized Certification page |
| <input checked="" type="checkbox"/> Letter of Intent (with variances listed) | <input checked="" type="checkbox"/> Additional Documentation as needed    |



**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).



Luke Ferguson 1-20-16  
Signature of Applicant Date

Luke Ferguson, PE (Associate, Haines, Gipson & Associates)  
Typed or Printed Name & Title

Amanda Smith 1/20/16  
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.

Dan Graveline 1-21-16  
Signature of Property Owner Date

DAN GRAVELINE, CHAIRMAN, DDA  
Typed or Printed Name & Title

Kymerly Chereck 1/21/16  
Signature of Notary Public Date



**Community Development Use Below Only**

Fees Paid: N/A By: DW

**Related Cases & Applicable Conditions:**

SUP 2015-003 (6/9/15)

Variance Description: BUFFER REDUCTION (STREAM)

\_\_\_\_\_  
\_\_\_\_\_



RANDALL W. GIPSON, P.E.  
DANIEL D. CAMPBELL, P.E.  
JEFFREY B. STRICKLAND, P.E.  
GLENN A. GRAHAM, P.E.  
SCOTT E. SAMUEL, P.E.  
STONEY C. ABERCROMBIE, P.E.  
JEFFREY L. VANDIVER, P.E.  
JOSEPH C. MCCOWN, P.E.

R. CLAY LEWIS, P.E.  
STEPHEN J. SYWY, P.E.  
ROBERT A. MCCANN, P.E.  
DAVID A. DOMYSLAWSKI, P.E.  
DAVID H. LOVVORN, P.E.  
KEVIN M. SOUTHERLAND, P.E.  
M. BRUCE BAKER, P.E.  
T. LUKE FERGUSON, P.E.

January 22, 2016

City of Peachtree Corners  
147 Technology Parkway, Suite 200  
Peachtree Corners, Georgia 30092

**SUBJECT: Peachtree Corners Town Center**  
***Letter of Intent for Variance***

To whom it may concern,

Haines, Gipson & Associates, on behalf of the property owner, Development Authority of the City of Peachtree Corners, is requesting approval for variance from the City's Code of Ordinance, Chapter 18, Article III, Section 18-50 Land Development Requirements. The requested variance and reasoning is as follows:

- Allowance of a 0.26-acre temporary encroachment into the 50-foot Undisturbed Stream Buffer for construction of a permanent pervious Gabion Retaining Wall system and pervious 2:1 slope.
  - Impacts to this portion of the buffer have been minimized as much as feasibly possible by the installation a vertical parking structure to support the surrounding public, retail, restaurant, and office facilities.
  - No impervious surface is proposed within this buffer.
- Allowance of a 0.08-acre permanent encroachment into the 75-foot Impervious Setback along the stream.
  - Impacts to this portion of the buffer have been minimized as much as feasibly possible.
  - Encroachment is required for a portion of the surface parking and vertical parking structure. Stormwater runoff from these areas will be treated to ensure water quality if maintained and excess runoff rates will be controlled onsite, prior to discharging into the existing creek.
  - Encroachment is also required for the connection of a Public Walking Trail that is slated to be installed along the creek and connect to a Public sidewalk, located on the eastern side of the proposed Movie Theater, which will connect to the proposed Public Park.

Thank you for your time and consideration.

Haines, Gipson & Associates

Luke Ferguson, P.E., GSWCC Cert. #72082  
Associate







LOCATION MAP

EXAMPLE PICTURES



TOP OF GABION RETAINING WALL

GRASS GROWING FROM FACE OF WALL

BOT. OF GABION RETAINING WALL



TOP OF GABION RETAINING WALL

GRASS GROWING FROM FACE OF WALL

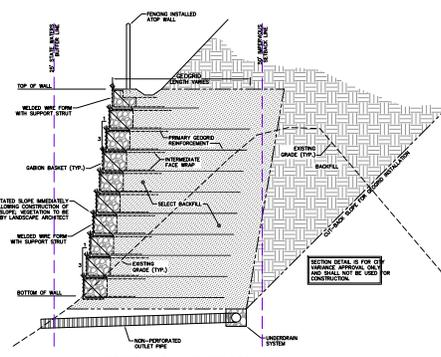
BOT. OF GABION RETAINING WALL



APPROVE 0.04 ACRES OF ENCROACHMENT INTO 75' UNDISTURBED BUFFER TO ALLOW FOR PERVIOUS GABION RETAINING WALL TO ACCOUNT FOR GRADE DIFFERENTIAL

