# City of Tucker, GA

COMMUNITY COUNCIL

| October 12, 2016 | COMMUNITY COUNCIL<br>AGENDA<br>Discover DeKalb<br>1957 Lakeside Parkway, Suite 510<br>Tucker GA 30084 | 7:00 PM |
|---|---|---|

**A) Roll Call**

**B) Pledge of Allegiance**

**C) Approval of Minutes:**

1. Community Council Meeting Minutes – September 14, 2016

**D) Old Business:** (None)

**E) New Business:**

1. **Recommendation to Planning Commission** to adopt a revised Zoning Ordinance
2. **Recommendation to Planning Commission** for SLUP-16-003, VS-16-003-01, and VS-16-003-02 for an existing church and a new family life center at 1983 Brockett Road.
3. **Recommendation to Planning Commission** for SLUP-16-004 and VS-16-004-01 for a drive-through facility at 4328 Lavista Road.

**F) City Business Items:** (None)

**G) Comments by Staff and Community Council Members**

**H) Adjournment**

# COMMUNITY COUNCIL MINUTES

# September 14, 2016

DRAFT COPY

**CITY OF TUCKER**
**COMMUNITY COUNCIL MEETING MINUTES**
**September 14, 2016 at 7:00 PM**

The Community Council of the City of Tucker held a meeting at Discover DeKalb, 1957 Lakeside Parkway, Suite 510, Tucker, GA 30084. The following were in attendance:

| | |
|---|---|
| Community Council Chairman | Will Arroyo |
| Community Council Vice Chairman | Janet Curtis |
| Community Council Member | Seth Burrow |
| Community Council Member | Frank Luton - Absent |
| Community Council Member | Frank Sapp |
| Community Council Member | Cara Schroeder |
| Community Council Member | Jonathan Vaughters |
| | |
| City Clerk | Jennifer Davis |
| Director of Community and Economic Dev. | John McHenry |
| Deputy Director | Courtney Lankford |

**CALL TO ORDER:** Chairman Will Arroyo called the meeting to order at 7:01 pm

**MINUTES:**

**MOTION TO APPROVE THE MINUTES FROM THE AUGUST 11, 2016 COMMUNITY COUNCIL MEETING.**
**By: Frank Sapp**
**Seconded by: Cara Schroeder**
**Vote: (6-0) (Sapp, Schroeder, Arroyo, Burrow, Curtis, Vaughters)**

**OLD BUSINESS**: None

**NEW BUSINESS**: None

**CITY BUSINESS ITEMS:**

1. Regarding a rezoning application (**RZ-16-001)**, concurrent buffer variance reductions (**VC-16-001-01 & VC-16-001-02**), special land use permit for senior housing (**SLUP-16-002)**, amendment to Comprehensive Plan (**CA-16-001)**, and related documents for 4650 Hugh Howell Road, Parcel 18 215 01 003 & 4750 Hugh Howell Road, Parcel 18 215 01 001. The applicant is requesting MU-5 (Mixed Use Very High Density Zoning District) for a master planned mixed use development on 88 acres. (Information Purposes,

Approved by DeKalb County Community Council)

Stephen Macauley, applicant, gave an overview of the plans for Nexus Tucker. He mentioned the plan includes movie studio, townhomes, green space with Monet Lily Pond, urban garden, school, performing arts center, daycare, retail, senior living, millennium housing, offices, hotel, and grocery.

Community Council members discussed, among other items, sidewalks, parking, school, traffic light, school traffic concerns, and tax abatement. Comments from the public concerned, among other items, public access to the development, performing arts center, dog park, roof top access, elevation of property, detention pond, and prices of housing.

**ADJOURNMENT**: The Community Council Meeting adjourned at approximately 8:34 pm.

Approved,

Attest:

_____
Will Arroyo, Chairman

_____
Jennifer Davis, City Clerk

(Seal)

# Revised Zoning Ordinance

| Proposed Zoning Ordinance Changes - October 6, 2016 | | | |
|---|---|---|---|
| **Page Number** | **Section** | **Subject** | **Change/Reason for Change** |
| 3-28 | 3.35.6 | self-storage | Clarify that only mini-warehouses should be prohibited |
| 3-30 | 3.35.8 | self-storage | allow for multi-warehouses per a special land use permit in tier 2 and 3 |
| Use Table | Table 4.1 | Mini-warehouses | Change to require SLUP in C-1 and C-2 |
| Use Table | Table 4.1 | Multi-warehouses | allow for the addition of multi-warehouses in the zoning ordinance |
| 4-35 | 4.2.35.A | Mini-warehouses | Clarify that any outdoor storage must be screened |
| 4-35 | 4.2.35(1) | Multi-warehouses | Add supplemental information for multi-warehouses |
| 7-9 | 7.2.4.C | Public Notice Requirements | Change the local law to match state law |
| 9-23 | Definitions | Alter definition of mini-warehouse | Clarify that mini-warehouses are one-level |
| 9-23 | Definitions | Add definition of multi-warehouse | Add definition clarifying that multi-warehouses are multi-level buildings |

**Article 1. General Requirements ..... 2**
**27-1.1 DIVISION 1. GENERAL PROVISIONS ..... 2**
1.1.1 Short title. ..... 2
1.1.2 Effective date. ..... 2
1.1.3 Purpose and intent of code. ..... 2
1.1.4 Minimum requirements. ..... 3
1.1.5 Authority. ..... 3
1.1.6 General applicability. ..... 3
1.1.7 Applicability to all property. ..... 3
1.1.8 General prohibition. ..... 3
1.1.9 Interpretation and authority to administer. ..... 3
1.1.10 Components of Zoning Ordinance. ..... 4
1.1.11 Transitional provisions. ..... 4
1.1.12 Relation to and conflict with other provisions. ..... 7
1.1.13 Relation to private agreements. ..... 7
1.1.14 Zoning maps. ..... 7
1.1.15 Interpretation of zoning maps. ..... 8
1.1.16 Rules applicable to parcels split into two or more zoning districts. ..... 8
1.1.17 Severability. ..... 9
1.1.18 Annexation. ..... 9
**27-1.2 DIVISION 2. RELATIONSHIP TO COMPREHENSIVE PLAN ..... 9**
1.2.1 Relationship to comprehensive plan ..... 9
1.2.2 Character areas (land use categories). ..... 9
1.2.3 Relationship between character areas and zoning districts. ..... 10
1.2.4 Relationship between supplemental plans and zoning districts. ..... 10

# Article 1. General Requirements

## 27-1.1 DIVISION 1. GENERAL PROVISIONS

### 1.1.1 Short title.

This chapter shall be known and shall be cited as the Zoning Ordinance of Tucker, Georgia and may be referred to herein as “this Zoning Ordinance” or “this chapter.” The Tucker Comprehensive Plan shall be adopted and used for land use decisions for the City of Tucker. It may be referred to herein as “DeKalb Comprehensive Plan” or “comprehensive plan.”

### 1.1.2 Effective date.

This Zoning Ordinance was adopted on July 8, 2016 and becomes effective July 11, 2016.

### 1.1.3 Purpose and intent of code.

This chapter is enacted by the City of Tucker mayor and city council in order to promote the public health, safety, morals and general welfare of the residents of Tucker, Georgia, and to implement the Tucker County Comprehensive Plan. To these ends, this chapter is intended to achieve the following purposes:

A. To guide and regulate the orderly growth, development, redevelopment and preservation of Tucker in accordance with a well-considered comprehensive plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people;

B. To protect the established character of both private and public property;

C. To promote, in the public interest, the wise utilization of land;

D. To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers;

E. To reduce or prevent congestion in the public streets;

F. To facilitate the creation of a convenient, attractive and harmonious community;

G. To encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations;

H. To expedite the provision of adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;

I. To protect against destruction of, or encroachment upon, historic areas;

J. To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life or health or property from fire, flood, or other danger;

K. To encourage economic development activities that provide desirable employment and enlarge the tax base;

L. To promote the preservation of the unique natural and physical resources of the city including forested areas, riverbeds, stream beds, and archaeological sites;

M. To achieve compliance with all applicable state and federal regulations;

N. To provide for and promote housing for all income groups and all citizens within the city;

O. To implement the authority, powers and duties of the planning commission and the zoning board of appeals pursuant to state and local law, including but not limited to Ga. Const. art. IX, section II, ¶ IV;

P. To reduce or eliminate the secondary effects of adult entertainment establishments and other establishments that create such secondary effects while protecting legitimate constitutional rights of said establishments; and

Q. To provide for protection of the constitutional rights and obligations of all citizens within the city.

### 1.1.4 Minimum requirements.

In their interpretation and application, the provisions of this chapter shall be considered minimum requirements for the promotion of the public health, safety, morals and general welfare, as set forth in Section 1.1.3 hereof establishing the intent and purpose of this chapter. Within each zoning district, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land, except as may be altered through conditions of zoning applied to specific properties or variances or waivers, as provided for in Article 7.

### 1.1.5 Authority.

This chapter is enacted pursuant to the City of Tucker's authority to adopt plans and exercise the power of zoning granted by the Ga. Const. art. IX, section II, ¶ IV; The City's authority to enact regulations and exercise powers granted by the Ga. Const. art. IX, section II, ¶¶ II and III; authority granted by the State of Georgia, including but not limited to the Official Code of Georgia Annotated (O.C.G.A.) § 36-66-2(b); and other powers and authority provided by federal, state and local laws applicable hereto.

### 1.1.6 General applicability.

All buildings and structures erected hereafter, all uses of land, water, buildings or structures established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning district or districts in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this chapter shall be subject to all regulations of this chapter. Existing buildings, structures and uses which do not comply with the regulations of this chapter shall be authorized to continue subject to the provisions of Article 8 of this chapter relating to nonconformities.

### 1.1.7 Applicability to all property.

The regulations in this chapter shall apply to all buildings, structures, land and uses within the incorporated area of Tucker, Georgia.

### 1.1.8 General prohibition.

No building or structure, and no use of any building, structure, land, or property, and no lot of record, now or hereafter existing, shall hereafter be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter. No use of any land, building, structure or property shall be permitted unless expressly and specifically authorized in the district or districts within which said use is located or by the supplemental regulations contained in Article 4 of this chapter. When a use is not directly mentioned, the community development director may determine that the proposed use is functionally similar to an allowed land use, as listed in Table 4.1, Use Regulations. The mayor and city council may subsequently amend the applicable definition(s) in Article 9, pursuant to the amendment procedures in Article 7.

### 1.1.9 Interpretation and authority to administer.

The community development director is designated to administer, interpret and enforce the provisions of this chapter for all proposed zoning, variances, comprehensive planning, and applications requiring zoning compliance, including but not limited to subdivisions, site plans, permits and zoning compliance certifications for licenses and occupational taxes.

Unless otherwise specified, where this Zoning Ordinance refers to “the director” or “the planning director,” it shall mean the community development director or his/her designee.

### 1.1.10 Components of Zoning Ordinance.

This chapter and the Official Zoning Map and official overlay district maps of the city on file and maintained by the community development department shall together constitute the Zoning Ordinance of the City of Tucker.

### 1.1.11 Transitional provisions.

A. *New development.* Upon the effective date of this Zoning Ordinance or any subsequent amendment thereafter, any new building, structure or lot legally established shall be used, constructed or developed only in accordance with all applicable provisions of this Zoning Ordinance.

B. *Existing development*. Any existing use, lot, building or other structure legally established prior to the effective date of this Zoning Ordinance that does not comply with all of the provisions of this Zoning Ordinance shall be subject to the provisions of Article 8, Nonconformities.

C. *Transition to new zoning districts.* The zoning district names in effect prior to the effective date of this Zoning Ordinance are converted as shown in Table 1.1. To the extent other sections of the Code of the City of Tucker refer to such previous district names, unless and until such other sections are amended to reflect a new intent, any reference to such previous district names shall be deemed to refer to both the previous district name and the new district name to which it is converted in this Zoning Ordinance.

D. *Pre-existing Violations.* Any violation of the pre-existing zoning ordinance for which a citation has been issued as of the effective date of this Zoning Ordinance shall continue to be prosecuted subject to the penalties existing at the time of the issuance of the citation. If a violation of the pre-existing zoning ordinance existed as of the effective date of this Zoning Ordinance without a citation having been issued, and if the underlying activity that would have constituted a violation under the pre-existing zoning ordinance would not constitute a violation under this Zoning Ordinance, the violation shall be deemed to have been cured and no citation shall be issued.

E. *In-process applications for rezonings and special land use permits.* In-process applications for rezonings and special land use permits that were submitted to DeKalb County prior to the effective date of this Zoning Ordinance will have their review process partially grandfathered. The City of Tucker review process will begin at the point in the review process where the DeKalb County review process ended. Application fees shall not be charged by the City of Tucker if payment was previously submitted to DeKalb County.

F. *Completed applications prior to effective date of this Zoning Ordinance.*

1. Any proper and complete application in which the rights associated with that application has vested prior to the effective date of this Zoning Ordinance shall be evaluated based on the applicable law, rules, regulations or development standards in place at the time the application’s rights vested.

2. Applicants, who submitted an application prior to the effective date of this Zoning Ordinance but has not acquired vested rights in the project, shall proceed under the standards of this Zoning Ordinance.

G. *Prior approvals.*

1. Zoning conditions.

a. Any project that was approved and acquired vested rights prior to the effective date of this chapter may be developed according to the provisions of the previously approved development, program, or plan. Where conditions were attached to such prior approval and associated vestment of rights and such conditions conflict with a standard or requirement of this Zoning Ordinance, the previously approved zoning condition shall apply. If a previously approved development, program, plan or condition does not address a particular development standard

or requirement of this Zoning Ordinance, the new standard or requirement of this Zoning Ordinance shall apply.

b. Any project in which the rights associated with such project has not vested shall proceed under the standards of this Zoning Ordinance.

2. *Development applications.* Projects with valid approvals or permits issued prior to the effective date of this Zoning Ordinance and the rights associated with such project has vested may be developed in accordance with the applicable law, rules, regulations and development standards in effect at the time of the approval or permit issuance, provided the permit or approval is valid and has not lapsed. Any re-application for an expired approval or permit shall meet the standards of this Zoning Ordinance.

3. *Special Land Use Permits.* Properties subject to a special land use permit that was approved prior to the effective date of this Zoning Ordinance shall continue to be subject to the terms of the special land use permit and previous zoning regulations even if the zoning district classification is amended to a new zoning district as part of the adoption of this Zoning Ordinance

Table 1.1 Prior zoning district conversion to established new districts.

| Old District | New District by Type | District Name |
|---|---|---|
| ***Residential Single-Family Districts*** | | |
| R-200 | **Residential Estate** | **RE** |
| R-150 | | |
| R-30,000 | **Residential Large Lot** | **RLG** |
| R-20,000 | | |
| R-100 | **Residential Medium Lot** | **R-100** |
| R-85 | **Residential Medium Lot** | **R-85** |
| R-75 | **Residential Medium Lot** | **R-75** |
| R-60 | **Residential Small Lot** | **R-60** |
| R-50 | | |
| MHP | **Mobile Home Park** | **MHP** |
| R-NCD | **Neighborhood Conservation** | **RNC** |
| ***Medium and High Density Residential Districts*** | | |
| A | **Small Lot Residential Mix** | **RSM** |
| R-A5 | | |
| R-A8 | | |
| R-CH | | |
| R-CD | | |
| R-DT | | |
| TND | | |
| RM-150 | | |
| RM-100 | **Medium Density Residential-1** | **MR-1** |
| RM-85 | **Medium Density Residential-2** | **MR-2** |
| RM-75 | | |
| New | **High Density Residential-1** | **HR-1** |
| RM-HD | **High Density Residential-2** | **HR-2** |
| New | **High Density Residential-3** | **HR-3** |

| Old District | New District by Type | District Name |
|---|---|---|
| ***Mixed Use Districts*** | | |
| PC-1 | **Mixed Use Low Density** | **MU-1** |
| New | **Mixed Use Low-Medium Density** | **MU-2** |
| New | **Mixed Use Medium Density** | **MU-3** |
| OCR | **Mixed Use High Density** | **MU-4** |
| PC-2, PC-3 | **Mixed Use Very High Density** | **MU-5** |
| ***Non-Residential Districts*** | | |
| NS | **Neighborhood Shopping** | **NS** |
| C-1 | **Local Commercial** | **C-1** |
| C-2 | **General Commercial** | **C-2** |
| O-I-T | **Office-Institutional-Transitional** | **OIT** |
| O-I | **Office-Institutional** | **OI** |
| O-D | **Office-Distribution** | **OD** |
| M | **Light Industrial** | **M** |
| M-2 | **Heavy Industrial** | **M-2** |

### 1.1.12 Relation to and conflict with other provisions.

The provisions of this chapter shall be interpreted and applied so as to constitute the minimum requirements for the promotion of the public health, safety, morals, and general welfare. Whenever any provision of this chapter imposes a greater requirement or a higher standard than is required by any federal or state law or other city ordinance, resolution or regulation, the provision of this chapter shall govern unless preempted by said federal or state law. Whenever any provision of any federal or state law or other city ordinance, resolution or regulation imposes a greater requirement or a higher standard than is required by this chapter, the provision of such state or federal statute or other city ordinance or regulation shall apply. Whenever any conflict arises between this chapter and Chapter 14 of the Code of the City of Tucker, the provisions of this Zoning Ordinance shall prevail, with the exception of Chapter 14, Article 2, Environmental Control. Compliance with the provisions of this chapter shall not be interpreted to obviate the requirements for compliance with any and all other provisions of federal or state law, or the Code, including but not limited to the requirements for licenses or permits of any kind.

### 1.1.13 Relation to private agreements.

This chapter is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship, provided that when the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this chapter shall govern. Private restrictive covenants to which the city is not a party shall not be regulated or enforced by the city under this chapter.

### 1.1.14 Zoning maps.

The city shall be divided into the zoning districts identified in Articles 2 and 3 of this chapter, as depicted on the official zoning maps entitled “Zoning Maps, Tucker, Georgia” (the “Official Zoning Maps”). The Official Zoning Maps, to be adopted contemporaneously with this chapter, together with all explanatory information contained or referenced thereon, is hereby adopted by reference and declared to be a part of this chapter.

The Official Zoning Maps shall be adopted contemporaneously with this chapter in digital format and contained on a compact disk to be maintained in its original, unedited and unaltered form by the clerk to the mayor and city council. A printed copy of the compact disk’s contents depicting the Official Zoning Maps on the date of its initial adoption shall also be maintained in its original, unedited and unaltered form by the clerk to the mayor and city council.

Any subsequent amendments made by the mayor and city council to the Official Zoning Maps after the initial date of adoption with this chapter shall be indicated on the digital version of the Official Zoning Maps by the community development director. The director of the GIS department shall continuously maintain the digital version of the Official Zoning Maps so that they accurately show all amendments made thereto by the mayor and city council since the initial date of adoption, indicating the dates of said amendments. A copy of the updated and current version of the Official Zoning Maps in digital format, showing all amendments thereto since the date of initial adoption, shall be held in custody of the community development director.

Any condition(s) of zoning related to any property, either existing at the time of initial adoption or subsequently imposed by the mayor and city council shall be on the Official Zoning Maps, with reference to the applicable zoning case number. The clerk to the mayor and city council shall maintain custody of the minutes applicable to the referenced zoning case numbers, which state the zoning conditions. Uncertified copies of the Official Zoning Maps may be provided to the public for informational purposes only.

Verifications of the current zoning status of property shall be the responsibility of the community development director. To verify the current zoning status of a particular parcel, an individual may obtain a certified copy of the Official Zoning Maps, or a portion thereof, from the community development director. Certified copies of the Official Zoning Maps, or portions thereof, shall be certified by the community development director with his/her signature and the date on which the portions were certified. The community development director shall

be the final authority as to the current zoning status of all land, buildings and structures located in the city, except for: (1) amendments enacted by the mayor and city council but not yet depicted on the Official Zoning Maps, and (2) uncertainties to be clarified by the mayor and city council as described in section 1.1.15. Any inaccuracy on the Official Zoning Maps that is reasonably determined to be a scrivener's error may be corrected by the community development director.

### 1.1.15 Interpretation of zoning maps.

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow centerlines of rights-of-way or prescriptive easements. In case of closure of a street or alley, or vacation of any easement, the boundary shall be construed as remaining at its prior location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary shall be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line.

B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following city limit lines shall be construed as following such city limits.

D. Boundaries indicated as approximately following railroad lines shall be construed to be midway in the right-of-way.

E. Boundaries indicated as approximately following shorelines of bodies of water shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of creeks, streams, rivers, or other predominantly linear bodies of water shall be construed to follow such centerlines.

F. Boundaries indicated as parallel to or concentric with, or extensions of features indicated in paragraphs (A) through (E) above, shall be so construed. Distances and dimensions not specifically indicated on the Official Zoning Map shall be determined from the Official Zoning Map by the community development director.

G. Where areas appear to be unclassified on the Official Zoning Map, and classification cannot be established by the above rules, such areas shall be considered to be classified Residential Estate (RE) until action is taken by the mayor and city council to amend the Official Zoning Map.

H. Where territory is added to the jurisdictional area, it shall be considered to be classified Residential Estate (RE) until action is taken by mayor and city council to amend the Official Zoning Map.

I. Where uncertainties continue to exist or further interpretation is required beyond that provided for in the above paragraphs, the question shall be presented by the community development director to the mayor and city council to enact a clarifying resolution and said action shall be recorded on the Official Zoning Map as is provided herein.

### 1.1.16 Rules applicable to parcels split into two or more zoning districts.

Where a parcel of land is split into two (2) or more zoning districts, each such portion of said parcel may only be used for purposes allowed within the zoning district to which each respective portion is classified. No principal or accessory use of land, buildings or structures, and no use or building or structure authorized by special administrative permit, special land use permit, or special exception, shall be authorized unless said use or building or structure is authorized or permitted within the applicable zoning district.

Where a parcel of land contains two (2) or more zoning classifications, the Official Zoning Maps shall depict said parcel with a Multiple Zone ("MZ") designation. To verify the zoning status of respective portion(s) of a

parcel containing multiple zoning classifications, an individual may obtain verification from the community development director.

### 1.1.17 Severability.

The several provisions of this chapter shall be separable in accordance with the following rules:

A. Should any court of competent jurisdiction adjudge any section or provision of this chapter to be invalid, such judgment shall not affect the validity or continued application of this chapter as a whole or any section or provision thereof other than the section(s) or provision(s) specifically adjudged invalid.

B. Should any court of competent jurisdiction adjudge invalid the application of any section or provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said section or provision to any other property, building or structure.

### 1.1.18 Annexation.

A. When the city is a qualified municipality pursuant to O.C.G.A. § 36-66-4(e), all annexed property shall be zoned without further action for the same use for which that property was zoned immediately prior to annexation.

## 27-1.2 DIVISION 2. RELATIONSHIP TO COMPREHENSIVE PLAN

### 1.2.1 Relationship to comprehensive plan

The comprehensive plan is hereby established as the official policy of the city concerning designated land uses and development types, under which the incorporated areas of the city are divided into the following categories referred to as character areas:

A. Low density residential.

B. Suburban.

C. Office/professional.

D. Neighborhood center.

E. Town center.

F. Regional center.

G. Industrial.

H. Light industrial.

I. Institutional.

J. Conservation and open space.

K. Commercial redevelopment corridor.

L. Highway corridor.

### 1.2.2 Character areas (land use categories).

The boundaries of the various character areas (land use categories), as shown on the future development map and described within the policy narrative of the comprehensive plan, are made a part of this chapter. The official description of these character area boundaries shall be maintained by the community development director. Where uncertainty regarding character area boundaries exists, the rules set forth in section 1.1.15 shall apply. All such maps and all notations, references and information shown thereon shall be as much a

part of this chapter as if all the matter and information set forth by the maps were fully described herein. All other writings concerning the comprehensive plan, including technical documents and appendices adopted simultaneously with the comprehensive plan, are for guidance and information purposes only, and are not made a part of this chapter.

### 1.2.3 Relationship between character areas and zoning districts.

The character area categories established in the adopted comprehensive plan and shown on the future development map are to be implemented by approving rezonings to zoning districts listed within the following categories in Table 1.2, except the Scenic Corridor character area in which any zoning district may be approved. The zoning districts that are permitted within each character area shall be restricted as provided by Table 1.2.

### 1.2.4 Relationship between supplemental plans and zoning districts.

Supplemental Plans of the comprehensive plan references all supplemental plans that focus on areas, situations, or issues of importance to the City. These plans include, but not limited to, redevelopment plans, neighborhood plans, county wide plans, corridor plans, or plans for conservation management. Where the City Council has adopted a supplemental plan's policies and development standards, these policies and development standards will serve as specific guidelines to support the existing Future Development Plan and character area policies.

Table 1.2: Character areas and permitted zoning districts.

| Zoning District | Rural Residential (max 4 du/a) | Suburban (max 8 du/a) | Traditional Neighborhood (max 12 du/a) | Neighborhood Center (max 24 du/a) | Town Center (max 60 du/a) | Regional Center (max 120 du/a) | Office Park (max 30 du/a) | Institutional | Industrial | Light Industrial | Commercial Redevelopment Corridor (max 18 du/a) | Highway Corridor (max 30 du/a) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | RE | RE | RE | R-60 | RSM | MR-1 | HR-1 | R-100 | M | C-2 | RSM | HR-1 |
| | RLG | RLG | RLG | RSM | MR-1 | MR-2 | MU-1 | R-85 | M-2 | OD | MR-1 | MU-1 |
| | R-100 | R-100 | R-100 | MR-1 | MR-2 | HR-1 | MU-2 | R-75 | OD | OI | MR-2 | MU-2 |
| | R-85 | R-85 | R-85 | MR-2 | HR-1 | HR-2 | MU-3 | R-60 | C-2 | M | MU-1 | MU-3 |
| | R-75 | R-75 | R-75 | MU-1 | HR-2 | HR-3 | MU-4 | RSM | | M-2 | MU-2 | MU-4 |
| | RNC | R-60 | R-60 | MU-2 | MU-1 | MU-1 | NS | MR-1 | | | MU-3 | C-1 |
| | MHP | RNC | RNC | MU-3 | MU-2 | MU-2 | C-1 | MR-2 | | | NS | C-2 |
| | NS | MHP | RSM | NS | MU-3 | MU-3 | C-2 | MU-1 | | | C-1 | OD |
| | | RSM | MR-1 | C-1 | MU-4 | MU-4 | OIT | MU-2 | | | C-2 | OI |
| | | MU-1 | MU-1 | OI | MU-5 | MU-5 | OI | MU-3 | | | OI | OIT |
| | | NS | MU-2 | OIT | OI | OI | OD | OI | | | OD | M |
| | | C1 | NS | | OIT | OIT | | OIT | | | OIT | M-2 |
| | | OIT | C-1 | | C-1 | C-1 | | | | | | |
| | | OI | OIT | | C-2 | C-2 | | | | | | |

*du/a = dwelling units per acre

Office/Professional (OPR) may have Office-Institution (O-I) zoning district and Low Density Residential (LDR) may have Residential Medium Lot -75 (R-75) zoning district.

# Article 2. District Regulations ..... 5

**27-2.1 DIVISION 1. Establishment of districts ..... 5**
2.1.1 Districts established. ..... 5
2.1.2 Prior district classifications and conversion. ..... 6
2.1.3 Additional regulations. ..... 6
2.1.4 Appropriate zoning districts for character area designations. ..... 6
2.1.5 Permitted Uses. ..... 6
**27-2.2 DIVISION 2. RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS ..... 6**
**27-2.3 DIVISION 3. RE (RESIDENTIAL ESTATE) DISTRICT ..... 8**
2.3.1 Statement of purpose and intent. ..... 8
2.3.2 Permitted and special land uses. ..... 8
2.3.3 Dimensional requirements. ..... 8
2.3.4 Site and building design standards. ..... 8
**27-2.4 DIVISION 4. RLG (RESIDENTIAL LARGE LOT) DISTRICT ..... 8**
2.4.1 Statement of purpose and intent. ..... 8
2.4.2 Permitted and special land uses. ..... 9
2.4.3 Dimensional requirements. ..... 9
2.4.4 Site and building design standards. ..... 9
**27-2.5 DIVISION 5. R-100 (RESIDENTIAL MEDIUM LOT–100) DISTRICT ..... 9**
2.5.1 Statement of purpose and intent. ..... 9
2.5.2 Permitted and special land uses. ..... 9
2.5.3 Dimensional requirements. ..... 9
2.5.4 Site and building design standards. ..... 10
**27-2.6 DIVISION 6. R-85 (RESIDENTIAL MEDIUM LOT–85) DISTRICT ..... 10**
2.6.1 Statement of purpose and intent. ..... 10
2.6.2 Permitted and special land uses. ..... 10
2.6.3 Dimensional requirements. ..... 10
2.6.4 Site and building design standards. ..... 10
**27-2.7 DIVISION 7. R-75 (RESIDENTIAL MEDIUM LOT–75) DISTRICT ..... 10**
2.7.1 Statement of purpose and intent. ..... 10
2.7.2 Permitted and special land uses. ..... 11
2.7.3 Dimensional requirements. ..... 11
2.7.4 Site and building design standards. ..... 11
**27-2.8 DIVISION 8. R-60 (RESIDENTIAL SMALL LOT–60) DISTRICT ..... 11**
2.8.1 Statement of purpose and intent. ..... 11
2.8.2 Permitted and special land uses. ..... 11
2.8.3 Dimensional requirements. ..... 12
2.8.4 Site and building design standards. ..... 12
**27-2.9 DIVISION 9. MHP (MOBILE HOME PARK) DISTRICT ..... 12**
2.9.1 Statement of purpose and intent. ..... 12
2.9.2 Permitted and special land uses. ..... 12
2.9.3 Dimensional requirements. ..... 12
2.9.4 Site and building design standards. ..... 12
2.9.5 Transitional buffer zone requirement. ..... 12
**27-2.10 DIVISION 10. RNC (RESIDENTIAL NEIGHBORHOOD CONSERVATION) DISTRICT ..... 12**
2.10.1 Scope of provisions. ..... 12
2.10.2 Statement of purpose and intent. ..... 13
2.10.3 Permitted and special land uses. ..... 13
2.10.4 Scaled site plan. ..... 13
2.10.5 Calculation and design of greenspace. ..... 14
2.10.6 Development standards and permitted uses. ..... 15
2.10.7 Minimum lot width, minimum lot size, building setback, street width, and private drive width requirements. ..... 15
2.10.8 Maximum height of buildings. ..... 18
2.10.9 Maximum lot coverage. ..... 18

2.10.10 Ownership, control, and maintenance of required greenspace. ..... 18
2.10.11 Off-street parking requirements..... 19
2.10.12 Relation of RNC (Residential Neighborhood Conservation) District regulations to subdivision or other regulations..... 20
2.10.13 Reserved. ..... 20
**27-2.11 DIVISION 11. MEDIUM AND HIGH DENSITY RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS ..... 20**
**27-2.12 DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX ) DISTRICT ..... 23**
2.12.1 Statement of purpose and intent. ..... 23
2.12.2 Permitted and special land uses. ..... 23
2.12.3 Dimensional requirements..... 23
2.12.4 Site and building design standards. ..... 23
2.12.5 Density and location criteria. ..... 23
2.12.6 Amenity proximity requirements. ..... 25
2.12.7 Bonus density qualifying standards..... 25
**27-2.13 DIVISION 13. MR-1 (MEDIUM DENSITY RESIDENTIAL–1) DISTRICT ..... 27**
2.13.1 Statement of purpose and intent. ..... 27
2.13.2 Permitted and special land uses. ..... 27
2.13.3 Dimensional requirements..... 27
2.13.4 Site and building design standards. ..... 27
2.13.5 Density and location criteria. ..... 27
**27-2.14 DIVISION 14. MR-2 (MEDIUM DENSITY RESIDENTIAL–2) DISTRICT ..... 28**
2.14.1 Statement of purpose and intent. ..... 28
2.14.2 Permitted and special land uses. ..... 28
2.14.3 Dimensional requirements..... 28
2.14.4 Site and building design standards. ..... 28
2.14.5 Density and location criteria. ..... 29
2.14.6 Building heights. ..... 29
**27-2.15 DIVISION 15. HR-1 (HIGH DENSITY RESIDENTIAL–1) DISTRICT ..... 30**
2.15.1 Statement of purpose and intent. ..... 30
2.15.2 Permitted and special land uses ..... 30
2.15.3 Dimensional requirements..... 30
2.15.4 Site and building design standards. ..... 30
2.15.5 Density and location criteria. ..... 30
2.15.6 Building heights. ..... 31
**27-2.16 Division 16. HR-2 (HIGH DENSITY RESIDENTIAL–2) DISTRICT ..... 32**
2.16.1 Statement of purpose and intent. ..... 32
2.16.2 Permitted and special land uses. ..... 32
2.16.3 Dimensional requirements..... 32
2.16.4 Site and building design standards. ..... 32
2.16.5 Density and location criteria. ..... 32
2.16.6 Building heights. ..... 33
**27-2.17 DIVISION 17. HR-3 (HIGH DENSITY RESIDENTIAL–3) DISTRICT ..... 33**
2.17.1 Statement of purpose and intent. ..... 33
2.17.2 Permitted and special land uses. ..... 34
2.17.3 Dimensional requirements..... 34
2.17.4 Site and building design standards. ..... 34
2.17.5 Density and location criteria. ..... 34
2.17.6 Building heights. ..... 35
**27-2.18 DIVISION 18. MIXED-USE ZONING DISTRICTS ..... 35**
2.18.1 Statement of purpose and intent. ..... 35
2.18.2 Mixed-use district densities. ..... 35
2.18.3 Mixed-Use dimensional requirements. ..... 36
**27-2.19 DIVISION 19. MU-1 (MIXED-USE LOW DENSITY) DISTRICT ..... 39**
2.19.1 Dimensional requirements..... 39

2.19.2 Site and building design standards. 39
2.19.3 Rezoning to the MU-1 (Mixed-Use Low Density) District. 39
2.19.4 MU-1 (Mixed-Use Low Density) District rezoning submittal requirements. 39
2.19.5 Mixed-Use building restrictions. 40
2.19.6 Density and location criteria. 40
2.19.7 Reserved. 42
2.19.8 MU-1 retail size restrictions. 42
**27-2.20 DIVISION 20. MU-2 (MIXED-USE LOW-MEDIUM DENSITY) DISTRICT 42**
2.20.1 District requirements, standards and criteria. 42
**27-2.21 DIVISION 21. MU-3 (MIXED-USE MEDIUM DENSITY) DISTRICT 42**
2.21.1 District requirements, standards and criteria. 42
**27-2.22 DIVISION 22. MU-4 (MIXED-USE HIGH DENSITY) District 43**
2.22.1 District requirements, standards and criteria. 43
**27-2.23 DIVISION 23. MU-5 (MIXED-USE VERY HIGH DENSITY) District 43**
2.23.1 District requirements, standards and criteria. 43
**27-2.24 DIVISION 24. NON-RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS 44**
2.24.1 Dimensional requirements. 44
**27-2.25 DIVISION 25. NS (NEIGHBORHOOD SHOPPING) DISTRICT 47**
2.25.1 Statement of purpose and intent. 47
2.25.2 Intensity limitations. 47
2.25.3 Permitted and special land uses. 47
2.25.4 Dimensional requirements. 47
2.25.5 Site and building design standards. 47
**27-2.26 DIVISION 26. C-1 (LOCAL COMMERCIAL) DISTRICT 47**
2.26.1 Statement of purpose and intent. 47
2.26.2 Permitted and special land uses. 48
2.26.3 Dimensional requirements. 48
2.26.4 Site and building design standards. 48
**27-2.27 DIVISION 27. C-2 (GENERAL COMMERCIAL) DISTRICT 48**
2.27.1 Statement of purpose and intent. 48
2.27.2 Permitted and special land uses. 48
2.27.3 Dimensional requirements. 48
2.27.4 Site and building design standards. 48
**27-2.28 DIVISION 28. OD (OFFICE-DISTRIBUTION) DISTRICT 48**
2.28.1 Statement of purpose and intent. 48
2.28.2 Permitted and special land uses. 49
2.28.3 Dimensional requirements. 49
2.28.4 Site and building design standards. 49
**27-2.29 DIVISION 29. OI (OFFICE-INSTITUTIONAL) DISTRICT 49**
2.29.1 Statement of purpose and intent. 49
2.29.2 Permitted and special land uses. 49
2.29.3 Dimensional requirements. 49
2.29.4 Site and building design standards. 49
**27-2.30 DIVISION 30. OIT (OFFICE-INSTITUTIONAL-TRANSITIONAL) DISTRICT 50**
2.30.1 Statement of purpose and intent. 50
2.30.2 Permitted and special land uses. 50
2.30.3 Dimensional requirements. 50
2.30.4 Site and building design standards. 50
**27-2.31 DIVISION 31. M (LIGHT INDUSTRIAL) DISTRICT 50**
2.31.1 Statement of purpose and intent. 50
2.31.2 Permitted and special land uses. 51
2.31.3 Dimensional requirements. 51
2.31.4 Site and building design standards. 51
2.31.5 Multi-family use provisions for industrial conversion. 51
**27-2.32 DIVISION 32. M-2 (HEAVY INDUSTRIAL) DISTRICT 51**

2.32.1 Statement of purpose and intent. ..... 51
2.32.2 Permitted and special land uses. ..... 52
2.32.3 Dimensional requirements. ..... 52
2.32.4 Site and building design standards. ..... 52

# Article 2. District Regulations

## 27-2.1 DIVISION 1. ESTABLISHMENT OF DISTRICTS

### 2.1.1 Districts established.

The City of Tucker establishes the following zoning districts listed in Table 2.1, which apply to property as illustrated on the official Zoning Map. See Article 3 for Overlay Districts.

Table 2.1: Zoning Districts Established

| DISTRICT NAME | DISTRICT TYPE |
|---|---|
| **Residential Single-Family Districts** | |
| RE | Residential Estate |
| RLG | Residential Large Lot |
| R-100 | Residential Medium Lot -100 |
| R-85 | Residential Medium Lot - 85 |
| R-75 | Residential Medium Lot -75 |
| R-60 | Residential Small Lot |
| MHP | Mobile Home Park |
| RNC | Neighborhood Conservation |
| **Medium and High Density Residential Districts** | |
| RSM | Small Lot Residential Mix |
| MR-1 | Medium Density Residential-1 |
| MR-2 | Medium Density Residential-2 |
| HR-1 | High Density Residential-1 |
| HR-2 | High Density Residential-2 |
| HR-3 | High Density Residential-3 |
| **Mixed-Use Districts** | |
| MU-1 | Mixed-Use Low Density |
| MU-2 | Mixed-Use Low-Medium Density |
| MU-3 | Mixed-Use Medium Density |
| MU-4 | Mixed-Use High Density |
| MU-5 | Mixed-Use Very High Density |
| **Non-Residential Districts** | |
| NS | Neighborhood Shopping |
| C-1 | Local Commercial |
| C-2 | General Commercial |
| OD | Office-Distribution |
| OI | Office-Institutional |
| OIT | Office-Institutional-Transitional |
| M | Light Industrial |
| M-2 | Heavy Industrial |

### 2.1.2 Prior district classifications and conversion.

The zoning district classifications established prior to the effective date of this Zoning Ordinance that are no longer active shall be treated as classifications as shown in Article 1, Table 1.1.

### 2.1.3 Additional regulations.

Additional regulations for a variety of development and building types can be found in Article 4 (Use Regulations), Article 5 (Site Development Regulations), and Article 6 (Parking). Street type classifications for front setback requirements are set forth in Section 14-190 of the Code.

### 2.1.4 Appropriate zoning districts for character area designations.

The zoning districts compatible with and acceptable within the character areas set forth in the comprehensive plan are established in Section 1.2.3 and Table1.2 of this chapter.

### 2.1.5 Permitted Uses.

Permitted principal and accessory uses by zoning district, and whether a use is allowed by right or only with special approval, are set forth in Table 4.1. Table 4.1 also provides additional notation where supplemental regulations, also found in Article 4, may apply. Article 3, Overlay District Regulations, outlines additional uses that are allowed by right or only with special approval.

## 27-2.2 DIVISION 2. RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS

### 2.2.1 Dimensional requirements.

Dimensional requirements, such as overall site requirements, individual lot dimensions, and setbacks for Residential Zoning Districts are established in Table 2.2, “Residential Zoning Districts Dimensional Requirements.” Residential infill development may also be subject to compatibility regulations as specified in Sections 5.2.3 and 5.2.4.

Table 2.2 Residential Zoning Districts Dimensional Requirements

**Residential Single-Family Zoning Districts**

**KEY:**
**Housing Types:** **SF**: Single-Family, **TF**: Two-Family, **TRF**: Three-Family, **MF**: Multi-Family
**Character Areas:** **RC**: Regional Center, **TC**: Town Center, **NC**: Neighborhood Center, **SUB**: Suburban

| Element | RE | RLG | R-100 | R-85 | R-75 | R-60 | MHP | RNC* |
|---|---|---|---|---|---|---|---|---|
| **Lot Dimensions (minimum)** | | | | | | | | |
| Lot Area (square feet) | 43,560 (1 acre) | 20,000 | 15,000 | 12,000 | 10,000 | 6,000/3,500 cottage | Parks: 20 acres Lots: 4,000 | * |
| Lot Width, Street Frontage(feet) | 150 | 65 | 100 | 85 | 75 | 60 | Parks: 400 Lots: 50 | * |
| Lot Width at Building Line (feet) | 150 | 65 | 100 | 85 | 75 | 60 | N/A | * |
| Lot Width Fronting Cul-de-sac (feet) | 35 | 35 | 35 | 35 | 35 | 35 | N/A | * |
| Lot Coverage (maximum %) | 25 | 30 | 35 | 35 | 35 | 35 | N/A | * |
| **Building Setbacks (minimum)** | **Subject to Article 5 Averaging Requirements** | | | | | | | |
| Front Thoroughfares (feet) | 60 | 70 | 50 | 50 | 45 | 30 | Parks: 250 Lots: 10 | * |
| Front Arterials (feet) | 50 | 60 | 40 | 40 | 35 | 20 | 150 | * |
| Front Collector and All Other Streets (feet) | 45 | 55 | 35 | 35 | 30 | If RC/TC/NC: 15 If SUB: 20 | 100 | * |
| Front w/ Alley Access (feet) | N/A | 25 | 25 | 25 | 25 | 10 | Parks: N/A Lots: 10 | * |
| Side - interior building setback (feet) | 20 | 10 | 10 | 8.5 | 7.5 | 7.5 | Parks: 50 Lots: 7.5 | * |
| Side - corner lot on public street (feet)** | same as district indicates front setback, following street type along the corner side property line | | | | | | | |
| Rear (feet) | 40 | 40 | 40 | 40 | 40 | 30 | Parks: 40 **** Lots: 7.5 **** | * |
| **Unit Size, heated living area (minimum)** | | | | | | | | |
| Unit Size (square feet) | 2,000 | 2,000 | 2,000 | 1,800 | 1,600 | 1,200 If cottage: 800-1,200 | N/A | * |
| **Height (maximum)** | | | | | | | | |
| Main Building (feet) (Residential Infill Overlay = 28 feet) | 35 | 35 | 35 | 35 | 35 | 35 | 35 | * |
| Accessory Building (feet) | 24 | 24 | 24 | 24 | 24 | 24 | N/A | * |
| **Open Space (minimum %)** | | | | | | | | |
| Open Space | 20%*** | 20%*** | 20%*** | 20%*** | 20%*** | 20%*** | 20%*** | * |

* See Division 10 of this Article
** See Article 5, Corner Lots section for reduction eligibility
*** Open space requirement shall apply to new subdivisions if project is > 5 acres or > 36 units (Chapter 14)
**** 100 feet if adjacent to property zoned or used for residential purposes

## 27-2.3 DIVISION 3. RE (RESIDENTIAL ESTATE) DISTRICT

### 2.3.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RE (Residential Estate) District is as follows:

A. To preserve rural and estate residential character and to provide for very low density rural residential uses.

B. To provide for the protection of neighborhoods within the city where lots have a minimum area of one (1) acre;

C. To provide protections for existing development as new subdivisions are created;

D. To assure that the uses and structures authorized in the RE (Residential Estate) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

E. To provide for appropriately sized accessible and useable open space in new developments for the health, recreational and social opportunities for city citizens;

F. To provide areas for agricultural uses as appropriate;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.3.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.3.3 Dimensional requirements.