APPROVE 0.55 ACRES OF ENCROACHMENT INTO 75' IMPERVIOUS SETBACK TO ALLOW FOR OPEN 3-LEVEL PARKING DECK

APPROVE 0.22 ACRES OF ENCROACHMENT INTO 50' UNDISTURBED BUFFER TO ALLOW FOR PERVIOUS GABION RETAINING WALL TO ACCOUNT FOR GRADE DIFFERENTIAL



TYPICAL SECTION OF PERVIOUS GABION RETAINING WALL SYSTEM N.T.S.

**LEGEND**

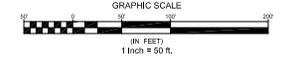
	Existing Creek Centerline
	Excess of Weeded Vegetation
	Stream Buffers / Setbacks
	75-foot Impervious Setback
	75-foot Impervious Setback Encroachment (Total = 11.01 acres)
	50-foot Undisturbed Buffer
	50-foot Undisturbed Buffer Encroachment (Total = 11.26 acres)
	25-foot State Waters Buffer (Also Encroachment Proposed)



UNIVERSITY PRODUCTION CENTER, INC.  
 800-848-8844  
 Or Call 800-282-7411

**CAUTION-NOTE TO CONTRACTOR**  
 BY CONTRACTOR'S ACCEPTANCE OF THIS CONTRACT, THE CONTRACTOR AGREES TO MAINTAIN THE EXISTING VEGETATION AND TO PROTECT THE EXISTING VEGETATION FROM DAMAGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING VEGETATION AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY DAMAGE TO EXISTING VEGETATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING VEGETATION AND SHALL BE RESPONSIBLE FOR THE REPAIR OF ANY DAMAGE TO EXISTING VEGETATION.

**STREAM BUFFER VARIANCE EXHIBIT**



**HAINES GIBSON & ASSOCIATES**  
 CONSULTING ENGINEERS  
 CIVIL & STRUCTURAL SERVICES  
 1000 W. PEACHTREE AVENUE, SUITE 1000  
 ATLANTA, GEORGIA 30305  
 TEL: (770) 941-7700