Dimensional requirements for the RE (Residential Estate) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.3.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.4 DIVISION 4. RLG (RESIDENTIAL LARGE LOT) DISTRICT

### 2.4.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RLG (Residential Large Lot) District is as follows:

A. To provide for the protection of neighborhoods within the City of Tucker where lots have a minimum area of 20,000 square feet, but may have narrow lot widths;

B. To provide for compatible infill development in neighborhoods;

C. To provide protections for existing development as new subdivisions are created;

D. To respond to existing site development conditions and patterns;

E. To assure that the uses and structures authorized in the RLG (Residential Large Lot) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

F. To provide for appropriately sized accessible and useable open space in new developments for health, recreational and social opportunities for city residents;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.4.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.4.3 Dimensional requirements.

Dimensional requirements for the R-LG District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.4.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.5 DIVISION 5. R-100 (RESIDENTIAL MEDIUM LOT–100) DISTRICT

### 2.5.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-100 (Residential Medium Lot–100) District is as follows:

A. To provide for the protection of neighborhoods within the city where lots have a minimum area of fifteen thousand (15,000) square feet;

B. To provide for compatible infill development in neighborhoods;

C. To provide protections for existing development as new subdivisions are created;

D. To provide flexibility in design on the interior of new development while protecting surrounding development;

E. To assure that the uses and structures authorized in the R-100 (Residential Medium Lot–100) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

F. To provide for appropriately sized accessible and useable open space in new developments for health, recreational and social opportunities for city residents; and

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.5.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.5.3 Dimensional requirements.

Dimensional requirements for the R-100 (Residential Medium Lot–100) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.5.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.6 DIVISION 6. R-85 (RESIDENTIAL MEDIUM LOT–85) DISTRICT

### 2.6.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-85 (Residential Medium Lot–85) District is as follows:

A. To provide for the protection of neighborhoods within the city where lots have a minimum area of 12,000 square feet;

B. To provide for compatible infill development in neighborhoods;

C. To provide protections for existing development as new subdivisions are created;

D. To provide flexibility in design on the interior of new development while protecting surrounding development;

E. To assure that the uses and structures authorized in the R-85 (Residential Medium Lot–85) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

F. To provide for appropriately sized accessible and useable open space in new developments for health, recreational and social opportunities for city residents;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.6.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are Supplemental Use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.6.3 Dimensional requirements.

Dimensional requirements for the R-85 (Residential Medium Lot–85) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.6.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.7 DIVISION 7. R-75 (RESIDENTIAL MEDIUM LOT–75) DISTRICT

### 2.7.1 Statement of purpose and intent.

The purpose and intent of the mayor and council in establishing the R-75 (Residential Medium Lot–75) District is as follows:

A. To provide for the protection of neighborhoods within the city where lots have a minimum area of 10,000 square feet;

B. To provide for compatible infill development in neighborhoods;

C. To provide protections for existing development as new subdivisions are created;

D. To provide flexibility in design on the interior of new development while protecting surrounding development;

E. To assure that the uses and structures authorized in the R-75 (Residential Medium Lot–75) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

F. To provide for appropriately sized accessible and useable open space in new developments for health, recreational and social opportunities for city residents;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.7.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.7.3 Dimensional requirements.

Dimensional requirements for the R-75 (Residential Medium Lot–75) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.7.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.8 DIVISION 8. R-60 (RESIDENTIAL SMALL LOT–60) DISTRICT

### 2.8.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-60 (Residential Small Lot–60) District is as follows:

A. To provide for the protection of neighborhoods within the city where lots have a minimum area of 6,000 square feet or 3,500 square feet if developed for cottage houses;

B. To provide for compatible infill development in neighborhoods;

C. To provide protections for existing development as new subdivisions are created;

D. To provide flexibility in design within new development while protecting surrounding development;

E. To assure that the uses and structures authorized in the R-60 (Residential Small Lot–60) District are designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood;

F. To provide for appropriately sized accessible and useable open space in new developments for the health, recreational and social opportunities for city residents;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.8.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.8.3 Dimensional requirements.

Dimensional requirements for the R-60 (Residential Small Lot–60) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.8.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.9 DIVISION 9. MHP (MOBILE HOME PARK) DISTRICT

### 2.9.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MHP (Mobile Home Park) District is as follows:

A. To provide locations within the city for the location of mobile home parks.

B. To provide for the development of accessory uses that are necessary in order to provide appropriate recreational and educational opportunities to residents.

### 2.9.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.9.3 Dimensional requirements.

Dimensional requirements for the MHP (Mobile Home Park) District shall be as provided in Table 2.2, "Residential Zoning Districts Dimensional Requirements."

### 2.9.4 Site and building design standards.

Design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.9.5 Transitional buffer zone requirement.

Where a lot in the MHP (Mobile Home Park) District is used for attached single-family dwellings and adjoins the boundary of any property in a Residential Single-Family District, except property on which is located a single-family attached development, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential property.

## 27-2.10 DIVISION 10. RNC (RESIDENTIAL NEIGHBORHOOD CONSERVATION) DISTRICT

### 2.10.1 Scope of provisions.

The provisions contained within this division are the regulations of the RNC (Residential Neighborhood Conservation) District. This division establishes the procedures and the criteria that the mayor and city council shall utilize in making a decision on any application to amend the official zoning map so as to change any parcel of land to the RNC (Residential Neighborhood Conservation) District.

### 2.10.2 Statement of purpose and intent.

The purpose and intent of the mayor and city council in the RNC (Residential Neighborhood Conservation) District is as follows:

A. To encourage creative residential planning and development within the city that will preserve unique environmental features and be consistent with the comprehensive land use plan and the Green DeKalb Initiative that provides greenspace areas and preserves existing natural trees and vegetation;

B. To conserve significant areas of useable greenspace within single-family neighborhoods in the Rural and Suburban character areas of the Comprehensive Plan;

C. To provide a residential development that permits flexibility of design in order to promote environmentally sensitive and efficient use of land in compliance with the Code;

D. To promote construction of accessible landscaped walking trails and bike paths both within subdivisions and, where possible, connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;

E. To preserve natural features, specimen trees, historic buildings, archaeological sites and establish a sense of community;

F. To improve water quality and reduce runoff and soil erosion by reducing the total amount of clearing, grading, and paving, within the total area of a development;

G. To encourage efficient community design that reduces infrastructure maintenance and public service costs borne by the city. and

H. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.10.3 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.10.4 Scaled site plan.

In addition to the information and materials required as part of any application to amend the official zoning map pursuant to this chapter, each applicant for RNC (Residential Neighborhood Conservation) District classification shall submit a scaled and dimensioned site plan, which, where applicable, shall contain the following information:

A. Size of each lot proposed to be developed within the district;

B. Housing types (e.g., single-family detached, single-family detached condominium);

C. Amount of land in greenspace areas to be held in joint ownership, common ownership, or control in perpetuity;

D. Connections between greenspaces within the project and to greenspace areas on adjacent properties where possible;

E. Building envelopes for fee simple lots;

F. Building and driveway footprint for each single-family detached condominium;

G. Maximum lot coverage;

H. All streams and water bodies, including state and county stream buffer limits;

I. Vehicular and pedestrian circulation and connections within the project and to amenities and features on adjacent property;

J. Any above-ground detention areas serving as an amenity feature;

K. Underground detention facilities;

L. Flood hazard areas, wetlands, springheads, and all environmentally sensitive areas, if any;

M. Access to public sewer;

N. All easements;

O. Right-of-way intended to be dedicated;

P. Amount of land area and nonbuildable areas as identified in subsection 2.10.4(B); and

Q. Tree survey in compliance with Section 14-39 of this Code.

### 2.10.5 Calculation and design of greenspace.

The following standards shall govern the calculation and design of greenspace in the RNC (Residential Neighborhood Conservation) District:

A. The allotted greenspace shall comprise at least thirty (30) percent of the total land area excluding the undevelopable areas as identified in subsection 2.10.5(B). No part of any single-family detached residential lot, private street, private drive, or street right-of-way, front yard setback, nor any area utilized for side-to-side building separation except when used for a path or sidewalk connection to greenspace, shall count towards greenspace.

B. Land containing any of the following features shall not be included for the purposes of calculating whether a site plan and any subsequent development meets the greenspace requirement:

1. Streams and stream buffers;
2. Wetlands;
3. Rock outcroppings;
4. Slopes steeper than 1:2 slope;
5. Sites of archaeological significance;
6. Floodplains; or
7. Areas intended to be dedicated for right-of-way as shown on the scaled site plan submitted in compliance with section 2.10.4.

C. For properties ten (10) acres or less, at least fifty (50) percent of the allotted greenspace shall be in an area or areas that each measure a minimum two hundred (200) square feet. For properties greater than ten (10) acres, at least fifty (50) percent of the allotted greenspace shall be contiguous and shall be a minimum width of fifty (50) feet. Paths, bike paths and trails do not have to comply with the minimum width requirements set forth in this subsection.

D. Greenspace may consist of and be designed for the following uses only:

1. Natural undisturbed areas;
2. Active recreation areas;
3. Community gathering places;
4. Trails and greenways;
5. Bikeways and paths;

6. Asphalt or concrete bikeways and paths with a maximum width of eight (8) feet;
7. Landscaped stormwater management facilities, which are constructed as part of an on-site stormwater mitigation site design feature and which are graded such that no safety fencing is required;
8. Mature wooded areas; or
9. Specimen trees as defined in Chapter 14 of this Code.

E. No impervious surface, except (1) areas used for active recreation, (2) historic building(s) or historic site(s), and (3) asphalt or concrete bike paths and paths with a maximum width of eight (8) feet, may be considered in the greenspace calculation. Paths that require grading must not damage critical root zones of specimen trees.

F. Preserved historic buildings or sites may be included in greenspace if intended to be for the common use and benefit of all residents of the subdivision.

G. All dwelling units shall be provided with safe, convenient access to all greenspaces throughout the development in the form of a pedestrian circulation system consisting of structurally improved pedestrian path(s) and/or sidewalk(s), which shall be a minimum width of five (5) feet and shall be connected so that there are no breaks in the walkable surface of the pedestrian circulation system, except where the path or sidewalk connects to a greenspace. All greenspaces shall have a minimum of two points of pedestrian access.

H. Greenspace shall connect with other greenspace areas and trails on adjacent property where possible.

I. Active recreation areas may be included in greenspace and shall be required in any RNC (Residential Neighborhood Conservation) District that contains one hundred (100) or more units. A conservation subdivision located in an RNC (Residential Neighborhood Conservation) District that contains between one hundred (100) and two hundred (200) units, inclusive, shall include an active recreation area of at least one (1) acre in size. A conservation subdivision located in an RNC (Residential Neighborhood Conservation) District that contains more than two hundred (200) units, shall include a minimum of either a single active recreation area of at least two (2) acres in size or two (2) active recreation areas that are each at least one (1) acre in size. No active recreation area may be located within any wetland, stream buffer, or rock outcropping.

### 2.10.6 Development standards and permitted uses.

A. Property within a RNC (Residential Neighborhood Conservation) District shall have a minimum of seven (7) acres.

B. Specimen trees located outside of the buildable area of a lot shall be preserved subject to the review of the county arborist.

C. Active recreation areas, greenspace, storm water management facilities, trails, bikeways, and paths, as approved, shall be installed prior to the recording of the conservation subdivision final plat.

D. There shall be no impervious surfaces within the seventy-five (75) foot stream buffer, except as provided for above in subsections 2.10.5(D)(4), (5), and (6). Such encroachments into the stream buffer shall only be permissible in accordance with variances as allowed by Chapter 14 of this Code.

### 2.10.7 Minimum lot width, minimum lot size, building setback, street width, and private drive width requirements.

A. The following standards shall apply to all single-family detached dwellings, other than condominiums and fee simple condominiums, located in RNC (Residential Neighborhood Conservation) District and within the Suburban character area of the comprehensive plan:

1. *Maximum density*: Eight (8) dwelling units per acre of total land area, excluding undevelopable areas as identified in subsection 2.10.5(B).
2. *Minimum lot width*: At least sixty (60) feet as measured at the required front building setback line; except for a lot on a cul-de-sac, which lot shall have a minimum width of thirty-five (35) feet.
3. *Minimum lot area*: Six thousand (6,000) square feet, except that each lot on the periphery of a development within property zoned RNC (Residential Neighborhood Conservation) District that abuts adjacent property zoned and used for single-family residential purposes shall contain a lot area that is at least eighty (80) percent of the minimum lot area required by the adjoining residential zoning.
4. *Minimum building setback adjacent to public or private street(s)*:
   a. *From thoroughfares:* Thirty (30) feet.
   b. *From arterials:* Thirty (30) feet.
   c. *From collector streets:* Thirty (30) feet.
   d. *From local streets:* Twenty (20) feet.
5. *Minimum interior lot side building setback*: Seven and one-half (7.5) feet.
6. *Minimum periphery lot side building setback:* Lots on the periphery of any RNC (Residential Neighborhood Conservation) District development shall maintain a minimum twenty (20) foot side yard setback from any adjacent parcel located outside of the boundary of such development.
7. *Minimum rear building setback*: Twenty (20) feet.

B. The following standards shall apply to single-family detached condominiums and fee simple condominiums located in RNC (Residential Neighborhood Conservation) District and within the Suburban character area of the comprehensive plan:

1. *Maximum density:* Eight (8) dwelling units per acre on total land area, excluding undevelopable areas as identified in subsection 2.10.5(B).
2. *Minimum* b*uilding setback from all peripheral property line*s: Twenty (20) feet, except that when a peripheral property line adjoins a public or private streets, the building setback shall be as required in subsection 2.10.7(A)(4).
3. *Minimum distance between building structures:* Fifteen (15) feet.
4. *Minimum building setback from a private drive or private street*: Ten (10) feet, except that where a garage door or carport entrance faces the street, in which case the minimum setback shall be twenty (20) feet. The building setback shall be measured from back of curb, or, where a sidewalk is provided, from back of sidewalk.
5. *Minimum travel lane width, private drive or private streets internal to the development*: Twenty-four (24) feet. Where on-street parking is provided, it shall be provided in the form of a parking lane located between the travel lane and the curb, which lane shall be no less than ten (10) feet wide, measured from the edge of the travel lane to front of curb.
6. Sidewalks shall be provided on both sides of private drive(s) or private street(s) that are internal to the development, as provided for in Section 14-383 of this Code.
7. Street tree species shall cause minimal interference with underground utilities, subject to approval by the city arborist.
8. Driveways shall be a minimum of twenty (20) feet long, measured from back of curb or, where sidewalks are provided, from the back of sidewalk, in order to prevent vehicular encroachment on areas intended for vehicular or pedestrian circulation.

9. A public access and utility easement for electric, gas, telephone, and cable television utilities, in the form of a joint utility trench, shall be located on each side of the internal private street(s) or internal private drive(s), and shall be a minimum width of six feet, five inches (6'5").

C. The following standards shall apply to all single-family detached dwellings, other than condominiums and fee simple condominiums, located in RNC (Residential Neighborhood Conservation) District and within the Rural Residential character area of the comprehensive plan:

1. *Maximum density*: Four (4) dwelling units per acre on total land area excluding undevelopable areas as identified in subsection 2.10.5(B).

2. *Minimum lot width*: At least sixty (60) feet as measured at the required front building setback line, except for a lot on a cul-de-sac, which lot shall have a minimum width of thirty-five (35) feet.

3. *Minimum lot area*: Eight thousand (8,000) square feet, except that each lot on the periphery of a development within property zoned RNC (Residential Neighborhood Conservation) District that abuts adjacent property zoned and used for single-family residential purposes shall contain a lot area that is at least eighty (80) percent of the minimum lot area required by the adjoining residential zoning.

4. *Minimum building setback adjacent to public or private street(s)*:

   a. *From thoroughfares:* Thirty (30) feet.

   b. *From arterials*: Thirty (30) feet.

   c. *From collector streets*: Thirty (30) feet.

   d. *From local streets*: Twenty (20) feet.

5. *Minimum interior lot side building setback*: Seven and one-half (7.5) feet.

6. *Minimum periphery lot side building setback:* Lots on the periphery of any RNC (Residential Neighborhood Conservation) District development shall maintain a minimum twenty (20) foot side yard setback from any adjacent parcel located outside of the boundary of such development.

7. *Minimum rear building setback*: Forty (40) feet.

D. The following standards shall apply to single-family detached condominiums and fee simple condominiums located in RNC (Residential Neighborhood Conservation) District and within the Rural Residential character area of the comprehensive plan:

1. *Maximum density:* Four (4) dwelling units per acre on total land area excluding undevelopable areas as identified in subsection 2.10.5(B).

2. *Minimum* b*uilding setback from all peripheral property line*s: Twenty (20) feet, except that when a peripheral property line adjoins a public or private streets, the building setback shall be as required in subsection 2.10.7(A)(4).

3. *Minimum distance between building structures:* Fifteen (15) feet.

4. *Minimum building setback from a private drive or private street*: Ten (10) feet, except that where a garage door or carport entrance faces the street, in which case the minimum setback shall be twenty (20) feet. The building setback shall be measured from back of curb, or, where a sidewalk is provided, from back of sidewalk.

5. *Minimum travel lane width, private drive or private streets internal to the development*: Twenty-four (24) feet. Where on-street parking is provided, it shall be provided in the form of a parking lane located between the travel lane and the curb, which lane shall be no less than ten (10) feet wide, measured from the edge of the travel lane to front of curb.

6. Sidewalks shall be provided on both sides of private drive(s) or private street(s) that are internal to the development, as provided for in Section 14-383 of this Code.

7. Street tree species shall cause minimal interference with underground utilities, subject to approval by the county arborist.

8. Driveways shall be a minimum of twenty (20) feet long, measured from back of curb or, where sidewalks are provided, from the back of sidewalk, in order to prevent vehicular encroachment on areas intended for vehicular or pedestrian circulation.

9. A public access and utility easement for electric, gas, telephone, and cable television utilities, in the form of a joint utility trench, shall be located on each side of the internal private street(s) or internal private drive(s), and shall be a minimum width of six feet, five inches (6'5").

### 2.10.8 Maximum height of buildings.

No building in the RNC (Residential Neighborhood Conservation) District shall exceed a height of thirty-five (35) feet.

### 2.10.9 Maximum lot coverage.

The lot coverage of each lot used for a single-family detached dwelling shall not exceed fifty (50) percent.

### 2.10.10 Ownership, control, and maintenance of required greenspace.

A. *Unified control of parcel.* Any applicant for rezoning or for issuance of a land disturbance permit for property within an RNC (Residential Neighborhood Conservation) District shall be required to provide evidence of a legal mechanism for unified control of the entire parcel to be developed for review and approval by the city attorney prior to the issuance of any land disturbance or building permit. During the development process, more than one (1) builder may participate in the development of the approved plan so long as each parcel of land remains subject to:

1. Any zoning conditions imposed on the property; and

2. Terms and conditions associated with any special land use permit or any special administrative permit.

B. *Maintenance and protection of land held in common.* Prior to the issuance of any land disturbance permit, every applicant for development within an RNC (Residential Neighborhood Conservation) District must provide evidence of a legal mechanism under which all land to be held in common and used for greenspace purposes within the development shall be protected in perpetuity. Such legal mechanism may include deed restrictions, a homeowner association, common areas held in common ownership or control, or conservation easements held by a land trust meeting the requirements of state law, which assure in perpetuity each of the following mandatory requirements:

1. That all land held in open space will remain undivided and shall not be subdivided or removed from joint access or benefit in perpetuity;

2. That all subsequent property owners in the development will be placed on notice of this development restriction through the deed records filed with the Superior Court of DeKalb County;

3. That all land held as greenspace will be properly maintained and that no liability or maintenance responsibilities for the land held as greenspace shall accrue to the city;

4. That a legal entity exists for notice of deficiencies in maintenance of the land held as greenspace, correction of these deficiencies, and assessment of liens against the properties for the cost of the correction of these deficiencies by a third party or the city;

5. That the legal mechanism will become effective and enforceable prior to or at the time of recording the final plat and the sale of any individual properties within the conservation district;

6. That all requirements of the legal mechanism used to comply with the regulations of this section will be specified on the final plat to be recorded with the Clerk of Superior Court of DeKalb County.

C. *Homeowners' associations.* When a homeowners' association is used as the legal mechanism to comply with the requirements of this section, the applicant for any land disturbance permit, in addition to meeting all of said requirements, shall provide for all of the following:

1. Equal access and right of use to all greenspace by all homeowners;
2. Mandatory and automatic membership in the homeowners' association for all homeowners and their successors;
3. A fair and uniform method of assessment and collection/payment for dues, maintenance and related costs;
4. Homeowners' association lien authority to ensure the collection of dues from all members;
5. Perpetual and continued maintenance and liability by the homeowners' association of land held as greenspace; and
6. Filing of all required covenants, declarations, and restrictions with the Clerk of the Superior Court of DeKalb County.

### 2.10.11 Off-street parking requirements.

Minimum off-street parking requirements for uses and structures authorized and permitted in the RNC (Residential Neighborhood Conservation) District are as follows:

A. *Detached single-family dwelling*: Three (3) spaces.

B. *Detached, single-family condominium or fee simple condominium dwelling*: Three (3) spaces.

C. *Personal care home, group*: Four (4) spaces.

D. *Child caring institution, group*: Four (4) spaces.

E. *Adult day care facility*: Three (3) spaces.

F. *Child day care facility*: Three (3) spaces.

G. *Convent or monastery*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

H. *Neighborhood recreation club*: One (1) space for each five (5) club members but in no case less than ten (10) spaces.

I. *Place of worship*: Where fixed seats are used, one (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

J. *Private elementary, middle and high school*:

1. Elementary and middle school: Two (2) spaces for each classroom.
2. High school: Five (5) spaces for each classroom.

K. *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

### 2.10.12 Relation of RNC (Residential Neighborhood Conservation) District regulations to subdivision or other regulations.

Where there are conflicts between these RNC (Residential Neighborhood Conservation) District regulations and land subdivision requirements contained in chapter 14 or other regulations within the Code, these RNC (Residential Neighborhood Conservation) District regulations shall apply.

### 2.10.13 Reserved.

## 27-2.11 DIVISION 11. MEDIUM AND HIGH DENSITY RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS

### 2.11.1 Medium and high density ranges.

The medium and high density residential zoning districts allow cottage housing, attached, multi-family and mixed residential developments at the densities illustrated in Table 2.3, below:

Table 2.3 Summary of Density Ranges for Medium and High Density Residential Zoning Districts

| Zoning District Name | | Density (units/acre) | Eligible Character Areas |
|---|---|---|---|
| **Small Lot Residential Mix** | **RSM** | 4-8 | Suburban<br>Traditional Neighborhood<br>Neighborhood Center<br>Town Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **Medium Density Residential-1** | **MR-1** | 8-12 | Traditional Neighborhood<br>Neighborhood Center<br>Town Center<br>Regional Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **Medium Density Residential-2** | **MR-2** | 12-24 | Neighborhood Center<br>Town Center<br>Regional Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **High Density Residential-1** | **HR-1** | 24-40 | Town Center<br>Regional Center<br>Office Park<br>Highway Corridor |
| **High Density Residential-2** | **HR-2** | 40-60 | Town Center<br>Regional Center<br>Office Park<br>Highway Corridor |
| **High Density Residential-3** | **HR-3** | 60-120 | Regional Center |

### 2.11.2 Dimensional requirements.

Dimensional requirements, including overall site requirements, individual lot dimensions, setbacks, and heights for Medium and High Density Residential Zoning Districts, are provided in Table 2.4, “Medium and High Density Residential Zoning Districts Dimensional Requirements.” In addition, compatibility and transitional buffers as defined and required in Article 5 may apply.

Table 2.4 Medium and High Density Residential Zoning Districts Dimensional Requirements

| Medium and High Density Residential | | | | | |
|---|---|---|---|---|---|
| **KEY:**<br>**Housing Types: SFD**: Single-Family Detached, **SFA**: Single-Family Attached, **TTF**: Two/Three Family, **MF**: Multi-Family, **MU**: Mixed-Use, **U-SF**: Urban Single-Family<br>**Character Areas: RC**: Regional Center, **TC**: Town Center, **TN**: Traditional Neighborhood, **NC**: Neighborhood Center, **SUB**: Suburban | | | | | |
| **Elements** | **RSM** | **MR-1** | **MR-2** | **HR-1** | **HR-2 and HR-3** |
| **Overall Site Requirements (minimum, unless otherwise specified)** | | | | | |
| Dwelling Units Per Acre (maximum base density and maximum possible with bonuses) | 4 - 8 | 8 - 12 | 12 - 24 | 24 - 40 | HR-2: 40 - 60<br>HR-3: 60 - 120 |
| Open Space Required (minimum %) * | 20% | 20% | 15% | 15% | 15% |
| Transitional Buffers (feet) | See Article 5 | | | | |
| **Lot Requirements (minimum, unless specified)** | | | | | |
| **Single-Family Detached Conventional (SFD) **** | | | | | |
| Lot Area (square feet) | 5,000/2,000 cottage | 5,000/2,000 cottage | 5,000/2,000 cottage | Not Permitted | Not Permitted |
| Lot Width, Street Frontage (feet) | 50/20 cottage and detached townhome | 45/20 cottage and detached townhome | 40/20 cottage and detached townhome | Not Permitted | Not Permitted |
| Lot Coverage (maximum % per lot) | 50 | 60 | 65 | Not Permitted | Not Permitted |
| **Single-Family Attached (SFA)** | | | | | |
| Lot Area (square feet) | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 |
| Lot Width (feet) | 25 | 25 | 20 | 20 | 20 |
| Lot Coverage (maximum % per lot or total parcel acreage) | 70 | 80 | 85 | 85 | 85 |
| **Urban Single-Family (detached)** | | | | | |
| Lot Area (square feet) | 1,350 | 1,350 | 1,000 | 1,000 | 1,000 |
| Lot Width (feet) | 25 | 25 | 20 | 20 | 20 |
| Lot Coverage (maximum % per lot or total parcel acreage) | 70 | 80 | 85 | 85 | 85 |
| **Two/Three Family (TTF)** | | | | | |
| Lot Area (square feet) | 4,000 | 4,000 | 4,000 | Not Permitted | Not Permitted |
| Lot Width (feet) | 60 | 55 | 50 | Not Permitted | Not Permitted |
| Lot Coverage (maximum % per lot or total parcel acreage) | 50% | 55% | 55% | Not Permitted | Not Permitted |
| **Multi-Family (MF) and Mixed-Use (MU)** | | | | | |
| Lot Width, Street Frontage (feet) | Not Permitted | 100 | 100 | 100 | 100 |
| Lot Coverage (maximum % of total parcel acreage) | Not Permitted | 65% | 75% | 85% | 85% |

* Open space requirement shall apply to new subdivisions if project is > 5 acres or ≥ 36 units (see Chapter 14). See Article 5 for enhanced open space requirements.

** Where two numbers are indicated, the first number is the standard and the second number applies only to housing type that is indicated, e.g., cottage or townhome.

*** See Article 5 for building separation and minimum multi-family unit size details; Urban-SF with 0' side setback must meet fire walls, sprinklers and any other fire code applicable to attached townhouse dwellings

Table 2.4 Medium and High Density Residential Zoning Districts Dimensional Requirements, Continued

| Medium and High Density Residential (continued) | | | | | |
|---|---|---|---|---|---|
| **KEY:**<br>**Housing Types: SFD**: Single-Family Detached, **SFA**: Single-Family Attached, **TTF**: Two/Three Family, **MF**: Multi-Family, **MU**: Mixed-Use, **U-SF**: Urban Single-Family<br>**Character Areas: RC**: Regional Center, **TC**: Town Center, **TN**: Traditional Neighborhood, **NC**: Neighborhood Center, **SUB**: Suburban | | | | | |
| **Elements** | **RSM** | **MR-1** | **MR-2** | **HR-1** | **HR-2 and HR-3** |
| **Building Setbacks: SF and SFA for Individual Internal Lots; MF, SFA, MU for Overall Site****** | | | | | |
| Front Thoroughfares and Arterials (**min. and max**. feet) | All: min 20, max 30 | SFD: min 15, max 25<br>Other: 10-20 | All: min 10, max 20 | All: min 10, max 20 | All: min 10, max 20 |
| Front - all other streets by Character Area (min. feet) | RC/NC/TC: 15<br>SUB: 20 | 0 - Determined only by utility placement, ROW, and streetscape (Article 5) | | | |
| Front with alley access (min. feet) | 10 | SFD & TTF: 10;<br>SFA & MF: 5 | SFD & TTF: 10;<br>SFA & MF: 5 | 5 | 5 |
| Side - interior lot (feet)**** | SFD & TTF: 3 ft with minimum 10 ft separation between buildings; SFA: N/A; MF & MU: N/A;<br>U-SF: 0 ft side setback with minimum 3 ft separation between building | | | | |
| Side - corner lot on public street (feet) | same as front setback (see also Art 5 Corner Lot) | | | | |
| Rear without alley (feet) | SFD: 20; SFA: 15;<br>TTF: 15; All others: 20 | SFD: 20; SFA: 15; MF & MU: 20;<br>MF: 20; CM/OF/MU: 15 (see also transitional buffers, Article 5) | | | |
| Rear with alley (feet) | 10 | 10 | 10 | 10 | 10 |
| **Unit Size, heated living area (square feet, minimum)** | | | | | |
| Single-Family Detached (SFD) - Conventional | 1,200 | 1,200 | 1,000 | Not Permitted | Not Permitted |
| Single-Family Detached (SFD) - Cottage | 800 | 800 | 800 | Not Permitted | Not Permitted |
| Single-Family Attached (SFA) *** | 1,200 | 1,200 | 1,000 | 1,000 | Not Permitted |
| Urban Single-Family (U-SF) - Detached | 1,100 | 1,100 | 1,100 | 1,100 | Not Permitted |
| Two/Three Family ( TTF) | 1,000 | 1,000 | 1,000 | 1,000 | Not Permitted |
| Multi-Family (MF)*** | Not Permitted for New Developments | 650 | 650 | 650 | 650 |
| **Height (maximum and whichever is less when indicated as stories or feet)** | | | | | |
| Single-Family Detached (SFD)<br>Except Res Infill Overlays = 28 feet | 35 feet | 35 feet | 35 feet | Not Permitted | Not Permitted |
| Single-Family Attached (SFA) and Urban Single-Family (U-SF) | 3 stories or 45 feet | 3 stories or 45 feet | 3 stories or 45 feet | Not Permitted | Table 2.13 and 2.15 |
| Two/Three Family (TTF) | 35 feet | 35 feet | 3 stories or 45 feet | Not Permitted | Not Permitted |
| Multi-Family (MF) | N/A | 4 stories or 60 feet | Table 2.9 | Table 2.13 and 2.15 | Table 2.13 and 2.15 |
| Mixed-Use (MU) | N/A | 4 stories or 60 feet | Table 2.9 | Table 2.11 | Table 2.13 and 2.15 |

* Open space requirement shall apply to new subdivisions if project is > 5 acres or ≥ 36 units (see Chapter 14). See Article 5 for enhanced open space requirements.

** Where two numbers are indicated, the first number is the standard and the second number applies only to housing type that is indicated, e.g., cottage or townhome.

*** See Article 5 for building separation and minimum multi-family unit size details; Urban-SF with 0' side setback must meet fire walls, sprinklers and any other fire code applicable to attached townhouse dwellings

## 27-2.12 DIVISION 12. RSM (SMALL LOT RESIDENTIAL MIX ) DISTRICT

### 2.12.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RSM (Small Lot Residential Mix) District is as follows:

A. To provide for the creation of residential neighborhoods that allow a mix of single-family attached and detached housing options;

B. To provide flexibility in design and product on the interior of new development while protecting surrounding neighborhoods;

C. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.12.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.12.3 Dimensional requirements.

Dimensional requirements for the RSM (Small Lot Residential Mix) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.12.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.12.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the Character Area in which the property is located. Table 2.5 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.5 R-SM Character Area and Bonus Residential Density Maximum

| Character Area | RSM Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Suburban | 4 | 8 |
| Traditional Neighborhood | 4 | 8 |
| Neighborhood Center | 4 | 8 |
| Commercial Redevelopment Corridor | 4 | 8 |
| Town Center | 4 | 8 |

B. Density determination of each RSM (Small Lot Residential Mix) property:

1. *Existing RSM properties*: For existing properties converted to RSM (Small Lot Residential Mix) District classification at the effective date of this chapter:

   a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established in such conditions.

b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.5 unless administratively reviewed and approved for bonus increases, according to the criteria set forth in subsection C below.

2. *New RSM properties*: For property rezoned to the RSM (Small Lot Residential Mix) District classification after the effective date of this chapter, density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection C below.

C. *Density bonus eligibility and calculations*. Density bonuses are allowed only for subdivisions as defined in this chapter and are expressly not allowed for individual infill lots. The maximum allowed density on RSM (Small Lot Residential Mix) District zoned property may be increased above the "Base Max" by application of density bonuses as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density exceed the bonus maximum established by Table 2.5.

Table 2.6 Residential Density Bonus Eligibility and Percent, with Example Calculation

| **Density bonus % increase by amenity, location, or other provision** | |
|---|---|
| 20% greater than base | |
| **Public Improvements** | Applicant provides any of the following improvements: transit facilities (bus shelter, ride-share), public art, structured parking, trail with public access, sidewalks and/or road improvements beyond project. |
| **Transit Proximity** | Existing park-n-ride or ride-share facility is located within ¼ mile of the property boundary. |
| **Amenity Proximity** | Existing amenities, such as healthcare facilities, senior and/or civic centers, public schools, public libraries, recreational facilities, personal service establishments, grocery stores, or shopping centers. (See Section 2.12.7.) |
| 50% greater than base | |
| **Sustainability Elements** | Certification that proposed buildings, if built as designed, would be accredited by LEED®, EarthCraft, or other similar national accreditation organization, for energy- and water-efficient site and building design. |
| **Mixed Income or Mixed Age** | 30 year enforceable commitment approved by the county attorney and recorded on the deed records that total number of units will be reserved to be occupied as follows: 10% by very low income households, or 20% by low income households, or 25% for senior citizens. Household income level shall be as established by the Atlanta Regional Commission. |
| **Additional Enhanced Open Space** | Additional enhanced open space (with standards established by Article 5) comprise 20% of the overall development site. |
| 100% greater than base | |
| **Additional Enhanced Open Space** | Enhanced open space comprises 35% or more of the overall development site. |
| **MARTA Rapid Transit Station** | Existing MARTA rapid transit station is located within ¼ mile of the property boundary. |
| **Reinvestment Areas** | Property is located within an Enterprise Zone or Opportunity Zone. |

Table 2.6 Residential Density Bonus Eligibility and Percent, with Example Calculation, cont'd.

**Example Density Bonus**: (Dwelling Units per Acre (du/acre))

| | |
|---|---|
| Character Area (example): | *Neighborhood Center Character Area* |
| Bonus types in example project: | *Sustainability Elements and Amenity Proximity* |
| Method: | *Multiply the Base x % = additional units eligible* |

Step 1: Calculate density gained by bonus type:

| *Sustainability Element Bonus:* | *Amenity Proximity Bonus:* |
|---|---|
| *Base density: 4* | *Base density: 4* |
| *% Bonus = 50%* | *% Bonus = 20%* |
| *Base x 50% = 4 x 50% = 2* | *Base x 20% = 4 x 20% = 0.8* |
| ***+ 2** bonus du/acre* | ***+ 0.8** bonus du/acre* |

Step 2: Add bonus density to Base density

| | | | |
|---|---|---|---|
| *4* | + | *( 2 + .8 )* | ***= 6.8 du/acre max density*** |
| Base | | Cumulative **Bonus** | Total project density allowed |

### 2.12.6 Amenity proximity requirements.

For proposed development within one-quarter (0.25) mile of an existing public school, park, library, trail or greenway network, a pedestrian facility linking to the amenity shall be provided, or a stub-out for linking to a future amenity shall be provided. Measurement of distance to a qualifying amenity shall be taken from center point of the proposed drive of the principal entrance and follow the shortest street route to the center point of the closest existing drive to access the existing amenity.

### 2.12.7 Bonus density qualifying standards.

The following standards shall be applied when considering whether bonus density may be allowed:

A. Qualifying public improvements.

1. *Bus shelter*. To qualify as eligible for bonus density, proposed bus shelter facilities shall include at a minimum a shelter structure, bench and paved access and be designed according to MARTA or GRTA standards, based upon ridership thresholds and as documented as acceptable by either agency.

2. *Park-N-Ride and/or Ride-share*. To qualify as eligible for bonus density, proposed Ride-share facilities shall provide for a minimum of one hundred (100) parking spaces, and Park-N-Ride amenities shall provide a minimum of three hundred (300) parking spaces, unless the station warrants fewer, as documented by MARTA or other transit service provider.

3. *Public art*. To qualify for bonus density, a proposed work of art shall be subject to approval by the planning commission, be located on the development site or in a public place off site, and have a value of at least one half of one percent (.005) of the total construction valuation of the building permit. The maximum required value shall not exceed two hundred fifty thousand dollars ($250,000).

   a. Options for providing public art are: Purchase an existing piece of art work or have a specific piece of art work commissioned.

b. For commissioned work, a deposit with community development department of one hundred and fifteen percent (115%) of the value of the public art is required prior to the issuance of a building permit.

c. Public art or public works of art is defined as the creative application of skill and taste by artists to production of permanent tangible objects according to the aesthetic principles, including but not limited to:

- paintings;
- sculptures;
- site specific installations;
- engravings;
- carvings;
- frescos;
- mobiles;
- murals;
- collages;
- mosaics;
- statutes; and
- base-reliefs.

d. Public art or public works of art shall also include the creative application of skill and taste by artists according to the aesthetic principals to the architectural embellishment of a building or structure. Architects and landscape architects are not considered artists under this definition.

e. The following shall not be considered public art or public works of art:

- Reproductions or unlimited copies of original art work;
- Art objects which are mass produced;
- Works that are decorative, ornamental or functional elements of the architecture or landscape design, except when commissioned from an artist as an integral aspect of a structure or site; and
- Architectural rehabilitation or historical preservation.

4. *Structured parking*. Developments that provide vertical, structured parking shall be eligible for the residential density bonus, provided:

a. Parking decks not integrated into other buildings shall be located internal to the site.

b. Structures are either at least two (2) stories above ground or greater; and/or

c. Alternatively, at least one (1) story is underground.

d. Parking decks visible from a public right-of-way shall incorporate similar architectural materials as the primary building(s).

5. *Trail with public access*. Minimum length of new trail or multi-use path shall be one-quarter (0.25) mile and shall connect to a greenway/trail or sidewalk network external to the site.

B. Qualifying amenity clarifications.

1. *Health or medical services*: include clinics and offices for health, dental and/or medical services, as defined in Article 9, including pharmacies with diagnostic services.

2. *Recreational facilities*: include private or public exercise gymnasiums, fitness centers, sports fields, parks, and swim centers.

## 27-2.13 DIVISION 13. MR-1 (MEDIUM DENSITY RESIDENTIAL–1) DISTRICT

### 2.13.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MR-1 (Medium Density Residential–1) District is as follows:

A. To encourage primarily residential, planned developments that allow accessory retail, office, institutional, and civic uses;

B. To provide for residential neighborhoods with a mix of single-family and multi-family housing types that maintain harmony of scale, intensity, and design with surrounding development;

C. To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of and opportunity for alternative modes of travel;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.13.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.13.3 Dimensional requirements.

Dimensional requirements for the MR-1 (Medium Density Residential–1) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.13.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.13.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.7 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.7. MR-1 Character Area Base and Bonus Residential Density Maximum

| Character Area | MR-1 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Traditional Neighborhood | 8 | 12 |
| Neighborhood Center | 8 | 12 |
| Commercial Redevelopment Corridor | 8 | 12 |
| Town Center | 8 | 12 |
| Institutional | 8 | 12 |
| Regional Center | 8 | 12 |

B. Density determination of each MR-1 (Medium Density Residential–1) property:

1. *Existing MR-1 properties*: For existing properties converted to MR-1 (Medium Density Residential–1) District classification at the effective date of this chapter:

a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established.

b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.7, unless administratively reviewed and approved for bonus increases, according to the criteria set forth in subsection C below.

2. *New MR-1 properties*: For property rezoned to the MR-1 (Medium Density Residential–1) District classification after the effective date of this chapter, density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection C below.

C. Density bonus eligibility and calculations. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on MR-1 (Medium Density Residential–1) District zoned property may be increased above the "Base Max" by application of density bonuses as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density exceed the bonus maximum established by Table 2.7.

## 27-2.14 DIVISION 14. MR-2 (MEDIUM DENSITY RESIDENTIAL–2) DISTRICT

### 2.14.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MR-2 (Medium Density Residential – 2) District is as follows:

A. To encourage primarily residential, planned developments that allow accessory retail, office, institutional, and civic uses;

B. To provide for residential neighborhoods with a mix of single-family and multi-family housing types that maintain harmony of scale, intensity, and design with surrounding development;

C. To provide for connectivity of streets and communities and reduce the dependence on automobile uses by increasing the ease of movement and opportunities for alternative modes of travel;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

E. To provide districts that allow appropriate development transitions within the edges and transitional areas of the Town Center and Regional Center character areas.

### 2.14.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there exist supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.14.3 Dimensional requirements.

Dimensional requirements for the MR-2 (Medium Density Residential–2) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.14.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.14.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.8 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.8. MR-2 Character Area Base and Bonus Residential Density Maximum

| Character Area | MR-2 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Commercial Redevelopment Corridor | 12 | 18 |
| Town Center | 12 | 24 |
| Neighborhood Center | 12 | 24 |
| Institutional | 12 | 24 |

B. Density determination of each MR-2 (Medium Density Residential–2) property:

1. *Existing MR-2 properties*: For existing properties converted to MR-2 (Medium Density Residential–2) District classification at the effective date of this chapter:

   a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established.

   b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.8, unless administratively reviewed and approved for bonus increases according to the criteria set forth in subsection C below.

2. *New MR-2 properties*: For property rezoned to the MR-2 (Medium Density Residential–2) District classification after the effective date of this chapter density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection C below.

C. Density bonus eligibility and calculations. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on MR-2 (Medium Density Residential–2) District zoned property may be increased above the "Base Max" by application of density bonuses, as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density of MR-2 (Medium Density Residential–2) zoned property exceed the bonus maximum established by Table 2.8.

### 2.14.6 Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of Article 5 as well as proportional relationship of density to height as established in Table 2.9.

Table 2.9. MR-2 Building Height

| Density above 18 and up to 24 dwelling units per gross acre | | |
|---|---|---|
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Single-family Attached | 3 stories or 45 feet * | 3 stories or 45 feet * |
| Multi-family | 3 stories or 45 feet * | 4 stories or 60 feet * |
| With Accessory Non-Res | 4 stories or 60 feet* | 5 stories or 70 feet * |
| **Density up to 18 dwelling units per gross acre** | | |
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Single-family Attached | 3 stories or 45 feet * | 3 stories or 45 feet * |
| Multi-family | 2 stories or 35 feet* | 3 stories or 45 feet* |
| With Accessory Non-Res | 3 stories or 45 feet* | 4 stories or 60 feet* |

* Whichever is less

## 27-2.15 DIVISION 15. HR-1 (HIGH DENSITY RESIDENTIAL–1) DISTRICT

### 2.15.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the HR-1 (High Density Residential–1) District regulations is as follows:

A. To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;

B. To provide for high density, low-rise residential neighborhoods with a mix of single-family and multi-family housing types that maintain harmony of scale, intensity, and design with surrounding development;

C. To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.15.2 Permitted and special land uses

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.15.3 Dimensional requirements.

Dimensional requirements for the HR-1 (High Density Residential–1) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.15.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.15.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.10 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.10 HR-1 Character Area Base and Bonus Residential Density Maximum

| Character Area | HR-1 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Town Center | 24 | 40 |
| Regional Center | 24 | 40 |
| Office Park | 24 | 30 |
| Highway Corridor | 24 | 30 |

B. Density determination of each HR-1 (High Density Residential–1) property:

1. *Existing HR-1 properties*: For existing properties converted to the HR-1 (High Density Residential–1) District classification at the effective date of this chapter:

   a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established.

   b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.10, unless administratively reviewed and approved for bonus increases according to the criteria set forth in subsection C below.

2. *New HR-1 properties*: For property rezoned to the HR-1 (High Density Residential–1) District classification after the effective date of this chapter, density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection (C) below.

C. *Density bonus eligibility and calculations*. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on HR-1 (High Density Residential–1) District zoned property may be increased above the "Base Max" by application of density bonuses, as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density exceed the bonus maximum established by Table 2.10.

### 2.15.6 Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of Article 5 as well as proportional relationship of density to height as regulated by Table 2.11.

Table 2.11 HR-1 Building Height

| Density above 24 and up to 40 dwelling units per gross acre | | |
|---|---|---|
| Building Use | Base Max Height | Height if Density Achieved by Bonus |
| Single-family Attached | 3 stories or 45 feet * | 3 stories or 45 feet * |
| Multi-family | 4 stories or 60 feet * | 6 stories or 75 feet * |
| With Accessory Non-Res | 6 stories or 75 feet* | 8 stories or 100 feet * |
| **Density up to 24 dwelling units per gross acre** | | |
| Building Use | Base Max Height | Height if Density Achieved by Bonus |
| Single-family Attached | 3 stories or 45 feet * | 3 stories or 45 feet * |
| Multi-family | 3 stories or 45 feet * | 4 stories or 60 feet * |
| With Accessory Non-Res | 4 stories or 60 feet* | 5 stories or 70 feet * |

* Whichever is less

## 27-2.16 DIVISION 16. HR-2 (HIGH DENSITY RESIDENTIAL–2) DISTRICT

### 2.16.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the HR-2 (High Density Residential–2) District regulations is as follows:

A. To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;

B. To provide for high density, mid-rise residential neighborhoods with a mix of single-family and multi-family housing types that maintain harmony of scale, intensity, and design with surrounding development;

C. To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.16.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.16.3 Dimensional requirements.

Dimensional requirements for the HR-2 (High Density Residential–2) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.16.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.16.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.12 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.12 HR-2 Character Area Base and Bonus Residential Density Maximum

| Character Area | HR-2 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Town Center | 40 | 60 |
| Regional Center | 40 | 60 |

B. Density determination of each HR-2 (High Density Residential–2) property:

1. *Existing HR-2 properties*: For properties converted to the HR-2 (High Density Residential–2) District classification at the effective date of this chapter:

   a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established.

b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.12, unless administratively reviewed and approved for bonus increases according to the criteria set forth in subsection C below.

2. *New HR-2 properties*: For property rezoned to the HR-2 (High Density Residential–2) District classification after the effective date of this chapter, density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection C below.

C. *Density bonus eligibility and calculations*. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on HR-2 (High Density Residential–2) District zoned property may be increased above the "Base Max" by application of density bonuses as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density exceed the bonus maximum established by Table 2.12.

### 2.16.6 Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of Article 5 as well as proportional relationship of density to height as established by Table 2.13.

Table 2.13 HR-2 Building Height

| Density above 40 and up to 60 dwelling units per gross acre | | |
|---|---|---|
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Multi-family | 6 stories or 75 feet * | 8 stories or 100 feet * |
| With Accessory Non-Res | 8 stories or 100 feet * | 10 stories |
| **Density up to 40 dwelling units per gross acre** | | |
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Multi-family | 4 stories or 60 feet * | 6 stories or 75 feet * |
| With Accessory Non-Res | 6 stories or 75 feet * | 8 stories or 100 feet * |

* Whichever is less

## 27-2.17 DIVISION 17. HR-3 (HIGH DENSITY RESIDENTIAL–3) DISTRICT

### 2.17.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the HR-3 (High Density Residential–3) District regulations is as follows:

A. To encourage primarily residential, urban-scaled developments that allow accessory retail, office, institutional, and civic uses;

B. To provide for high density, high-rise residential neighborhoods with a mix of single-family and multi-family housing types that maintain harmony of scale, intensity, and design with surrounding development;

C. To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.17.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there exist supplemental use regulations for that use specified in Article 4, such regulations shall also apply.

### 2.17.3 Dimensional requirements.

Dimensional requirements for the HR-3 (High Density Residential–3) District shall be as provided in Table 2.4, "Medium and High Density Residential Zoning Districts Dimensional Requirements."

### 2.17.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.17.5 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.14 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.14 HR-3 Character Area Base and Bonus Residential Density Maximum

| Character Area | HR-3 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Regional Center | 60 | 120 |

B. Density determination of each HR-3 (High Density Residential–3) property:

1. *Existing HR-3 properties*: For existing properties converted to HR-3 (High Density Residential–3) District classification at the effective date of this chapter:

   a. Where conditions of zoning regulating density have been attached to the property, maximum density shall remain as established.

   b. Where no conditions of zoning regulating density have been attached to the property, maximum density shall be the "Base Max" described in Table 2.14, unless administratively reviewed and approved for bonus increases according to the criteria set forth in subsection C below.

2. *New HR-3 properties*: For property rezoned to the HR-3 (High Density Residential–3) District classification after the effective date of this chapter, density shall be established by the mayor and city council at the time of approval, based upon the criteria set forth in subsection C below.

C. *Density bonus eligibility and calculations*. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on HR-3 (High Density Residential – 3) District zoned property may be increased above the "Base Max" by application of density bonuses as indicated by Table 2.6, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.6. In no case shall density exceed the bonus maximum established by Table 2.14.

### 2.17.6 Building heights.

Maximum building heights shall meet character area intent by compliance with the transitional height and buffer standards of Article 5 as well as proportional relationship of density to height as regulated by Table 2.15.

Table 2.15 HR-3 Building Height for Density

| Density above 60 and up to 120 dwelling units per gross acre | | |
|---|---|---|
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Multi-family | 8 stories or 100 feet | No limit |
| With Accessory Non-Res | 10 stories | No limit |
| **Density up to 60 dwelling units per gross acre** | | |
| **Building Use** | **Base Max Height** | **Height if Density Achieved by Bonus** |
| Multi-family | 6 stories or 75 feet * | 8 stories or 100 feet * |
| With Accessory Non-Res | 8 stories or 100 feet * | 10 stories |

* Whichever is less

## 27-2.18 DIVISION 18. MIXED-USE ZONING DISTRICTS

### 2.18.1 Statement of purpose and intent.

A. The purpose and intent of the mayor and city council in establishing all districts designated as Mixed-Use (MU-1, MU-2, MU-3, MU-4 and MU-5) Zoning Districts are as follows:

1. To encourage the development of master or comprehensively planned, mixed-use developments;
2. To permit flexible and compatible arrangements of residential, commercial, office, institutional, and civic uses;
3. To offer a variety of housing options, including multi-family residential and single-family attached housing of various densities, upper-floor residential units over non-residential space, or active adult and/or senior housing;
4. To implement the Future Development Map of the City's most current Comprehensive Plan;
5. To maintain harmony of scale, intensity, and design of character areas with varying housing options;
6. To accommodate and promote mixed-use buildings with amenities and services provided by a variety of non-residential uses, as appropriate in the activity centers established by the Comprehensive Plan;
7. To promote the health and well-being of residents through the development of living environments that accommodate pedestrians and bicyclists;
8. To encourage a sense of community through design that promotes social interaction; and
9. To reduce automobile traffic and congestion and promote the use of transit by encouraging appropriate development densities.

### 2.18.2 Mixed-use district densities.

A. Table 2.16, which summarizes the allowed densities and eligible character areas for mixed-use zoning districts, is provided for the aid of the reader. Any conflict between Table 2.16 and any other provision of this chapter shall be resolved in favor of the other provision of this chapter.

Table 2.16 Summary of Mixed-Use Zoning District Densities

| Zoning District Name | | Density (units/acre) | Eligible Character Areas |
|---|---|---|---|
| **Mixed-Use Low Density** | **MU-1** | 4-8 | Suburban<br>Traditional Neighborhood<br>Neighborhood Center<br>Town Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **Mixed-Use Low-Medium Density** | **MU-2** | 8-12 | Traditional Neighborhood<br>Neighborhood Center<br>Town Center<br>Regional Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **Mixed-Use Medium Density** | **MU-3** | 12-24 | Neighborhood Center<br>Town Center<br>Regional Center<br>Institutional<br>Commercial Redevelopment Corridor |
| **Mixed-Use High Density** | **MU-4** | 24-40 | Town Center<br>Regional Center<br>Office Park |
| **Mixed-Use Very High Density** | **MU-5** | 40-60 | Town Center<br>Regional Center: additional bonus up to 120 |

B. Individual buildings in any mixed use district may exclusively consist of only residential uses, provided that they are part of a larger mixed-use development that meets the overall percentage mix of nonresidential to residential floor area established by Table 2.17.

### 2.18.3 Mixed-Use dimensional requirements.

Dimensional requirements including overall site requirements, individual lot dimensions, setbacks, and heights for Mixed-Use Districts are provided in Table 2.17, “Mixed-Use Zoning Districts Dimensional Requirements.” Compatibility rules and transitional buffers as defined and required in Article 5 may apply.

Table 2.17 Mixed-Use Zoning Districts Dimensional Requirements

| Mixed-Use Districts | | | | |
|---|---|---|---|---|
| **KEY:**<br>**Development Types: SFD**: Single-Family Detached, **SFA**: Single-Family Attached, **TTF**: Two/Three Family, **MF**: Multi-Family, **U-SF**: Urban Single-Family, **MU**: Mixed-Use, **CM**: Commercial, **OF**: Office<br>**Character Areas: SUB**: Suburban, **TN**: Traditional Neighborhood, **NC**: Neighborhood Center, **TC**: Town Center, **RC**: Regional Center | | | | |
| **Element** | **MU-1** | **MU-2** | **MU-3** | **MU-4 and MU-5** |
| **Overall Site Requirements (minimum, unless otherwise specified)** | | | | |
| Dwelling Units Per Acre (with bonus) | 4-8 | 8-12 | 12-24 | MU-4=24-40;<br>MU-5=40-60 |
| Minimum Street Frontage for Site (feet) | 75 | 75 | 50 | 50 |
| Minimum Site Size | 0 | 0 | 0 | 0 |
| Overall Site setback rear (feet) | 20 | 20 | 20 | 10 |
| Overall Site setback side (feet) | 15 | 15 | 15 | N/A<br>(Art. 5 buffers apply) |
| Open Space Required (minimum %)* | 10% of total parcel acreage | 10% of total parcel acreage | 10% of total parcel acreage | 10% of total parcel acreage |
| Transitional Buffers (feet) | See Article 5, Section 5.4.5 | | | |
| **Required minimum mix of uses** | | | | |
| Non-residential (percentage square footage of building) | 10% | 15% | 20% | 20% |
| Residential (percentage square footage of building) | 15% | 10% | 0 | 0 |
| **Individual Lot Dimensions by Residential Type (minimum, unless specified)** | | | | |
| **Single-Family Detached (SFD) **** | | | | |
| Lot Area (square feet) | 3,500 | 3,500/2,000 cottage | 3,500 | Not Permitted |
| Lot Width (feet) | 35 | 35/20 | 35 | Not Permitted |
| Lot Coverage (maximum percentage) | 55 | 55 | 55 | Not Permitted |
| **Single-Family Attached (SFA) and Urban Single-Family** | | | | |
| Lot Area (square feet) | 1,000 | 1,000 | 1,000 | 1,000 |
| Lot Width (feet) | 20 | 16 | 16 | 20 |
| Lot Coverage (maximum % per lot or total parcel acreage) | 50% | 75% | 80% | 90% |
| **Two/Three Family (TTF)** | | | | |
| Lot Area (square feet) | 4,000 | 4,000 | 4,000 | 4,000 |
| Lot Width (feet) | 55 | 55 | 55 | 55 |
| Lot Coverage (maximum % per lot or total parcel acreage) | 55 | 55 | 75 | 75 |
| **Multi-Family (MF) - See Building Type Standards in Article 5** | | | | |
| Lot Area (square feet) | 12,500 | 12,500 | 12,500 | 12,500 |
| Lot Width (feet) | 1 bldg: 50<br>2 or more bldgs: 100 | 1 bldg: 50<br>2 or more bldgs: 100 | 1 bldg: 50<br>2 or more bldgs: 100 | 1 bldg: 50<br>2 or more bldgs: 100 |
| Lot Coverage (maximum percentage) | N/A | N/A | N/A | N/A |

* See Article 5 for enhanced open space requirements
** SFD Cottage type exempt; see Article 5 for standards
*** See Article 5 for building separation and minimum multi-family unit size details

Table 2.17 Mixed-Use Zoning Districts Dimensional Requirements, Continued

| Mixed-Use Districts (continued) | | | | |
|---|---|---|---|---|
| **KEY:** | | | | |
| **Development Types: SFD**: Single-Family Detached, **SFA**: Single-Family Attached, **TTF**: Two/Three Family, **MF**: Multi-Family, **U-SF**: Urban Single-Family, **MU**: Mixed-Use, **CM**: Commercial, **OF**: Office | | | | |
| **Character Areas: SUB**: Suburban, **TN**: Traditional Neighborhood, **NC**: Neighborhood Center, **TC**: Town Center, **RC**: Regional Center | | | | |
| **Element** | **MU-1** | **MU-2** | **MU-3** | **MU-4 and MU-5** |
| **Building Setbacks (minimum, unless specified)** | | | | |
| **Single-Family Detached and Two-Family** | | | | |
| Front (feet) | Min. 10/ Max. 25 | Min. 5/ Max. 20 | Min. 5/ Max. 20 | Not Permitted |
| Side - interior lot (feet) | 7.5 | 7.5 | 7.5 | Not Permitted |
| Side - corner lot on public street (feet) | 15 | 15 | 15 | Not Permitted |
| Rear (feet) | 10 | 10 | 10 | Not Permitted |
| Rear - w/alley (feet) | 15 | 10 | 10 | Not Permitted |
| **Single-Family Attached and Urban Single-Family** | | | | |
| Front (feet) | Min.10/Max. 20, Min. 5/Max. 10 with alley garage | Min. 10/Max. 20, Min. 5 with alley garage | No Min/Max | No Min/Max |
| Side- interior lot (feet) | N/A | N/A | No Min/Max | No Min/Max |
| Side - corner lot on public street (feet) | Min.10/Max. 20 | Min.10/Max. 20 | 10 | 5 |
| Rear (feet) | 20 | 15 | 10 | 10 |
| Rear - w/alley (feet) | 15 | 10 | 5 | 5 |
| **Mixed-Use/Commercial/Multi-family ***** | | | | |
| Front (feet) | Min.10/Max. 50 | Min.10/Max. 50 | No Min/Max | No Min/Max |
| Side - interior lot (feet) | Min. 10/Max. 20 | Min. 10/Max. 20 | No Min/Max | No Min/Max |
| Side - corner lot on public street (feet) | 20 | 15 | No Min/Max | No Min/Max |
| Rear (feet) | 15, 0 if parking deck, liner building or party wall present | 10, 0 if parking deck, liner building or party wall present | 10, 0 if parking deck, liner building or party wall present | 10, 0 if parking deck, liner building or party wall present |
| Rear - w/alley (feet) | 10 | 10 | 5 | 5 |
| **Unit Size, heated living area (minimum, unless specified)** | | | | |
| Single-Family Detached (square feet) | 1,200 | 1,200/800 cottage | 1,200/800 cottage | Not Permitted |
| Single-Family Detached, Urban (square feet) | 1,000 | 1,000 | 1,000 | 1,000 |
| Two- and Three-Family (square feet) | 1,000 | 1,000 | 1,000 | Not Permitted |
| Single-Family Attached (square feet) | 850 | 850 | 850 | 850 |
| Multi-Family - one bedroom (square feet) | 550 | 500 | 500 | 500 |
| Multi-Family - two bedroom (square feet) | 700 | 650 | 650 | 650 |
| Multi-Family - three bedroom (square feet) | 850 | 800 | 800 | 800 |
| Accessory Unit (square feet) | 650 | 650 | Not Permitted | Not Permitted |
| Live/Work (residential portion square feet) | 400 | 400 | 400 | 400 |

* See Article 5 for enhanced open space requirements
** SFD Cottage type exempt; see Article 5 for standards
*** See Article 5 for building separation and minimum multi-family unit size details

## 27-2.19 DIVISION 19. MU-1 (MIXED-USE LOW DENSITY) DISTRICT

### 2.19.1 Dimensional requirements.

Dimensional requirements for the MU-1 (Mixed-Use Low Density) District shall be as provided in Table 2.17, "Mixed-Use Zoning Districts Dimensional Requirements." Dimensions are established in Table 2.17 for the overall development site (development parcel) and for individual lots intended for single-family detached or single-family attached housing types, when such lots include yards. A mixed-use development may be subject to both the overall development site dimensions and the individual lot dimensions, depending on the mixture of housing types that are proposed for the overall development.

### 2.19.2 Site and building design standards.

Site and building design standards and regulations shall be as provided in Table 2.17 and Article 5, Site and Building Design Standards.

### 2.19.3 Rezoning to the MU-1 (Mixed-Use Low Density) District.

Properties within the Suburban, Traditional Neighborhood, Neighborhood Center, Town Center, Regional Center, Office Park, Institutional, Commercial Redevelopment Corridor and Highway Corridor character areas of the City of Tucker Comprehensive Plan Future Development Map are eligible to be rezoned to the MU-1 District.

### 2.19.4 MU-1 (Mixed-Use Low Density) District rezoning submittal requirements.

The following standards only apply to rezoning applications initiated by the owner(s) of the subject property or the authorized agent of the owner(s). In the interest of economic development and to spur redevelopment, applications initiated by the city are not required to comply with the standards in this section.

Prior to the submittal of an application for a land disturbance permit or building permit, an applicant for development of a city-initiated MU-zoned property, shall comply with the following standards. The application will be reviewed administratively by the director.

A. *Pre-application meeting*. Before submitting an application for rezoning to the MU-1 (Mixed-Use Low Density) District, the applicant shall confer with the Community Development Director to discuss the feasibility of the proposed plan and its relationship to the Comprehensive Plan and city ordinances.

B. *Submittal of Master Development Plan*. The submittal package for rezoning to the MU-1 (Mixed-Use Low Density) District shall include all items indicated by the application and instruction form established by the community development department. The master development plan shall include:

1. *Pre-application meeting minutes.* Applicants shall provide documentation showing that the required pre-application meeting occurred.

2. *Master Development Plan.* A master development plan shall illustrate the project showing the location of proposed uses identified by type, site functions, and internal vehicular and pedestrian circulation, along with proposed access points (note: prefer multi-modal access plan as specified in the overlays).

3. *Master Development Standards.* An applicant for rezoning to the MU-1 (Mixed-Use Low Density) District shall submit the following with the rezoning application:

   a. A set of tables, matrices, and/or diagrams shall document the proposed standards that will regulate the permitted use, density, lot dimensions, setbacks, site and building form for each area identified in the Master Concept Plan, and indicate all instances where proposed standards vary from this ordinance.

   b. Documentation regarding eligibility for density bonus(es) sought by the applicant (see Section 2.19.6).

   c. A summary of the anticipated maintenance and ownership of streets and open spaces.

d. Proposed gross and net non-residential floor area, maximum number of residential dwelling units by type and minimum lot size, and amount of enhanced open space.

4. *Master Development Plan Architectural Standards*. An applicant for rezoning to the MU-1 (Mixed-Use Low Density) District shall include with the master development plan a set of binding and enforceable architectural standards that will be utilized by the developer to ensure aesthetic continuity throughout the life of the project.

a. At a minimum, the architectural standards shall address lighting, signage, fences, landscaping, building materials, and other architectural features proposed to be included by the applicant.

b. A master sign plan may be proposed for approval at the time of rezoning with dimensions that vary from the sign ordinance, provided that the proposed plan demonstrates pedestrian-oriented scale.

### 2.19.5 Mixed-Use building restrictions.

The following restrictions shall also apply to mixed-use buildings:

A. All uses allowed in the MU-1 (Mixed-Use Low Density) District, as provided in Table 4.1, may occupy the ground level of a mixed-use building; however, any residential uses shall not occupy more than fifty (50) percent of the floor area of the ground level. All levels above ground level shall only be occupied by residential, professional office or service uses.

### 2.19.6 Density and location criteria.

A. Use of bonuses shall permit a development to exceed the maximum base density established for the district in which the development property is located, provided that in no case shall a development exceed the maximum density allowed by the character area in which the property is located, according to the Future Development Map adopted at the time of land disturbance permit application. Table 2.18 describes the maximum allowed dwelling unit density after application of any bonuses.

Table 2.18. MU-1 Character Area and Bonus Residential Density Maximum

| Character Area | MU-1 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Suburban | 4 | 8 |
| All other character areas | 4 | 8 |

B. Density determination of each MU-1 (Mixed-Use Low Density) property:

1. *Existing MU-1 properties*: For properties converted to the MU-1 (Mixed-Use Low Density) District classification at the effective date of this chapter:

a. Where conditions of zoning regulate density on the property, the maximum density shall remain as established in any conditions of zoning attached to the property.

b. Where no conditions of zoning regulating density have been attached to the property, the maximum density shall be the “Base Max” described in Table 2.18 unless administratively reviewed and approved for bonus increases, according to the criteria set forth in subsection C below.

2. *New MU-1 districts*: For property rezoned to the MU-1 (Mixed-Use Low Density) District classification after the effective date of this chapter, density shall be established by the board of commissioners at the time of approval of the MU-1 District, based upon the criteria set forth in subsection C below.

C. Density bonus eligibility and calculations. Density bonuses are intended for subdivisions as defined in this chapter, not for individual infill lots. The maximum allowed density on MU-1 (Mixed-Use Low Density) zoned property may be increased above the "Base Max" by application of density bonuses as indicated by Table 2.19, and may be accumulated if eligible. An example of how allowable density bonuses are calculated is shown in the example at the end of Table 2.19. In no case shall density exceed the bonus maximum established by Table 2.18.

Table 2.19 Residential Density Bonus Eligibility and Percent, with Example Calculation

| **Density bonus % increase by amenity, location, or other provision** | |
|---|---|
| 20% greater than base | |
| **Public Improvements** | Applicant provides any of the following improvements: transit facilities (bus shelter, ride-share), public art, structured parking, trail with public access, sidewalks and/or road improvements beyond project. |
| **Transit Proximity** | Existing park-n-ride or ride-share facility is located within ¼ mile of property boundary. |
| **Non-residential and Residential Mix of Uses** | Total gross square footage of all buildings occupied by non-residential uses is between 10-25%. |
| **Amenity Proximity** | Existing amenities such as health care facilities, senior and/or civic centers, public schools, public libraries, recreational facilities, personal service establishments, grocery stores, or shopping centers. |
| 50% greater than base | |
| **Sustainability Elements** | Certification that proposed buildings, if built as designed, would be accredited by LEED®, EarthCraft, or other similar national accreditation organization, for energy- and water-efficient site and building design. |
| **Mixed Income or Mixed Age** | 30-year enforceable commitment approved by the city attorney and recorded on the deed records that total number of units will be reserved to be occupied as follows: 10% by very low income households, or 20% by low-income households, or 25% by senior citizens. Household income level shall be as established by the Atlanta Regional Commission. |
| **Non-residential and Residential Mix of Uses** | Non-residential uses occupy more than 25% of total gross square footage of all buildings. |
| **Additional Enhanced Open Space** | Additional enhanced open space (with standards established by Article 5) comprise 20% of the overall development site. |
| 100% greater than base | |
| **Additional Enhanced Open Space** | Additional enhanced open space comprises 35% or more of the overall site development. |
| **MARTA Rapid Transit Station** | Existing MARTA rapid transit station is located within ¼ mile of property boundary. |
| **Reinvestment Areas** | Property is located within an Enterprise Zone or Opportunity Zone. |

Table 2.19 Residential Density Bonus Eligibility and Percent, with Example Calculation Cont'd

**Example Density Bonus**: (Dwelling Units per Acre (du/acre))

| | |
|---|---|
| Character Area (example): | *Neighborhood Center Character Area* |
| Bonus types in example project: | *Sustainability Elements and Amenity Proximity* |
| Method: | *Multiply the Base x % = additional units eligible* |

Step 1: Calculate density gained by bonus type:

| *Sustainability Element Bonus:* | *Amenity Proximity Bonus:* |
|---|---|
| *Base density: 4* | *Base density: 4* |
| *% Bonus = 50%* | *% Bonus = 20%* |
| *Base x 50% = 4 x 50% = 2* | *Base x 20% = 4 x 20%* |
| ***+ 2** bonus du/acre* | ***+ .8** bonus du/acre* |

Step 2: Add bonus density to Base density

| | | | |
|---|---|---|---|
| *4* | + | *( 2 + .8 )* | = ***6.8 du/acre max density*** |
| Base | | Cumulative **Bonus** | **Total project density allowed** |

### 2.19.7 Reserved.

### 2.19.8 MU-1 retail size restrictions.

Standalone retail or other uses shall not exceed forty thousand (40,000) square feet total floor area without a special land use permit, which may be issued based on the criteria provided in Section 7.4.6.

## 27-2.20 DIVISION 20. MU-2 (MIXED-USE LOW-MEDIUM DENSITY) DISTRICT

### 2.20.1 District requirements, standards and criteria.

All provisions found in the MU-1 (Mixed Use Low Density) District shall apply to the MU-2 (Mixed-Use Low-Medium Density) District, except that the reference to Table 2.19 for MU-1 density shall be to Table 2.20 for MU-2 density.

Table 2.20. MU-2 Character Area and Bonus Residential Density Maximum

| Character Area | MU-2 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Traditional Neighborhood | 6 | 12 |
| All other character areas | 8 | 12 |

## 27-2.21 DIVISION 21. MU-3 (MIXED-USE MEDIUM DENSITY) DISTRICT

### 2.21.1 District requirements, standards and criteria.

All provisions found in the MU-2 (Mixed-Use Medium Density) District shall apply to the MU-3 (Mixed-Use Medium Density) District, except that:

A. The reference to Table 2.20 for MU-2 density shall be to Table 2.21 for MU-2 density.

Table 2.21. MU-3 Character Area and Bonus Residential Density Maximum

| Character Area | MU-3 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Town Center | 12 | 24 |
| Regional Center | 12 | 24 |
| Neighborhood Center | 12 | 24 |
| All other character areas | 12 | 24 |

B. Section 2.19.8 regarding retail size restrictions shall not apply.

C. Height restrictions apply to the MU-3 (Mixed-Use Low-Medium Density) District based on a relationship of density, as achieved through bonuses, in accordance with Tables 2.9 or 2.11, as applicable.

## 27-2.22 DIVISION 22. MU-4 (MIXED-USE HIGH DENSITY) DISTRICT

### 2.22.1 District requirements, standards and criteria.

All provisions found in the MU-3 (Mixed-Use Medium Density) District shall also apply to the MU-4 (Mixed-Use High Density) District, except that:

A. The reference to Table 2.21 for MU-3 density shall be to Table 2.22 for MU-4 density.

Table 2.22. MU-4 Character Area and Bonus Residential Density Maximum

| Character Area | MU-4 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Town Center | 24 | 40 |
| Regional Center | 24 | 40 |
| Office Park | 24 | 30 |
| Highway Corridor | 24 | 30 |

B. Height restrictions apply to the MU-4 (Mixed-Use High Density) District in accordance with Table 2.9, 2.11, or 2.13, as applicable.

## 27-2.23 DIVISION 23. MU-5 (MIXED-USE VERY HIGH DENSITY) DISTRICT

### 2.23.1 District requirements, standards and criteria.

All provisions found in the MU-3 (Mixed-Use Medium Density) District shall also apply to the MU-5 (Mixed-Use Very High Density) District, except as identified below:

A. The reference to Table 2.21 for MU-3 density shall be to Table 2.23 for MU-5 density.

Table 2.23. MU-5 Character Area and Bonus Residential Density Maximum

| Character Area | MU-5 Dwelling Units per Acre | |
|---|---|---|
| | Base Max | Bonus Max |
| Town Center | 40 | 60 |
| Regional Center | 40 | 120 |

B. Height restrictions apply to MU-5 in accordance with Table 2.13 and 2.15, as applicable.

## 27-2.24 DIVISION 24. NON-RESIDENTIAL ZONING DISTRICTS: DIMENSIONAL REQUIREMENTS

### 2.24.1 Dimensional requirements.

Dimensional requirements including overall site requirements, lot dimensions, setbacks, and heights for Non-Residential Districts are provided in Table 2.24, “Non-Residential Zoning Districts Dimensional Requirements.” Building setback, height and lot width may be tied to lot size compatibility, averaging as defined and required in Article 5.

Table 2.2 Non-Residential Zoning Districts Dimensional Requirements

## Non-Residential Districts

**KEY:**
**Character Areas: RC**: Regional Center, **TC:** Town Center, **NC:** Neighborhood Center, **SUB:** Suburban

| Element | OIT | OI | NS | C-1 | C-2 | OD | M | M-2 |
|---|---|---|---|---|---|---|---|---|
| **Overall Site Requirements (minimum unless specified)** | | | | | | | | |
| **Dimensional Requirements** | | | | | | | | |
| Lot Area (min. square feet) | 7,500 | 20,000 | 20,000 | 20,000 | 30,000 | 30,000 | 30,000 | 2 acres for heavy ind & uses req'g SLUP; 1 acre for all other uses |
| Single Family Attached Lot Area (Avg per dwelling unit sq ft) | 4,000 | Not Permitted | Not Permitted | Not Permitted | Not Permitted | Not Permitted | Not Permitted | Not Permitted |
| Lot Width, Street Frontage (feet) | 75 | 100 | 100 | 100 | 100 | 100 | 100 | 150 |
| Lot Coverage (maximum percentage) | 80 | 80 | 80 | TC / RC: 90<br>All other: 80 | TC / RC: 90<br>All other: 80 | 80 | 80 | 80 |
| **Open Space Requirements** | | | | | | | | |
| Sites with 5,000 - 39,999 sq ft gross floor area (minimum %) | 15 | 15 | 15 | 10 | 10 | 15 | 15 | 15 |
| Sites with 40,000 gross floor area or more (minimum %) | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| Transitional Buffer (feet) | rticle 5, Section 5.4 | | | | | | | |
| **Building Setback Requirements (minimum, unless specified)** | | | | | | | | |
| **Urban Character Areas (Town Center, Regional Center)** | | | | | | | | |
| Front - Thoroughfares and Arterials (min/max feet) | 20 / 60 | 20 / 50* | 10 / 60 | 20 / 60 | 20 / 60 | Not Permitted | Not Permitted | Not Permitted |
| Front - all other streets (min/max feet) | 10 / 60 | 10 / 60* | 5 / 60 | 10 / 60 | 10 / 60 | Not Permitted | Not Permitted | Not Permitted |
| Side - interior lot (feet) | 20 | 20* | 20 | 15 | 15 | Not Permitted | Not Permitted | Not Permitted |
| Side - corner lot on public streets (feet) | 30 | 15* | 15 | 30 | 30 | Not Permitted | Not Permitted | Not Permitted |
| Rear (feet) | 20 | 20* | 20 | 20 | 20 | Not Permitted | Not Permitted | Not Permitted |
| **All Other Character Areas** | | | | | | | | |
| Front - Thoroughfares and Arterials (feet) | 40 | 60* | 30 | 60 | 60 | 75 | 60 | 60 |
| Front - all other streets (feet) | 30 | 50* | 20 | 50 | 50 | 75 | 60 | 60 |
| Side - interior lot (feet) | 20 | 20* | 20 | 20 | 20 | 20 | 20 | 20 |
| Side - corner lot on public street (feet) | 40 | 50* | 15 | 50 | 50 | 50 | 60 | 60 |
| Rear (feet) | 30 | 30* | 20 | 30 | 30 | 30 | 30 | 30 |
| **Unit Size (residential: heated living area)** | | | | | | | | |
| Floor Area of Attached Dwelling Unit of Multi-Family (min sq ft) | 1,000 | 1,000 | Not Permitted | Not Permitted | Not Permitted | Not Permitted | 1,000 | Not Permitted |
| Floor Area of Live/Work Dwelling Unit (residential portion only - minimum sq ft) | 650 | 650 | 650 | 650 | Not Permitted | Not Permitted | 650 | Not Permitted |
| Floor area per individual building (maximum sq ft) (non-res) | N/A | N/A | 50,000 | No Maximum | No Maximum | No Maximum | No Maximum | No Maximum |
| **Height (maximum without a Special Land Use Permit (SLUP))**** | | | | | | | | |
| Height (feet) | 2 story/35 feet | 5 story/70 feet*** | 2 story/35 feet | 2 story/35 feet | 2 story/35 feet | 2 story/35 feet | ** | ** |
| Transitional Height Plane (see Article 5) | No | Yes | No | No | No | Yes | Yes | Yes |

* If located next to single-famiily residential and the building will exceed 35 feet, the building setback from SF residential shall be increased 50%.
** Fire Department and rescue services must approve over 3 stories to assure adequacy of fire protection facilities.
*** 5 story/70 feet if in an Activity Node, 2 story/35 feet outside an Activity Node, unless obtaining a SLUP for up to 5 story/70 feet.

## 27-2.25 DIVISION 25. NS (NEIGHBORHOOD SHOPPING) DISTRICT

### 2.25.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the NS (Neighborhood Shopping) District is as follows:

A. To provide convenient neighborhood retail shopping and service areas within the city for all residents;

B. To provide for the development of new neighborhood shopping districts where so designated on the comprehensive plan especially for commercial uses in Suburban character areas;

C. To assure that the size and scale of neighborhood shopping centers and individual uses within said centers are compatible with the scale of adjoining neighborhoods;

D. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.25.2 Intensity limitations.

In a building that contains more than one (1) business establishment, no single business establishment shall occupy more than fifteen thousand (15,000) square feet, whether owned or leased. No building occupied by a single business establishment shall exceed fifty thousand (50,000) square feet.

### 2.25.3 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.25.4 Dimensional requirements.

Dimensional requirements for the NS (Neighborhood Shopping) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.25.5 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.26 DIVISION 26. C-1 (LOCAL COMMERCIAL) DISTRICT

### 2.26.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the C-1 (Local Commercial) District is as follows:

A. To provide convenient local retail shopping and service areas within the city for all residents;

B. To provide for auto-oriented needs outside of the Neighborhood Center, Town Center and Regional Center character areas, but to focus on the pedestrian oriented development within these districts;

C. To provide for quality control in development through materials and building placement;

D. To assure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods;

E. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.26.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted, but there are Supplemental Use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.26.3 Dimensional requirements.

Dimensional requirements for the C-1 (Local Commercial) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.26.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.27 DIVISION 27. C-2 (GENERAL COMMERCIAL) DISTRICT

### 2.27.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the C-2 (General Commercial) District is as follows:

A. To provide convenient general business and commercial service areas within the city for all residents;

B. To provide for the development of new general commercial districts where so designated on the comprehensive plan;

C. To provide for auto-oriented needs outside of the Neighborhood Center, Town Center and Regional Center character areas, but to focus on the pedestrian oriented development which in these districts;

D. To provide for quality control in development through materials and building placement;

E. To assure that the uses authorized within the C-2 (General Commercial) District are those uses which are designed to serve the general business and commercial service needs of the city;

F. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.27.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.27.3 Dimensional requirements.

Dimensional requirements for the C-2 (General Commercial) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.27.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.28 DIVISION 28. OD (OFFICE-DISTRIBUTION) DISTRICT

### 2.28.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OD (Office-Distribution) District is as follows:

A. To provide convenient areas within the city for the development of office and distribution establishments which are necessary for the residents and business practitioners within the city; and

B. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.28.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there exist supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.28.3 Dimensional requirements.

Dimensional requirements for the OD (Office-Distribution) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.28.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.29 DIVISION 29. OI (OFFICE-INSTITUTIONAL) DISTRICT

### 2.29.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OI (Office-Institutional) District is as follows:

A. To provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the city;

B. To provide accessory commercial and residential uses to reduce auto dependence;

C. To provide locations for the development of cultural, recreational, educational and health service facilities for the city;

D. To promote compatible development, in size and scale, to surrounding development;

E. To promote campus style developments;

F. To promote pedestrian oriented compact design;

G. To implement the Future Development Map of the City's most current Comprehensive Plan.

### 2.29.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.29.3 Dimensional requirements.

Dimensional requirements for the OI (Office-Institutional) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.29.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.30 DIVISION 30. OIT (OFFICE-INSTITUTIONAL-TRANSITIONAL) DISTRICT

### 2.30.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OIT (Office-Institutional-Transitional) District is as follows:

A. To provide areas within the city for the location of office and institutional uses which are necessary for the residents, business practitioners, and professional practitioners in existing buildings no longer viable for residential uses;

B. To limit said buildings' height to be compatible to those potential redevelopment parcels and structures;

C. To provide for the transition from residential to office and associated commercial uses which do not generate large volumes of traffic, noise or other harmful effects, and which are compatible with residential uses in locations so designated in the comprehensive plan along Commercial Redevelopment Corridor character areas and along the edge of the Office Park and Institutional character areas.

### 2.30.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted, but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.30.3 Dimensional requirements.

Dimensional requirements for the OIT (Office-Institutional-Transitional) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.30.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

## 27-2.31 DIVISION 31. M (LIGHT INDUSTRIAL) DISTRICT

### 2.31.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M (Light Industrial) District is as follows:

A. To provide areas for the establishment of businesses engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment and the sale and distribution of such goods, merchandise or equipment in locations so designated in the comprehensive plan;

B. To provide an environment for light industrial uses that produces no appreciable impact on adjacent properties and preserve the appeal and appearance of residential and commercial areas;

C. To assure that all establishments located within the M (Light Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M (Light Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

D. To provide an area within the City of Tucker for recycling and green businesses to locate;

E. To generate employment opportunities and economic development;

F. To assure that M (Light Industrial) districts are so located that transportation access to thoroughfares and freeways is available;

G. To allow for the conversion of industrial buildings which are 50 years of age or older to multi-family dwellings so as to promote living and working space as well as historic preservation;

H. To implement the Future Development Map of the County's most current Comprehensive Plan.

### 2.31.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.31.3 Dimensional requirements.

Dimensional requirements for the M (Light Industrial) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.31.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.31.5 Multi-family use provisions for industrial conversion.

A. The conversion of industrial buildings to residential use shall be permitted by a special land use permit. The following shall be considered:

1. Whether the building is located on the interior or periphery of an established industrial park or area;
2. Whether the building or area should no longer be used for industrial uses;
3. Adequate parking is provided in accordance with Article 6, for multi-family or live-work.

## 27-2.32 DIVISION 32. M-2 (HEAVY INDUSTRIAL) DISTRICT

### 2.32.1 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the M-2 (Heavy Industrial) District is as follows:

A. To provide areas for manufacturing, warehousing and distribution facilities at locations so designated in the comprehensive plan;

B. To provide for a location for intense industrial uses that do not require and may not be appropriate for a nuisance free environment;

C. To provide for a location that allows nuisances such as noise, vibration and other impacts which cannot be contained on-site;

D. To assure that all businesses located within the M-2 (Heavy Industrial) District operate in compliance with the noise standards contained in this chapter and that any negative noise impact resulting from the use of land within the M-2 (Heavy Industrial) District is contained within the boundaries of said district and does not create noise problems for adjoining residential, office or commercial districts;

E. To assure that industrial districts are so located that transportation access to thoroughfares and freeways is available;

F. To implement the Future Development Map of the County's most current Comprehensive Plan.

### 2.32.2 Permitted and special land uses.

Permitted uses and uses requiring special land use permits shall be as provided in Table 4.1. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article 4, such regulations shall also apply and must be complied with.

### 2.32.3 Dimensional requirements.

Dimensional requirements for the M-2 (Heavy Industrial) District shall be as provided in Table 2.24, "Non-Residential Zoning Districts Dimensional Requirements."

### 2.32.4 Site and building design standards.

Site and building design standards and regulations to be applied in this zoning district shall be as provided in Article 5, Site Design and Building Form Standards.

### 2.32.5 Solid waste facility/landfill use provisions.

Any solid waste facility, solid waste handling facility, or landfill must obtain a special land use permit from the mayor and city council and a modification or addition of zoning conditions that specifically authorizes and identifies all necessary zoning requirements for each such facility. If granted, the zoning district classification for such property shall be identified as M-2 (Conditional Landfill).

**Article 3. Overlay District Regulations ..... 4**
27-3.1 DIVISION 1. OVERLAY DISTRICTS ..... 4
3.1.1. Overlay districts generally. ..... 4
3.1.2. Purpose and intent. ..... 4
3.1.3. Plan submittal, review and approval (Certificate of Compliance – see Emory Village for additional requirements associated with historic preservation). ..... 4
3.1.4. Conceptual plan package review. ..... 5
3.1.5. Final design package. ..... 7
27-3.34 DIVISION 34. DOWNTOWN TUCKER COMPATIBLE USE OVERLAY DISTRICT ..... 7
3.34.1 Definitions. ..... 7
3.34.2 Scope of regulations. ..... 7
3.34.3 Applicability of regulations. ..... 8
3.34.4 Statement of purpose and intent. ..... 8
3.34.5 District boundaries and map. ..... 8
3.34.6 Principal uses and structures. ..... 9
3.34.7 Prohibited uses. ..... 10
3.34.8 Accessory uses, buildings, and structures. ..... 11
3.34.9 Special permits. ..... 11
3.34.10 Development standards. ..... 12
3.34.11 Open space requirements. ..... 15
3.34.12 Transitional buffer zone requirements. ..... 16
3.34.13 Architectural regulations. ..... 16
3.34.14 Streets and sidewalks. ..... 17
3.34.15 Parking. ..... 18
3.34.16 Signs. ..... 20
3.34.17 Underground utilities. ..... 20
3.34.18 Street lights and street furnishings. ..... 20
3.34.19 Interparcel access. ..... 20
3.34.20 Multimodal access plan. ..... 21
3.34.21 Design guidelines. ..... 21
3.34.22 Plans required; certificate of compliance. ..... 21
3.34.23 Conceptual plan package review. ..... 21
3.34.24 Final design package review and approval process. ..... 23

3.34.25 Final approval of plans. ....23
**27-3.35 DIVISION 35. NORTHLAKE OVERLAY DISTRICT** ....24
3.35.1 Scope of regulations. ....24
3.35.2 Applicability of regulations. ....24
3.35.3 Statement of purpose and intent. ....24
3.35.4 Maps and boundaries. ....25
3.35.5 Principal uses and structures. ....25
3.35.6 Prohibited uses. ....28
3.35.7 Accessory uses and structures. ....29
3.35.8 Special permits. ....29
3.35.9 Development categories. ....30
3.35.10 Sidewalks/streetscapes. ....34
3.35.11 Street furniture zone. ....34
3.35.12 Street trees. ....35
3.35.13 Public space requirements. ....35
3.35.14 Maintenance of common land. ....36
3.35.15 Transitional buffer zone and transitional height requirements. ....36
3.35.16 Required parking. ....36
3.35.17 Development and architectural controls. ....38
3.35.18 Landscape buffer requirements. ....39
3.35.19 Multimodal access plans required. ....40
3.35.20 Sign regulations. ....41
3.35.21 Shared parking. ....41
3.35.22 Streets, curb cuts, and driveways. ....42
3.35.23 Townhouse and multifamily development standards. ....42
3.35.24 Northlake Overlay design guidelines. ....42
3.35.25 Plans required; certificates of compliance. ....42
3.35.26 Conceptual plan package review. ....43
3.35.27 The final design package. ....44
**Design Guidelines for the Northlake Commercial Center Compatible Use Overlay District** ....44
I. Purpose and authority. ....44
II. Design guidelines. ....45

**APPENDICES Plant List**.....62
27-3.40 DIVISION 40. MOUNTAIN INDUSTRIAL BOULEVARD OVERLAY DISTRICT....64
3.40.1 Scope of regulations. .....64
3.40.2 Applicability of regulations.....64
3.40.3 Statement of purpose and intent. .....64
3.40.4 District boundaries and maps.....64
3.40.5 Principal uses and structures. .....64
3.40.6 Prohibited uses. .....64
3.40.7 Architectural regulations. .....65

# Article 3. Overlay District Regulations

## 27-3.1 DIVISION 1. OVERLAY DISTRICTS

### 3.1.1. Overlay districts generally.

Overlay districts are supplemental to the zoning district classifications established in Article 2 of this Chapter. This section shall supersede the applicability statements in each overlay district, and are applicable as follows:

A. All development and building permits for lots located, in whole or in part, within any overlay district shall meet all of the regulations of the underlying zoning district in which they are located as well as all of the regulations of the applicable overlay district.