**HGA**  
 FUTURE DEVELOPMENT

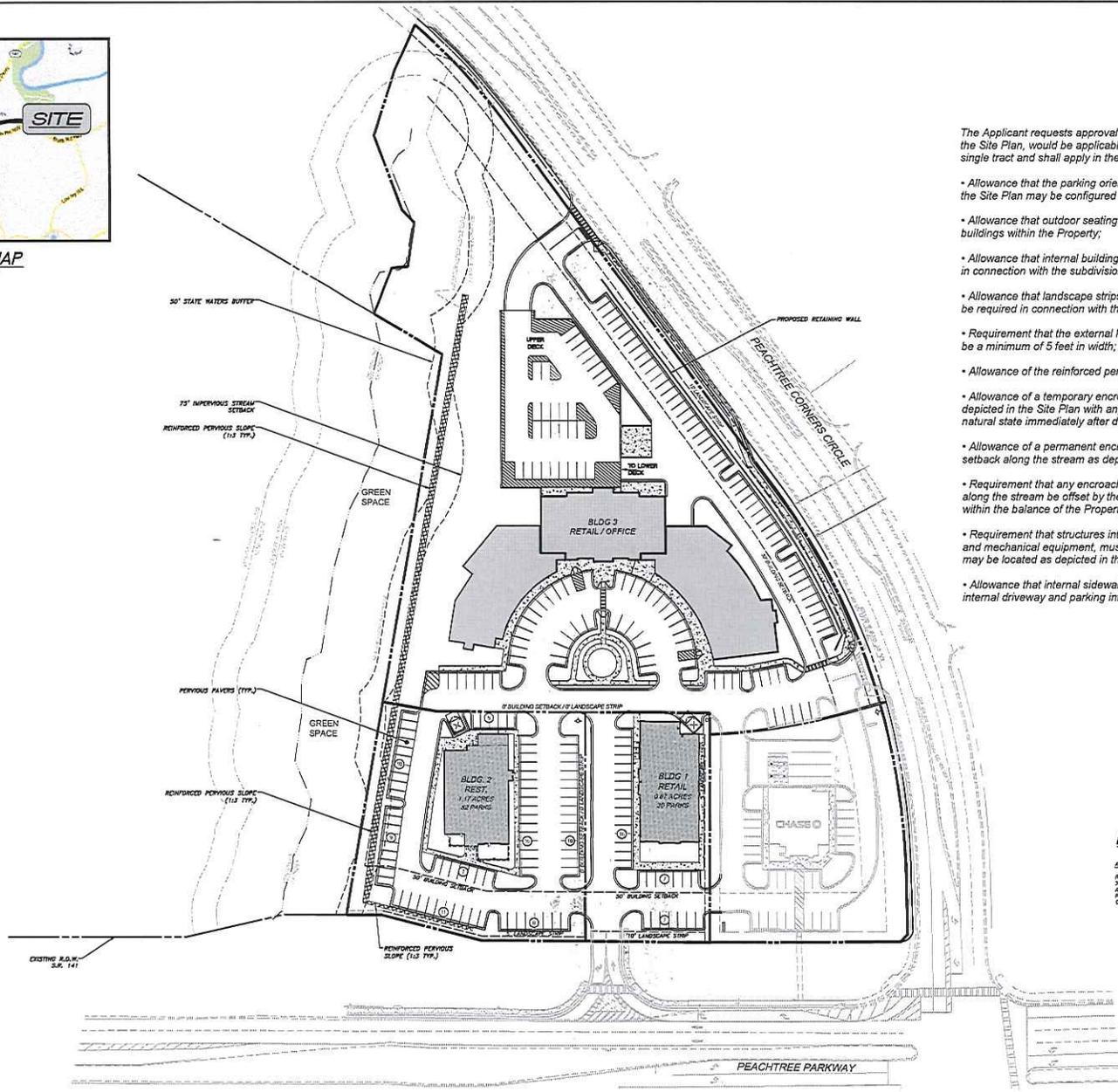
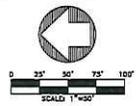
**PEACHTREE CORNERS TOWN CENTER**  
 CITY OF PEACHTREE CORNERS, GEORGIA  
 NORTHWEST CORNER OF PEACHTREE BLVD. & PEACHTREE CORNERS CIRCLE

NO.	BY	DATE	DESCRIPTION

DRAWN BY: TLP/RCL  
 CHECKED BY: RCL  
 DATE: 01/28/2016  
 SHEET TITLE: STREAM BUFFER VARIANCE EXHIBIT  
 SHEET NUMBER: EXH.



VICINITY MAP  
NOT TO SCALE



The Applicant requests approval of the following items which are reflected in the Site Plan, would be applicable to the development of the Property as a single tract and shall apply in the event of a subdivision of the Property:

- Allowance that the parking orientation for the individual buildings reflected in the Site Plan may be configured as set forth in the Site Plan;
- Allowance that outdoor seating and dining shall be allowed for the individual buildings within the Property;
- Allowance that internal building and/or structure setbacks shall not be required in connection with the subdivision of the Property;
- Allowance that landscape strips/buffers along internal property lines shall not be required in connection with the subdivision of the Property;
- Requirement that the external landscape strip along Peachtree Parkway shall be a minimum of 5 feet in width;
- Allowance of the reinforced pervious slope as depicted in the Site Plan;
- Allowance of a temporary encroachment into the 50 foot stream buffer as depicted in the Site Plan with any such disturbed area to be returned to its natural state immediately after development;
- Allowance of a permanent encroachment into the 75 foot impervious surface setback along the stream as depicted in the Site Plan;
- Requirement that any encroachment into the impervious surface setback along the stream be offset by the incorporation of twice as much pervious area within the balance of the Property as is subject to said encroachment;
- Requirement that structures internal to the development, such as dumpsters and mechanical equipment, must be screened as required by the Ordinance but may be located as depicted in the Site Plan;
- Allowance that internal sidewalks may adjoin the curbing for the Property's internal driveway and parking infrastructure, as applicable.