B. For new development after the effective date of this Chapter, when no complete application for a land disturbance or building permit has been filed with respect to a property located within an overlay district and the property has conditions of zoning that were approved prior to, and in conflict with the overlay district regulations contained in this article, the overlay district regulations shall prevail. If a condition of zoning does not conflict with the overlay district regulations, the condition of zoning shall remain applicable to the property.

C. For existing development, if overlay district regulations conflict with the conditions of zoning applicable to property within in an overlay district, the existing zoning conditions remain applicable to the property.

D. If a use is permitted in the overlay district, but the underlying zoning requires a special land use permit for the same use, the overlay shall govern, and no special land use permit is required.

E. If overlay district regulations conflict with other regulations contained in this Chapter, the overlay district regulations shall prevail.

F. The use of property may be permitted without rezoning if listed as allowed by the overlay. Uses allowed by the underlying zoning in Article 4, may also be permitted in the overlay district, unless it is listed as prohibited or if the zoning district is not applicable in the overlay.

G. Each application for a business license, land disturbance permit, building permit or sign permit, which involves the development, use, exterior alteration, exterior modification or addition of any structure, must demonstrate compliance with all overlay district regulations, subject to Article 8, Nonconforming uses, structures and buildings.

H. The zoning district designations contained in Article 3, titled Overlay District Regulations, are not revised to reflect the new zoning district designations utilized in the adopted Zoning Ordinance effective July 11, 2016. The DeKalb zoning district references contained in this Article 3 shall therefore be construed using the conversion chart contained in Table1.1 of Article 1 of the Zoning Ordinance, and applied as appropriate to the current provision of the Zoning Ordinance.

I. The overlay districts include some uses which require a special land use permit.

### 3.1.2. Purpose and intent.

Each Subarea Overlay has its own purpose and intent based on original overlay requirements.

### 3.1.3. Plan submittal, review and approval.

A. *Pre-submittal conference*. Prior to the submittal for review of a land disturbance or building permit application for property located within an overlay district, the applicant and the staff shall have a preliminary meeting to discuss the submittal requirements.

B. *Conceptual plan submittal requirements*. As part of any land-disturbance permit, building permit, or sign permit application, the applicant shall submit to the community development director a conceptual plan package and a final design package. Each package must include full architectural and landscape plans and specifications. The submitted plans must include a site plan, architectural elevations and sections;

renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signs, all of which shall demonstrate that the proposed design is in compliance with all the requirements of the applicable overlay district and the underlying zoning classification. The community development director shall provide a copy of the submittals to the mayor and city council and the citizen stakeholder in the area the property is located for review and comments. If the proposed development is also located in an historic district as designated in the Code, the development shall also comply with the regulations established for the historic district in Chapter 13.5 of the Code.

C. *Review by staff*. Staff will review the conceptual plans for compliance with specifications and design guidelines contained in this Zoning Ordinance. If the application fails to comply with any section in this Zoning Ordinance, the application shall be marked "failed compliance," shall be returned to the applicant with any comments and/or redlines for revisions, and may be re-submitted with corrections addressing the staff's comments and/or redlines for further consideration. Once the application is found to be in compliance, the final design shall be forwarded to the community development director for approval.

1. Where the community development director determines that said plans comply with the requirements of the Overlay District, the community development director shall approve the plans for compliance as part of the application for land disturbance, building or signs permits.

2. Where the community development director determines that submitted conceptual plans do not comply with the requirements of this Chapter, then the community development director shall notify the applicant in writing of the manner in which the conceptual plans fail to comply with such requirements. All applications shall be considered and decided by the community development director within thirty (30) days of receipt of a complete application.

3. Any appeal to vary Overlay District development standards shall be to the zoning board of appeals pursuant to Article 7.

D. *Fees*. Plans shall be accompanied by an application and payment of a fee in an amount determined by mayor and city council.

### 3.1.4. Conceptual plan package review.

A. The conceptual plan package shall include the following:

1. A narrative addressing the proposed development explaining how it meets the purpose, intent, and standards of this Article. The narrative shall include a tabulation of the approximate number of acres for each different land use type within the project, the approximate number of dwelling units by type, the approximate gross residential density, the approximate commercial density as well as square feet, the common open space acreage, the approximate open space acreage, the anticipated number, type and size of recreational facilities and other public amenities, and the legal mechanism for protecting and maintaining common/public open, as required in Article 5;

2. A site location map showing the proposed development, abutting properties, the access connections of the proposed development to surrounding and existing development, and transitional buffer zones, if required;

3. A multimodal access plan, prepared at a scale not greater than one (1) inch equals one hundred (100) feet, to demonstrate a unified plan of continuous access to and between all structures in the proposed development and adjacent properties where connections are appropriate. The multimodal access plan shall cover the entire proposed development along with public right-of-way of adjoining streets and any other property lying between the subject property and any primary or secondary streets. Safe and convenient pathways shall be provided from sidewalks along streets to each structure entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Connections to available transportation nodes, such as driveways, sidewalks, and bike paths shall be shown along adjacent streets and those entering

adjoining properties. Where an existing or planned public transportation station or stop is within one thousand, two hundred fifty (1,250) feet from the nearest boundary of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property. Where an existing or planned bike path is located within one thousand, five hundred feet (1,500) feet from the nearest boundary of the subject property, the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.

4. Two (2) copies of a plan drawn to a designated scale of not less than one (1) inch equals one hundred (100) feet, certified by a professional engineer or land surveyor licensed by the state, presented on a sheet having a maximum size of twenty-four inches by thirty-six inches (24”x36”), and one (1) eight and-one-half inches by eleven inches (8.5”x11”) reduction of the plan. A “.pdf” copy of the plan shall be e-mailed to the community development director for distribution to the to the mayor and city council and the citizen stakeholder in the area the property is located for review and comments. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

   a. Boundaries of the entire property proposed to be included in the development, with bearings and distances of the perimeter property lines;

   b. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics;

   c. Location and approximate dimensions in length and width, for landscape strips and required transitional buffers, if any;

   d. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run;

   e. Delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or the City of Tucker;

   f. Delineation of any jurisdictional wetlands as defined by section 404 of the Federal Clean Water Act;

   g. Approximate delineation of any significant historic or archaeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it;

   h. Delineation of all existing structures and whether they will be retained or demolished;

   i. General location, in conceptual form, of proposed uses, lots, buildings, building types and building entrances;

   j. Height and setback of all existing and proposed buildings and structures;

   k. Location, size and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed;

   l. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

   m. Conceptual plans for drainage with approximate location and estimated size of all proposed storm water management facilities and a statement as to the type of facility proposed;

   n. Development density and lot sizes for each type of use;

   o. Areas to be held in joint ownership, common ownership or control;

   p. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

q. Location of proposed sidewalks and bicycle facilities, trails, recreation areas, parks, and other public or community uses, facilities, or structures on the site;

r. Conceptual layout of utilities and location of all existing and proposed utility easements having a width of ten (10) feet or more;

s. Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, street furniture, bicycle lanes, streets, alleys, and other public improvements demonstrating compliance with the design guidelines for the overlay district; and

t. Seal and signature of the professional preparing the plan.

5. Two (2) copies of the conceptual building designs including elevation drawings drawn to a scale of not less than one-sixteenth (1/16) inch equals one (1) foot showing architectural details of proposed building, exterior materials, all of which demonstrate that the proposed design is in compliance with the Subarea Overlay District in which it is located. Drawings shall be presented on a sheet having a maximum size of twenty-four inches by thirty-six inches (24”x36”), along with one (1) eight and-one-half inches by eleven inches (8.5”x11”) reduction of each sheet. A “.pdf” copy of the drawings shall be e-mailed to the community development director or designee for distribution to the mayor and city council and the citizen stakeholder in the area the property is located for review and comments. If the drawings are presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

6. *Lighting plan*. See Article 5.

7. *Traffic study*. See Article 5.

### 3.1.5. Final design package.

Upon receiving and addressing the city’s comments with respect to the conceptual design package, the applicant must submit the final design package, including color “.pdf” copies, for review and approval. The final design package must contain full architectural and landscape plans, site plan, elevations, section renderings depicting the building design containing elevations and architectural detailing of proposed buildings, exterior materials and color, and plans and elevations of hardscape landscape and signs all of which must demonstrate compliance with overlay district regulations. All items and specifications necessary for obtaining land disturbance and building permits must be submitted with the final design package. The applicant may submit the final design package simultaneously with the land disturbance or building permit application, as applicable.

## 27-3.2 DIVISION 34. DOWNTOWN TUCKER COMPATIBLE USE OVERLAY DISTRICT

### 3.34.1 Definitions.

Article 9 is hereby amended to add the following definitions in alphabetical order to read as follows:

Reserved.

### 3.34.2 Scope of regulations.

This division establishes standards and procedures that apply to any development, use, alteration, height, density, parking, open space, and building that lies, in whole or in part, within the Downtown Tucker Compatible Use Overlay District, hereinafter referred to as the Tucker Overlay District. The Tucker Overlay District is based upon the urban design and development guidelines included in the downtown Tucker livable centers initiative (LCI) plan.

The LCI's plan calls for a community that incorporates higher density development in the downtown Tucker area while providing a mix of commercial, office, recreation, and housing options. Also included in the LCI's goals is the improved mobility on the major corridors. Wherever the underlying zoning regulations are in

conflict with the provisions of this overlay district, the regulations of this overlay district shall apply. This division shall be governed by chapter 27, article III, division 1, section 3.37.2 of the City of Tucker Zoning Ordinance.

### 3.34.3 Applicability of regulations.

This division applies to each application for a business license, land-disturbance permit, building permit or sign permit which involves the development, use, alteration, or modification of any structure where the subject property is located in whole, or in part, within the boundaries of the Tucker Overlay District. The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the Tucker Overlay District.

### 3.34.4 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the Tucker Overlay District is as follows:

A. To promote the development of a more dynamic, mixed-use district of appropriate scale and magnitude in the downtown Tucker area;

B. To ensure that new structures and developments are consistent with the vision and recommendations of the downtown Tucker LCI plan (completed in 2005) with significant community involvement and input;

C. To provide a variety of housing types and promote mixed-income residential opportunities;

D. To design and arrange structures, buildings, streets, and open spaces to create an inviting, walkable, human-scale environment;

E. To provide for connectivity of streets and communities and reduce the dependence on automobile use by increasing the ease of movement and opportunities for alternative modes of travel;

F. To ensure a proportional relationship of surrounding buildings with respect to the general spacing of structures, building mass and scale, and street frontage by using techniques to achieve compatibility, such as:

1. Use of additional facade detail; proportion of facade elements, doorways, projections and insets; window scale and pattern; and creation of strong shadow lines as decorative elements;

2. Use of consistent setbacks from property lines;

3. Development of consistent sidewalks and a more active, interesting pedestrian environment;

4. Use of landscaping, lighting and street furniture to unify district buildings and define space;

5. Use of compatible building materials to promote a design and building aesthetic compatible with the desired urban character; and

G. To implement the policies and objectives of the Comprehensive Plan and the Zoning Ordinance of the City of Tucker within the Tucker Overlay District.

### 3.34.5 District boundaries and map.

A. The boundaries and development categories of the Tucker Overlay District are described below and shall be established by a zoning map amendment adopted pursuant to this chapter which amendment shall be incorporated herein and made a part of this chapter:

B. The foregoing Tucker Overlay District shall be divided into three (3) development categories:

1. *Neighborhood zone.* The intent of the neighborhood zone is to preserve the residential neighborhood character and uses while allowing mixed use and commercial uses along the major roads within the district. This neighborhood character shall be guided by residential architecture such as pitched roofs, smaller scale, fenestration, cornices, columns, etc. The height in this district should be compatible to residential structures.

2. *Corridor zone.* The intent of the corridor zone is to encourage mixed-use-type development along Lawrenceville Highway and LaVista Road that creates a more aesthetically pleasing and pedestrian friendly environment. Commercial, office, residential and multifamily mixed-use-type developments are desired. Although a mixture of uses is allowed, multifamily, townhouse, condominium and loft-type structures are preferred. The orientation of any development shall be toward Lawrenceville Highway and LaVista Road; however access can be from the rear.

3. *Village zone.* The intent of the village zone is to revitalize Main Street and create a well-defined core area for the downtown Tucker area. Mixed-use-type development with commercial, residential, and office uses is encouraged to help create the downtown, Main Street atmosphere. Additionally, the intent of the Tucker Overlay District is to incorporate the varying institutional uses such as churches, schools, public buildings, public squares/plazas, and government uses into the character of the district. The urban character of this district shall be guided by zero setbacks, urban edges, and common architectural themes, continuation of architectural rhythms, and building materials and massing.

C. The community development director or designee shall have the final authority to determine whether any property is located within the boundaries of this section.

### 3.34.6 Principal uses and structures.

The principal uses of land and structures which are allowed in the Tucker Overlay District are as provided by the underlying zoning district, subject to the limitations and standards contained within this division. All properties zoned C-1 (Local Commercial) District, C-2 (General Commercial) District, O-I (Office-Institutional) District, O-D (Office-Distribution) District, M (Industrial) District, RM (Multi-Family Residential) District, or any R (Single Family Residential) District shall be used in accordance with the underlying zoning district and/or for the following principal uses of land and structures or a combination of uses in a mixed use development subject to the standards and limitations contained within this division.

A. *Principal uses and structures.*

1. *Neighborhood zone.*

   a. Single-family detached.

   b. Two-family detached.

   c. Single-family attached.

   d. Office uses—Not to exceed five thousand (5,000) square feet per use along primary streets (La Vista Road, Fellowship Road, and 1st Avenue).

   e. Retail uses—Not to exceed five thousand (5,000) square feet per use along primary streets.

   f. Live-work units along primary streets.

2. *Corridor zone.*

   a. Single-family attached.

   b. Live-work units.

   c. Multifamily residential units, up to and including twenty-four (24) units per acre.

   d. Mixed use with ground-floor retail, office and/or service, and residential and/or office located on upper stories shall be allowed.

   e. Office uses—Not to exceed ten thousand (10,000) square feet per use.

   f. Retail uses—Not to exceed ten thousand (10,000) square feet per use.

3. *Village zone.*

a. Single-family attached.

b. Live-work units.

c. Multifamily residential units, up to and including twenty-four (24) units per acre.

d. Government uses.

e. Institutional uses.

f. Mixed use with ground-floor retail, office and/or service, and residential and/or office located on upper stories shall be allowed

g. Office uses—Not to exceed ten thousand (10,000) square feet per use.

h. Retail uses—Not to exceed ten thousand (10,000) square feet per use.

B. Live-work units, which consist of buildings used jointly as dwellings and non-residential (work) purposes that are both permitted in the Tucker Overlay District. Live-work units shall meet all of the following standards:

1. Work uses shall be compatible with residential uses and shall not produce or create noise, smoke, vibrations, smells, electrical interferences, or fire hazards that would unreasonably interfere with residential uses. Permitted uses shall include:

a. Accounting office;

b. Planning, engineering, or architectural office;

c. Financial services office;

d. Insurance office;

e. Legal office;

f. Counseling office;

g. Real estate office;

h. Information processing uses;

i. Tutorial/educational services;

j. Fine arts studios and/or galleries;

k. Photography studios; and

l. Consulting services.

2. The maximum number of employees on the premises shall be two (2), in addition to the occupants of the residential space.

3. The unit shall not accommodate more than two (2) customers/clients at a time.

4. The minimum size of the live-work unit shall be one thousand two hundred (1,200) square feet with at least one-third (1/3) of the unit designated for residential space.

### 3.34.7 Prohibited uses.

The following principal uses of land and structures shall be prohibited within the Tucker Overlay District:

A. Boarding and breeding kennels.

B. Storage yard for damaged or confiscated automobiles.

C. Tire retreading and recapping.

D. Adult entertainment establishments.

E. Adult service facility.

F. Go-cart concession.

G. Outdoor equipment and materials storage.

H. Heavy repair shop and trade shop.

I. Extended-stay motels.

J. Used cars sales.

K. Temporary and/or seasonal outdoor sales.

L. Title and pawn shops

M. Liquor stores.

N. Night clubs.

O. Salvage yards/junk yards.

P. Self service car wash and detailing.

Q. Self storage.

### 3.34.8 Accessory uses, buildings, and structures.

Accessory uses and structures permitted within this district shall include these, incidental to any authorized use and structure, specifically including clubhouses, pods and other recreational amenities.

A. Accessory uses and structures incidental to any authorized use.

B. Parking lots and parking garages.

C. Club house, including meeting room or recreation room.

D. Swimming pools, tennis courts, and other recreation areas and similar amenities.

E. Signs, in accordance with the provisions of chapter 21 and this chapter.

### 3.34.9 Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

A. *Special administrative permit from the community development director or designee as referenced in article 4.*

1. Art shows, carnival rides, festivals and special events of community interest.

2. Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days' duration, and adequate parking is provided on the site.

3. Telecommunications antennas that are incorporated in architectural features such as steeples, clock towers, water towers and attached to the top of high-rise buildings subject to the requirements of section 4.2.50.

4. Outdoor recreation entertainment facilities.

B. *Special land use permit from the mayor and city council.*

1. Heliport.

2. Multifamily residential units, over twenty-five (25) units per acre.

### 3.34.10 Development standards.

The following requirements shall apply to new structures in the Tucker Overlay District:

A. *Development standards for live-work units.*

1. All off-street parking shall be hidden behind or within individual units. Garages may not face the public street.
2. The front entrance to each unit shall be at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.

B. *Development standards for commercial and mixed-use buildings.*

1. Ground-floor commercial and retail uses shall have entrances at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.
2. Canopies over retail and commercial entrances and/or windows shall be mounted at a single consistent height for each building.
3. The size of lease commercial space shall vary within each development to allow for diversity of tenants.
4. A minimum of sixty-five (65) percent of the ground-floor facade of mixed-use and commercial buildings shall be clear and untinted, transparent glass storefront.
5. Pedestrian access shall be provided from parking behind buildings to the public sidewalk through the ground floor of the building or via sidewalks between buildings.

C. *Development standards for multifamily buildings:*

1. Ground-floor residential units that face the street shall have entrances with a stoop or porch between the sidewalk and the building facade. A sidewalk shall connect all ground floor entrances to the public sidewalk.
2. Multifamily buildings shall be set back between five (5) and fifteen (15) feet from the back of the sidewalk. This area between the sidewalk and the building facade shall contain only steps, front porches or stoops, balconies, or landscaping. Mechanical equipment and other building service items may not be located within the setback area between the public sidewalk and building facade.

D. *Site design requirements.*

1. When blocks are subdivided by new streets, the maximum length of resulting new blocks shall be three hundred (300) linear feet. Along Lawrenceville Highway and LaVista Road, the maximum block length shall be seven hundred (700) feet.
2. The maximum curb radius at any intersection or curb cut is thirty (30) feet.
3. All parking shall be accessed via shared alleys or private drives. No curb cuts shall be allowed on primary streets (Lawrenceville Highway, Main Street, La Vista Road, Fellowship Road, and 1st Avenue) if the development is accessible by another street. If an existing block face on a primary street exceeds seven hundred (700) linear feet, then one (1) curb cut per seven hundred (700) linear feet is allowed. If a development is accessible from more than one (1) secondary street, the development shall be limited to one (1) curb cut per block face. If a development is only accessible from one (1) street, the development is limited to two (2) curb cuts on that street.
4. All curb cuts shall be a maximum of twenty-four (24) feet wide.
5. Common or joint driveways are encouraged and may be authorized by the community development director or designee.

6. Driveways must be perpendicular to the adjacent street. Circular and nonperpendicular driveways are prohibited.

7. Buildings shall be located toward the front of each lot no more than twenty (20) feet from the public sidewalk. If a lot is bound by more than one (1) public street, the front of the lot shall be considered the side adjacent to the street with the highest classification as follows: Primary: Lawrenceville Highway, LaVista Road, Main Street, 1st Avenue, and Fellowship Road; Secondary: new streets and other existing streets. If the building is contained on a lot at the intersection of two (2) primary streets, the building shall be oriented towards the intersection.

8. For nonresidential purposes, the primary ground floor entrance to all buildings shall be clearly visible from the street, shall face the street, and shall be unlocked during operating business hours. If a building fronts more than one (1) public street, the primary entrance shall face the street with the highest classification as follows: Primary: Lawrenceville Highway, LaVista Road, Main Street, Fellowship Road, and 1st Avenue; Secondary: new streets and other existing streets.

9. Where development is on a primary or secondary street and also across the street from existing single-family homes which face the street, the development shall contain buildings facing the primary or secondary street and the existing single-family development.

10. Maximum spacing between buildings along a primary street shall be twenty (20) feet unless a public space, such as a park or plaza, is provided between the respective buildings. Exceptions will be made for curb cuts approved according to subsection (D)(3) above.

11. Minimum space between buildings shall be zero (0) feet, but if the property is adjacent to an existing building with windows facing the property line, the setback shall be twenty (20) feet from the face of the existing building.

12. All service areas shall be screened from view from the street with buildings, landscaping, or decorative fencing.

13. Decorative fencing shall only be made of brick, stone, wrought iron, or wood. Fencing in the front yard of any property shall not be higher than four (4) feet. Fencing to the rear or side of a building shall not be higher than six (6) feet.

14. No barbed wire, razor wire, chain-link fence or similar elements shall be visible from any public plaza, ground level or sidewalk level outdoor dining area or public right-of-way.

15. Gates and security arms shall be prohibited from crossing any public street or sidewalk.

16. All utilities shall be located underground.

E. *Building height.*

1. Within the Tucker Overlay District, there shall be three (3) development categories for the purpose of establishing allowable building heights. The boundaries of these development categories shall be established by a zoning map amendment adopted pursuant to this chapter which amendment shall be incorporated herein and made a part of this chapter.

2. All building heights are to be measured from the finished sidewalk to the top of cornice (or top of parapet wall) for flat-roofed buildings or the bottom of the eave for sloped-roofed buildings along the facade that faces the street with the highest volume of daily traffic. Levels measuring less than six (6) feet in height for the purposes of raising the first-floor level above the street level, providing a consistent first-floor level (crawl space), or for the sole purpose of housing, mechanical, plumbing or electrical equipment shall not be counted as stories for the purposes of calculating maximum building heights.

3. All buildings within the Tucker Overlay District shall be a minimum of two (2) stories tall and twenty-eight (28) feet in height except for single-family detached houses in the neighborhood zone. Single-family detached houses shall be allowed to be a minimum one (1) story.
4. The maximum height for buildings for the Tucker Overlay District shall be three (3) stories or forty-five (45) feet, whichever is less, except as provided in subsection (6) below.
5. Single-family attached townhomes or live/work units in all of the development zones shall not exceed three (3) stories or forty-five (45) feet, whichever is less.
6. Buildings in the corridor zone and village zone (excluding those located along Main Street) shall be permitted to exceed the maximum building height limit in subsection (4) above provided it meets one (1) or more of the following:
    a. Single-family attached and live/work units are permitted to add one (1) additional story if twenty (20) percent of the total number of residential units within a development of fifteen (15) units or more are priced for workforce housing as defined in Article 9. Mixed-use buildings that include residential units and multifamily buildings are permitted to add one (1) additional story if twenty (20) percent of the total number of residential units within a development of twenty (20) units or more are priced for workforce housing as defined in Article 9.
    b. Commercial and residential developments are permitted to add one (1) additional story to each building on a given lot if a contiguous publicly accessible open space, as defined by section 3.37.11, not including on-street parking and public sidewalks along roadways, comprising at least twenty-five (25) percent of the development, is provided.
    c. Commercial and multi-family buildings fronting Lawrenceville Highway are permitted to add one (1) additional story to the respective building if seventy-five (75) percent or more of the ground-floor space is used for retail or service commercial uses with storefronts oriented toward a public street.
    d. The maximum building height with any combination of height bonuses listed above shall be dependent upon building use according to the chart below. Special land use permits and variances shall not alter or allow structures taller than the maximum building heights provided herein within the Tucker Overlay District:

Table 3.10: Maximum Building Heights in Downtown Tucker Compatible Use Overlay District

| Maximum Building Heights in Downtown Tucker Compatible Use Overlay District | | |
|---|---|---|
| **Building Use** | **Max. Building Height** | **Max Building Height with Bonuses** |
| Single-Family Attached | 3 stories or 45 feet * | 4 stories or 60 feet * |
| Commercial | 3 stories or 45 feet * | 4 stories or 60 feet * |
| Multifamily | 3 stories or 45 feet * | 4 stories or 60 feet * |
| Mixed-Use | 3 stories or 45 feet * | 4 stories or 60 feet * |

* Whichever is less

F. *Building setbacks.* The following requirements shall apply to all structures in the Downtown Tucker Overlay District:

1. Minimum front setback shall be zero (0) feet. Buildings shall be permitted to be set back from the public sidewalk to allow for building stoops, front porches, balconies or steps, a public space or public park, outdoor dining, outdoor merchandising, or landscaping that does not completely cover the facade of the building. All ground floor uses shall have a sidewalk along the street.

2. The minimum side and rear setbacks shall be zero (0) feet, however if the property is adjacent to an existing building with windows facing the property line, the setback shall be no less than twenty (20) feet from the face of the existing building. The side of a building facing a public street shall be permitted to set back from a public sidewalk to allow for building stoops, front porches, balconies or steps, a public plaza or park, outdoor dining, outdoor merchandising, or landscaping that does not completely cover the facade of the building. All ground floor uses must have a sidewalk or clear hardscape pathway connecting the building entrance to the public sidewalk along the street.

3. For buildings located along Main Street, the maximum front setback shall be no greater than the average of the current buildings on the block.

### 3.34.11 Open space requirements.

A. Within the Tucker Overlay District, there shall be three (3) development categories for the purpose of establishing required public space. The boundaries of these development categories shall be established by a zoning map amendment adopted pursuant to this chapter which amendment shall be incorporated herein and made a part of this chapter.

B. A publicly accessible open space shall be provided as follows:

1. A publicly accessible open space, which is at grade and a minimum of twenty (20) percent of the total development lot, shall be provided by each new development that includes residential uses in the corridor zone and the neighborhood zone.

2. A publicly accessible open space, which is at grade and a minimum of ten (10) percent of the total development lot, shall be provided by each new development that includes residential uses in the village zone.

Table 3.11: Open Space Requirements in Tucker Compatible Use Overlay District

| Maximum Building Heights in Downtown Tucker Compatible Use Overlay District | |
|---|---|
| **Development Category** | **Minimum Percentage of Open Space *** |
| Corridor Zone | 20% |
| Neighborhood Zone | 20% |
| Village Zone | 10% |

* Applies only to new development that includes residential uses.

C. All publicly accessible open spaces shall be at grade, open to general public access during daylight hours, surrounded by buildings with a mix of active uses on the ground floor on at least one (1) side, face the public street, and be directly accessible from a public sidewalk along a street. Ground-floor active uses shall include primary entries and exits into the building and may include, but are not limited to, retail

storefronts, professional office storefronts and/or the primary facade of residential buildings with direct entries and exits to multiple residential units.

D. Publicly accessible open spaces should include appropriate landscaping, including shade trees. At least one (1) shade tree must be provided within or directly adjacent to the open space for every two thousand (2,000) square feet of open space. Shade trees must be a minimum of three and one-half (3.5) inches in caliper measured twelve (12) inches above ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of thirty (30) feet and shall be limbed up to a minimum height of eight (8) feet.

E. Publicly accessible open spaces including front yards, planted areas, fountains, parks, plazas, trails, paths, and hardscape elements related to sidewalks and plazas and similar features which are located on private property and accessible to the general public, the portion thereof located on private property; and natural stream buffers shall be permitted to count toward the twenty (20) percent open space requirement.

F. Private courtyards and other private outdoor amenities shall be located at the interior of the block, behind buildings or on rooftops. Private courtyards and outdoor amenities shall be prohibited from being counted toward the twenty (20) percent minimum open space requirement and other open space calculations that may increase maximum building heights.

G. All open space including buffers, setbacks, sidewalk clear zones, sidewalk zones, and open spaces shall be fully implemented prior to issuance of a certificate of occupancy for the primary development.

H. When a private property owner provides landscaping within the public right-of-way and the landscaping dies within one (1) year of installation, such landscaping shall be replaced within the earliest possible planting season.

I. Covenants or other legal arrangements shall specify ownership of all open spaces, the method of and responsibility for maintenance, taxes, and insurance, compulsory membership and assessment provisions, and shall be incorporated into legal instruments sufficient to ensure that the open space requirements of this section are maintained.

### 3.34.12 Transitional buffer zone requirements.

Where a lot on the external boundary of the Tucker Overlay District is used for nonresidential purposes and adjoins the boundary of any property outside the district that is zoned for any R zoning classification, RM zoning classification, MHP zoning classification, or TND classification, a transitional buffer zone of not less than fifty (50) feet in width shall be provided and maintained in a natural state or so as to maintain an effective visual screen. Said transitional buffer zone shall not be paved or otherwise covered with nonpervious surfaces and shall not be used for parking, loading, storage, or any other uses, except that portions of the transitional buffer zone may be utilized for installation of utilities when necessitated by the development, and when the applicant shows that the utilities cannot be located outside of the transitional buffer zone. Water detention ponds shall not be located within the transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone.

### 3.34.13 Architectural regulations.

A. Allowable building materials shall include brick, stone, wood, architectural metal siding, and fiber cement siding. The following building materials shall be prohibited: vinyl siding, exposed concrete block or concrete masonry units, exposed plywood, plastic or PVC, and synthetic stucco or EIFS.

B. Large buildings, longer than one hundred (100) continuous feet, shall vary the cornice height and create variations in facades with changes in facade depth, materials, textures, colors, and/or window and door patterns to provide visual interest and prevent a massive imposing appearance.

C. Building facades should promote architectural and visual interest. A minimum of thirty-five (35) percent of any facade facing a public street shall consist of openings including windows and doorways except where subsection 3.37.10(B)4. applies.

D. Service areas, trash dumpsters, trash compactors and all other mechanical areas and equipment shall be screened from view from all streets and public rights-of-way. Screening shall be permitted to include landscaping and/or architectural treatment of color similar to the building, to screen the equipment.

E. Roof structures visible from the public right of way may be sloped or flat. Sloped roofs shall be hip roofs of less than forty-five (45) degrees in pitch or gable roofs of at least thirty (30) degrees in pitch. Sloped roofs shall have overhangs of at least twelve (12) inches on all sides and shall not exceed one hundred (100) feet in length without a change in plane. Permitted roofing materials for sloped roofs include asphalt or fiberglass shingles, solar shingles used with asphalt or fiberglass shingles, standing seam metal roof, ceramic tile, and slate or synthetic slate. Flat roofs shall have decorative and/or corbelled parapets on all sides visible from public rights of way and drain to internal roof drains and/or to the rear of the structure, limiting downspouts on facades along primary and secondary streets. Simple barrel vaults or roofs are allowable. Mansard, gambrel, and shed roof forms are prohibited.

### 3.34.14 Streets and sidewalks.

A. All streets within the Tucker Overlay District shall be public streets. Private streets are prohibited.

B. All streets shall comply with the requirements of public streets found in chapter 14 and other applicable sections of this Code.

C. Streets shall be designed to create an interconnected system of grid-patterned roads, modified only to accommodate topographical conditions.

D. Pedestrian zones shall be provided on all streets and shall consist of a landscape zone and a sidewalk zone of widths as provided below. Landscape zones shall be planted with trees, grass, ground cover or flowering plants, or consist of brick pavers, concrete pavers, or granite pavers where on-street parking is provided or pedestrian crossing and/or congregation is likely. Sidewalk zones shall be paved in concrete and kept clear and unobstructed for the safe and convenient use of pedestrians.

1. The intent of this section is to provide for a fifteen-foot-wide pedestrian zone with a five-foot-wide landscape zone measured from the back of the adjacent street curb and a ten-foot-wide sidewalk zone along Main Street. However, Main Street right-of-way variations and the current conditions may not provide for a uniform application of this requirement. As such, the community development director or designee in consultation with the director of public works shall determine on a case by case basis, the requirements for the pedestrian zone along Main Street. The pedestrian zone shall consist of a landscape zone and a sidewalk zone. This applies to all properties abutting Main Street that are within the Tucker Overlay District boundaries.

2. New development shall provide a fifteen-foot-wide pedestrian zone consisting of a five-foot-wide landscape zone measured from the back of the adjacent street curb and a ten-foot-wide sidewalk zone along First Avenue.

3. New development within the Tucker Overlay District shall provide a fifteen-foot-wide pedestrian zone consisting of an eight-foot-wide landscape zone measured from the back of the adjacent street curb and seven-foot-wide sidewalk zone along Lawrenceville Highway, LaVista Road, and Fellowship Road.

4. New development within the Tucker Overlay District shall provide a ten-foot-wide pedestrian zone consisting of a four-foot-wide landscape zone measured from the back of the adjacent street curb and a six-foot-wide sidewalk zone elsewhere along all new and existing streets other than Main Street, 1st Avenue, Lawrenceville Highway, LaVista Road, and Fellowship Road.

5. All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent pedestrian sidewalk area with all driveway crossings meeting ADA standards.

6. Pedestrian sidewalk areas paved with materials other than concrete that are consistent in color with concrete sidewalks may be allowed with the approval of the community development director or designee, as long as the materials meet ADA standards.

7. Where newly constructed sidewalks abut existing sidewalks, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks. Any development that disturbs existing sidewalks on the adjacent property shall replace disturbed areas to their predisturbance state and condition.

8. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each structure entrance, including pedestrian access routes to parking decks and through parking lots and between adjacent buildings within the same development. All such pathways shall be concrete and a minimum width of five (5) feet.

E. *Landscape zones.*

1. Street trees shall be planted in all landscape zones spaced at a maximum distance of thirty (30) feet on center.

2. New street trees must be a minimum of three and one-half (3.5) inches in caliper measured twelve (12) inches above ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of thirty (30) feet and shall be limbed up to a minimum height of eight (8) feet.

3. Street trees shall have a minimum planting area of four (4) feet by eight (8) feet. Tree-planting areas shall provide porous drainage systems that allow for drainage of the planting area.

4. Street tree species shall be consistent for entire block lengths. Species shall be permitted to change on individual block face due only to limited supply and/or concerns regarding disease or the health of existing and proposed trees with approval from the community development director or designee and consultation from a certified arborist.

5. All initial plantings and plant removal other than routine maintenance or replacement shall be approved by the community development director or designee.

6. Benches, trash receptacles, and bike racks shall be placed within the landscape zone on the following streets: Lawrenceville Highway, LaVista Road, Main Street, 1st Avenue, and Fellowship Road.

### 3.34.15 Parking.

A. Off-street parking requirements for uses and structures are authorized and permitted, as follows:

1. *Residential.*

a. *Single-family detached.* One (1) space minimum, two (2) spaces maximum.

b. *Two-family detached.* One (1) space per family unit minimum, two (2) spaces per family unit maximum.

c. *Single-family attached.* One (1) space minimum, two (2) spaces maximum.

d. *Multifamily.* One (1) space per dwelling unit minimum, two (2) spaces per dwelling unit maximum.

2. *Commercial.* One (1) parking space for every four hundred (400) square feet of gross building area (minimum and maximum).

3. *Retail.* One (1) parking space for every three hundred (300) square feet of gross building area (minimum and maximum).

4. *Other uses.* One (1) parking space for every three hundred (300) square feet of gross building area.

B. Shared parking is encouraged and may result in permitted reductions of off-street parking requirements. Parking facilities within a lot may be shared if multiple uses cooperatively establish and operate parking facilities and if these uses generate parking demands primarily when the remaining uses are not in operation. Applicants shall make an application to the community development director or designee for authorization for shared parking. Applicants shall include proof of a written formal shared-parking agreement between the applicant and all affected property owners. Shared parking arrangements may be approved by the community development director or designee upon determination that the above stated off-street parking requirements for each use are met during said use's operational hours. Required parking for residential units shall be prohibited from being shared.

C. Required residential parking shall be segregated from parking for all other uses with the exception of additional parking provided for live/work single-family units.

D. Each development which provides automobile parking facilities shall provide bicycle parking facilities in adjacent parking structures, parking lots, or the landscape zone of the adjoining sidewalk. Nonresidential developments shall provide bicycle parking at a ratio of one (1) bicycle parking space for every twenty (20) vehicular spaces. Multifamily residential developments shall provide bicycle parking facilities at a minimum ratio of one (1) bicycle parking space for every five (5) multifamily units. No development shall have fewer than three (3) bicycle parking spaces nor be required to exceed a maximum of fifty (50) bicycle parking spaces.

E. All off-street parking including surface lots and parking decks shall be located behind or beside buildings.

F. Off-street parking shall be screened from view from any public street by buildings and/or landscaping. Off-street parking may not be located between the public street and the building's front facade. If a lot is bound by more than one (1) public street, the front of the lot shall be considered the side adjacent to the street with the highest classification as follows: Primary: Lawrenceville Highway, LaVista Road, Main Street, Fellowship Road, and 1st Avenue; Secondary: new streets and other existing streets.

G. Any portion of a parking deck that is adjacent to a public street shall be screened with retail on the ground floor. Any upper stories of a parking deck that are visible from a public street shall be clad with materials permitted in subsection (a) of architectural design standards to resemble office or residential buildings with fenestration.

H. Surface parking provided to the side of any building along a public street shall be designated for short-term (no longer than two (2) hours') parking.

I. Wheel stops or bumpers shall be placed at the head of all off-street parking spaces that abut a landscape strip or sidewalk.

J. All surface parking lots of twenty (20) parking spaces or more must include landscaping in the form of shade trees within the confines of the surface parking lot. One shade tree must be provided for every ten (10) parking spaces. Shade trees must be a minimum of three and one-half (3.5) inches in caliper measured twelve (12) inches above ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of thirty (30) feet and shall be limbed up to a minimum height of eight (8) feet.

K. All surface parking, parking decks, and parking structures shall have a landscape strip minimum of six (6) feet in width immediately contiguous to the parking facility for the whole of the exterior perimeter of the parking facility except at vehicular or pedestrian entrances and exits and where ground floor retail uses are located. Such landscape strips shall contain no less than one (1) understory or overstory tree per fifty (50) linear feet, ten (10) shrubs per fifty (50) linear feet, and a minimum of ninety (90) percent living groundcover, sod and/or annual or perennial color in the landscape strip surface area.

L. If required automobile parking spaces cannot be reasonably provided on the same lot on which the principal use is conducted, such spaces may be provided on adjacent or nearby property within the overlay district through a shared parking agreement approved per subsection (b) above, provided a

majority of such spaces lie within seven hundred (700) feet of the main entrance to the principal use for which the parking is provided.

M. On-street parking spaces provided by a development shall be permitted to be counted toward the minimum parking requirements for the respective development for all uses except single-family attached dwellings. On-street parking spaces shall be prohibited from being counted toward the maximum parking limitations.

N. No parking area may be used for the sale, repair, dismantling, service, or long term storage of any vehicles or equipment.

### 3.34.16 Signs.

A. The Tucker Overlay District shall comply with the requirements of chapter 21.

B. Ground signs shall be monument style signs with a base and framework made of brick or stone.

C. Blinking lights and neon lights shall be prohibited on all signs.

D. The combined area of any and all signage of any building or structure shall not exceed ten (10) percent of the main building facade.

E. The maximum height of any freestanding sign above the average grade elevation of the nearest public way or within a twenty-foot radius of the sign shall not exceed the following:

1. Eight (8) feet where the sign face does not exceed forty (40) square feet;
2. Ten (10) feet where the sign face does not exceed sixty (60) square feet; or
3. Twelve (12) feet where the sign face exceeds sixty (60) square feet.

### 3.34.17 Underground utilities.

All utilities except for major electric transmission lines and substations are required to be placed underground except where the community development director or designee determines that underground utilities are not feasible due to pre-existing physical conditions, such as conflicting underground structures or utilities, shallow rock, high water table, or other similar geologic or hydrologic conditions.

### 3.34.18 Street lights and street furnishings.

Street lights and street furnishings are required for all public streets and shall conform to the Design Guidelines for the Tucker Overlay District.

A. Street and pedestrian lighting shall be alternated along roadways.

B. Street lights shall be located within the landscape zone spaced at a maximum distance of one hundred eighty (180) feet on center on the following streets: Lawrenceville Highway, LaVista Road, Main Street, 1st Avenue, and Fellowship Road.

C. Pedestrian lights shall be located within the landscape zone spaced at a maximum distance of ninety (90) feet on center on the following streets: Lawrenceville Highway, LaVista Road, Main Street, 1st Avenue, and Fellowship Road.

D. Lighting fixtures must be approved by the public works transportation division.

### 3.34.19 Interparcel access.

To the maximum extent possible, sidewalks and parking lots serving adjacent lots shall be interconnected to provide continuous driveway connections and pedestrian connections between adjoining lots and streets, except that this requirement shall not apply to lots zoned for single-family residential development. Where necessary, the City of Tucker may require access easements be provided to ensure continuous access and egress routes connecting commercial, office and multifamily lots.

### 3.34.20 Multimodal access plan.

A. *Multimodal access plan required.* Each new application for a development permit within the Tucker Overlay District shall be accompanied by a multimodal access plan prepared at a scale not greater than one (1) inch equals one hundred (100) feet. The multimodal access plan shall cover the full extent of the proposed development along with public rights-of-way of adjoining streets and any other property lying between the subject property and the nearest public streets on all sides. The purpose of the multimodal access plan is to demonstrate a unified plan of continuous access to and between all buildings in the proposed development and adjacent properties.

B. *[Connections.]* Connections to available transportation modes, such as driveways, sidewalk, and bike paths shall be shown along adjacent streets and those entering adjoining properties. Safe and convenient pedestrian ways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Where an existing or planned public transportation station or stop is within one thousand two hundred fifty (1,250) feet (straight-line distance) from any boundary of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property, the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.

### 3.34.21 Design guidelines.

The community development director or designee is authorized to create, administer, and amend design guidelines for the Tucker Compatible Use Overlay District. These standards shall provide acceptable architectural design controls, landscaping, detail drawings, signage, fencing, lighting, street and site furniture and grating. These standards shall be used to promote proper design criteria for the overlay district and shall guide the community development director in deciding whether a proposed design complies with the requirements of this overlay district. The Design Guidelines are hereby made a part of this ordinance and shall be amended from time to time.

### 3.34.22 Plans required; certificate of compliance.

A. *[Application for overlay district compliance.]* No permit or license shall be issued within the Downtown Tucker Overlay District until the applicant for such a permit or license has submitted an application for overlay district compliance to the Community Development Department that meets all requirements of this division and such application has been approved as an application provision provided herein.

B. *Plans required.* Prior to the issuance of any land-disturbance permit, building permit, or sign permit, the applicant shall submit a conceptual design package and final design package to the community development director or designee. The community development director or designee shall provide a copy of the submittals to the mayor and city council for review and comment. The final design package must include full architectural and landscape architectural plans and specifications. The submitted plans must include a site plan, architectural elevations and sections; renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signs, all of which shall demonstrate that the proposed design is in compliance with all the requirements of this Tucker Overlay District and the underlying zoning classification.

C. *Fees.* The conceptual design package shall be accompanied by an application and payment of a fee in an amount determined by the mayor and city council.

### 3.34.23 Conceptual plan package review.

The conceptual plan package shall be composed of the following:

A. Ten (10) copies of a site plan drawn to a designated scale of not less than one (1) inch equals one hundred (100) feet, certified by a professional engineer or land surveyor licensed by the state, presented on a sheet having a maximum size of twenty-four (24) inches by thirty-six (36) inches, and one (1) eight-and-one-half-inch by eleven-inch reduction of the plan. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

1. Boundaries of the entire property proposed to be included in the development, with bearings and distances of the perimeter property lines;
2. Scale and north arrow, with north, to the extent feasible, oriented to the top of the site plan and on all supporting graphics;
3. Location, size and dimensions in length and width of all landscaped areas, transitional buffers, and open space;
4. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run;
5. Delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, or the City of Tucker;
6. The delineation of any jurisdictional wetlands as defined by section 404 of the Federal Clean Water Act;
7. Approximate delineation of any significant historic or archeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it;
8. A delineation of all existing structures and whether they will be retained or demolished;
9. Location of all proposed uses, lots, buildings, building types and building entrances;
10. Height and setback of all buildings and structures;
11. Areas, lot sizes and development density for each type of proposed use;
12. Location, size, and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed;
13. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;
14. Conceptual plans for drainage with approximate location and estimated size of all proposed stormwater management facilities and a statement as to the type of facility proposed;
15. Areas to be held in joint ownership, common ownership, or common control;
16. Location of proposed sidewalks and bicycle facilities trails, recreation areas, parks, and other public or community uses, facilities, or structures on the site;
17. Conceptual layout of utilities and location of all existing or proposed utility easements having a width of ten feet or more;
18. Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, granting street furniture, bicycle lanes, streets, alleys, and other details demonstrating compliance with the Tucker Overlay District regulations;
19. Seal and signature of professional preparing the plan.

B. Ten (10) copies of conceptual building designs including elevation drawings drawn to a designated scale of not less than one-sixteenth (1/16) inch equals one (1) foot showing architectural details of proposed buildings, exterior materials, all of which demonstrate that the proposed design is in compliance with the

requirements of the Tucker Overlay District regulations. Drawings shall be presented on a sheet having a maximum size of twenty-four (24) inches by thirty-six (36) inches, and one (1) eight-and-one-half-inch by eleven-inch reduction of each sheet. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

C. A written statement explaining how the proposed development will meet the standards of this division, including the purposes and intent contained in section 3.34.4., Statement of purpose and intent. The written statement shall also include information describing the number of acres contained in the development; the number of dwelling units by type; the gross residential density; the area (in square feet) of any commercial uses; the common open space acreage; the anticipated number, type, and size of other public amenities; and the proposed legal mechanism for protecting and maintaining common open space, if applicable.

D. A multimodal access plan, prepared at a scale not greater than one (1) inch equals one hundred (100) feet, to demonstrate a unified plan of continuous access to and between all structures in the proposed development and adjacent properties where connections are appropriate. The multimodal access plan shall cover the entire proposed development along with public rights-of-way of adjoining streets and any other property lying between the subject property and any primary or secondary streets. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each structure entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development.

### 3.34.24 Final design package review and approval process.

A. *[Final design package.]* Upon receiving comments on the conceptual design package, the applicant will submit the final design package for review and approval. The final design package must include full architectural and landscape architectural plans and specifications. The submitted plans must include a site plan, architectural elevations and sections; renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signage, all of which shall demonstrate that the proposed design is in compliance with all requirements of this Tucker Overlay District and the underlying zoning classification. The final design package must be signed and sealed by a professional engineer/architect. The final design package must contain all plans, elevations, sections and specifications necessary for obtaining development and building permits. The applicant may submit the final design package simultaneously with the submission for permitting.

B. *Review.* The community development director or designee shall review each application for compliance with all requirements of the Tucker Overlay District and the underlying zoning classification. Where the director or designee determines that said plans comply with the requirements of the Tucker Overlay District a certificate of compliance shall be issued in the form of the director or designee signing the plans and drawings after which the applicant shall then apply for land disturbance, building or signs permits. Where the director or designee determines that said plans do not comply with the requirements of this chapter, then the director or designee shall notify the applicant in writing stating the manner in which said applicant fails to comply with such requirements. All applications shall be considered and decided by the community development director or designee within thirty (30) days of receipt of a complete application. Any appeal of the director of planning's decision in this regard shall be to the zoning board of appeals pursuant to section 7.5.2.

### 3.34.25 Final approval of plans.

A. Prior to issuance of any development or building permit, the application shall be submitted to and approved by community development director or designee. A final site plan shall be submitted and shall be consistent with the Tucker Overlay District.

B. By enacting the Tucker Overlay District, the mayor and city council authorizes the community development director to approve the proposed development that provides for unique site features and innovative design in concert with the design guidelines and all related requirements of this division.

## 27-3.3 DIVISION 35. NORTHLAKE OVERLAY DISTRICT

### 3.35.1 Scope of regulations.

This division establishes standards and procedures that apply to any development, use, alteration, height, density, parking, open space, or building on any lot or portion thereof which is in whole or in part contained within the boundaries of the Northlake Overlay District.

### 3.35.2 Applicability of regulations.

This division applies to each application for a business license, land-disturbance permit, building permit or sign permit which involves the development, use, exterior alteration, exterior modification, or addition of any structure where the subject property is in whole or in part contained within the boundaries of the Northlake Overlay District. The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the Northlake Overlay District.

### 3.35.3 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the Northlake Overlay District is as follows:

A. To encourage development and redevelopment of properties within the district so as to achieve a mixed-use community.

B. To provide for the development of sidewalks and walkways in order to promote safe and convenient pedestrian access and to reduce dependence on automobile travel;

C. To promote a physically attractive, environmentally safe and economically sound mixed-use community;

D. To permit and to encourage mixed-use developments containing both commercial and residential uses to create a pedestrian oriented community in which people can live, work and play; and

E. To improve the visual appearance and increase property values within the Northlake Overlay District. To implement the policies and objectives of the DeKalb County 2025 Comprehensive Plan and the policies and objectives of the design guidelines for the Northlake Overlay District;

F. To enhance the long-term economic viability of this portion of Tucker by encouraging new commercial and residential developments that increase the tax base and provide jobs to the citizens of the City of Tucker;

G. To establish and maintain a balanced relationship between industrial, commercial, and residential development to ensure a stable and healthy tax base in the City of Tucker;

H. To provide a balanced distribution of regional and community focused commercial and mixed-use office centers;

I. To support higher-density housing, office and mixed-use centers which have appropriate access and infrastructure as approved by the community development director, or designee;

J. To encourage mixed-use developments that meet the goals and objectives of the Atlanta Regional Commission's smart growth and livable centers initiatives;

K. To allow flexibility in existing underlying development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities;

L. To encourage an efficient land use and development plan by forming a live-work-play environment that offers employees and residents the opportunity to fulfill their daily activities with minimal use of single-occupant automobiles;

M. To allow and encourage development densities and land use intensities that are capable of making productive use of alternative transportation modes such as bus transit, rail transit, ridesharing, bicycling and walking;

N. To encourage the formation of a well-designed, pedestrian-friendly activity center with high-density commercial and residential development that increases vitality and choices in living environments for the citizens of the City of Tucker;

O. To protect established single-family residential areas surrounding the Northlake Overlay District from encroachment of commercial, retail, office, and industrial uses by providing for increased density of development within the boundaries of the Northlake Overlay District;

P. To protect the health, safety and welfare of the citizens of the City of Tucker; and

Q. To promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the Northlake Overlay District.

### 3.35.4 Maps and boundaries.

A. The boundaries and tiers (development categories) of the Northlake Overlay District shall be established by a zoning map amendment adopted pursuant to this chapter which amendment shall be incorporated herein and made a part of this chapter.

B. The community development director or designee shall be the final authority to determine whether any property is located within the boundaries of the Northlake Overlay District.

C. The Northlake Overlay District shall be divided into three (3) tiers to guide future development and redevelopment. The tiers are based on the future land use recommendations—ten-year planning horizon as adopted in the Northlake livable centers initiative/activity center town center investment policy study.

1. *Tier 1*—A high-intensity commercial area focused around the intersections of LaVista Road with Briarcliff Road, Henderson Mill Road, and Northlake Parkway, and including Northlake Mall and around the Northlake Tower Festival Center.

2. *Tier 2*—An office park area which follows both the east and west sides of I-285 and includes Northlake Parkway and Crescent Center Boulevard, and an eastern portion of LaVista Road.

3. *Tier 3*—An employment center area immediately north of the CSX Railroad track between Montreal Road and I-285.

### 3.35.5 Principal uses and structures.

All principal uses of land and structures which are allowed in the Northlake Overlay District are as provided by the underlying zoning district, subject to the limitations and standards contained within this division. All properties, excluding those zoned under any "R" (Residential) designation, may be used in accordance with the uses authorized in the underlying zoning district or for the following principal uses of land and structures or a combination of these uses in a mixed use development subject to the standards and limitations contained within this division.

A. Animal hospital, veterinary clinic, pet supply store, animal grooming shop, or pet boarding only in conjunction with a veterinary clinic.

B. Art gallery or art supply store.

C. Automobile services as follows:

1. Automobile service station.

2. Automobile full service wash.
3. Minor automobile repair and maintenance.
4. Retail automobile parts or tire stores.

D. Bank, credit union or other similar financial institution.

E. Business service establishment.

F. Child day care center or kindergarten.

G. Communications uses as follows:

1. Radio or television broadcasting station.
2. Telephone business office.

H. Community facilities as follows:

1. Cultural facilities.

I. Dwellings, multifamily, up to and including twenty-four (24) units per acre, subject to the requirements of the development categories as described within section 3.35.9

J. Education uses as follows:

1. Vocational schools.
2. Private elementary, middle or high school.
3. Specialized non-degree schools.

K. Lodging uses, as follows:

1. Bed and breakfast inn.

L. Movie theater, bowling alley, or other recreational facilities where such activities are wholly enclosed within a building.

M. Office uses, and similar service, business and professional office uses as follows:

1. Accounting, auditing or bookkeeping office.
2. Engineering or architectural office.
3. Building or construction contractor office.
4. Financial services office.
5. Insurance office.
6. Legal office.
7. Medical or dental office.
8. Real estate office.
9. Wholesale sales office.
10. Place of worship.

N. Restaurants, as follows:

1. Restaurant, excluding drive-through facilities.

O. Retail sales as follows, including but not limited to:

1. Apparel and accessories store.

2. Book, greeting card, or stationery store.
3. Camera and photographic supply store.
4. Computer and computer software store.
5. Convenience store.
6. Farm and garden supply store.
7. Florist.
8. Food stores, including bakeries.
9. Furniture, home furnishings and equipment store.
10. General merchandise store.
11. Gift, novelty, or souvenir store.
12. Hardware store.
13. Hobby, toy or game store.
14. Jewelry store.
15. Music and musical equipment store.
16. News dealers or newsstand.
17. Office supplies and office equipment store.
18. Pharmacy or drugstore.
19. Quick copy printing store.
20. Radio, television and consumer electronics store.

P. Retail sales, building supplies and farm equipment, as follows:

1. Electrical supply store.
2. Hardware or other building materials establishments.
3. Paint, glass and wallpaper store.

Q. Services, medical and health as follows:

1. Health service clinic.
2. Medical and dental laboratories.
3. Offices of health service practitioners.
4. Pharmacy.

R. Services, personal, as follows:

1. Barber shop, beauty shops, or similar personal service establishments.
2. Funeral home.
3. Laundry and dry-cleaning establishment and pickup station.
4. Linen and diaper service, garment pressing, alteration and repair.
5. Photographic studios.

S. Services, repair, as follows:

1. Home appliance repair and service including radio, television, and computer repair and service.
2. Jewelry repair service.
3. Radio, television or similar home appliance repair service.
4. Furniture upholstery and repair shop within a shopping center.
5. Shoe repair store.

T. Shopping center.

U. Taxi stands and limousine livery rental only in conjunction with hotels, motels or entertainment facilities.

V. Tennis center, club and facilities.

W. Utility structure necessary for the transmission or distribution of service, subject to the requirements of all relevant sections of the City of Tucker Code of Ordinances and a maximum height of seventy-five (75) feet.

### 3.35.6 Prohibited uses.

The following principal uses of land and structures shall be prohibited within the Northlake Overlay District:

A. Storage yard for damaged, inoperable, or confiscated automobiles.

B. Tire retreading or recapping.

C. Adult entertainment establishments, including adult bookstores, adult video sales rental, and smoking paraphernalia.

D. Adult service facility, including massage parlors not associated with medical uses.

E. Go-cart concession.

F. Outdoor equipment or materials storage.

G. Heavy repair shop or trade shop.

H. Flea markets.

I. Storefront churches.

J. Extended-stay motels or hotels.

K. Used appliances stores.

L. Title and pawn shops.

M. Night clubs.

N. Salvage yards/junk yards.

O. Thrift stores.

P. Coin-operated self-service car wash.

Q. ~~Self-storage facilities~~Mini-warehouses.

R. On-site dry cleaning facilities.

S. Check cashing or payday loan office.

T. Automobile sales, new or used.

U. Truck or trailer sales or rental.

V. Boat or recreational vehicle sales or rental.

W. Freestanding commercial parking lot or deck, except as an accessory use to a principal retail or office use.

X. Heliport.

Y. Rooming house.

Z. Transitional housing or half-way house.

AA. Homeless shelter.

BB. Tattoo parlor establishments.

CC. Boarding or breeding kennel as a primary use.

DD. Taxi and limousine livery dispatch.

EE. Special event facility.

### 3.35.7 Accessory uses and structures.

The following accessory uses of land and structures shall be authorized within the Northlake Overlay District:

A. Accessory uses and structures incidental to any authorized use or structure, specifically including clubhouses, pools and other recreational amenities.

B. Parking lots and parking garages.

C. Clubhouse, including meeting room or recreation room.

D. Swimming pools, tennis courts, and other recreation areas and similar amenities.

E. Signs, in accordance with the provisions of chapter 21 and this chapter of the Code.

### 3.35.8 Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

A. *Special administrative permit from the director of public works.*

1. Art shows, carnival rides and special events of community interest.

2. Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days' duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.

B. *Special administrative permit from the community development director or designee.*

1. Temporary seasonal outdoor sales.

C. *Special exception permits from the zoning board of appeals.* None.

D. *Special land use permit from the mayor and city council.*

1. Drive-through facilities.

2. Hotel.

3. Motel.

4. Personal care home, congregate.

5. Personal care home, family.

6. Personal care home, group.

7. Personal care home, registered.

8. Dwellings, multifamily, over twenty-five (25) units per acre.

~~8.~~9. Multi-warehouses, per the standards in 4.2.35(1), in tier 2 and tier 3 only

### 3.35.9 Development categories.

The Northlake Overlay District shall be divided into three (3) development categories described below as tier 1, tier 2, and tier 3.

A. *Tier 1*—High-intensity commercial.

1. *Purpose and goal.* The purpose of tier 1 is to allow for the most intense mixed-use development. The goal is to allow for redevelopment of the oversized parking areas with new buildings, including retail, office, and residential on one (1) lot to decrease the need for automobile trips. The desirable tier-wide development mix in this tier should be sixty (60) percent retail, thirty (30) percent residential and ten (10) percent office.

2. *Building setbacks.* The following requirements shall apply to all structures in the tier 1—high intensity commercial development category of the Northlake Overlay District:

   a. The minimum front yard setback shall be zero (0) feet where the public right-of-way allows room for sidewalks as prescribed in section 3.38.10. A maximum front yard setback of twenty (20) feet shall be imposed where the public right-of-way does not allow the required sidewalk width. Buildings shall be permitted to be setback from the public sidewalk to allow for building stoops, front porches, balconies, canopies, or steps, a public space or park, and or outdoor dining. All ground-floor uses shall have a sidewalk or paved walkway that connects the building entrances to the public sidewalk along the street. Parking shall not be permitted between the building and the public right-of-way.

   b. The minimum interior side yard setbacks shall be zero (0) feet. However, if the property is adjacent to a building with windows or other materials that allow for ventilation that faces the adjoining property line, the setback shall be a minimum of twenty (20) feet from the property line. The side of a building facing a public street shall be permitted to set back from the public sidewalk to allow only for building stoops, porches, balconies or steps, a public plaza or park, outdoor dining or landscaping that does not obstruct the facade of the building. All ground floor uses must have a sidewalk or other paved walkway that connects the building entrances to the public sidewalk along the street.

   c. The minimum rear yard setbacks shall be twenty (20) feet.

3. Height of buildings and structures. The maximum height of all buildings and structures shall be fifteen (15) stories and no building or structure shall exceed one hundred eighty (180) feet in height. Parking decks and other accessory structures shall not exceed ten (10) stories either as a separate deck or as part of an office building.

4. *Mixed use developments.* Tier 1 mixed-use developments shall contain a minimum of two (2) principal uses that are planned in accordance with the following provisions. Proposed mixed use developments shall be comprised of a floor area that has a minimum of sixty-five (65) percent office and/or residential components.

5. *Density.* The maximum residential density, with a special land use permit, shall be sixty (60) dwelling units per acre. Density over twenty-five (25) units per acre will require a special land use permit. No development within the tier 1 development category shall exceed a floor area ratio (FAR) of two and one-half (2.5), and/or it provides additional public space or other amenities singly or in combination as provided below:

   a. *Bonus density.* The maximum allowable floor area ratio (FAR) of a building or development in a tier 1 zone shall be increased to a floor area ratio (FAR) not to exceed a total of four and one-

half (4.50) in exchange for one (1) or more of the additional amenities provided in the table below:

Table 3.12: Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier I

| Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier I | |
|---|---|
| **Additional Amenity** | **Increased FAR** |
| Increase public space to 25 percent while providing inter-parcel access for pedestrians and vehicles. | 0.75 |
| Increase public space to 30 percent while providing inter-parcel access for pedestrians and vehicles. | 1.50 |
| Mixed-use building that includes multifamily residential units and commercial retail uses. Each mixed-use building shall include one (1) principal use and at least one (1) secondary use. No primary or secondary use shall constitute less than thirty (30) percent of the gross floor area of the building. | 0.25 |
| Mixed-use building that includes multifamily residential units constituting at least eight (8) units per acre of land, and constructed in the same building with office institutional, commercial and retail uses. | 0.5 |

B. *Tier 2—Office park.*

1. *Purpose and goal.* The purpose of this tier is to recognize the existing office, retail, and infill multifamily development in the area. The intent is to allow opportunities for residents to live close to employment and to provide accessibility to shopping areas. This development concept will thereby decrease the number of automobile trips and traffic congestion. The desirable tier-wide development mix in this tier should be sixty (60) percent office, thirty (30) percent residential and ten (10) percent retail.

2. *Building setbacks.* The following requirements shall apply to all structures in the tier 2—office park development category of the Northlake Overlay District:

   a. The minimum front yard setback shall be zero (0) feet where the public right-of-way allows room for sidewalks as prescribed in section 3.38.10. A maximum front yard setback of thirty (30) feet shall be imposed where the public right-of-way does not allow the required sidewalk width. Buildings shall be permitted to be set back from the public sidewalk to allow for building stoops, front porches, balconies, canopies, or steps, a public space or park, and/or outdoor dining. All ground floor uses shall have a sidewalk or other paved walkway that connects the building entrances to the public sidewalk along the street. Parking shall not be permitted between the building and the public right-of-way.

   b. Interior side yard and rear yard setbacks shall be a minimum of twenty (20) feet. The side of a building facing a public street shall be permitted to allow encroachments in the setback area for building stoops, porches, balconies or steps, a public plaza or park, outdoor dining or landscaping that does not obstruct the facade of the building. All ground floor uses must have a sidewalk or other hardscaped walkway that connects the building entrances to the public sidewalk along the street.

3. *Height of buildings and structures.* The maximum height of all buildings and structures shall be nine (9) stories and no building or structure shall exceed one hundred thirty-five (135) feet in height. Parking decks and other accessory structures shall not exceed seven (7) stories either as a separate deck or as part of an office building.

4. *Mixed-use developments.* Tier 2 mixed-use developments shall contain a minimum of two (2) principal uses that are planned in accordance with the following provisions. Proposed mixed-use developments shall be comprised of a floor area that that has a minimum of sixty-five (65) percent office and/or residential components.

5. *Density.* The maximum density for residential uses, with a special land use permit, shall be thirty (30) dwelling units per acre. Density over twenty-five (25) units per acre will require a special land use permit. No development within the Tier 2 Development Category shall exceed a floor area ratio (FAR) of one and one-half (1.5), unless it additional public space or other amenities singly or in combination as provided below:

   a. *Bonus density.* The maximum allowable floor area ratio (FAR) of a building or development in a Tier 2 zone shall be increased to a floor area ratio (FAR) not to exceed a total of three and one half (3.50) in exchange for one or more of the additional amenities provided in the table below:

Table 3.13: Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier II

| Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier II | |
|---|---|
| **Additional Amenity** | **Increased FAR** |
| Increase public space to 25 percent while providing inter-parcel access for pedestrians and vehicles. | 0.75 |
| Increase public space to 30 percent while providing inter-parcel access for pedestrians and vehicles. | 1.50 |
| Mixed-use building that includes multifamily residential units and commercial retail uses. Each mixed-use building shall include one (1) principal use and at least one (1) secondary use. No primary or secondary use shall constitute less than thirty (30) percent of the gross floor area of the building. | 0.25 |
| Mixed-use building that includes multifamily residential units constituting at least 8 units per acre of land, and constructed in the same building with office institutional, commercial and retail uses. | 0.5 |

C. *Tier 3—Employment center.*

1. *Purpose and goal.* The purpose of this tier is to recognize and protect the existing employment base in the area. The intent is to allow light manufacturing, distribution, showroom and small supporting retail uses. The desirable tier-wide development mix in this tier should be seventy (70) percent industrial, twenty (20) percent retail and ten (10) percent residential.

2. *Building setbacks.* The following requirements shall apply to all structures in the tier 3—employment center development category of the Northlake Overlay District:

   a. Minimum front yard setback shall be a minimum of twenty (20) feet where site conditions allow room for sidewalks as prescribed in section 3.38.10. A maximum front yard setback of thirty (30)

feet shall be imposed where the public right-of-way does not allow the required sidewalk width. Buildings shall be permitted to be set back to allow for building stoops, front porches, balconies or steps, a public space or park, and/or outdoor dining. All ground-floor uses shall have a sidewalk or other paved walkway that connects the building entrances to the public sidewalk along the street. Parking shall not be permitted between the building and the public right-of-way.

b. Minimum interior side yard and rear yard setbacks shall be a minimum of twenty (20) feet. The side of a building facing a public street shall be permitted to allow encroachments in the setback area for building stoops, porches, balconies, canopies or steps, a public plaza or park, outdoor dining or landscaping that does not obstruct the facade of the building. All ground-floor uses must have a sidewalk or other paved walkway that connects the building entrances to the public sidewalk along the street.

3. *Height of buildings and structures.* The maximum height of all buildings and structures shall be four (4) stories and no building or structure shall exceed sixty (60) feet in height.

4. *Mixed use developments.* Tier 3—Mixed-use developments shall contain a minimum of two (2) principal uses that are planned in accordance with the following provisions. Proposed mixed-use developments shall be comprised of a floor area that has a minimum of seventy (70) percent for industrial components.

5. *Density.* The maximum density for residential uses shall be fifteen (15) development units per acre. No development within the tier 3 development category shall exceed a floor area ratio (FAR) of one (1.0), unless it provides additional public space or other amenities singly or in combination as provided below:

a. *Bonus density.* The maximum allowable floor area ratio (FAR) of a building or development in a tier 3 zone shall be increased to a floor area ratio (FAR) not to exceed a total of three (3.0) in exchange for one (1) or more of the additional amenities provided in the table below:

Table 3.14: Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier III

| **Maximum Bonus Floor Area Ratio in Northlake Overlay District, Tier III** | |
|---|---|
| **Additional Amenity** | **Increased FAR** |
| Increase public space to twenty-five (25) percent while providing inter-parcel access for pedestrians and vehicles. | 0.75 |
| Increase public space to thirty (30) percent while providing inter-parcel access for pedestrians and vehicles. | 1.50 |
| Mixed-use building that includes multifamily residential units and commercial retail uses. Each mixed-use building shall include one (1) principal use and at least one (1) secondary use. No primary or secondary use shall constitute less than thirty (30) percent of the gross floor area of the building. | 0.25 |
| Mixed-use building that includes multifamily residential units constituting at least eight (8) units per acre of land, and constructed in the same building with office institutional, commercial and retail uses. | 0.5 |

### 3.35.10 Sidewalks/streetscapes.

A. Sidewalks shall be provided on all streets and shall consist of a street furniture zone and a pedestrian zone of widths that are based on the development category and location. The street furniture zone shall consist of landscape and hardscape items. This zone shall be the location of all signage, seating, trash receptacles, bus shelters, and other site amenities. The landscape elements will vary by development category. They shall consist of trees, grasses, and groundcovers. The pedestrian zone shall be paved and kept clear and unobstructed for the safe and convenient use of pedestrians.

B. Sidewalks along LaVista Road in tier 1 shall be a minimum of twenty (20) feet wide, consisting of a minimum fifteen-foot-wide pedestrian zone and a minimum five-foot-wide street furniture zone.

C. Sidewalks along other streets within tier 1 shall be a minimum of fifteen (15) feet wide, consisting of a minimum ten-foot-wide pedestrian zone and a minimum five-foot-wide street furniture zone.

D. Sidewalks in tier 2 shall be a minimum of fifteen (15) feet wide, consisting of a minimum ten-foot-wide pedestrian zone and a minimum five-foot-wide street furniture zone.

E. Sidewalks in tier 3 shall be a minimum of ten (10) feet wide, consisting of a minimum five-foot-wide pedestrian zone and a minimum five-foot-wide street furniture zone.

F. All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent pedestrian sidewalk area.

G. Pedestrian sidewalk areas shall be paved with either broom finished poured-in-place concrete, or pavers of brick, concrete, or stone. Other materials may be allowed with the approval of the community development director, or designee.

H. Where newly constructed sidewalks abut existing adjacent sidewalks, the newly constructed sidewalk shall provide safe facilitation of pedestrian traffic flow to adjacent sidewalks. A ten-foot-long taper shall be provided in cases where an existing sidewalk is a different width than the new sidewalk. Any development that disturbs existing sidewalks on an adjacent property shall replace disturbed areas to their original state and condition.

I. Safe and convenient pedestrian pathways shall be provided from sidewalks along streets to each structure's entrance, including pedestrian access routes to parking decks, and through parking lots and between adjacent buildings within the same development. All such pathways shall be concrete and have a minimum width of five (5) feet.

### 3.35.11 Street furniture zone.

A. The street furniture zone component of a required sidewalk shall be located immediately adjacent to the street, between the street and the pedestrian zone component of the sidewalk. All hardscape items shall comply with the requirements set forth in the Northlake Overlay design guidelines dated May 2008, (hereinafter referred to as "the Northlake Overlay design guidelines") a copy of which shall be maintained by the community development director and available for public inspection. Street furniture shall match the Northlake LaVista Road streetscape improvement project standards.

B. The street furniture zone shall contain all landscape and hardscape elements that will provide for the comfort and enjoyment of pedestrians. This zone shall also serve as a transitional edge between pedestrian traffic and vehicular traffic. The street furniture zone shall include all street trees, pedestrian lights, benches, bus shelters, traffic lights, and other such elements.

1. Pedestrian lights shall be located within the landscape zone spaced at a maximum distance of sixty (60) feet on center.

2. Benches, trash receptacles, and bike racks may be placed either within the street furniture zone, or in the space between the sidewalk and the building.

### 3.35.12 Street trees.

A. Street trees shall be planted in all street furniture zones spaced at a maximum distance of thirty (30) feet on center at a distance of two and one-half (2.5) feet behind the curb.

B. New street trees must be a minimum of three and one-half (3.5) inches in caliper measured six (6) inches above the ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of thirty (30) feet and shall be limbed up to a minimum of eight (8) feet.

C. Street trees shall have a minimum unpaved planting area of four (4) feet by eight (8) feet. Tree planting areas shall provide porous drainage systems that allow for drainage of the planting area. Tree grates are prohibited. Ground cover in accordance with section 3.38.18, shall be provided and maintained for the entire planting area.

D. Street tree species or planting patterns of varied species shall be consistent for an entire block length. Similar species shall be permitted to change on individual block faces only when approved by the community development director, or designee. Ground cover in accordance with section 3.38.18 shall be provided and maintained for the full extent of the planting area.

E. All initial plantings and plant removal other than routine maintenance or replacement shall be approved by the community development director, or designee.

### 3.35.13 Public space requirements.

A. A minimum of twenty (20) percent of the gross land area shall be provided as public space for each new development. Public space areas may be transferred from one lot to another within overall developments that remain under unified control of a single property owner or group of owners, but must demonstrate inter-connectedness of public areas.

B. Public spaces shall be at grade, and surrounded on at least one (1) side by buildings with active uses on the ground floor facing the space, and directly accessible from a public sidewalk and building entrance.

C. Public spaces may include any combination of the following: yards, planted areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property and accessible to the general public; and natural stream buffers may be counted toward the twenty-percent public space requirement.

D. Private courtyards and other private outdoor amenities may be located at the interior of the block, behind buildings or on rooftops. Private courtyards and outdoor amenities shall not be counted toward the twenty-percent public space requirement.

E. All public space including buffers, setbacks, sidewalk clear zones, sidewalk zones and open spaces shall be fully constructed prior to issuance of a certificate of occupancy for the principle structure.

F. Each applicant shall present as a part of the application for a building permit within the Northlake Overlay District a legal mechanism under which all land to be used for public-space purposes shall be maintained and protected. Such legal mechanism may include deed restrictions, property owner associations, common areas held in common ownership or control, maintenance easements, or other legal mechanisms, provided that said legal mechanism shall be approved by the city attorney as assuring each of the following mandatory requirements:

1. That all subsequent property owners within said Northlake Overlay District be placed on notice of this development restriction through the deed records of DeKalb County Superior Court;

2. That all public space held in common will be properly maintained and insured with no liability or maintenance responsibilities accruing to the county;

3. That a legal mechanism exists for notice of deficiencies in maintenance of the public space held in common, correction of these deficiencies, and assessment and liens against the properties for the cost of the correction of these deficiencies by a third party or the county;

4. When an applicant chooses to utilize a property owners association in order to comply with the requirements of subsection (F) above, the applicant, in addition to meeting all of said requirements, shall provide for all of the following:

   a. Mandatory and automatic membership in the property owners' association as a requirement of property ownership;

   b. A fair and uniform method of assessment for dues, maintenance and related costs;

   c. Where appropriate, party wall maintenance and restoration in the event of damage or destruction; and

   d. Continued maintenance of public space held in common and liability through the use of liens or other means in the case of default.

### 3.35.14 Maintenance of common land.

Covenants or other legal arrangements shall specify ownership of all public spaces, the method of and responsibility for maintenance, taxes and insurance, compulsory membership and assessment provisions, and shall be incorporated into legal instruments sufficient to ensure that the public space requirements of section 3.38.13 are maintained.

### 3.35.15 Transitional buffer zone and transitional height requirements.

A. Where a lot on the external boundary of the Northlake Overlay District adjoins the boundary of any property outside the district that is zoned for any R, RM, MHP, or TND zoning classification, a transitional buffer of not less than thirty (30) feet in width, in addition to the required setbacks, shall be provided and maintained in a natural state or so as to maintain an effective visual screen. Said transitional buffer zone shall not be paved or otherwise covered with impervious surfaces and shall not be used for parking, loading, storage or any other use, except that portions of the transitional buffer zone may be utilized for installation of utilities when necessitated by the development, and when the applicant shows that the utilities cannot be located outside of the transitional buffer zone. Storm water detention ponds shall not be located within the transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees, shrubs and plant material may be added to the transitional buffer zone to provide an effective visual screen.

B. Where a lot on the external boundary of the Northlake Overlay District adjoins the boundary of any property outside the district that is zoned for any residential zoning classification, a transitional height plane as described herein shall apply. No portion of any structure within the Northlake Overlay District shall exceed such transitional height plane. The transitional height plane shall be determined by beginning forty-five (45) feet above the property line between the district and the adjacent property outside the district, then extending parallel to the ground toward the interior of the district thirty (30) feet over the transitional buffer zone and then at an upward angle of forty-five (45) degrees over the Northlake Overlay District.

### 3.35.16 Required parking.

In order to promote a pedestrian-oriented community, required parking may be provided through a combination of off-street or shared parking, provided that all required parking is located within seven hundred (700) feet of the principal entrance of the building which it is intended to serve. In this pedestrian-oriented district, parking shall be encouraged in the rear of proposed structures, in parking decks and internal to new developments. The minimum number of required parking spaces shall be as follows:

A. *Shopping centers, retail uses, personal service uses, and other commercial and general business uses, including food stores*—Minimum of four (4.0) spaces per one thousand (1,000) square feet of gross floor area.

B. *Office and clinic uses*—Minimum of three (3.0) spaces per one thousand (1,000) square feet of gross floor area.

C. *Hotel and motel uses*—Minimum of one (1.0) space per room and one (1.0) space per employee based on the largest shift.

D. *Multifamily residential uses*—Minimum of one (1.0) space per unit for the first bedroom, plus one-half (0.50) space per additional bedroom.

E. *Restaurant uses*—Minimum of five (5.0) spaces per one thousand (1,000) square feet.

F. *[Shared parking.]* Shared parking is encouraged and may result in permitted reductions of off-street parking requirements. Parking facilities within a lot may be shared if multiple uses cooperatively establish and operate parking facilities, and if these uses generate parking demands primarily when the remaining uses are not in operation, so that the above stated off-street parking requirements for each use are met during said use's operational hours. Applicants shall make an application to the community development director or designee for authorization for shared parking. Applicants shall include proof of a written formal shared-parking agreement between all applicants prior to consideration. Shared parking lots shall be fully implemented prior to issuance of a certificate of occupancy for the development. A majority of shared spaces must lie within seven hundred (700) feet of the main entrance to the principal use for which the parking is provided. A minimum of fifty (50) percent of the minimum parking requirement must be met onsite before qualifying for shared parking. Required parking for residential units shall be prohibited from being shared.

G. *[Residential parking.]* Required residential parking shall be segregated from parking for all other uses with the exception of additional parking provided for live-work single-family detached units.

H. *[Bicycle parking.]* All nonresidential developments which provide automobile parking facilities shall provide bicycle parking facilities in parking structures, parking lots or the landscape zone of the sidewalk at a ratio of one (1) bicycle parking space for every twenty (20) automobile spaces. Multifamily residential developments shall provide bicycle parking facilities at a ratio of at least one (1) bicycle parking space for every five (5) multifamily units. No nonresidential development shall have fewer than three (3) bicycle parking spaces nor be required to exceed a maximum of fifty (50) bicycle parking spaces.

I. *[Location.]* All off-street parking including surface lots and parking decks shall be located behind or beside buildings. Off-street parking shall be screened from view from any public street using buildings and/or landscaping.

J. *[Screening.]* Any portion of a parking deck that is visible from a public street shall be screened from public view with ground-floor retail, and any upper stories shall have a facade constructed with materials permitted in the Northlake Overlay design guidelines and designed to resemble office or residential buildings with fenestration.

K. *[Duration of parking.]* Surface parking provided to the side of any building along a public street shall be designated for short-term (no longer than two (2) hours) parking and must be buffered from the public street and sidewalk with a landscape strip no less than six (6) feet in width containing a minimum of ninety (90) percent living shrubs, groundcover, sod and/or annual or perennial flowering plants the landscape strip surface area.

L. *[Wheel stops, bumpers.]* Wheel stops or bumpers shall be placed at the head of all parking spaces that abut a landscape strip or sidewalk.

M. *[Landscaping.]* See subsection 27-730.2.18(f) for landscaping requirements for parking lots and parking structures.

N. *[Alternate locations.]* If required automobile parking spaces cannot be reasonably provided on the same lot on which the principal use is conducted, such spaces may be provided on adjacent or nearby property within the overlay district, provided a majority of such spaces lie within seven hundred (700) feet of the main entrance to the principal structure for which the parking is provided.

O. *[On-street parking.]* On-street parking spaces provided by a development shall not be permitted to be counted toward the minimum parking requirements for the respective development.

P. *[Restrictions.]* No parking area may be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicles or equipment.

### 3.35.17 Development and architectural controls.

The architectural style within the Northlake Overlay District shall comply with the requirements set forth in the Northlake Overlay design guidelines and shall comply with the additional following architectural design controls:

A. All building facades visible from the public street shall consist of brick, stone, or cement stucco or other equivalents subject to review and approval by the community development director or designee.

B. Architectural accents, where utilized, shall consist of non-reflective glass, glass block, natural stone, precast concrete, brick, terra cotta, stucco, wood, cast stone, cast-iron, or decorative architectural grade steel or other equivalents subject to review and approval by the community development director or designee.

C. Building facades, where visible from a public street, shall not consist of aluminum, metal, corrugated steel, vinyl siding, plywood, pressed wood, synthetic stucco, or concrete block.

D. A minimum of thirty (30) percent of the facade area must be window area. All windows are to be transparent. In addition, in buildings which contain ground level retail uses, a minimum of forty-five (45) percent of the width of the front facade of the building at the ground level shall consist of window area.

E. Burglar bars and steel roll-down doors or curtains shall not be visible from the public street.

F. Service bays for automobile service and repair uses shall be designed so that the openings of service bays are not visible from a public street.

G. Chain-link fences and metal or temporary awnings are not permitted within the Northlake Overlay District.

H. Dumpsters shall not be visible from the public street and shall be fenced or screened so as not to be visible from any adjoining residential district or any residential unit in a mixed-use building.

I. Fabric and canvas awnings and all other building materials must be of durable quality and shall be compatible with materials used in adjoining buildings.

J. Each building shall be designed such that the main entrance and front facade faces the public street. If a building fronts more than one public street, the main entrance and front facade shall face the primary street.

K. Mansard roofs are prohibited.

L. Reflective roof finishes are permitted only on roofs sloped less than one (1) inch per foot.

M. All parking and service areas shall be screened from view from the street with buildings, landscaping, walls or decorative fencing.

N. Ground-floor commercial and retail uses shall have entrances at grade opening directly onto the public sidewalk or a public space adjacent to the public sidewalk.

O. Pedestrian access shall be provided from parking areas to the public sidewalk either through the ground floor of the building or via sidewalks between buildings.

P. Ground-floor commercial and retail uses shall have a canopy not less than six (6) feet wide across the entire length of ground-floor entrances and fenestration for that use. Where multiple ground-floor commercial and retail uses exist in the same building along the same facade, the canopies shall be continuous between them. Canopies over retail and commercial entrances and/or windows shall be mounted at a single consistent height for each building.

### 3.35.18 Landscape buffer requirements.

Where the community development director, or designee, deems it necessary and appropriate, there shall be the following landscape buffer requirements between buildings, structures, parking areas, etc. and the public sidewalk:

A. *Landscape strips.* Landscape strips not less than five (5) feet in width shall be provided along all side and rear property lines and on both sides of all public streets. The landscape strip in the front yard shall be a minimum of ten (10) feet in width and shall be planted with plant materials identified in the Northlake Overlay design guidelines. Continuous landscaped strips shall be constructed along public rights-of-way except at points of ingress or egress into the facility.

B. *Ground cover.* Ground cover shall also be provided in accordance with the Northlake Overlay design guidelines in order to protect tree roots and to prevent erosion. Ground cover shall consist of evergreen shrubs or groundcover plant material mulched with pine bark mulch, or other similar landscaping material.

C. *[New trees.]* Newly planted trees shall conform to the Northlake Overlay design guidelines.

D. *[Location of trees.]* No tree shall be planted closer than two and one-half (2.5) feet from the street or sidewalk, and no closer than eight (8) feet from a fire hydrant, sign post, streetlight standard, utility pole, or similar structure.

E. *Plant materials along streets.* Landscaping plant materials required to be provided along streets to meet the minimum requirements of this overlay division shall be selected from the following list of species in the minimum sizes shown. Plant materials provided in locations other than along streets, and plant materials provided along streets in excess of those required to meet this overlay division may be any species appropriate to the design and location subject to the approval of the plan reviewer.

1. *Flowering shrubs.*

   a. Abelia X Grandiflora, three-gallon;

   b. Jasminum Nudiflorum, three-gallon;

   c. Coreopsis Auriculata, one-gallon;

   d. Narcissus.

2. *Ground cover.*

   a. Liriope Muscari, one-gallon;

   b. Rubus Caleinoides, one-gallon;

3. *Trees along LaVista Road.*

   a. Cercis Canadensis, two-inch caliper;

   b. Chionanthus Virginicus, one-and-one-half-inch caliper;

   c. Hemerocallis Species, one-gallon;

   d. Pranus "Okame", one-and-one-half-inch caliper;

   e. Quercus Shumardii, three-and-one-half-inch caliper.

   f. Lagerstroemia Indica, ten (10) feet high;

4. *Trees along remaining streets.*

   a. Any tree listed in paragraph 3. above;

   b. Crape Myrtle, standard trunk;

   c. October Glory Red Maple;

   d. Sunset Maple;

   e. Nuttal Oak (Quercus Nattalli);

   f. Shumard Oak (Quercus Shumardii);

   g. Willow Oak;

   h. Zelkova Serrata;

   i. Ginkgo (Ginkgo Biloba);

   j. Trident Maple (Acer Buergeranum);

   k. Allee Laechark Elm (Ulmus Parvifolia Emer II).

F. Parking lot landscaping requirements. All parking lots within the Northlake Overlay District shall be landscaped in accordance with all the requirements of Code section 5.4.4 and shall comply with all of the following requirements:

1. Each such parking lot shall include a landscaped area that is a minimum of ten (10) percent of the total lot area of the interior of the parking lot in addition to the landscaping required elsewhere in this section and in Article 6.

2. A minimum of one (1) tree per six (6) parking spaces shall be included in the required landscaped areas. For the purpose of satisfying this requirement, existing trees that are three (3) inches or more in caliper as measured at a height of six (6) inches above the ground shall be considered to be equivalent to one (1) or more newly planted trees on the basis of one (1) tree for each three (3) inches of caliper.

3. Where the landscaped area is in the interior of a parking lot, the landscaped area shall be a minimum of six (6) feet in width and serve as a landscaped median between parking bays. The area of the landscaped median will be determined by the parking configuration. In no case will the landscaped area be less than sixty (60) square feet.

4. All landscaped areas shall be properly maintained in accordance with approved landscape plans. In the event that a tree or any plant material dies, it shall be replaced within ninety (90) days of such occurrence, so as to meet all requirements of this section and to allow for planting in the appropriate planting season.

### 3.35.19 Multimodal access plans required.

Each new application for a development permit within the Northlake Overlay District shall be accompanied by a multimodal access plan prepared at a scale not greater than one (1) inch [equals] one hundred (100) feet. The multimodal access plan shall cover the full extent of the proposed development along with public rights-of-way of adjoining streets and any other property lying between the subject property and the nearest public streets on all sides. The purpose of the multimodal access plan is to demonstrate a unified plan of continuous access to, and between, all buildings in the proposed development and adjacent properties. Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be shown along adjacent streets and those entering adjoining properties. Safe and convenient pedestrian ways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development. Where an existing or planned public transportation station or stop is within one thousand two hundred fifty (1,250) feet (straight-line distance) from any boundary

of the subject property, the access plan shall show how pedestrians may safely travel from such station or stop to the subject property, and the access plan shall show how safe, continuous and convenient bicycle access shall be provided to the subject property.