**PROJECT CONTACTS**

<b>APPLICANT</b>	<b>ENGINEER</b>
ROBERT'S PROPERTIES PEACHTREE RETAIL, LLC 279 BUSHWOOD ROAD, SUITE 201 ATLANTA, GA 30329 PH: 770-242-4444 CONTACT: DAVID PHILLIPS	LAI ENGINEERING 1800 PARKWAY PLACE, SUITE 220 MARIETTA, GA 30067 PH: 770-423-0807 CONTACT: BRIAN PEUNAN

REVISIONS


PEACHTREE CORNERS COMMERCIAL MASTER PLAN  
PEACHTREE CORNERS CIRCLE AND PEACHTREE PARKWAY  
ROBERTS PROPERTIES PEACHTREE RETAIL, LLC  
CITY OF PEACHTREE CORNERS  
GEORGIA

PARKWAY CENTER  
1800 PARKWAY PLACE  
SUITE 220  
MARIETTA, GA 30067  
PHONE: 770-423-0807  
FAX: 770-423-1262  
WWW.LAIENGINEERING.COM



JOB NO: 14067  
DWG NAME: 1800-PARKWAY-PLAN

MASTER PLAN

SHEET  
**CSP**

DATE: 01-30-07  
CSP/07/01/07

NOT ISSUED FOR CONSTRUCTION



## **OBJECTIONS AND ASSERTION OF RIGHTS**

Roberts Properties Peachtree Retail, LLC (“Applicant”) hereby asserts the following objections and rights with respect to its application to rezone the Subject Property with concurrent variances, as requested in the attached letter and corresponding rezoning and concurrent variance application (the “Application”):

1. Article IX, Section II, Paragraph 4 of the Georgia Constitution gives the City of Peachtree Corners (the “City”) the power to zone and rezone, which power must be fairly exercised under the Georgia Constitution. An application or disregard of the City’s Zoning Ordinance (the “Zoning Ordinance”) in a way to deny the Application would violate this constitutional requirement.

2. Denying the Application would be a manifest abuse of the City’s rezoning power to the detriment of Applicant, which would cause Applicant special and substantial damages.

3. Denying the Application would be a significant deprivation of and detriment to Applicant’s property rights that is insubstantially related to the public health, safety, morality and welfare of the citizens of the City and constitutes an unconstitutional arbitrary and capricious act, resulting in an unconstitutional taking of Applicant’s property in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia, 1983; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, denying the Application would violate the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

4. Denying the Application would deprive Applicant of an economically viable use of its property without just and adequate compensation in violation of the Fifth and Fourteenth

Amendments to the United States Constitution and Article I, Section I, Paragraph I, and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

5. Denying the Application would treat Applicant and its property unequally to and different from other persons and properties under like circumstances and conditions without a legitimate ground for differentiating Applicant and its property from those other persons and properties. Accordingly, denying the Application would violate Applicant's constitutional right to equal treatment and protection under the law in violation of the Fourteenth Amendment of the United States Constitution and Article I, Section I, Paragraph 2 of the Constitution of the State of Georgia.