### 3.35.20 Sign regulations.

All lots in the Northlake Overlay District shall comply with all requirements of chapter 21 and all of the following additional requirements:

A. All signs shall be designed so as to be compatible with the Northlake Overlay design guidelines. Such sign design is to be characteristic of the Northlake Overlay District area;

B. All freestanding signs shall be ground-mounted monument-style signs with a base and framework made of brick or stone. Pole-mounted signs are prohibited;

C. Each lot shall have no more than one (1) ground-mounted sign;

D. The sign area of ground signs shall not exceed thirty-two (32) square feet, unless the lot contains a shopping center, in which case ground signs are limited to sixty-four (64) square feet;

E. Ground-mounted signs shall not exceed a height of six (6) feet, unless the lot contains a shopping center, in which case ground signs shall not exceed a height of fifteen (15) feet;

F. Each separate storefront may have a maximum of two (2) wall signs, each of which shall not exceed an area of ten (10) percent of the area of the facade of the ground floor of the building or seventy-five (75) square feet, whichever is less. If the storefront is more than two hundred (200) feet from the public right-of-way as measured from the front of the lot, each separate storefront may have a maximum of two (2) wall signs, each of which shall not exceed an area of ten (10) percent of the area of the facade of the ground floor of the building or one hundred fifty (150) square feet, whichever is less;

G. The primary wall sign shall be located on the primary building facade and within fifteen (15) feet of the main entrance. A second wall sign can be located at the side or rear building facade, including facing I-285.

H. Window signs are prohibited;

I. Banners are prohibited;

J. Billboards are prohibited;

K. Wall-mounted signs shall be channel cut letters applied directly to the building facade. Flashing, animated, marquee, sound emitting, fluorescent, rotating or otherwise moving signs are prohibited; and

L. Sign shape and lettering shall be limited as follows:

   1. Signs with more than two (2) faces are prohibited;

   2. Sign facing shall be flat in profile and shall not exceed a thickness of eight (8) inches;

   3. Sign faces shall be parallel; and

### 3.35.21 Shared parking.

Shared parking is encouraged and may be authorized by the community development director or designee. Applicants may make application to the community development director or designee for authorization for a special exception for shared parking. Said applications shall be considered and decided by the community development director or designee pursuant to the standards and procedures set forth in subsections 7.6.5(A)(3) and (4).

### 3.35.22 Streets, curb cuts, and driveways.

A. Public and private streets shall comply with the requirements of public streets found in chapter 14 and other applicable sections of this Code.

B. All new streets must connect to at least two (2) public streets.

C. When blocks are subdivided by new streets, the maximum length of resulting new blocks shall be three hundred (300) linear feet. Along the portion of LaVista Road within the Northlake Overlay District, the maximum block length shall be seven hundred (700) linear feet.

D. All curb cuts shall comply with the Northlake Overlay design guidelines and all other applicable requirements of this Code and state law.

E. The maximum curb radius at any intersection or curb cut shall be twenty (20) feet.

F. All curb cuts shall be a maximum of twenty-four (24) feet wide.

G. Common or joint driveways are encouraged and may be authorized by the community development director or designee. Common or joint driveways on a state right-of-way may be allowed if approved in writing by the Georgia Department of Transportation.

H. Each driveway shall be perpendicular to the street to which it connects.

### 3.35.23 Townhouse and multifamily development standards.

A. Mechanical equipment and other building service items may not be located within the setback area between the public sidewalk and building facade.

B. Each individual townhouse shall have a front entrance with either a front porch or a front stoop between the front facade and the sidewalk.

C. The front entrance of each townhouse unit may be above the average grade of the sidewalk directly in front of it to a maximum of three (3) feet above grade.

D. All parking shall be hidden behind or within individual units. Access to parking shall be permitted only via an alley or private drive located behind the units. Garages may not face the public street.

E. The maximum height of townhouses shall be the lesser of three (3) stories or forty-five (45) feet.

F. Multifamily ground-floor residential units that face the street shall have entrances with a stoop or porch between the sidewalk and the building facade. A sidewalk shall connect all ground floor entrances to the public sidewalk.

### 3.35.24 Northlake Overlay design guidelines.

The community development director, or designee, is authorized to create, administer, and amend the Northlake Overlay design guidelines dated May 2008. These design guidelines provide acceptable architectural design controls, landscaping, detail drawings, signage, fencing, lighting, street and site furniture and grating. These design guidelines shall be used to promote proper design criteria for the overlay district and shall guide the community development director, or designee, in deciding whether a proposed design complies with the requirements of this overlay district.

### 3.35.25 Plans required; certificates of compliance.

A. *Plans required.* Prior to the issuance of any land-disturbance permit, building permit, or sign permit, the applicant shall submit to the community development director or designee a conceptual design package and a final design package. The final design package must include full architectural and landscape architectural plans and specifications. The submitted plans must include a site plan, architectural elevations and sections; renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape,

landscape and signs, all of which shall demonstrate that the proposed design is in compliance with all the requirements of this Northlake Overlay District and the underlying zoning classification.

B. *Fees.* Plans shall be accompanied by an application and payment of a fee in an amount determined by the mayor and city council.

C. *Review.* The director of community development or designee shall review each application for compliance with all requirements of the Northlake Overlay District and the underlying zoning classification. Where the community development director or designee determines that said plans comply with the requirements of the Northlake Overlay District a certificate of compliance shall be issued in the form of the director or the director's designee signing the plans and drawings after which the applicant shall then apply for land disturbance, building or signs permits. Where the director or his designee determines that said plans do not comply with the requirements of this chapter, then the director or his designee shall notify the applicant in writing stating the manner in which said applicant fails to comply with such requirements. All applications shall be considered and decided by the community development director or his designee within thirty (30) days of receipt of a complete application. Any appeal of the community development director's decision in this regard shall be to the zoning board of appeals pursuant to section 7.5.2.

### 3.35.26 Conceptual plan package review.

A. The conceptual plan package shall be composed of the following:

1. A narrative addressing the proposed development explaining how it meets the purpose, intent, and standards of this chapter. The narrative shall include a tabulation of the approximate number of acres in each land use, the approximate number of dwelling units by type, the approximate gross residential density, the approximate commercial density, the approximate public space acreage, the anticipated number, type and size of recreational facilities and other public amenities, and the legal mechanism for protecting and maintaining public space, as required in subsection 3.38.13(A);

2. A site location map showing the proposed development, abutting property, the relationship of the proposed development to surrounding and existing development, and transitional buffer zones, if required; and

3. A multimodal access plan meeting the requirements of section 3.35.19.

B. The plan to be submitted in the conceptual plan package shall contain the following information:

1. Six (6) copies of a plan drawn to a designated scale of not less than one (1) inch equals one hundred (100) feet, certified by a professional engineer or land surveyor licensed by the state, presented on a sheet having a maximum size of twenty-four (24) inches × thirty-six (36) inches, and one (1) eight-and-one-half inch by eleven-inch reduction of the plan. If presented on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. Such plan shall contain the following information:

a. Boundaries of the entire property proposed to be included in the development, with bearings and distances of the perimeter property lines;

b. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics;

c. Location and approximate dimensions in length and width, for landscape strips and required transitional buffers, if any;

d. Existing topography with a maximum contour interval of five (5) feet and a statement indicating whether it is an air survey or field run;

e. Approximate delineation of any floodplain designated by the Federal Emergency Management Agency, United States Geological Survey, DeKalb County, or the City of Tucker;

f. The delineation of any jurisdictional wetlands as defined by section 404 of the Federal Clean Water Act;

g. Approximate delineation of any significant historic or archaeological feature, grave, object or structure marking a place of burial if known, and a statement indicating how the proposed development will impact it;

h. A delineation of all existing structures and whether they will be retained or demolished;

i. General location, in conceptual form, of proposed uses, lots, buildings, building types and building entrances;

j. Height and setback of all buildings and structures;

k. Approximate areas and development density for each type of proposed use;

l. Location, size and number of all on-street and off-street parking spaces, including a shared parking analysis, if shared parking is proposed;

m. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

n. Conceptual plans for drainage with approximate location and estimated size of all proposed storm water management facilities and a statement as to the type of facility proposed;

o. Development density and lot sizes for each type of use;

p. Areas to be held in joint ownership, common ownership or control;

q. Identification of site access points and layout, width of right-of-way and paved sections of all internal streets;

r. Location of proposed sidewalks and bicycle facilities trails recreation areas, parks, and other public or community uses, facilities, or structures on the site;

s. Conceptual layout of utilities and location of all existing or proposed utility casements having a width of twenty-five (25) feet or more;

t. Standard details of signs, sidewalks, streetlights, driveways, medians, curbs and gutters, landscaped areas, fencing, street furniture, bicycle lanes, streets, alleys, and other public improvements demonstrating compliance with the design guidelines for the Northlake Overlay District; and

u. Seal and signature of professional preparing the plan.

### 3.35.27 The final design package.

Upon receiving comments on the conceptual design package, the applicant must submit the final design package for review and approval. The final design package must contain all plans, elevations, sections and specifications necessary for obtaining development and building permits. The applicant may submit the final design package simultaneously with the submission for permitting in accordance with subsection 3.38.25(A).

## Design Guidelines
## for the
## Northlake Commercial Center
## Compatible Use Overlay District

### I. Purpose and authority.

In order to protect the interests of property owners in the Northlake Commercial Center Overlay District and to preserve the health, safety, and welfare of the citizens of the City of Tucker, it is essential that development within the Northlake Commercial Center Overlay District be of a consistently high design character. This goal

is best fulfilled by the establishment of orderly and consistent standards for the design, construction and maintenance of public and private improvements. Following consistent design Guidelines promotes the identity and integrity of this important activity center and advances the public purpose of securing a high quality of life and promoting the economic health of the City of Tucker.

The Mayor and City Council of the City of Tucker has established the Northlake Commercial Center Overlay District and adopted these design guidelines by reference as minimum standards to govern the overlay area. It is thereby declared to be a public purpose to administer and enforce the following minimum design guidelines and development standards for all new development within the Northlake Commercial Center Overlay [District].

These design guidelines are intended to augment and enhance chapters 14, 27, and other regulations of the City of Tucker Code of Ordinances Zoning, which shall remain in full force and effect within the Northlake Commercial Center Overlay District.

These design guidelines shall be administered by the City of Tucker Community Development Department. Applicants for development permits are encouraged to schedule a preapplication conference with the community development department in order to assure full understanding and compliance with these Design Guidelines. Wherever there are conflicts between these design guidelines and other laws and ordinances of the City of Tucker, these guidelines shall have precedence. Interpretations, disputes, and appeals with respect to the interpretation and application of these design guidelines by the City of Tucker Community Development Department shall be resolved by the City of Tucker Board of Appeals.

## II. Design guidelines.

A. *Streets.* Public and private streets shall meet all the requirements for public streets in chapter 14 of the City of Tucker Code of Ordinances, and the Northlake Commercial Center Overlay District. The design requirements for all streets and sidewalks shall be as required in sections 27-730.2.10 and 27-730.2.11 of the Northlake Overlay District ordinance. The following exceptions and enhancements shall be incorporated where deemed necessary. The width of travel lanes may be reduced to eleven (11) feet on all private streets except alleys and except on all public streets that are designated by the community development department as truck routes. The width and design of alleys shall be as required in Section 27-719.8

The design of streets within the Northlake Commercial Center Overlay District shall provide for the continuous and interconnected travel of automobiles, transit buses, bicycles, and pedestrians between points of origin and destination within the district, and shall provide for maximum continuity with streets, transit routes, sidewalks, bicycle lanes, trails, paths, and greenways that enter and leave the overlay district from surrounding areas.

Exhibits 1 and 2, along with table 1, indicate the arrangement, location, and width of the required elements of street design within the overlay district. All streets except alleys shall be paved to county or city specifications. Right-of-way would be increased on state and federal routes or truck routes where twelve-foot-wide lanes are required.

Table 1: Dimensions for Elements of Street Design

| Dimensions for Elements of Street Design, Northlake Commercial Center Overlay District | | | | | |
|---|---|---|---|---|---|
| **Street Type** | **Number of Lanes (11 ft.)** | **Median Width** | **Bicycle Lane Width** | **Parallel Parking Width** | **Right-of-Way Width** |
| Boulevard | 4 | 16 ft. | 5 ft. | NA | 110 ft. |

| | | | | | |
|---|---|---|---|---|---|
| Avenue | 4 | 12 ft. | 5 ft. | NA | 100 ft. |
| Major Collector | 4 | NA | 5 ft. | 9 ft. | 105 ft. |
| Minor Collector | 2 | NA | NA | 9 ft. | 80 ft. |
| Local Street | 2 | NA | NA | 9 ft. | 60 ft. |

**Exhibit 1: Boulevards, Avenues, and Major Collector Streets**

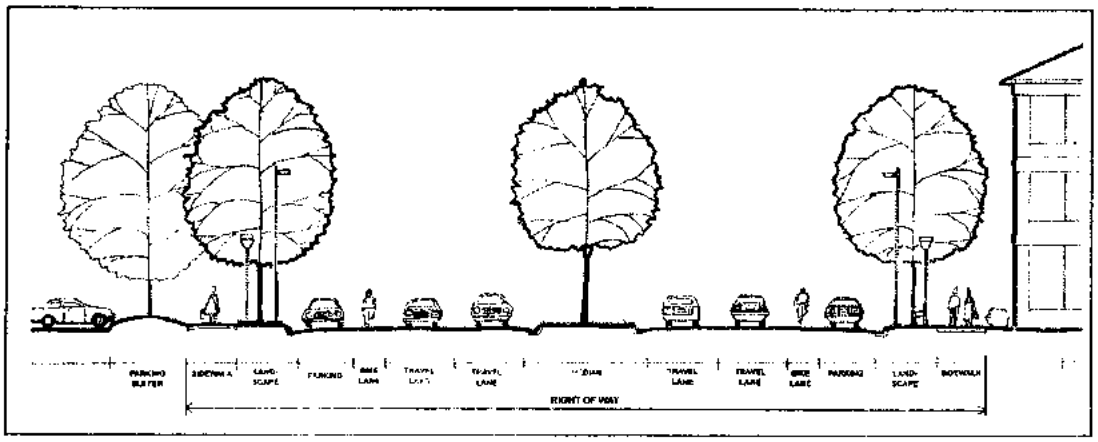
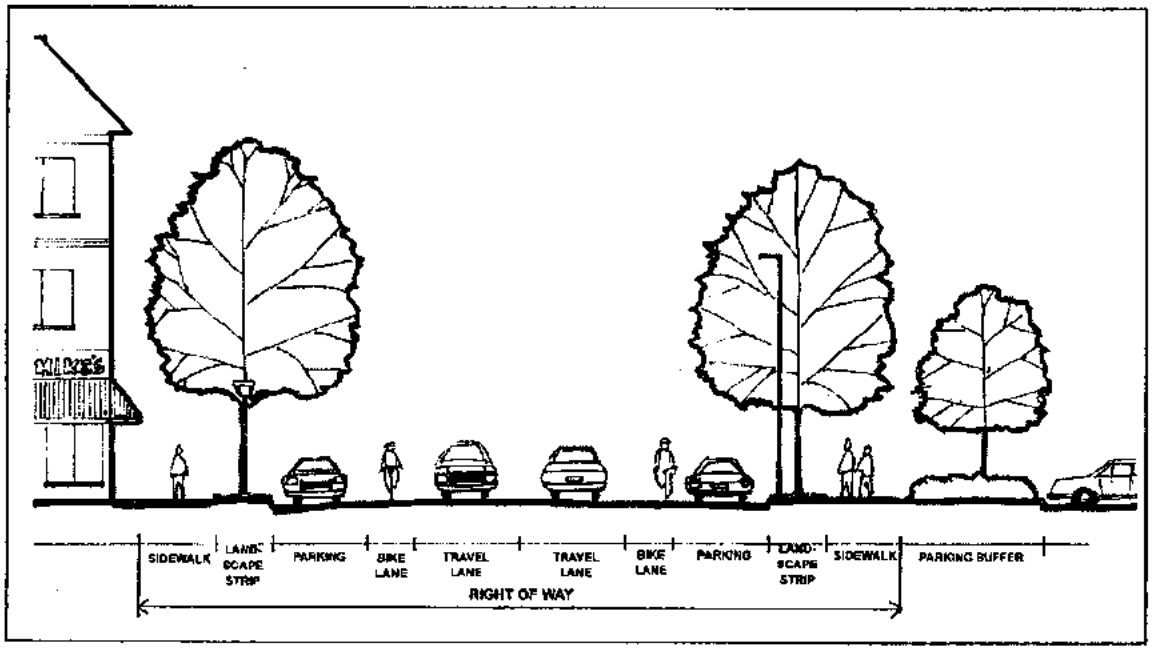
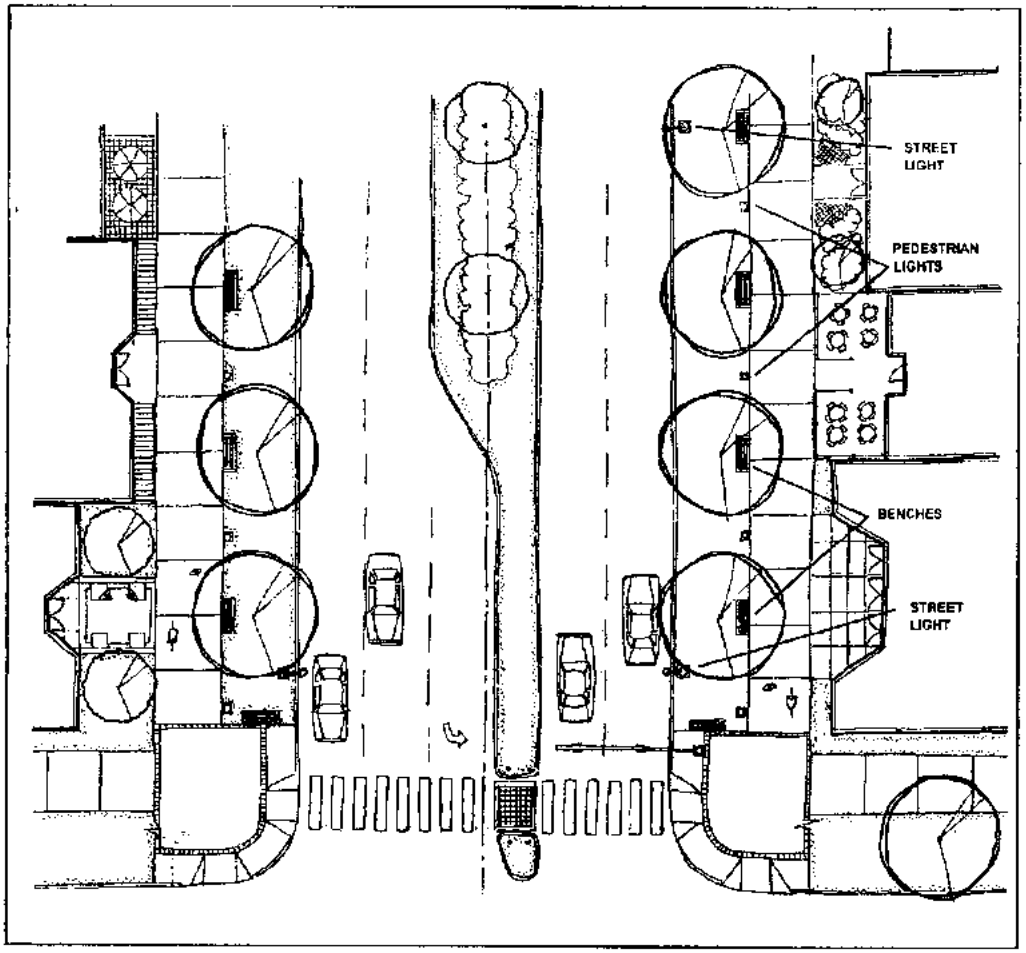



**Exhibit 2: Minor Collector Streets and Local Streets**



B. *Medians.* Raised medians with curb and gutter shall be required where indicated in table 1. Raised medians shall be designed to provide for safe and convenient crossings for persons with disabilities and shall provide refuge for pedestrians at crosswalks, as shown in exhibit 3. Raised medians shall be landscaped with trees, shrubbery, landscaping, and other approved groundcover materials as described in exhibit 3 and the plant list contained in the appendix unless otherwise approved by the community development director. Shrubbery and groundcover planted in medians within 30 feet of the nose of the median shall not exceed 18 inches in height.

**Exhibit 3: Medians**



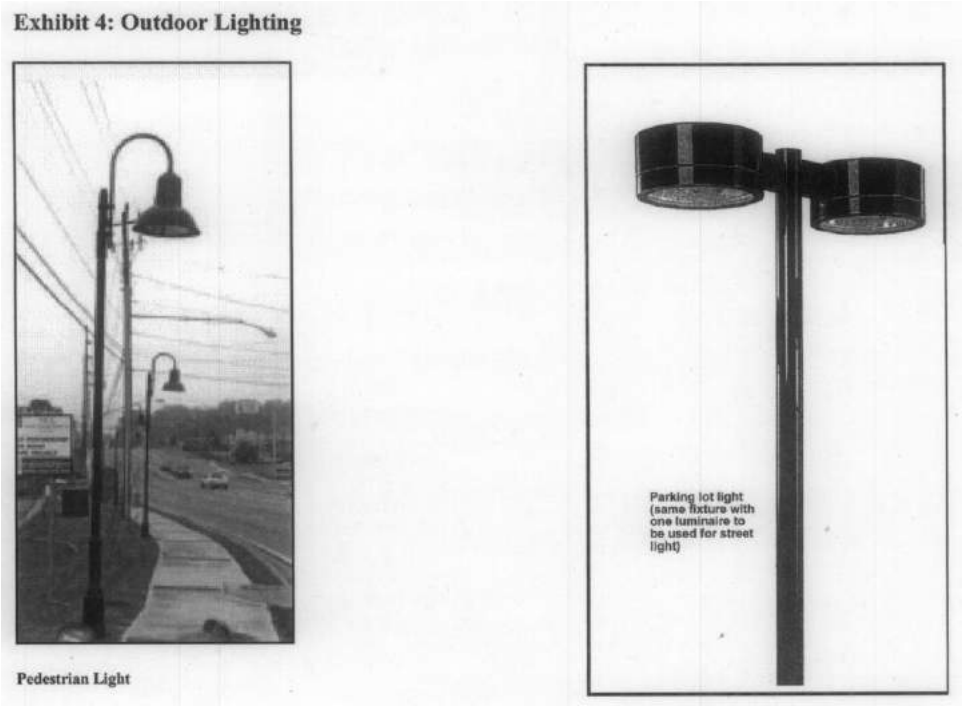

C. *On-street parking.* On-street parking shall be provided on street types as indicated in table 1 and in exhibits 1 and 2. On-street parking stalls shall be demarcated with painted boundaries not less than three (3) inches in width and shall be a minimum of nine (9) feet in width and twenty (20) feet in length.

D. *Outdoor lighting.*

1. The following standards apply to all properties within the Northlake Overlay District, excluding those with frontage along LaVista Road. In such areas The LaVista Road sidewalk and streetscape plan dated December 18, 2006, shall govern.

   Pedestrian lights shall be provided where required using fixtures specified in Table 2. In addition, all streets and parking lots shall have lighting designed to provide adequate lighting levels for pedestrians and bicyclists as well as for automobiles. Street lighting fixtures shall be located as

shown in Exhibits 1, 2 and 3 and shall meet the specifications indicated in Table 2 and Exhibit 4. Pedestrian lighting within right of ways shall be mounted no higher than 15 feet above the grade of the adjacent sidewalk.




2. Parking lot lighting shall be as shown in Exhibit 4 and shall meet the specifications indicated in Table 2.

Table 2: Outdoor Lighting Specifications

| Outdoor Lighting Specifications, Northlake Commercial Center Overlay District | | |
|---|---|---|
| **Location** | | **Specification** |
| Street Light | Fixture type | Gardeo CA-22-1-3-250 MH-VTBS-BLA |
| | Pole type | Gardeo RA5-28H-TBS-TBS-BLA |
| | Spacing | Every 150—200 feet with triangular spacing |
| Parking Lot Light | Fixture type | Gardeo CA-22-2-3-250MH-VTBS-BLA |
| | Pole type | Gardeo—RA5-25H-TBS-TBS-BLA |
| | Spacing | To be determined in the field |
| Pedestrian Light | Fixture type | Cooper Lighting Modern Epic Large (MEL) model # MEL 15SWW3SXBLBK |
| | Arm Type | Cooper Lighting model # SA6005-BK4 |

| | |
|---|---|
| Pole type | Hapco model # 89871-003-PI |
| Spacing | To be determined in the field |

3. Light levels of 1.5 foot candles are recommended for parking areas and four (4) foot candles at vehicular drives, entrances, and pedestrian and bicycle ways.
4. All exterior lighting shall be located and designed with cut-offs to minimize glare on adjacent occupied properties.
5. Ground-mounted floodlights shall be screened with planting or other means so that the light source is not visible.
6. The use of flashing, rotating, or oscillating lighting is prohibited in any manner that may be visible from the exterior of buildings.
7. After-hours security lighting shall equal at least twenty-five (25) percent of the normal parking lot lighting level for security.

E. *Street furniture.* The following standards apply to all properties within the Northlake Overlay District, excluding those with frontage along LaVista Road. In such areas the LaVista Road sidewalk and streetscape plan dated December 18, 2006, shall govern.

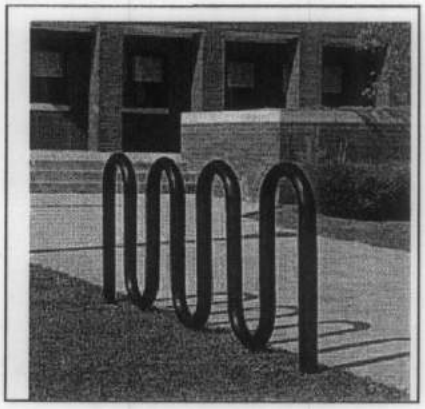
Sidewalks, plazas, parks, trails, and other public spaces may contain outdoor furniture such as benches, tables, trash receptacles, or other similar appurtenances. Street furniture shall be designed to be comfortable, resist damage and vandalism and be easy to maintain. Table 3 and Exhibit 5 provide specifications of acceptable street furniture. The street furniture types recommended below may be substituted subject to review and approval by the City of Tucker Community Development Department.

Table 3: Street Furniture

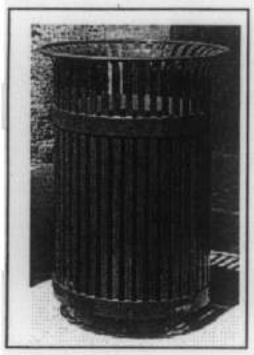
| Street Furniture, Northlake Commercial Center Overlay District | | |
|---|---|---|
| **Location** | **Fixture Type** | **Specification** |
| Street Furniture Zone | Benches | Victor Stanley Model #RB-28 in 6' length,<br>Color: black |
| Street Furniture Zone | Trash Receptacles | Victor Stanley—the Bethesda Series Model # S-424,<br>Color: black |
| Street Furniture Zone | Bicycle Racks | DuMor Inc.—Leisure Lines<br>Model # 130-30, surface mount,<br>Color: black |

**Exhibit 5: Street Furniture**

Left: Victor Stanley bench
Steelsites Series
Model #RB-28 in 6' length, black



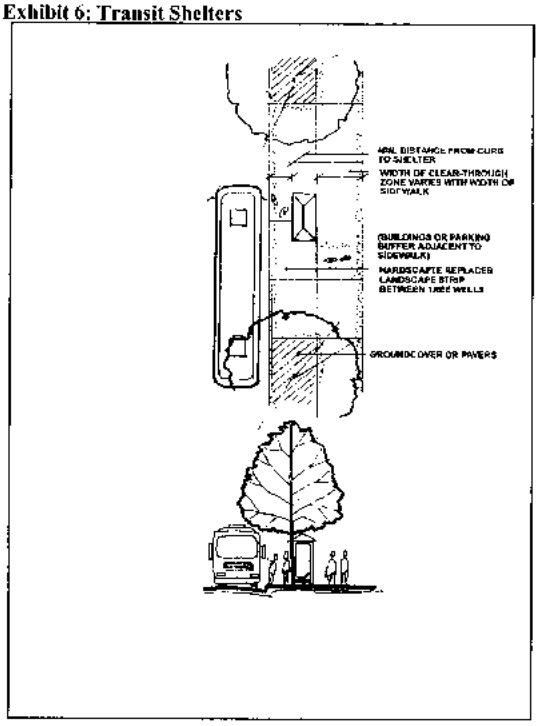
Above: DuMor, Inc. bike rack
Leisure Lines 125-130 Series



Left: Victor Stanley trash receptacle
Bethesda Series
Model #S-424, black

F. *Transit stops.* MARTA bus service is provided on certain streets within the overlay district. These bus stops shall be located within public rights-of-way as determined by MARTA. Subject to agreement of MARTA, bus stops may also be located on private property. Transit stops shall provide adequate, lighted and landscaped hard surface areas for waiting patrons. All transit stops shall include at least forty (40) square feet of surface paved in concrete and be accessed by concrete sidewalks along streets and connected to building entrances as provided in section H. of these guidelines. Transit stops anticipated to serve more than an average of ten (10) passengers per weekday shall include shelters designed as shown in Exhibit 6. Trash receptacles are required at all transit stops.

**Exhibit 6: Transit Shelters**




G. *Bicycle lanes and bicycle racks.* Paved bicycle lanes shall be provided adjacent to both sides of streets, adjacent to their paved travel lanes as indicated in Table 1 and Exhibits 1 and 2. Bicycle lanes shall be not less than five (5) feet in width with signs and pavement markings as required by the latest version of the Manual for Uniform Traffic Control Devices. Off-street bicycle paths shall be paved not less than eight (8) feet in width and shall be designed with profile not to exceed a 4.9 percent grade or else provide approved handrails for use by handicapped persons. Trail cross-slopes shall not exceed two (2) percent. Buildings that require more than one hundred (100) parking spaces shall provide bike racks with at least one (1) bicycle parking stall per 100 vehicular parking spaces. Bicycle racks shall be securely anchored to the ground or a permanent structure and provide outdoor lighting.

H. *Sidewalks and pedestrian ways.* The Northlake Commercial Center Overlay District shall be designed to minimize the need for vehicular transportation and to promote pedestrian and bicycle circulation throughout the overlay district. The construction of continuous sidewalks along all streets and off-street pedestrian ways between all building entrances, between adjacent parking lots where shared parking is allowed, and connecting streets with adjacent parking lots, transit stops and building entrances is required throughout the overlay district. See Exhibits 1 and 2 showing sidewalks along streets. See Exhibit 7 for an illustration of off-street pedestrian ways linking parking lots and building entrances. Sidewalks are also encouraged within trails, greenways, and other outdoor recreational areas.

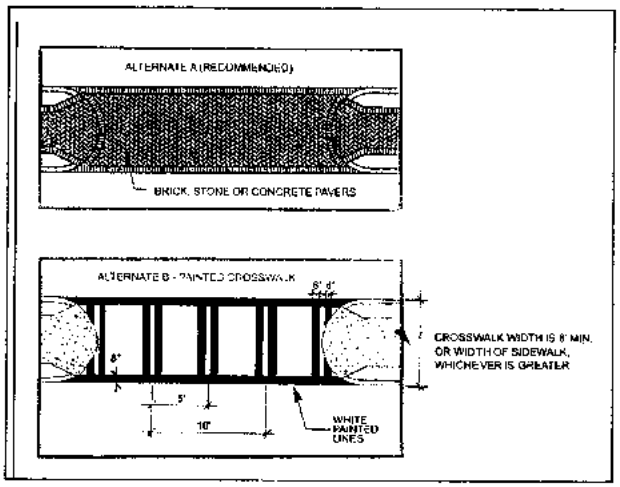
Sidewalks in the overlay district shall be as required in the Northlake Overlay District Ordinance and constructed of four-inch-thick poured-in-place concrete. Minimum slope for all sidewalks shall be two (2) percent. Alternatively, sidewalks may be constructed with brick, stone, or similar durable payer materials to add aesthetic interest and visibility, especially at building entrances, in plazas, in pedestrian crosswalks and at other pedestrian intersections with vehicular routes. Asphalt is not an acceptable paving material for sidewalks or pedestrian ways.

To the extent feasible, sidewalks and pedestrian ways shall be aligned vertically and horizontally to minimize the impact on existing topography and vegetation while forming a continuous pedestrian system. Sidewalks and pedestrian ways that join at property lines or with existing sidewalks shall match the

elevation, alignment and cross slope of the abutting sidewalks to form a save, smooth, and continuous sidewalk system.

I. *Crosswalks.* All crosswalks and other intersecting points between the pedestrian and vehicular traffic systems shall be clearly marked as shown in Exhibit 7. The use of approved brick, concrete, or stone paving materials to identify crosswalk areas is encouraged. Crosswalks shall be designed to meet the City of Tucker's standards of use for disabled persons. Crosswalks for median-divided streets shall provide for barrier-free passage and refuge areas as illustrated in Exhibit 3. Crosswalks shall be accompanied by pedestrian signals where required by DeKalb County or the City of Tucker and in conformity with the Manual for Uniform Traffic Control Devices.

**Exhibit 7: Crosswalk Demarcation**




J. *On-street parking.* On-street parking is an efficient manner to provide convenient store-front parking and residential parking on minor streets in order to reduce the need for large surface parking lots. See Exhibits 1 and 2. An on-street parking space along the street frontage of an adjacent parcel shall not be counted with off-street and shared parking to meet parking requirements of chapter 27 when such parking space is within seven hundred (700) feet of a building entrance for which the parking space is required. On-street parking spaces shall be safely accessed from the travel lanes of the adjoining street, paved to the specifications of public streets and demarcated with painted lines not less than three inches in width. Parallel parking spaces shall be not less than nine (9) feet wide and not less than twenty (20) feet in length. The City of Tucker shall have sole authority to determine time limits, metering, and signage of on-street parking spaces on public streets within the overlay district.

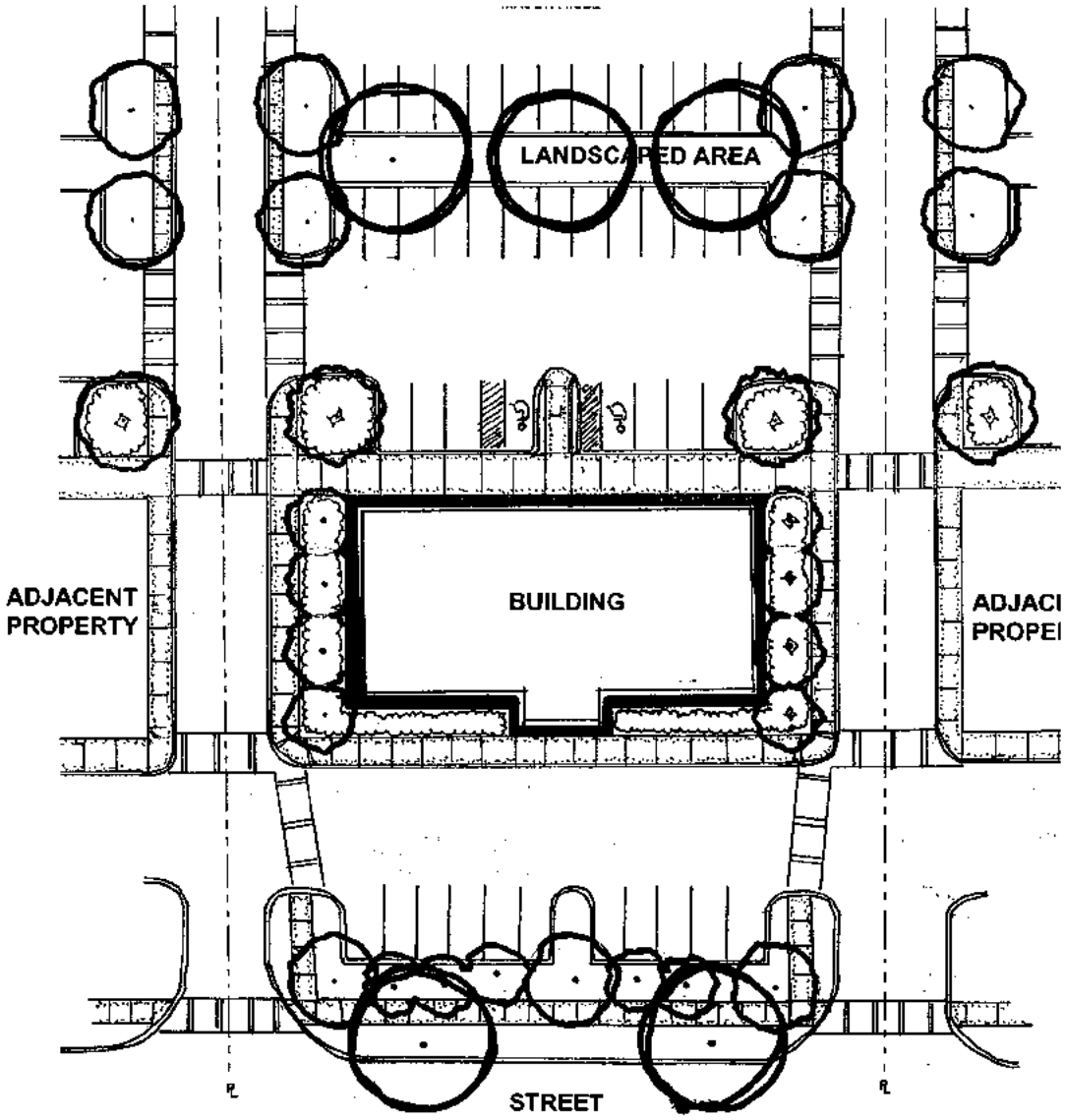
K. *Off-street parking lots.* Off-street parking lots shall be provided where there is not enough on-street parking available to satisfy the minimum parking requirements of section 27 and the Northlake Commercial Center Overlay District. Where possible, off-street parking lots shall be designed with interconnecting driveways and parking areas to encourage shared use with adjacent parcels. Joint access driveways and continuous access drives behind or between multiple parcels is encouraged to provide continuous inter-parcel access and lessen the need to re-enter public streets to make short trips. The satisfaction of minimum parking requirements with shared parking shall be subject to approval by the City of Tucker Community Development Director based on a shared parking analysis performed to the standards of the Institute for Transportation Engineers.

Off-street parking lots shall be designed to minimize the view of parking from adjacent streets and sidewalks. No more than thirty (30) percent of the required parking spaces for a parcel shall be located in front yards. Off-street parking lots shall be separated from abutting streets by landscape strips and sidewalks as illustrated in Exhibits 1 and 2. Parking lots shall be separated from parking lots on adjacent parcels by landscape strips not less than ten (10) feet in width, planted with shrubbery, trees, and

groundcover. Landscape strips may be broken by perpendicular access drives and pedestrian walkways or sidewalks. Plant materials shall be selected from the approved plant list in the appendix unless otherwise approved by the planning director.

Off-street parking lots shall be designed to provide for safe and continuous passage of pedestrians between parking bays and building entrances, and between adjacent parking areas and buildings. Landscape strips at the perimeter of off-street parking lots shall provide for safe and convenient crossings by vehicles and pedestrians as shown in Exhibit 8. Pedestrian pathways in parking lots and pedestrian ways that cross vehicular aisles in parking lots shall be appropriately demarcated as shown in Exhibit 8.

**Exhibit 8 – Off-Street Parking Lots**




L. *Landscaping.* Planting design should reflect and enhance the natural surroundings of each site as well as the design objectives of the building. Existing trees and native groundcover should be preserved wherever possible and integrated into the overall landscape design. Existing plant materials that are to be retained shall be clearly designated on the landscape plans and their root zones and tree canopies shall be adequately protected from damage or destruction during construction using suitable barricades

or fencing. Newly planted trees, shrubs and groundcover materials used in landscaped areas shall be selected from the approved plant list in the appendix unless otherwise approved by the planning director.

Plant materials shall be of a size, species and variety specified in the approved plant list in the appendix unless otherwise approved by the community development director. Street trees must be a minimum of three-and-one-half-inch caliper as measured at six (6) inches above ground and help to articulate the pedestrian and vehicular circulation systems. Except for perpendicular crossings of driveways and utility easements. Street trees shall be planted with a spacing not to exceed thirty (30) feet. Street trees shall not be placed closer than eight feet from a building, driveway, light standard, sign standard, post, fire hydrant, or other permanent structure.

Evergreen groundcover planting shall be used on all slopes steeper than two and one-half (2½) to one (1) to aid in erosion control.

Landscape planting and irrigation plans must be prepared by a landscape architect registered in the State of Georgia for each application for a land-disturbance permit.

*Transitional buffer zone*—Where the transitional buffer zone is well vegetated and provides an adequate visual screen at eye level, it shall be undisturbed. Otherwise, the transitional buffer zone shall be either planted with double staggered rows of approved evergreen trees and shrubbery to form a dense visual screen or the existing vegetation shall be enhanced with native landscaping and groundcover adequate to provide an effective visual screen at eye level from adjacent properties. However, transitional buffer zones may be interrupted where necessary for perpendicular crossings of streets, fences, driveways utilities, and trails, bikeways or pedestrian ways.

*Parking lot landscaping*—The total length of any parking area facing a street shall be separated from the street by landscaping, including evergreen shrubbery at least eighteen (18) inches in height. Off-street parking lots shall be designed to maximize coverage by shade trees. Shade trees in parking lots shall be a minimum of two-and-one-half-inch caliper as measured at six (6) inches above ground. Off-street parking areas shall provide landscape islands and perimeter landscape strips that provide a cumulative total of at least one (1) shade tree per six (6) parking spaces. Each shade tree shall be planted in a planting area at least eight (8) feet wide. The planting area for a tree shall consist of permeable and well-drained soils with suitable ground cover that provides a minimum of one hundred (100) square feet for the roots of each large tree and fifty (50) square feet for the roots of each small tree. Landscape materials suitable for parking areas shall be selected from the approved plant list in the appendix unless otherwise approved by the community development director.

*Irrigation*—All newly planted landscape areas (including parking lot islands) shall be irrigated by a fully automatic, commercial, underground irrigation system in according with the following standards:

1. All irrigation systems shall be provided with backflow preventers approved by DeKalb County. Such devices shall be located or screened so that they are not visible or accessible to the public from adjacent sidewalks, streets, alleys, or parking lots.
2. Spray heads shall be located to provide one hundred (100) percent, overlapping coverage. Overspray onto sidewalks and other paved areas should be minimized.
3. Control boxes and panels shall be located inside buildings or where they will not be visible or subject to vandalism.
4. All main and lateral lines shall be commercial grade PVC pipe.

Irrigation systems are not required in undisturbed buffers or in areas where they would disrupt existing native vegetation.

M. *Signage and street* graphics.

1. *Purpose.* The following standards are intended to advance the governmental purposes of protecting public safety by minimizing distraction to motorists and improving aesthetics of the Northlake Commercial Center Overlay District by:

   a. Providing a more consistent pattern and appearance for signs and street graphics than would otherwise result from existing sign regulations.

   b. Establishing signage as a design element that contributes a sense of place to the Northlake Commercial Center Overlay District;

   c. Generating varied and creative tenant signage through application of distinctive design;

   d. Reducing the prominence of signage and balancing commercial and aesthetic interests;

   e. Providing clear standards of acceptability for signs in order to facilitate the review and approval process.

2. *Authority.* These regulations apply only to the time, place and manner of sign display by limiting the size, number and height of signs in the Northlake Commercial Center Overlay District. Nothing in these standards is intended to regulate the content of sign graphics or limit the free expression of speech guaranteed under the First Amendment of the Constitution of the United States of America. These standards do not replace the sign regulations of the City of Tucker with respect to the Northlake Commercial Center Overlay District, but where these standards vary from the underlying City of Tucker standards, these standards shall apply.

   These design guidelines shall not prohibit political signs.

   All signs shall be designed, erected, inspected, altered, reconstructed, illuminated, located, moved and/or maintained in accordance with these design guidelines and all other applicable codes and ordinances of the City of Tucker, the State of Georgia, and the United States of America.

   No sign may be installed, reconstructed, illuminated, or moved that varies from these standards without approval of a variance by the City of Tucker Board of Appeals.

3. *Prohibited signs.* The following types of signs are prohibited:

   a. Motorist distractions. Signs that incorporate flashing lights or beacons, highly reflectant materials, rotating graphics, motion, smoke or visible matter, noise or changeable copy (copy that changes at materials of more than once every six (6) seconds) are prohibited.

   b. Roof signs. Signs that are placed on or above roofs, penthouses, mechanical equipment screens, and other like structures and any signs that extend above the building parapet or roof fascia line.

   c. Signs that are visible from the street and placed on vehicles or trailers that are not in regular use.

   d. Pole signs and other signs with exposed structural supports that are more than three (3) feet in height and have post supports larger than two (2) inches in diameter or a total of four (4) square inches in cross-section area.

   e. Vacuum molded or pre-manufactured signs.

4. *Authorized signs.* The following signs are authorized within the Northlake Commercial Center Overlay District and shall be permitted upon the issuance of a valid sign permit issued by the City of Tucker:

   a. *Single-tenant development signs.* The following sign standards apply to all parcels that have a single tenant or occupant, including, but not limited to, commercial, retail, services, office, office-distribution, wholesale, hotel, office, financial, or multifamily uses:

i. *Monument sign.* Each parcel or building with a single tenant or multifamily residential tenants shall be permitted to use one (1) monument sign per public street frontage, not to exceed a total of two (2). Signs shall be of a design similar to Exhibit 9 subject to the following:

Only one (1) sign placard is allowed per sign face—Maximum ten (10) square feet per face.

Sign may not exceed six (6) feet in height.

Sign may be single-faced or double-faced.

Sign shall be externally front-lighted, using ground-mounted floodlighting.

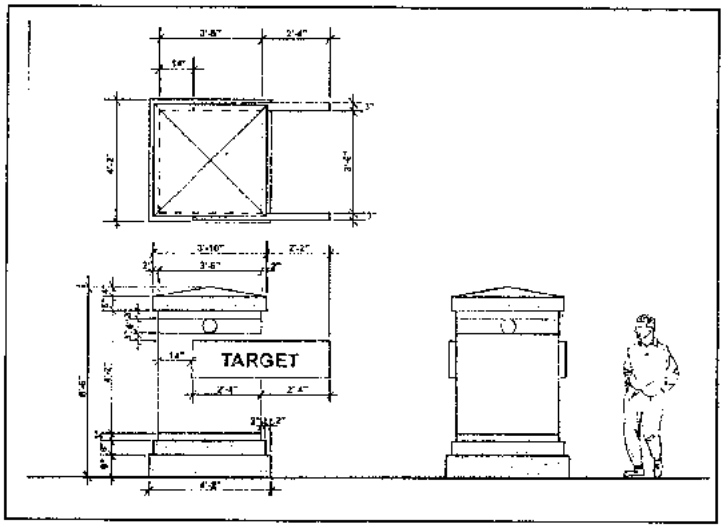
A single tenant building with more than fifty thousand (50,000) square feet of space or occupying a site larger than ten (10) acres may use a monument sign similar to Exhibit 10. Such sign shall not exceed six (6) feet in height or fifteen (15) feet in length. Sign face may be double-faced and must comply with the size requirements of the Northlake Overlay District Ordinance.

ii. *Single-tenant building mounted sign.* Each parcel or building with a single nonresidential tenant shall be permitted one (1) building-mounted sign per street frontage. Letter height and copy area for each single-tenant building-mounted sign shall not exceed the following maximum dimensions:

**Maximum Sign Dimensions, Single-Tenant Buildings, Northlake Commercial Center Overlay District**

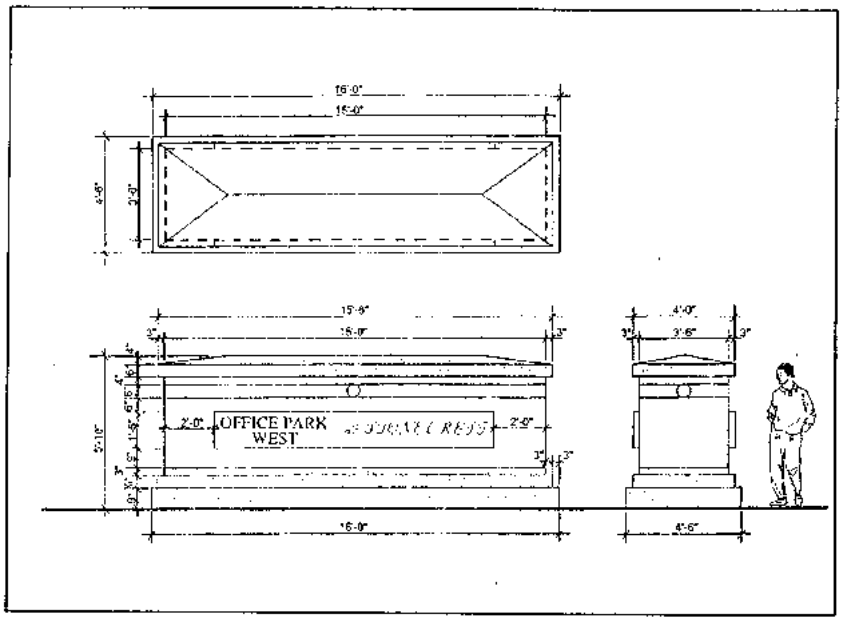
| Building Size (Gross sq. ft.) | Copy Area | Letter Height |
|---|---|---|
| 0—8,000 | 50 sq. ft. | 24″ |
| 8,001—12,000 | 120 sq. ft. | 30″ |
| 12,001—20,000 | 240 sq. ft. | 36″ |
| 20,001—60,000 | 300 sq. ft. | 42″ |
| Greater than 60,000 | 360 sq. ft. | 48″ |

**Exhibit 9 – Single Tenant Monument Sign**




iii. *Entrance sign.* A major *development* containing 10 contiguous nonresidential lots accessed from internal streets may be permitted one (1) entrance sign of a design similar to Exhibit 10, to be placed on private property adjacent to the major entrance to such development or within the median of the public street providing the principal route of access to such development. Such sign shall not exceed six (6) feet in height or fifteen (15) feet in length. Sign face may be double-sided and must comply with the size requirements of the Northlake Overlay District Ordinance.

**Exhibit 10: Ground-Mounted Monument Sign**




b. *Multiple-tenant buildings and parcels.* The following sign standards apply to all parcels that have more than one (1) nonresidential tenant or occupant, including, but not limited to, commercial, retail, services, office, office-distribution, wholesale, hotel, office, or financial tenants:

i. *Monument sign.* Each parcel or development with more than one (1) nonresidential tenant and a total of more than one hundred thousand (100,000) square feet shall be permitted

one (1) freestanding multitenant monument sign per public street frontage, not to exceed a total of three (3). Signs shall be of a design similar to Exhibit 10 and the following:

No more than eight (8) sign placards shall be used per side of the monument sign.

Maximum height fifteen (15) feet.

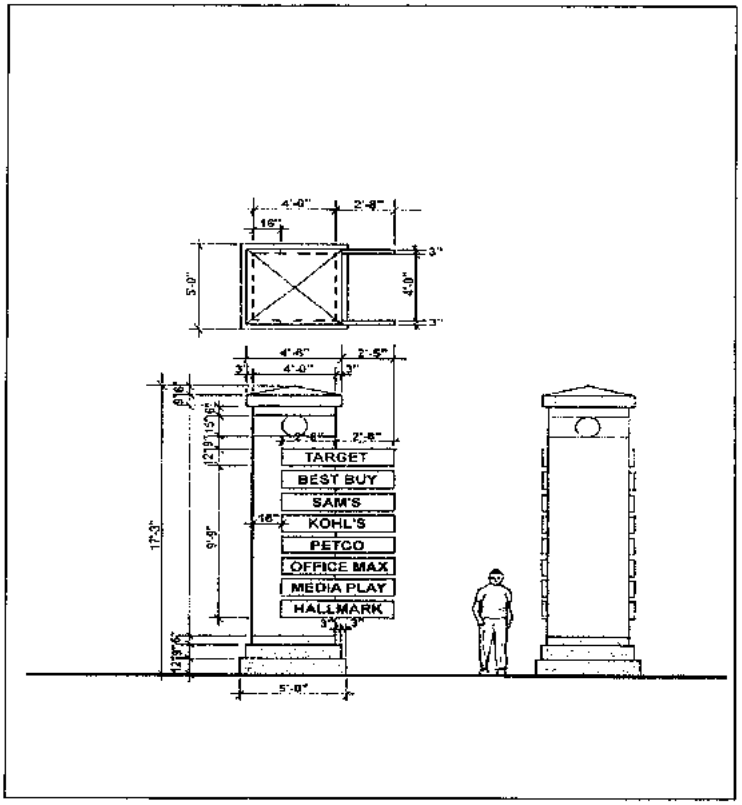
Total sign faces may not exceed sixty-four (64) square feet per side.

Sign may be single-faced or double-faced.

Sign shall be externally front-lighted, using ground mounted flood lighting.

Each parcel or development with more than one (1) non-residential tenant totaling one hundred thousand (100,000) square feet or more and having a total street frontage of more than five hundred (500) feet on all streets combined shall be permitted one freestanding multitenant monument sign similar to Exhibit 10 for each curb cut, not to exceed a total of three (3) monument signs for a single development.

**Exhibit 11 – Multi-Tenant Monument Sign**




ii. *Building-mounted signs.* Each multitenant parcel or development, other than residential tenants, shall be permitted one (1) building mounted sign per building tenant, similar to that shown in Exhibits 12 and 13. Letter height and copy area of the building-mounted sign for each tenant within a multitenant development or building-mounted sign shall not exceed the following maximum dimensions:

**Maximum Sign Dimensions, Multiple-Tenant Buildings, Northlake Commercial Center Overlay District**

| Building Size (Gross sq. ft.) | Copy Area | Letter Height |
|---|---|---|
| 0—8,000 | 50 sq. ft. | 24″ |
| 8,001—12,000 | 120 sq. ft. | 30″ |
| 12,001—20,000 | 240 sq. ft. | 36″ |
| 20,001—60,000 | 300 sq. ft. | 42″ |
| Greater than 60,000 | 360 sq. ft. | 48″ |

**Exhibit 12 – Single Tenant Building-Mounted Sign**

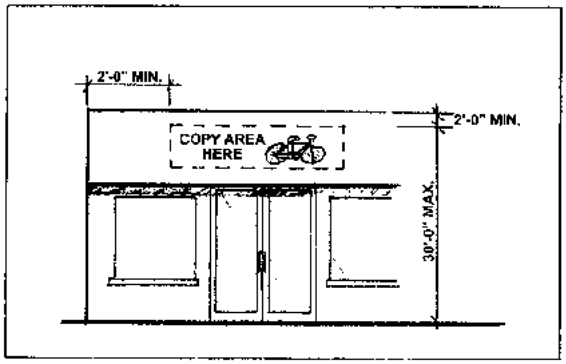
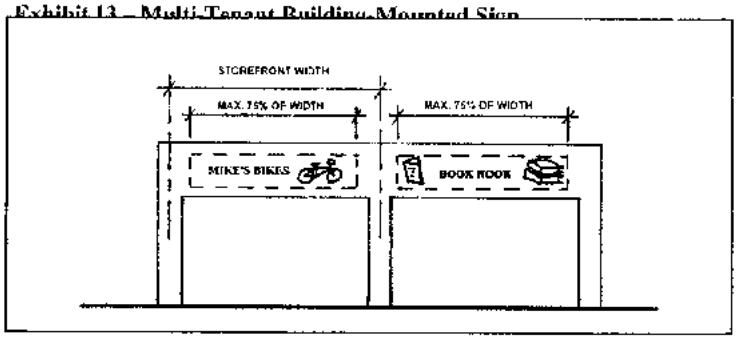



**Exhibit 13 – Multi-Tenant Building-Mounted Sign**

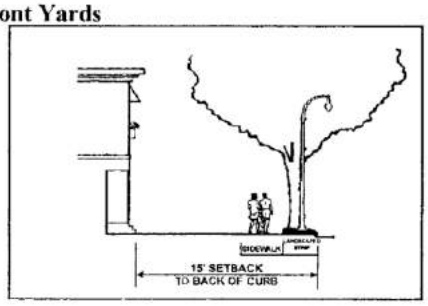



c. *Reserved.*

d. *Signs on residential parcels.* Nothing in this ordinance shall prohibit display of at least one (1) sign on a residential property. However, signs on residential property other than multitenant residential buildings shall be limited to one (1) sign per street frontage. No such sign shall exceed three (3) feet in height and sixteen (16) square feet in size. Signs on single-family residential parcels shall not be illuminated. Home occupations within residential property are not entitled to additional signs.

N. *Architectural design of buildings and facades.*

**Exhibit 14 – Front Yards**




1. *Building massing.*

   a. Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces, materials and rooflines at intervals not to exceed one hundred fifty (150)feet, measured parallel to the street as shown in Exhibit 15.

   b. For buildings taller than five (5) stories, floors shall be delineated at third story above sidewalk level and lower and shall be executed through windows, belt courses, cornice lines or similar architectural detailing as shown in Exhibit 16.

**Exhibit 15- Building Modulation**

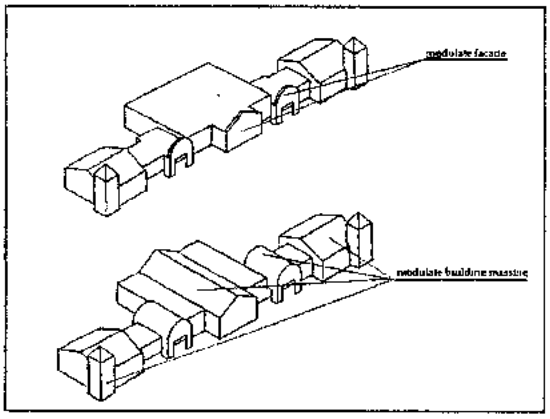
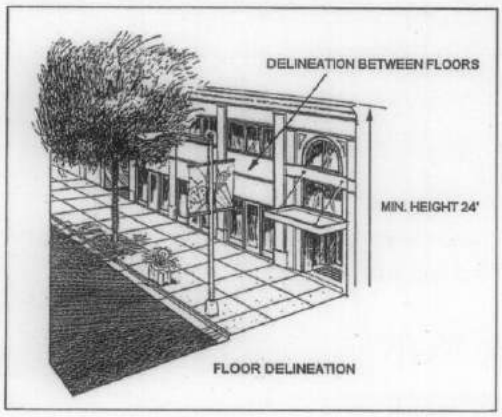



**Exhibit 16: Architectural Delineation**




2. *Building facades and fenestration.*

a. For the purposes of this document, fenestration includes all glazed areas including, but not limited to, storefront windows, display windows and doors containing glazed panels at least four (4) feet in height.

b. Street-fronting nonresidential building facades shall meet the following sidewalk level requirements:

i. The length of facade without intervening fenestration or entryway shall not exceed thirty (30) feet. See Exhibit 17.

ii. A minimum percentage of fenestration of thirty (30) percent shall be provided for the length of the building facade. For buildings that front two (2) or more streets, said minimum percentage is only required along one (1) such street frontage. Buildings which contain ground-level retail uses shall have a minimum percentage of fenestration of forty-five (45) percent of the length of the building facade. See Exhibit 17.

iii. All fenestration shall:

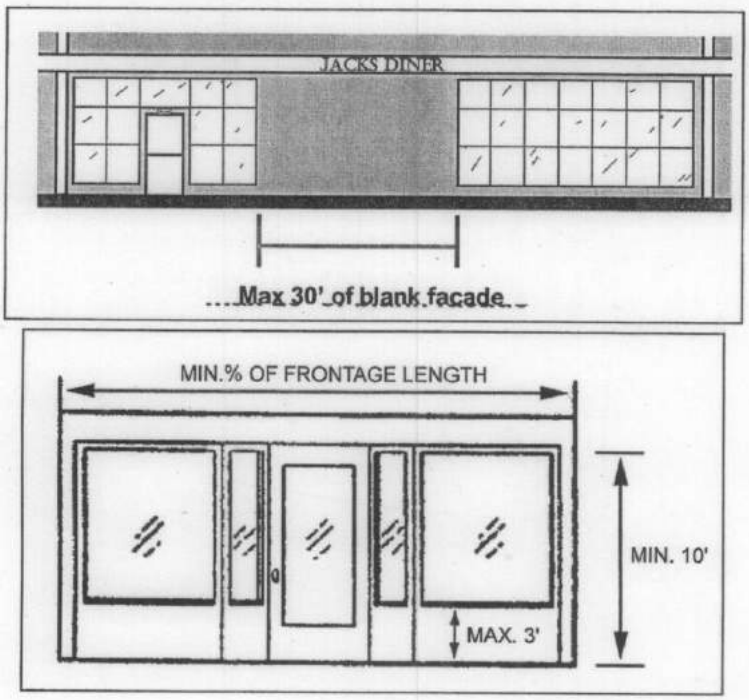
1. Begin at a point not more than three (3) feet above the sidewalk, to a height no less than ten (10) feet above the sidewalk, or

2. Begin at the finished floor elevation to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is three (3) or more feet above the sidewalk or

3. Begin at a point not more than sidewalk level, to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is below the sidewalk. See Exhibit 17.

iv. Fenestration shall not utilize painted glass, reflective glass or other similarly treated or opaque windows. Entrances may be counted towards fenestration requirements.

**Exhibit 17- Building Facades and Fenestration**




3. *Roof design.*

a. Gable roof designs are encouraged and shall be required for all multifamily residential and hotel buildings less than six (6) stories in height.

b. Roof-mounted mechanical equipment and appurtenances shall be located or screened so that they are not visible from the ground level. Screening shall be of a material and design that are compatible with the surrounding building materials and architectural design. Rooftop appurtenances shall be painted to be compatible with the colors of the roof.

c. Roof-mounted radio, TV, and telecommunication towers and antennas are prohibited. Satellite dishes twenty-four (24) inches or less in diameter are permitted provided that they are located out of sight from the ground floor or completely screened from view

d. The following roof materials are preferred:

i. Fiberglass architectural profile shingles;

ii. Slate shingles;

iii. Clay or concrete tile;

iv. Standing seam metal (dark green or earth tone only).

4. *Recommended building materials.* The following exterior building materials are preferred:

a. Stone

b. Brick

c. Pre-cast Concrete

d. Glass

e. Ceramics or tile

5. *[Exterior walls and parapets.]* The following materials are prohibited for exterior walls and parapets:

a. Imitation wood;

b. Vinyl or plastic;

c. Concrete masonry units, except ribbed or rusticated units;

d. Corrugated metal;

e. EIFS;

f. EIFS moldings.

## APPENDICES
## Plant List

A. *Flowering shrubs.*

1. Abelia X Grandiflora, three (3) gallon.

2. Jasminum Nudiflorum, three (3) gallon;

3. Coreopsis Auriculata, one (1) gallon;

4. Narcussus.

B. *Ground cover.*

1. Liriope Muscari, one (1) gallon;

2. Rubus Calcinoides, one (1) gallon;

C. *Trees along LaVista Road.*

1. Cercis Canadensis, two-inch caliper;
2. Chionanthus Virginicus, one-and-one-half-inch caliper;
3. Hemerocallis Species, one (1) gallon;
4. Pranus "Okame", one-and-one-half-inch caliper;
5. Quercus Shumardii, three-and-one-half-inch caliper;
6. Lagerstroemia Indica, ten (10) feet high;

D. *Trees along remaining streets.*

1. Any tree listed in paragraph (3) above;
2. Crape Myrtle, Standard Trunk;
3. October Glory Red Maple.
4. Sunset Maple;
5. Nuttal Oak (Quercus Nattalli)
6. Shumard Oak (Quercus Shumardii);
7. Willow Oak;
8. Zelkova Serrata;
9. Ginkgo (Ginlgo Biloba);
10. Trident Maple (Acer Buergeranum);
11. Allee Lacebark Elm (Ulmus Parvifolia Emer II).

## 27-3.4 DIVISION 40. MOUNTAIN INDUSTRIAL BOULEVARD OVERLAY DISTRICT

### 3.40.1 Scope of regulations.

This division establishes standards and procedures that apply to any development, use, or redevelopment on any lot or portion thereof which is, in whole or in part, contained within the boundaries of the Mountain Industrial Boulevard Overlay District, hereinafter referred to as the "District."

### 3.40.2 Applicability of regulations.

This division applies to each application for a permit which involves the development, use, construction, exterior alteration or modification of any structure where the subject property is, in whole or in part, contained within the boundaries of the District. The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the District. All procedures, standards, and criteria not specifically identified herein shall be as provided by the applicable underlying zoning district regulations. In cases where a conflict exists between the requirements of this District and the underlying zoning district, the requirements of this District shall apply.

### 3.40.3 Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the District is as follows:

A. To preserve and enhance the long-term economic viability of the Mountain Industrial Boulevard corridor by encouraging investment that increases the tax base and provides employment opportunities to the citizens of the City of Tucker;

B. To improve the visual appearance and increase property values within the corridor;

C. To allow flexibility in development standards in order to encourage the design of innovative development projects that set high standards for landscaping, green space, urban design, and public amenities; and

D. To promote uniform and visually aesthetic architectural features which serve to unify the distinctive visual quality of the corridor.

### 3.40.4 District boundaries and maps.

The boundaries of the District shall be established by the zoning map which is adopted contemporaneously with the adoption of this division and is hereby incorporated by this reference as if fully set forth herein and is hereby made a part of this chapter 27. Said zoning map amendment shall be maintained by the community development director or designee and shall be available for public inspection in the office of the community development director.

### 3.40.5 Principal uses and structures.

The uses of land and structures which are allowed in this District as principal, accessory, or by special permit or special land use permit are as provided by the applicable underlying zoning district regulations, subject to the requirements, limitations and standards contained within this division.

### 3.40.6 Prohibited uses.

The following principal uses of land shall be prohibited within the District:

A. Storage yard for damaged automobiles or confiscated automobiles;

B. Tire retreading and recapping;

C. Adult entertainment establishments;

D. Adult service facility;

E. Late night establishments;

F. Extended stay motels;

G. Title and pawn shops;

H. Salvage yards/junk yards and automobile wrecking yards, not including recovered material or recycling yards;

I. Self-service car wash and detailing;

J. Temporary and portable saw mills;

K. Mines and mining operations, quarries, gravel pits, and sand pits;

L. Sewage treatment plants;

M. Asphalt plants;

N. Fat rendering and fertilizer manufacture; and

O. Distillation of bones and glue manufacture.

P. Parking or storing of trucks and trailers between the hours of 11:00 p.m. to 5:00 a.m., unless such truck or trailer is parked or stored pursuant to an accessory use incidental to the permitted principal use of the land

### 3.40.7 Architectural regulations.

The following architectural regulations shall apply to all uses and structures within the District.

A. Building exteriors shall be limited solely to the following materials:

1. Brick or brick veneers;
2. Stone or stone veneers of natural stone such as granite, limestone and marble. Terra Cotta and/or cast stone, which simulate natural stone, are also allowed. Painted stone is not allowed;
3. Pre-cast concrete;
4. Painted concrete block, which may only be used on a side or rear facade that does not face a public right-of-way;
5. Split-face block/concrete masonry unit; and
6. Hard coat stucco and synthetic stucco.

B. Architectural accents, where utilized, shall consist of metal, non-reflective glass, glass block, natural stone, pre-cast concrete, brick, or terra cotta. Architectural accents shall only cover ten (10) percent of the surface area of each exterior wall. When calculating the ten (10) percent limitation on architectural accents, the surface area covered by a window(s) shall not be used in the calculation.

C. Service bays for automobile service and repair uses shall be designed or screened so that the openings of service bays are not visible from a public right-of-way.

D. Chain-link fences shall be screened from the public right-of-way and shall be galvanized or vinyl coated. Uncoated chain-link is prohibited.

E. Within a front or exterior side yard, the keeping of goods, materials, merchandise, or inoperable vehicles in the same place for more than twenty-four (24) consecutive hours is prohibited.

F. Within a side yard that adjoins a public right-of-way, the keeping of goods, materials, merchandise, or inoperable vehicles in the same place for more than twenty-four (24) consecutive hours is only permitted when the side yard is fenced, screened, or otherwise screened from view from the public right-of-way.

G. Outdoor storage that is not prohibited by this section, and outdoor areas housing service areas, trash dumpsters, trash compactors, equipment, or mechanical devices shall be screened so that such outdoor

area cannot be seen from any public right-of-way. Screening shall be permitted to include landscaping, and/or fencing and walls with architectural treatment of color and material similar to the building.

H. Any linear lighting around windows, rooflines, doors, signs or building structures is prohibited. Linear lighting may include, but is not limited to neon tubes, rope lighting, and other similar lighting devices. Linear lighting devices that form letters or words shall be considered signs.

### Sec. 3.40.8 Signage

Properties within the District are required to comply with the sign regulations of Chapter 21 of the Code except as follows:

A. Definitions

i. Portable sign shall mean any sign designed to be transported by trailer or by a design element that includes wheels attached to the sign, or wheels attached to the sign but detachable, the removal of such wheels creating an “A” or “T” frame sign that may attach temporarily or permanently to the ground. Portable sign shall also include vehicles with signs painted or mounted thereon that are parked or immobilized in a single location for more than fourteen (14) consecutive days.

ii. Sandwich board sign shall mean any sign that rests on the ground that is not anchored or otherwise securely attached thereto.

B. Prohibited signs:

1. Sandwich board signs are prohibited except within five (5) feet of a building entrance;

2. Banner signs of any size, except as a special event sign.

C. *Convenience Store and Service Stations.* Convenience store and service stations with pump islands may have one (1) sign per canopy face per public street frontage up to a maximum of thirty-six (36) square feet of total canopy sign space.

D. *Directional Signs.* Directional signs are permitted up to six (6) feet above the ground.

E. Non-residential zoning districts.

1. All lots located in non-residential districts not developed as a planned commercial center may display signs as follows:

| | Ground Sign | Canopy or Wall Sign | Projecting Sign | Directional Sign | Entrance Sign | Subdivision Sign | Window Sign |
|---|---|---|---|---|---|---|---|
| Maximum Height | 20 ft. | N/A | 20 ft. or Height of building | 6 ft. | 8 ft. | 12 ft. | N/A[2] |
| Maximum width | 15 ft. | 80% of the wall or canopy width | N/A | 4 ft. | 10 ft. | 15 ft. | N/A |
| Maximum sq. ft. | 160 sq. ft. | 30 sq. ft. or 2 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings 12 stories or more. | 40 sq. ft. | 16 sq. ft. | 60 sq. ft. | 100 sq. ft. | 10% of the window space |
| Maximum number allowed | 1/façade (See Note 1) | 1/primary façade and 1/secondary façade | 1/primary façade and 1/secondary facade | 2/authorized curb cut | 1/entrance | 1/subdivision | N/A |

[2] N/A means not applicable.

| | Ground Sign | Canopy or Wall Sign | Projecting Sign | Directional Sign | Entrance Sign | Subdivision Sign | Window Sign |
|---|---|---|---|---|---|---|---|
| Maximum projection from structure | N/A | 6 ft. | 2 ft. | N/A | N/A | N/A | N/A |
| Required setback from electrical transmission lines | 10 ft. | N/A | 0 ft. | 10 ft. | N/A | | |
| Maximum sq. ft. | 160 sq. ft. | 30 sq. ft. or 2 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings 12 stories or more. | 40 sq. ft. | 16 sq. ft. | 60 sq. ft. | 100 sq. ft. | 10% of the window space |

2. A lot located in a non-residential district developed as a planned commercial center may display signs as follows:

| | Ground Sign | Canopy or Wall Sign | Directional Sign | Entrance Sign | Window Sign |
|---|---|---|---|---|---|
| Maximum height | 20 ft. | N/A | 6 ft. | 8 ft. | N/A |
| Maximum width | 20 ft. | 80% of the wall or canopy width | 4 ft. | 10 ft. | N/A |
| Maximum sq. ft. | 200 sq. ft. | 30 sq. ft. or 2 sq. ft. per linear foot of the wall or canopy, whichever is greater, up to a maximum of 150 sq. ft. for buildings 12 stories or more. | 16 sq. ft. | 60 sq. ft. | 30% of the window space for buildings under 50,000 sq. ft.; 10% of the window area for buildings 50,000 sq. ft. or over |
| Maximum number allowed | One per façade (See Note 1) | 1/primary façade and 1/secondary façade | 2/authorized curb cut | 1/entrance | N/A |
| Required setback from electrical transmission lines | 10 ft. | N/A | 0 ft. | 10 ft. | N/A |

3 Property zoned for non-residential use may have only one (1) ground sign per street that is oriented towards travelers along that same street.

4 The District is exempt from total aggregate sign area requirements in Chapter 21 of this Code.

5 Wood and Flexible plastic are prohibited for use in permanent signs in non-residential zoning districts.

F. *Special Event Signage.* All special event signs are subject to the requirements of Chapter 21 of the Code, including section 21-21, except that the maximum number of special even sign permits to be issued to a single site or location shall be one (1) per year for a period of time not to exceed thirty (30) days for each permit issued.

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **AGRICULTURAL** | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Agriculture and Forestry** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Commercial greenhouse or plant nursery | | | | | | | | | | | | | | | P | P | P | | P | P | P | | | | ✓ |
| Temporary or portable sawmill | SA | SA | SA | SA | SA | SA | SA | | | | | | | | | | | | P | P | | | | | ✓ |
| Urban, community garden, up to 5 ac. | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |
| Urban, community garden, over 5 ac. | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | |
| **Animal Oriented Agriculture** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dairy | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Keeping of livestock | P | P | P | P | P | | | | | | | P | | | | | | | P | | | | | | ✓ |
| Keeping of poultry/pigeons | P | P | P | P | P | | | | | | | P | | | | | | | P | | | | | | ✓ |
| Livestock sales pavilion | | | | | | | | | | | | | | | | | | | | P | | | | | ✓ |
| Riding academies or stables | P | P | P | P | P | | | | | | | | | | | | | | | | | | | | ✓ |
| **RESIDENTIAL** | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Dwellings** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Dwelling, cottage home | | | | | | SP | SP | SP | SP | SP | | SP | | | | | | | | | | | | | ✓ |
| Dwelling, mobile home | | | | | | | | | | | P | | | | | | | | Pa | Pa | | | | | ✓ |
| Dwelling, multi-family | | | | | | | | P | P | SP | | | | | | | | | SP | SP | SP | SP | SP | SP | |
| Dwelling, multi-family (supportive living) | | | | | | | | SP | SP | SP | SP | SP | SP | | | | | | | | SP | SP | SP | SP | ✓ |
| Dwelling, townhouse | | | | | | | P | P | P | SP | | P | | P | | | | | | | SP | SP | SP | SP | ✓ |
| Dwelling, urban single-family | | | | | | | P | P | P | P | | P | | P | | | | | | | P | P | P | P | ✓ |
| High-rise apartment | | | | | | | | | | P | | | | | | | | | | | | | P | P | |
| Dwelling, single-family (attached) | | | | | | | P | P | P | P | | | | P | | | | | | | P | P | P | P | |
| Dwelling, single-family (detached) | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | | | P | P | P | | |
| Dwelling, three-family | | | | | | | P | P | P | P | | P | | | | | | | | | P | P | P | P | |
| Dwelling, two-family | | | | | | | P | P | P | P | | P | | | | | | | | | P | P | P | P | |
| Dwelling, single-family, accessory (guesthouse, in-law suite) | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | | | | | | | | | | | | Pa | Pa | Pa | Pa | ✓ |
| Home occupation, no customer contact | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | | | | | | | | | SA | SA | SA | SA | ✓ |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Home occupation, with customer contact | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | | | SP | SP | SP | SP | ✓ |
| Live/work unit | | | | | | | | | | | | | P | P | | P | P | | P | P | P | P | P | P | ✓ |
| Mobile home park | | | | | | | | | | | P | | | | | | | | | | | | | | |
| Accessory uses or structures | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | ✓ |
| **Housing and Lodging** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bed and breakfast | SP | SP | SP | | | | SP | SP | SP | SP | | | P | P | | P | P | | | | | P | P | P | ✓ |
| Bed and breakfast, home stay | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | | | | | | | | | | | | | ✓ |
| Boarding/Rooming house | | | | | | | | SP | SP | SP | | | | | | | | | | | | | | | |
| Convents or monasteries | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | P | P | | | | | | | | P | P | P | ✓ |
| Dormitory | | | | | | | | | | | | | Pa | Pa | | Pa | Pa | Pa | Pa | | Pa | Pa | Pa | Pa | |
| Extended stay hotel/motel | | | | | | | | | | | | | SP | | | SP | SP | | | | | SP | SP | SP | ✓ |
| Fraternity house or sorority house | | | | | | | | | | | | | Pa | | | | | | | | | Pa | Pa | | |
| Hotel/Motel | | | | | | | | | | | | | P | | | P | P | P | | | | P | P | P | |
| Nursing care facility or hospice | | | | | | | | | | P | | | P | P | | P | P | | | | P | P | P | P | |
| Personal care home, community, 7 or more | | | | | | | SP | SP | SP | SP | | | P | SP | SP | P | P | P | | | SP | SP | SP | SP | ✓ |
| Personal care home, group, 4-6 | SP | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | ✓ |
| Child caring institution, group, 4-6 | SP | SP | SP | SP | SP | SP | | | SP | SP | SP | SP | P | P | SP | P | P | | | | SP | SP | SP | SP | ✓ |
| Child caring institution, community, 7 or more | | | | | | | SP | SP | SP | SP | | | P | SP | SP | P | P | P | | | SP | SP | SP | SP | ✓ |
| Senior housing | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | | | | | SP | SP | SP | SP | ✓ |
| Shelter for homeless persons, 7-20 | | | | | | | | | | | | | SP | SP | | SP | SP | | | | | | | | ✓ |
| Shelter for homeless persons for no more than six (6) persons | | | | | | | | | | | | | SP | SP | | SP | | | | | | | | | ✓ |
| Transitional housing facility, 7-20 | | | | | | | | | | | | | SP | SP | | SP | SP | | | | | | | | ✓ |
| **INSTITUTIONAL/PUBLIC** | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Community Facilities** | | | | | | | | | | | | | | | | | | | | | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Cemetery, columbarium, mausoleum | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | | P | P | | | | P | | | | | | | ✓ |
| Club, order or lodge, fraternal, non-commercial | | | | | | | | | | | | | P | P | | P | P | P | P | | P | P | P | P | |
| Coliseum or stadium/not associated with church or school | | | | | | | | | | | | | | | | P | P | P | | | | | SP | P | ✓ |
| Funeral home, mortuary | | | | | | | | | | | | | P | P | | P | P | | | | | | | | |
| Golf course or clubhouse, public or private | P | P | P | P | P | P | P | | | | P | | P | P | | | P | P | P | | | | | | ✓ |
| Government facilities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| Hospital or accessory ambulance service | | | | | | | | | | | | | P | P | | | | | P | | | | P | P | |
| Library or museum | | | | | | | | P | P | P | | | P | P | P | P | P | P | | | P | P | P | P | |
| Cultural facilities | | | | | | | | SP | SP | SP | | | SP | SP | | SP | SP | SP | SP | | SP | SP | SP | SP | |
| Recreation club | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | | | | | | P | | | | | | SP | ✓ |
| Neighborhood or subdivision clubhouse or amenities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | | | | | | P | P | P | P | ✓ |
| Places of worship | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | | SP | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |
| Recreation, outdoor | | | | | | | | | | | | | | | | | P | P | P | P | | | | | ✓ |
| Swimming pools, commercial | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | P | P | | P | P | P | P | | | Pa | Pa | Pa | ✓ |
| Tennis courts, swimming pools, play or recreation areas, community | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | P | P | | P | P | P | P | | | Pa | Pa | Pa | ✓ |
| **Education** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Colleges, universities, research and training facilities | | | | | | | | | | | | | P | P | | P | P | P | P | | P | P | P | P | |
| Private educational services, home occupation | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | | Pa | | | | | | P | | | Pa | Pa | | | ✓ |
| Private kindergarten, elementary, middle or high schools | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | SP | P | P | | P | P | P | | | | SP | SP | SP | ✓ |
| Vocational schools | | | | | | | | | | | | | P | P | | P | P | P | SP | SP | P | P | P | P | ✓ |
| Specialized schools | | | | | | | | SP | SP | SP | | | P | P | P | P | P | P | SP | SP | P | P | P | P | ✓ |
| **COMMERCIAL** | | | | | | | | | | | | | | | | | | | | | | | | | |
| **Automobile, boat and trailer sales and service** | | | | | | | | | | | | | | | | | | | | | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Automobile or truck rental or leasing facilities | | | | | | | | | | | | | | | | SP | P | | P | P | | | | | ✓ |
| Automobile brokerage | | | | | | | | | | | | | P | P | | P | P | | P | | | P | P | P | ✓ |
| Auto recovery, storage | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Automobile repair or maintenance, minor | | | | | | | | | | | | | | | | SP | SP | | P | | | | | | ✓ |
| Automobile repair, major | | | | | | | | | | | | | | | | | SP | | P | P | | | | | ✓ |
| Automobile sales or truck sales | | | | | | | | | | | | | | | | SP | P | | P | P | | | | | ✓ |
| Automobile service stations | | | | | | | | | | | | | | | SP | SP | SP | | P | P | | | | | ✓ |
| Automobile upholstery shop | | | | | | | | | | | | | | | | | P | | P | P | | | | | |
| Automobile wash/wax service | | | | | | | | | | | | | | | | SP | P | | P | | | | | | ✓ |
| Boat sales | | | | | | | | | | | | | | | | SP | P | | P | | | | | | ✓ |
| Retail automobile parts or tire store | | | | | | | | | | | | | | | | SP | P | | P | | | | | | ✓ |
| Service area, outdoor | | | | | | | | | | | | | | | | | Pa | | Pa | Pa | | | | | ✓ |
| Trailer or RV salesroom and lot | | | | | | | | | | | | | | | | SP | P | | P | | | | | | ✓ |
| **Office** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Accounting office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| Building or construction office | | | | | | | | Pa | Pa | Pa | | | P | P | | P | P | P | P | P | | | | | ✓ |
| Building, landscape, heavy construction contractor office (material, equipment, storage) | | | | | | | | | | | | | | | | | P | P | P | P | | | | | ✓ |
| Engineering or architecture office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | P | P | P | P | P | P | |
| Finance office or banking | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| General business office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| Insurance office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| Legal office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| Medical office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| Real estate office | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | P | | | P | P | P | P | |
| **Recreation and Entertainment** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Adult entertainment establishments | | | | | | | | | | | | | | | | | P | | P | | | | | | ✓ |
| Adult service facility | | | | | | | | | | | | | | | | | P | | P | P | | | | | ✓ |
| Drive-in theater | | | | | | | | | | | | | | | | | P | | P | P | | | | | ✓ |
| Fairground or amusement park | | | | | | | | | | | | | | | | | P | | P | P | | | | | ✓ |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Indoor recreation (bowling alleys, movie theatres and other activities conducted wholly indoors) | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | |
| Nightclub or late night establishment | | | | | | | | | | | | | | | | SP | SP | SP | SP | SP | SP | SP | SP | SP | ✓ |
| Outdoor recreation (miniature golf, batting cages, tennis, Go-cart and other outdoor activities) | SP | | | | | | | | | | | | | | | | P | P | SP | | | | | | ✓ |
| Special events facility | SP | | | | | | | | | | | | P | P | | P | P | P | P | | P | P | P | P | |
| Theaters with live performance, assembly or concert halls, or similar entertainment within enclosed building | | | | | | | | | | | | | P | P | | P | P | | | | | | P | P | |
| **Retail** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alcohol outlet, retail sales, primary or accessory | | | | | | | | | | | | | | | SP | SP | SP | P | P | | SP | SP | SP | SP | ✓ |
| Apparel or accessories store | | | | | | | | | | | | | | | P | P | P | | | | P | P | P | P | |
| Art gallery | | | | | | | | Pa | Pa | Pa | | | | | P | P | P | P | | | P | P | P | P | |
| Book, greeting card, or stationery store | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Camera or photography | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| | | | | | | | | | | | | | | | | | | | | | | | | | ✓ |
| Computer or computer software store | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Convenience store (see alcohol outlet or fuel pumps accessory) | | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | ✓ |
| Drive-through facilities (other than restaurants) in Activity Center character areas | | | | | | | | | | | | | | | | | | | | | SP | SP | SP | SP | ✓ |
| Drive-through facilities (other than restaurants) in all other character areas | | | | | | | | | | | | | P | | P | P | P | P | P | | | | | | |
| Farm or garden supply store | | | | | | | | | | | | | | | P | P | P | P | P | | P | P | | | |
| Farmer's market, permanent | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |
| Farmer's market, temporary/seasonal | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| Florist | | | | | | | | | | | | | Pa | | P | P | P | P | | | P | P | P | P | |
| Fortune Telling | | | | | | | | | | | | | | | | | SP | P | P | | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Specialty food stores (e.g., coffee, ice cream) (see alcohol outlet) | | | | | | | | | | | | | Pa | | P | P | P | P | | | P | P | P | P | |
| Fuel dealers, manufacturers or wholesalers | | | | | | | | | | | | | | | | | P | | P | P | | | | | |
| Fuel pumps, accessory | | | | | | | | | | | | | | | SP | SP | SP | | P | P | | | | | ✓ |
| Gift, novelty, or souvenir store | | | | | | | | | | | | | Pa | | P | P | P | P | | | P | P | P | P | |
| Gold buying, precious metals | | | | | | | | | | | | | | | | Pa | P | P | | | | | | | |
| Grocery stores (see alcohol outlet) | | | | | | | | Pa | Pa | Pa | | | | | P | P | P | P | | | P | P | P | P | |
| Hardware store or other building materials store | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | |
| Hobby, toy or game store | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Jewelry store | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Music or music equipment store (retail) | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Liquor store (see alcohol outlet) | | | | | | | | | | | | | | | SP | SP | SP | P | P | P | SP | SP | SP | SP | ✓ |
| News dealer or news store | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | |
| Office supplies and equipment store | | | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | P | |
| Pawn shop, title loan | | | | | | | | | | | | | | | | | SP | P | P | | | | | | ✓ |
| Pet supply store | | | | | | | | | | | | | | | P | P | P | P | P | | P | P | | | |
| Pharmacy or drug store (see alcohol outlet) | | | | | | | | Pa | Pa | Pa | | Pa | Pa | Pa | P | P | P | P | | | P | P | P | P | |
| Radio, television or consumer electronics store | | | | | | | | | | | | | | | | P | P | P | | | P | P | P | P | |
| Retail, 5,000 sf or less | | | | | | | | Pa | Pa | Pa | | | Pa | Pa | P | P | P | P | P | P | P | P | P | P | |
| Retail, over 5,000 sf (see also shopping center) | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Retail warehouses/wholesales providing sales of merchandise with no outdoor storage | | | | | | | | | | | | | | | | P | P | P | P | | P | P | P | P | |
| Shopping center | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Specialty store | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Sporting goods or bicycle sale | | | | | | | | | | | | | | | P | P | P | P | | | P | P | P | P | |
| Tattoo Parlor and Piercing Studio | | | | | | | | | | | | | | | | SP | P | P | | | | | | | |
| Thrift, secondhand, antique store | | | | | | | | | | | | | | | | P | P | | P | | | | | | |
| Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage | | | | | | | | | | | | | P | P | | P | P | P | P | P | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Variety store | | | | | | | | | | | | | Pa | | P | P | P | P | | | P | P | P | P | |
| **Temporary Commercial Uses** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Temporary outdoor sales, seasonal | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| Temporary produce stand | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| Temporary outdoor retail sales | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| Temporary outdoor events | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| Temporary trailer, as home sales office or construction trailer | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| **Restaurant/Food establishments** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Brewpub/Beer Growler | | | | | | | | | | | | | | | P | P | P | | P | | P | P | P | P | |
| Catering establishments | | | | | | | | | | | | | P | P | | P | P | | P | | P | P | P | P | |
| Restaurants (acc. to hotel/motel) | | | | | | | | | | | | | P | | | P | P | P | | | | P | P | P | |
| Restaurants (non-drive-thru) | | | | | | | | Pa | Pa | Pa | | Pa | Pa | Pa | P | P | P | | P | | P | P | P | P | |
| Restaurants with a drive-thru configuration in Activity Center character area | | | | | | | | | | | | | | | | SP | SP | | | | SP | | | | ✓ |
| Restaurants with a drive-thru configuration (all other character areas) | | | | | | | | | | | | | | | | P | P | | | | P | | | | ✓ |
| **Transportation and Storage** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Bus or rail stations or terminals for passengers | | | | | | | | | | | | | | | | SP | SP | | SP | SP | SP | SP | SP | SP | |
| Heliport | | | | | | | | | | | | | SP | | | SP | SP | SP | P | P | | | SP | SP | ✓ |
| Parking, commercial lot | | | | | | | | | | | | | Pa | | | P | P | P | P | | P | P | P | P | ✓ |
| Parking, commercial garage | | | | | | | | | | | | | Pa | | | P | P | P | P | | P | P | P | P | |
| Taxi, ambulance or limousine service, dispatching or storage. | | | | | | | | | | | | | | | | | P | P | P | P | | | | | ✓ |
| Taxi, ambulance, limousine dispatch office only (no vehicle parking) | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | P | P | P | |
| Taxi stand | | | | | | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | |
| **Services** | | | | | | | | | | | | | | | | | | | | | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Adult day care center - 7 or more | | | | | | | | | SP | SP | SP | | P | P | P | P | P | P | P | | | P | P | P | ✓ |
| Adult day care facility - up to 6 | | | | | | | | SP | SP | SP | | | | | P | P | P | P | | | P | P | P | P | ✓ |
| Animal hospitals, veterinary clinic | | | | | | | | | | | | | | | P | P | P | P | P | P | P | P | | | ✓ |
| Animal shelter/rescue center | SP | | | | | | | | | | | | | | | | P | P | P | P | | | | | ✓ |
| Banks, credit unions or other similar financial institutions | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | | P | | P | P | P | P | |
| Barber shop/ beauty salon or similar establishments | | | | | | | | Pa | Pa | Pa | | | Pa | P | P | P | P | P | P | | P | P | P | P | |
| Check cashing establishment, primary | | | | | | | | | | | | | | | | | SP | | P | | | | | | ✓ |
| Check cashing establishment, accessory | | | | | | | | | | | | | | | | P | P | | P | P | P | P | P | P | ✓ |
| Child day care center (Kindergarten) - 7 or more | | | | | | | | P | P | P | P | | P | P | P | P | P | P | P | | P | P | P | P | ✓ |
| Child day care facility - up to 6 | SP | SP | SP | SP | SP | SP | SP | SP | SP | P | | SP | P | P | P | P | P | P | | | | P | P | P | ✓ |
| Coin laundry | | | | | | | | Pa | Pa | Pa | | | | | P | P | P | | | | | P | P | P | |
| Dog day care | | | | | | | | SP | SP | SP | | | | | | P | P | | P | P | P | SP | SP | SP | ✓ |
| Dog grooming | | | | | | | | Pa | Pa | Pa | | | | | | P | P | | P | P | P | P | P | P | ✓ |
| Dry cleaning agencies, pressing establishments, or laundry pick-up stations | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | | P | P | P | P | P | P | |
| Fitness center | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | Pa | | P | P | P | P | P | | P | P | P | P | P | P | |
| Kennel, breeding or boarding | SP | | | | | | | | | | | | | | Pa | Pa | P | | P | P | | | | | ✓ |
| Kennel, commercial | SP | | | | | | | | | | | | | | | P | P | | P | P | | | | | |
| Kennel, noncommercial | SP | SP | SP | SP | SP | | | | | | | | | | | | | | | | | | | | |
| Landscape business | | | | | | | | | | | | | | | | P | P | | P | P | | | | | |
| Massage Establishment | | | | | | | | Pa | Pa | P | | | | Pa | P | P | P | | P | | P | P | P | P | |
| Mini-warehouse | | | | | | | | | | | | | | | | SP | SP | P | P | P | | | | | ✓ |
| Multi-warehouse | | | | | | | | | | | | | | | | SP | SP | P | P | P | | | | | ✓ |
| Outdoor storage, commercial | | | | | | | | | | | | | | | | | P | | P | P | | | | | ✓ |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Personal services establishment | | | | | | | | Pa | Pa | P | | Pa | Pa | Pa | P | P | P | | P | | P | P | P | P | |
| Photoengraving, typesetting, electrotyping | | | | | | | | | | | | | | | | | P | | P | P | P | P | | | |
| Photographic studios | | | | | | | | | | | | | P | P | P | P | P | | P | | P | P | P | P | |
| Plumbing, HV/AC equipment establishments with no outdoor storage | | | | | | | | | | | | | | | | P | P | | P | P | | | | | |
| Publishing or printing establishments | | | | | | | | | | | | | P | P | | | P | | P | P | | | | | |
| Quick copy printing store | | | | | | | | | | | | | P | P | P | P | P | | P | P | P | P | P P | | |
| **Services, Medical and Health** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ambulance service or emergency medical services, private | | | | | | | | | | | | | | | | P | P | | P | | | | | | |
| Health services clinic | | | | | | | | | | | | | P | P | P | P | P | P | P | | P | P | P | P | |
| Home healthcare service | | | | | | | | | | | | | P | P | | P | P | | P | | P | P | P | P | |
| Kidney dialysis center | | | | | | | | | | | | | P | P | | P | P | | P | | P | P | P | P | |
| Medical or dental laboratories | | | | | | | | | | | | | P | P | | P | P | | P | P | | | SA | SA | |
| **Services, Repair** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Furniture upholstery or repair; home appliance repair or service | | | | | | | | | | | | | | | | P | P | | P | P | | | | | |
| Personal service, repair (watch, shoes, jewelry) | | | | | | | | Pa | Pa | Pa | | | P | P | P | P | P | | P | | P | P | P | P | |
| Service area, outdoor | | | | | | | | | | | | | | | | | Pa | | Pa | P | | | | | ✓ |
| **INDUSTRIAL** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Alcohol or alcoholic beverage manufacturing | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Alternative energy production | | | | | | | | | | | | | | | | | | SP | SP | SP | | | | | |
| Automobile/truck manufacturing | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Brick, clay, tile, or concrete products terra cotta manufacturing | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Building materials or lumber supply establishment | | | | | | | | | | | | | | | | | P | | P | | | | | | |
| Cement, lime, gypsum, or plaster of Paris manufacturing | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Compressed gas fuel station | | | | | | | | | | | | | | | | | SP | | P | P | | | | | |
| Chemical manufacture, organic or inorganic | | | | | | | | | | | | | | | | | | | | P | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Contractor, general (See also Building or Construction Office) | | | | | | | | | | | | | | | | | P | | P | P | | P | P | | ✓ |
| Contractor, heavy construction, outside storage | | | | | | | | | | | | | | | | | P | | P | P | | | | | ✓ |
| Contractor, special trade | | | | | | | | | | | | | | | | | P | | P | P | | | | | |
| Crematoriums | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Distillation of bones or glue manufacture | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Dry cleaning plant | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Dye works | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Explosive manufacture or storage | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Fabricated metal manufacture | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Fat rendering or fertilizer manufacture | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Fuel dealers, manufactures or wholesalers | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| General aviation airport | | | | | | | | | | | | | | | | | | | SP | SP | | | | | ✓ |
| Heavy equipment repair service or trade | | | | | | | | | | | | | | | | | P | | P | P | | | | | |
| Ice manufacturing plant | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Incidental retail sales of goods produced or processed on the premises | | | | | | | | | | | | | | | | | | | Pa | Pa | | | | | |
| Incineration of garbage or refuse when conducted within an enclosed plant | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Industrial, heavy | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Industrial, light | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Intermodal freight terminal, bus or rail freight or passenger terminal, or truck terminal | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Leather manufacturing or processing | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Light malt beverage manufacturer (See also Brewpub) | | | | | | | | | | | | | | | Pa | Pa | Pa | | P | P | Pa | Pa | Pa | Pa | |
| Light manufacturing | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Manufacturing, heavy | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Manufacturing operations not housed within a building | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Mines or mining operations, quarries, asphalt plants, gravel pits or soil pits | | | | | | | | | | | | | | | | | | | SP | SP | | | | | ✓ |
| Outdoor storage, industrial | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Paper or pulp manufacture | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Petroleum or inflammable liquids production, refining | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Radioactive materials: utilization, manufacture, processing or emission | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Railroad car classification yards or team truck yards | | | | | | | | | | | | | | | | | | | SP | SP | | | | | ✓ |
| Recovered materials facility wholly within a building | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Recovered materials processing wholly within a building | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Recycling collection | | | | | | | | | | | | | Pa | | Pa | Pa | Pa | | SP | SP | | | | | |
| Recycling plant | | | | | | | | | | | | | | | | | | | SP | SP | | | | | |
| Repair/manufacture of clocks, watches, toys, electrical appliances, electronic, light sheet metal products, equipment, machine tools, or machinery not requiring the use of press punch over 100 tons rated capacity or drop hammer | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Research, experimental or testing laboratories | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Rubber or plastics manufacture | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Salvage yard (Junkyard) | | | | | | | | | | | | | | | | | | | SP | SP | | | | | ✓ |
| Solid waste: general disposal, landfill, private industry disposal, handling facility, thermal treatment technology or hazardous/toxic materials including radioactive materials | | | | | | | | | | | | | | | | | | | | SP | | | | | ✓ |
| Smelting: copper, iron, zinc, or ore | | | | | | | | | | | | | | | | | | | | SP | | | | | |
| Storage yard, except vehicle | | | | | | | | | | | | | | | | | | | SP | P | | | | | ✓ |
| Storage yard for damaged or confiscated vehicles | | | | | | | | | | | | | | | | | | | SP | P | | | | | ✓ |
| Sugar refineries | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Tire retreading or recapping | | | | | | | | | | | | | | | | | | | P | P | | | | | |