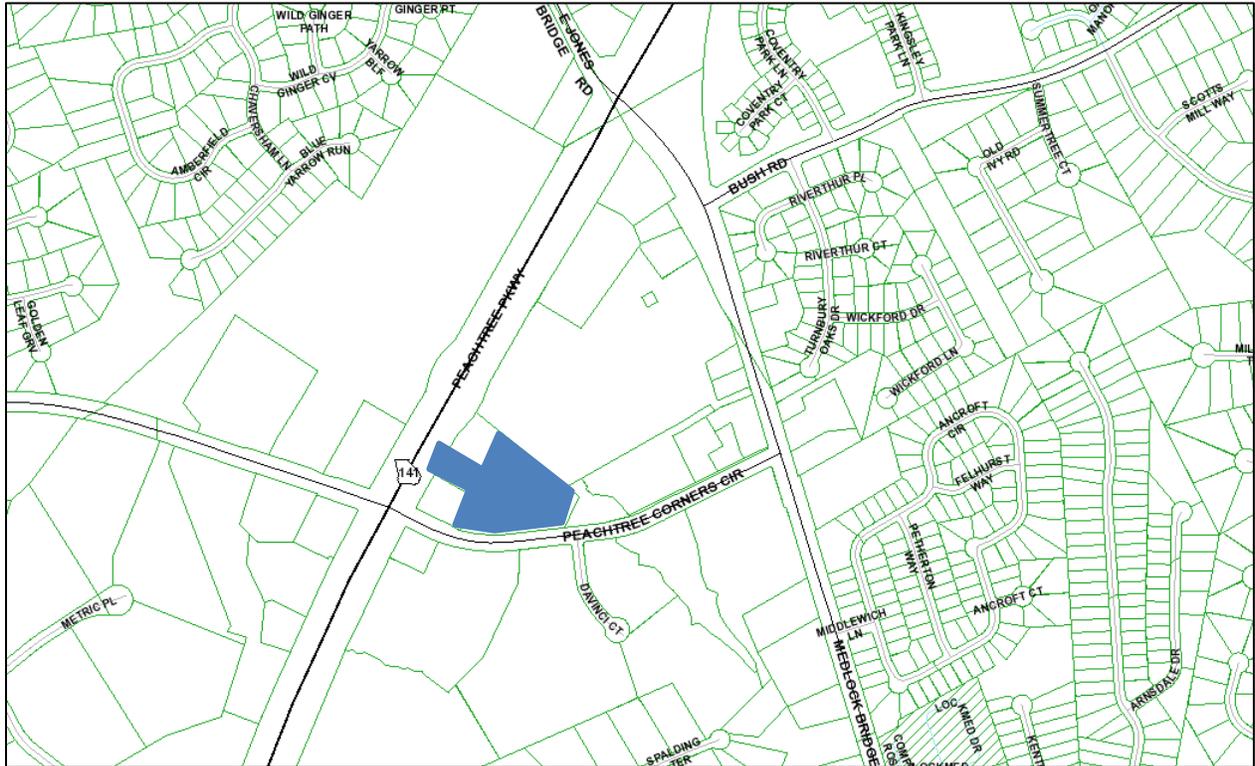
6. Any limitation of Applicant's time or opportunity for presentation of the issues before the Planning Commission or the Mayor and City Council would violate the guarantees of free speech under Article I, Section I, Paragraph 5 of the Georgia Constitution and the First Amendment of the United States Constitution. Further, such limitations would violate Applicant's right to petition and assemble, in violation of Article I, Section I, Paragraph 9 of the Georgia Constitution, and the First Amendment of the United States Constitution as well as the due process and equal protection clauses of the Georgia Constitution, and the United States Constitution.

7. The Zoning Ordinance's standards are insufficient to contain the discretion of the Mayor and City Council or to provide the courts with a reasonable basis for judicial review. Because the stated standards (individually or collectively) are too vague and uncertain to provide reasonable guidance to the Mayor and City Council or to restrict the Mayor and City Council's discretion, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the United States Constitution, as well as Article I, Section III, Paragraph 1 and Article I, Section I, Paragraphs 1 and 2 of the Georgia Constitution.

8. The City's denial of the requested rezoning would violate the Federal Fair Housing Act and the Georgia Fair Housing Act.

## PROPERTY LOCATION MAP

### Roberts Properties Mixed Use Development



**CASE NUMBER:**

**RZ2017-004 & CIC2017-004**

**HEARING DATES:**

**PLANNING  
COMMISSION**

**NOV. 14, 2017**

**CITY COUNCIL  
1<sup>ST</sup> READING**

**NOV. 21, 2017**

**CITY COUNCIL  
2<sup>ND</sup> READING**

**DEC. 19, 2017**

**PROPERTY ADDRESS:**

**5246 Peachtree Pkwy. & 4926 Peachtree  
Corners Cir.**