Table 4.1 Use Table

**KEY:** P - Permitted use; Pa - Permitted as an accessory use; SA - Special administrative permit from Community Development Director; SP - Special land use permit (SLUP)

| Use | RE | RLG | R-100 | R-85 | R-75 | R-60 | RSM | MR-1 | MR-2 | HR-1,2,3 | MHP | RNC | OI | OIT | NS | C-1 | C-2 | OD | M | M-2 | MU-1 | MU-2 | MU-3 | MU-4,5 | See Section 4.2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Towing or wreckage service | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Transportation equipment manufacture | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Transportation equipment storage or maintenance (vehicle) | | | | | | | | | | | | | | | | | | | P | P | | | | | ✓ |
| Truck stop or terminal | | | | | | | | | | | | | | | | | | | P | SP | | | | | |
| Vehicle storage yard | | | | | | | | | | | | | | | | | | | P | P | | | | | |
| Warehousing or Storage | | | | | | | | | | | | | | | | | | P | P | P | | | | | |
| **COMMUNICATION - UTILITY** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amateur radio service or antenna | SP | SP | SP | SP | SP | SP | SP | | | | SP | | | | | | | | | | | | | | ✓ |
| Electric transformer station, gas regulator station or telephone exchange | | | | | | | | | | | | | | | | | | | | P | | | | | |
| Radio or television broadcasting studio | | | | | | | | | | | | | P | | | | P | | P | P | P | P | P | P | |
| Radio or television broadcasting transmission facility | | | | | | | | | | | | | Pa | | | | P | | P | P | | | | | |
| Satellite television antennae | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | | P | P | P | P | P | P | ✓ |
| **WIRELESS TELECOMMUNICATION (cell tower)** | | | | | | | | | | | | | | | | | | | | | | | | | |
| Attached wireless telecommunication facility, used for non-residential purposes (prohibited if used as residential) | SA | SA | SA | SA | SA | SA | SA | | | | | | | | | | | | | | | | | | ✓ |
| Stealth design up to 150' | | | | | | | | SP | SP | SP | | | | SP | SP | | | | | | SP | SP | SP | SP | ✓ |
| New support structure or stealth design up to 199' | | | | | | | | | | | | | SA | | | SA | SA | SA | SA | SA | | | | | ✓ |
| COW's (non-emergency or event, no more than 120 days) | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | SA | ✓ |
| COW's (declared emergency) | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |
| Attached wireless telecommunication facility | | | | | | | | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |
| Monopole or attached facility in utility company's easements or rights-of-way | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | ✓ |

# Article 4. Use Regulations

**27.4.1 DIVISION 1. OVERVIEW OF USE CATEGORIES AND USE TABLE ..... 3**
4.1.1 Overview ..... 3
4.1.2 Interpretation of unlisted uses ..... 3
4.1.3 Use table. ..... 4
**27.4.2 DIVISION 2. SUPPLEMENTAL USE REGULATIONS ..... 16**
4.2.1 Accessory buildings, structures, and uses ..... 16
4.2.2 Accessory buildings, structures, and uses: location, yard and building restrictions 16
4.2.3 Accessory dwelling unit, guesthouse, in-law suite ..... 17
4.2.4 Adult daycare center (7 or more clients) ..... 18
4.2.5 Adult daycare facility (up to 6 clients) ..... 18
4.2.6 Adult entertainment establishments, adult services facility ..... 18
4.2.7 Agriculture and forestry ..... 19
4.2.8 Alcohol outlets, retail, package liquor store ..... 21
4.2.9 Amateur radio service antenna structure ..... 21
4.2.10 Ambulance, taxi, and limousine services, dispatch, and storage ..... 21
4.2.11 Animal care facilities ..... 22
4.2.12 Antennas, satellite dishes, television receivers ..... 23
4.2.13 Automobile wash service, principal, accessory, detail or mobile ..... 23
4.2.14 Automotive sales and service; boat, trailer sales and service ..... 23
4.2.15 Bed and breakfast inn and home stay ..... 24
4.2.16 Building and construction office, landscape contractors ..... 25
4.2.17 Cemetery, columbarium, mausoleum, as principal use. ..... 25
4.2.18 Check cashing ..... 25
4.2.19 Child day care facility (up to 6 children), or child day care center (7 or more children) ..... 25
4.2.20 Coliseum, stadium, amphitheater ..... 26
4.2.21 Commercial recreation and entertainment. ..... 26
4.2.22 Crematories ..... 27
4.2.23 Drive-through facility, restaurant. ..... 28
4.2.24 Dwellings: cottage, mobile home, townhouse, urban single-family, and condominium ..... 28
4.2.25 Emission stations. ..... 29
4.2.26 Extended stay motels/hotels ..... 29
4.2.27 Farmers markets, temporary seasonal ..... 29
4.2.28 Fuel pumps, accessory ..... 31
4.2.29 Heavy industrial uses ..... 31
4.2.30 Heliport, General Aviation Airport. ..... 32
4.2.31 Home occupations and private educational uses ..... 32
4.2.32 Late-night establishments and night clubs ..... 33
4.2.33 Live-work ..... 34
4.2.34 Mines, mining, quarries, gravel pits, borrow pits, and sand pits ..... 34
4.2.35 Mini-warehouses ..... 35
4.2.36 Moving buildings, requirements ..... 35
4.2.37 Outdoor display and seating ..... 35
4.2.38 Outdoor storage of materials, supplies, equipment or vehicles ..... 36
4.2.39 Parking, commercial lot. ..... 37
4.2.40 Pawn shops ..... 37
4.2.41 Personal care homes and child caring institutions ..... 37
4.2.42 Places of worship, convents; monasteries; temporary religious meetings ..... 38
4.2.43 Private elementary, middle and high school ..... 38
4.2.44 Salvage yard, junkyard. ..... 39
4.2.45 School, specialized and vocational ..... 39
4.2.46 Senior housing: independent and assisted living, nursing, and continuing care ..... 39

4.2.47 Service areas, outdoor, for nonresidential uses ..... 41
4.2.48 Shelters for homeless or battered persons and transitional housing facilities ..... 41
4.2.49 Solid waste facility regulations ..... 41
4.2.50 Swimming pool, community ..... 42
4.2.51 Telecommunications towers and antennas ..... 42
4.2.52 Tennis court, accessory to residential ..... 42
4.2.53 Transit shelters ..... 42
4.2.54 Truck stop ..... 42
4.2.55 Urban garden or community gardens ..... 42
4.2.56 Utility structure necessary for transmission or distribution of service ..... 44
4.2.57 Wireless telecommunications (cell tower) ..... 44
**27.4.3 DIVISION 3. TEMPORARY USE REGULATIONS ..... 56**
4.3.1 Temporary outdoor uses: general requirements ..... 56
4.3.2 Duration, frequency and hours of operation of temporary outdoor uses ..... 56
4.3.3 Temporary outdoor seasonal activities ..... 57
4.3.4 Temporary outdoor retail sales displays ..... 58
4.3.5 Temporary outdoor events ..... 59
4.3.6 Yard sales ..... 59
4.3.7 Temporary buildings, use and construction of ..... 60

# Article 4. Use Regulations

## 27.4.1 DIVISION 1. OVERVIEW OF USE CATEGORIES AND USE TABLE

### 4.1.1 Overview.

The regulations contained within this Article 4 shall apply to all zoning districts within the City of Tucker except as otherwise specified herein. Certain uses require imposition of additional regulations to mitigate environmental, visual and infrastructure impacts. Dimensions, site location and architectural requirements shall be indicated on required site development plans.

### 4.1.2 Interpretation of unlisted uses.

Where a particular use is not specifically listed in Table 4.1 Use Table, the community development director shall have the authority to permit the use if the use is similar to uses permitted by this Article. The community development director shall give due consideration to the purpose and intent statements contained in this Zoning Ordinance concerning the base zoning districts involved, the character of the uses specifically identified and the character of the uses in question.

### 4.1.3 Use table.

Table 4.1 indicates the permitted uses within the base zoning districts. Even though a use is listed as an allowable use within a particular base zoning district, additional use restrictions may apply based on the applicable overlay zoning district requirements specified in Article 3: Overlay Districts.

A. The uses listed in Table 4.1 shall be permitted only within the zoning districts identified, and no use shall be established and no structure associated with such use shall be erected, structurally altered or enlarged unless the use is permitted as:

   1. A permitted use (P);
   2. A special use (SP) subject to the special land use permit application procedures specified in Article 7;
   3. An administratively approved use (SA) subject to the special administrative permit procedures specified in Article 7;
   4. An accessory use (Pa) as regulated by this Article 4. Table 4.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered principal uses for the zoning classification.
   5. Uses lawfully established prior to the effective date of this Zoning Ordinance.

B. Any use not listed in Table 4.1 below or interpreted to be allowed by the community development director pursuant to Section 4.1.2 is prohibited. Any applicant denied a permit to allow a use of property in a zoning district other than as provided in this section may file an appeal before the zoning board of appeals as provided in Article 7.

C. If there is a conflict between Table 4.1 and the text of this chapter, the text shall prevail.

Table 4.1 Use Table

Table 4.1 Use Table, Cont'd

Table 4.1 Use Table, Cont'd

## 27.4.2 DIVISION 2. SUPPLEMENTAL USE REGULATIONS

### 4.2.1 Accessory buildings, structures, and uses.

Accessory buildings, structures and uses determined by the director to be normally incidental to one or more permitted principal uses are hereby permitted as follows:

A. Accessory structures allowed in all residential districts may include, but are not limited to: garages, storage sheds, and personal recreational facilities such as swimming pools and tennis courts.

B. Accessory structures must be constructed in conjunction with or after the principal building is constructed.

### 4.2.2 Accessory buildings, structures and uses: location, yard and building restrictions.

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

A. All accessory buildings, accessory structures, and accessory uses of land, including off-street parking, shall be located on the same lot as the principal building(s) to which they are accessory.

B. All accessory structures in which effluent is produced shall be connected to water and sewer if the primary structure is connected to water and sewer.

C. *Yard and setbacks*.

1. All accessory buildings or structures shall be located in the rear yard of the lot, with the exception of ATM bank machines which are also allowed in the front or side yard.

2. Accessory structures must not encroach in the minimum yard setbacks for the district in which they are located.

3. Accessory buildings or structures shall meet the minimum side yard setback for the district or ten (10) feet, whichever is less, and shall not be located closer than ten (10) feet to a rear lot line in any district.

4. Basketball goals attached to the principal residential structure or erected adjacent to and abutting the driveway of the principal residential structure shall be allowed in the front yard but not within the right-of-way of a public street. No basketball goal shall be erected in such a manner that the play area for the basketball goal is located within any portion of a public right-of-way.

5. Additional supplemental regulations in this Article regarding minimum yards and setbacks for specific accessory buildings, structures, or uses of land may also apply.

D. *Corner lot, rear yards*. Where the rear yard of a corner lot adjoins the side yard of a lot in a residential district, no accessory building or structure shall be located closer than fifteen (15) feet to the rear property line and no closer to the side street right-of-way line than the principal building.

E. *Material*s. Accessory structures that are buildings or sheds shall be constructed out of a material similar to the principal structure.

F. No accessory building or structure in a nonresidential district shall be used by anyone other than employees of the owner, lessee or tenant of the premises, unless otherwise allowed by provisions of this chapter.

G. Where an accessory building or structure is attached to the principal building by a breezeway, passageway or similar means, the accessory building or structure shall comply with the yard setback requirements of the principal building to which it is accessory.

H. Setbacks for swimming pools, as accessory structures in a residential district, shall be measured from the edge of the decking to the applicable property line. No part of the decking for an accessory swimming pool shall be within five (5) feet of a side or rear property line.

I. Except as expressly provided elsewhere in this chapter, an accessory structure shall be limited to the lesser of twenty-four (24) feet in height or the height of the principal structure, whichever is less.

J. The floor area of an accessory building(s) that is accessory to a single-family, two-family, or three-family residential structure shall not exceed the maximum floor areas set forth in Table 4.2 below.

Table 4.2 Maximum Accessory Building Floor Area – Select Residential Structures

| Maximum Accessory Building Floor Area | |
|---|---|
| **Property Size** | **Maximum Floor Area** |
| 0 to 0.999 acres | 900 square feet |
| 1 to 4.999 acres | 1,200 square feet |
| 5 to 9.999 acres | 2,000 square feet |
| 10 or more acres | No size limit |

### 4.2.3 Accessory dwelling unit, guesthouse, in-law suite.

A. On parcels zoned for residential single-family dwellings as a principal use, an accessory dwelling unit may be allowed as one of the following:

1. attached (addition to existing building);
2. detached; or
3. within existing house (renovations to basements, wings or attics converted into separate living unit).

B. The heated floor area of a dwelling unit shall not include the square footage of the garage.

C. Attached and detached accessory dwelling units are permitted by right, subject to the following:

1. The minimum lot size shall be ten-thousand (10,000) square feet.
2. The accessory dwelling unit shall conform to applicable standards of the state and city building codes for residential units as principal uses.
3. The property owner, who shall include titleholders and contract purchasers, must occupy either the principal dwelling unit or the accessory dwelling unit as their residence, and possess a Homestead Exemption.
4. The appearance of the accessory dwelling unit shall be similar to that of the principal residence.
5. Only one accessory dwelling unit of any type shall be permitted on a lot.
6. Prior to issuance of a building permit for an accessory dwelling unit, an applicant must provide evidence to the community development director showing that existing or proposed septic tank facilities, as applicable, are adequate to serve both the principal dwelling and the accessory dwelling unit.
7. Any detached accessory dwelling unit shall be located in the rear yard.
8. A second kitchen facility may be constructed and used within a single-family residence.
9. Paved off-street parking shall be provided for one (1) additional vehicle.
10. Accessory dwelling units shall not exceed 900 square feet of heated floor area and shall not exceed twenty-four (24) feet in height.
11. The main entrance shall not face the closest property line. Windows, doors, balconies, porches and decks shall be sited to ensure the privacy of neighbors.

12. For parcels located in a designated historic district and individually designated historic structures, the placement of an accessory dwelling unit and its architectural design shall require a Certificate of Appropriateness from the Historic Preservation Commission.

### 4.2.4 Adult daycare center (7 or more clients).

Each adult day care center shall be subject to the following requirements:

A. All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

B. Each adult day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

### 4.2.5 Adult daycare facility (up to 6 clients).

Each adult day care facility shall be subject to the following requirements:

A. All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

B. Each adult day care facility shall provide off-street parking spaces as required by the applicable zoning district.

C. No adult day care facility shall be located within one thousand (1,000) feet of another adult day care facility.

D. No adult day care facility may be established and operated until a permit to do so has been obtained in accordance with the procedures set forth below.

1. *Permit application*. Persons seeking to operate an adult day care facility in the city must file a permit application with the Community Development Department. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day care facility will meet and be operated in compliance with all applicable state laws and regulations and with all ordinances and regulations of the city. The Community Development Department may require clarification or additional information from the applicant that is deemed necessary by the city to determine whether the proposed service will meet applicable laws, ordinances and regulations.

2. Notwithstanding the above provisions, if a proposed adult day care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has first been obtained from the state.

### 4.2.6 Adult entertainment establishments, adult services facility.

A. The regulations that follow and that otherwise are contained in the City of Tucker Code of Ordinances regarding adult entertainment establishments constitute content-neutral requirements that have been carefully designed to minimize adverse impacts caused by secondary effects of these establishments. The city finds that studies in other jurisdictions, including but not limited to studies referenced in resolution XX-XXX, et seq. of the Code, demonstrating a correlation between these establishments and such negative secondary effects as diminishing market values in neighboring residential and related areas, increasing crime rates, difficulty in securing residential and related financing, an influx of patrons to these establishments from outside the immediate neighboring areas, and similar effects, are pertinent and relevant to the situation that exists in the City of Tucker. The city further finds that there is evidence in the City of Tucker demonstrating a correlative link between adult entertainment establishments and pernicious secondary effects upon surrounding communities. The city finds that adoption of regulations restricting these establishments to certain districts and imposing distance and development standards is consistent with the general comprehensive planning standards and policies of the city, will reduce the negative secondary effects caused by these establishments, and will afford protection to residential uses

and other uses consistent with residential uses so as to protect the public health, safety and welfare while respecting and protecting the free speech rights of these establishments.

B. Adult entertainment establishments shall be subject to the following standards:

1. An adult entertainment establishment shall be located no closer than one-thousand (1,000) feet from another adult entertainment establishment. The measurement of distances for purposes of this paragraph shall be from structure to structure along the shortest possible course (i.e., "as the crow flies"), regardless of any customary or common route or path of travel.

2. An adult entertainment establishment shall be located on property that is located no closer than one-thousand (1,000) feet from a residential district or from property being used for residential purpose. The measurement of distances for purpose of this paragraph shall be from property line to property line along the shortest possible course (i.e., "as the crow flies"), regardless of any customary or common route or path of travel.

3. An adult entertainment establishment shall be located no closer than five-hundred (500) feet from any church and no closer than one-thousand (1,000) feet from any governmental facility, residence, park, library, school ground, day care, or college campus. The measurement of distances for purposes of this paragraph shall be from property line to property line along the shortest possible course (i.e., "as the crow flies"), regardless of any customary or common route or path of travel.

4. The minimum lot area for an adult entertainment establishment shall be two (2) acres.

5. Adult entertainment establishments shall be located on lots with a minimum of one hundred fifty (150) feet of road frontage on a public road, street, or highway.

6. In addition to development standards governing C-2 and M zoning districts, buildings established in connection with an adult entertainment establishment shall be set back at least forty (40) feet from any other business establishment.

7. Adult entertainment establishments shall be required to provide one automobile parking space for each seventy-five (75) square feet of gross building area.

### 4.2.7 Agriculture and forestry.

A. *Agricultural produce stands.* Agricultural produce stands shall comply with the front yard setback requirement for the district in which they are located, and shall provide a minimum of four (4) off-street parking spaces. If temporary, mobile, or farmers market, see Temporary uses, 4.3.1.

B. *Commercial greenhouses and plant nurseries*. Any structure used as a commercial greenhouse or plant nursery shall be set back no less than one hundred (100) feet from any adjoining property that is zoned for residential use.

C. *Dairies*. Notwithstanding Section 4.2.7(E), any structure used for housing or processing of dairy cows shall be set back not less than two hundred (200) feet from property lines, and all dairy cows shall be kept at least one hundred (100) feet from property lines.

D. *Structures used in production and processing of fruits, tree nuts and vegetables.* Any structure used in the processing or production of fruits, tree nuts, and vegetables that uses mechanized equipment or is not fully enclosed in a building, that emits noise, dust or vibration, shall be setback no less than fifty (50) feet from property zoned or used for residential purposes.

E. *Livestock.*

1. Livestock regulations apply to animals over twelve (12) months of age.

2. Livestock shall only be permitted on a lot containing two (2) or more acres, and there shall be no more than two (2) animals, per fenced acre for horses, llamas, mules, asses, cows or large aviary such as emus; and no more than three (3) animals per fenced acre for sheep or goats.

3. Except as otherwise provided herein, any structure used for housing or processing of livestock shall be set back not less than one hundred (100) feet from any property line.
4. Dwarf livestock may be kept at up to two (2) per fifty (50) square feet of fenced area, with no minimum lot size, except lots less than ten thousand (10,000) square feet shall be limited to a total of three (3) dwarf livestock animals.
5. Structures for housing dwarf livestock shall be setback not less than ten (10) feet from any property line.
6. Fenced areas for livestock may not include lot area covered by the principal structure or driveway.
7. A structure providing at least one hundred (100) square feet of floor space per animal for housing horses, llamas, mules, ass, cow or large aviary such as emus is required, and at least twenty-five (25) square feet of floor space per animal is required for housing sheep or goats. A structure housing dwarf livestock shall provide three (3) square feet per animal.
8. Pigs and hogs are prohibited, except pot-bellied pigs. Pot-bellied pigs shall be treated as livestock, and subject to the standards for sheep and goats.
9. Livestock is not permitted to run at-large beyond the confines of its owner's property.
10. Parking of livestock trailers and recreation vehicles related to the livestock shall comply with the parking standards in Article 6.
11. Composted animal waste can be used as fertilizer for the purpose of enriching the property owner's soil.
12. Animals must be kept under sanitary conditions and shall not be a public nuisance.
13. Disposal of dead livestock shall be subject to the DeKalb County Sanitation rules and regulations or requirements.

F. *Livestock sales pavilion or abattoirs.* Livestock sales pavilions and/or abattoirs shall be operated in accordance with state and county health regulations. All buildings shall be located at least one hundred (100) feet from any property line. All animals to be processed shall be fenced at least one hundred (100) feet from any property zoned or used for residential purposes.

G. *Riding stables*. Riding stables shall be established on a lot having an area of not less than ten (10) acres. Any structure that houses animals used as part of the riding stable shall be located at least one hundred (100) feet from any property line. All animals shall be fenced at least twenty (20) feet from any property line.

H. *Temporary or portable sawmill*. The time limit for any permit for a temporary or portable sawmill shall not exceed six (6) months. A temporary or portable sawmill may only process timber removed from the property on which the sawmill is located. Operation of a temporary or portable sawmill shall be set back not less than five hundred (500) feet from any residential structure other than the owner's.

I. *Keeping of chickens, pigeons*.

1. The minimum fenced yard area for chickens shall be twenty-five (25) square feet per hen.
2. Chickens and pigeons must be housed at least twenty (20) feet from any property line, and fifty (50) feet from any residence other than the owner's.
3. Any structure housing chickens and pigeons must be located in the rear yard if a principal building exists.
4. The minimum lot size for the keeping of chickens or pigeons is ten thousand (10,000) square feet. Fenced area for chickens shall comply with the setback requirements for accessory structures.

Chickens and pigeons and associated structures and fencing shall comply with relevant articles of Chapters 16 and 18, relating to noise and property maintenance.

5. No roosters are allowed.
6. The maximum number of hens shall be one (1) hen per two thousand (2,000) square feet of lot size.
7. Each coop shall have at least four (4) square feet of floor space per chicken over four (4) months old. For Bantams, a variety defined as miniature, each coop shall have one (1) square foot of floor area per chicken over four (4) months old.
8. Chickens must be kept securely in an enclosed yard or pen at all times.
9. Chickens are only permitted as pets or for egg production; the chickens cannot be kept for slaughter.
10. Composted animal waste can be used as fertilizer for the purpose of enriching the soil of the owner's property.
11. Animals must be kept under sanitary conditions and shall not be a public nuisance.

J. *Beekeeping.*

1. No more than two (2) apiary colonies are allowed per one-quarter (0.25) acre.
2. Apiary colonies must be setback from all property lines a minimum of ten (10) feet.
3. Apiary colonies must be located in the side or rear yard if a principal building exists.
4. Apiary colonies must be maintained responsibly with adequate space and management techniques to prevent overcrowding and swarming.
5. In any instance in which a colony becomes a nuisance, the beekeeper must re-queen the hive.

### 4.2.8 Alcohol outlets, retail, package liquor store.

A. Package stores and liquor stores, developed as a primary use in a freestanding building, must comply with City of Tucker ordinances pertaining to licensing requirements for a retail package liquor store.

B. Alcohol outlets in the NS (Neighborhood Shopping) District may only be permitted as an accessory use with a Special Land Use Permit (SLUP).

C. Alcohol outlets in the MU (Mixed-Use) districts shall be limited to beer and wine sales with a Special Land Use Permit (SLUP).

### 4.2.9 Amateur radio service antenna structure.

Amateur radio service antenna structures are a permitted accessory use in single-family residential districts, provided that no such antenna structure, including any support upon which it may be constructed, shall exceed a combined height of seventy (70) feet. Amateur radio service antenna structures in single-family residential districts exceeding seventy (70) feet in height shall be permitted only by special land use permit subject to all of the requirements of section 4.2.50 of this Chapter. Amateur radio service antenna structures shall be located a distance of at least one-half of the height of the tower from all property lines.

### 4.2.10 Ambulance, taxi, and limousine services, dispatch, and storage.

A. If not within an enclosed structure, automobiles for ambulance dispatch, taxi, and limousine services shall be parked at least fifty (50) feet from any residential district boundary and setback at least ten (10) feet from any property line.

B. Automobiles for ambulance dispatch, taxi, and limousine services may be parked within fifty (50) feet of a residential district boundary if such vehicles are parked within an enclosed structure or, if the parking area is screened by a fence, wall or evergreen buffer at least six (6) feet in height at planting.

### 4.2.11 Animal care facilities.

A. *Animal hospitals and veterinary clinics*.

1. Any building or enclosed structure used as an animal hospital or veterinary clinic shall be located and the activities associated with the use shall be conducted at least one hundred (100) feet from any property zoned or used for residential purposes.
2. When located within a shopping center, the use shall be adequately soundproofed and odor proofed so as not to create a nuisance.
3. No boarding shall be allowed unless required in connection with medical treatment;
4. Outside runs or kennels are prohibited.

B. *Animal shelter, 4 or more.*

1. Any building or enclosed structure for the housing of animals shall have a minimum setback of at least one hundred (100) feet from all property lines and at least two hundred (200) from property zoned for residential use.
2. All areas housing animals shall be completely enclosed by walls or fences at least five (5) feet in height.
3. No animal shelter shall be located within five hundred (500) feet of a residential district.
4. Outside pens must be located a minimum of seventy-five (75) feet from any stream.

C. *Pet grooming shops*. Any building or enclosed structure used as a pet grooming shop shall be located and activities shall be conducted at least one hundred (100) feet from any property zoned or used for residential purposes.

D. *Pet day care*. Any building or enclosed structure for the housing of animals associated with a pet day care use shall have a minimum setback of at least one hundred (100) feet from all property lines and at least two hundred (200) feet from property zoned or used for residential use. All areas housing animals shall be completely enclosed by walls or fences at least five (5) feet in height.

E. *Kennels, commercial boarding and breeding kennels.* All kennels shall comply with the following:

1. Any building or enclosed structure used for kennels shall be located and related activities shall be conducted at least one hundred (100) feet from any property line and at least two hundred (200) feet from property zoned for residential use.
2. Kennels shall be located on a site of not less than two (2) acres.
3. Any building or enclosed structure used for kennels shall be constructed and related activities shall be conducted in accordance with applicable law.
4. All outdoor areas used as a dog kennel or outdoor confinement must be surrounded by an opaque fence or wall no less than eight (8) feet in height.
5. The floor of all buildings or structures used as a kennel to which animals have access shall be surfaced with concrete or other impervious material.
6. The portion of the building or structure in which animals are housed shall be adequately soundproofed to meet the minimum requirements of the City's noise ordinance.

F. *Household pets*. Except as is otherwise herein provided, in any residential district within the city a person may keep not more than three (3) household pets on each lot which is two (2) acres or less in size. On any lot exceeding two (2) acres in size, a person may keep one (1) additional household pet for each additional acre above two (2) acres up to a maximum of ten (10) household pets. Litters of animals of not

more than six (6) months of age shall not be counted for the purpose of calculating the total number of household pets on a lot.

### 4.2.12 Antennas, satellite dishes, television receivers.

A. Antennas, satellite dishes, or other television transmission receivers located in residential zoning districts may only be located on the roof or in the rear yard of properties.

B. Antennas, satellite dishes, or other television transmission receivers located in a non-residential zoned district are prohibited in any yard which adjoins a residential zoned district.

C. Any ground mounted antennas, satellite dishes, or other television transmission receivers shall be screened from view from surrounding properties at ground level, and from public streets.

### 4.2.13 Automobile wash service, principal, accessory, detail or mobile.

A. Automobile wash services shall provide a paved area with capacity to store five (5) vehicles waiting to use automatic carwash facilities, and two (2) vehicles per bay for self-service car washes.

B. Wastewater from all automobile wash services shall be pretreated in accordance with watershed management standards prior to being drained into the public sanitary sewer or into any storm water structure, as may be approved by the DeKalb County Watershed Management Department.

C. No storage or repair of vehicles shall be allowed on property on which the car washing facility is located.

D. An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

1. The car wash structure shall be constructed of building materials consistent with that of the principal building, including the roof.

2. The doors of the car wash building shall be fully closed when the facility is not available for operation.

3. The car wash structure shall be located behind the rear building line of the principal building,

### 4.2.14 Automotive sales and service; boat, trailer sales and service.

A. *Automobile and truck sales*. Where a lot is used for automobile or truck and trailer sales, all inventory vehicles parked outdoors shall be set back at least ten (10) feet from the street right-of-way. The ten (10) foot setback from the street right-of-way shall comply with Section 5.4.4(D)(3) of this chapter. No other unrelated retail use shall be on the same property or in the same building with automobile and truck sales. The automobile and truck sales lot shall be on a lot no less than one (1) acre in area.

B. *Automobile repair, major, and paint shops*. Major automobile repair and paint shops shall not be permitted on property located within three hundred (300) feet of any property used for a school, park, playground or hospital. All activities shall be carried on entirely within an enclosed building, unless in M (Light Industrial) District. For purposes of determining whether a building is enclosed, the use of open overhead bay doors that can be closed shall be permitted. Cars awaiting service shall be stored inside an enclosed building or in the side or rear yard.

C. *Automobile repair and maintenance establishments, minor*. All minor automobile repair and maintenance establishment operations, including the servicing of vehicles, storage of materials and similar activities connected with the use, shall be conducted entirely within an enclosed building. For purposes of determining whether a building is enclosed, the use of open overhead bay doors that can be closed shall be permitted. Cars awaiting service shall be stored inside an enclosed building or in the side or rear yard.

D. *Automobile service stations, including gas sales.* Unless otherwise permitted within the applicable zoning district, major automobile repair in association with an automobile service station shall not be permitted. Gasoline pumps and other service facilities shall comply with the requirements of Section 4.2.29.

E. *Automobile, truck and trailer lease and rental*. Where a lot is used for automobile, truck and trailer lease and rental, all inventory vehicles parked outdoors shall be set back at least ten (10) feet from the street right-of-way. The ten (10) foot setback from the street right-of-way shall comply with Section 5.4.4(D)(3) of this Chapter. All parking areas shall be clearly marked and no automobile, truck or trailer shall be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall be no less than one (1) acre in area.

F. *Automobile, truck and trailer lease and rental where accessory to an automobile service station or shopping center*. Where the lease and rental of automobiles, trucks and trailers is a use which is an accessory use, the following requirements shall apply:

1. The lot on which the inventory vehicles are parked shall be no less than one (1) acre in area.
2. Parking areas for inventory vehicles which are available for lease or rental shall be located only in the side or rear yard.

G. Any work on vehicles conducted outdoors shall only be permitted in the rear yard, but shall be prohibited if the rear yard is adjacent to property zoned or used for a residential purpose.

H. *Boat and boat trailer sales*. All boats and boat trailers located on property used for boat and boat trailer sales shall be set back at least ten (10) feet from the street right-of-way. The ten (10) foot setback from the street right-of-way shall comply with Section 5.4.4(D)(3) of this chapter.

I. *Retail automobile parts and tire stores.* Unless otherwise authorized or permitted within the applicable zoning district, the following limitations apply to the conduct of retail sale of automobile parts and tire stores:

1. There shall be no dismantling of vehicles on the premises to obtain automobile parts.
2. There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.
3. Major automobile repair shall not be permitted in connection with these uses.
4. Outside display of merchandise shall not extend into the parking lot.

J. *Trailer and RV salesrooms and sales lots*. All inventory vehicles located on property used for trailer and RV salesrooms or sales lots shall be set back at least ten (10) feet from the street right-of-way. The ten (10) foot setback from the street right-of-way shall comply with Section 5.4.4(D)(3) of this chapter.

K. *Automobile recovery, storage yards for damaged or confiscated automobiles*. The following provisions shall apply to storage yards for damaged or confiscated automobiles:

1. The use shall be enclosed by a fence or wall which is not less than eight (8) feet in height which provides visual screening.
2. No dismantling, repair or other similar activity shall be conducted on the premises.
3. The use shall be located at least one thousand (1,000) feet from any residential district or use.
4. Automobiles shall not be stored longer than provided by state, county, and city law.

### 4.2.15 Bed and breakfast inn and home stay.

A. The following applies to all bed and breakfast establishments:

1. The operator of the establishment shall reside on site.
2. The use shall require a building permit and approval of the Fire Department.
3. Rooms to be let may not be equipped with cooking facilities.

4. No restaurant use is permitted. Breakfast may be served on the premises only for guests and employees of the bed and breakfast.
5. The bed and breakfast shall not be operated in such a way as to change the residential character of the neighborhood in which it is located and shall comply with the Noise Ordinance.
6. The structure shall be compatible with the character of the neighborhood in terms of height, setbacks and bulk, subject to the approval of the director of community development.

B. In addition to the requirements in subsection A, above, the following requirements apply to home stay bed and breakfast establishments:

1. In addition to providing the off-street parking required for the dwelling unit, there shall also be provided at least one (1) off-street parking space for each bedroom used as a part of the home stay bed and breakfast residence.
2. No signs or advertising are permitted to identify or advertise the existence of the home stay bed and breakfast residence beyond those otherwise allowed for residential property.
3. No individual other than the owner or an employee shall stay for longer than seven (7) consecutive days.

### 4.2.16 Building and construction office, landscape contractors.

The following standards shall be required for building and construction offices and landscape contractor offices:

A. Storage of equipment and/or materials shall be located in the rear yard and screened from view from adjoining properties and the public street with a fence a minimum of six (6) feet in height.

B. Parking of vehicles shall be located in the side or rear yard only.

### 4.2.17 Cemetery, columbarium, mausoleum, as principal use.

A cemetery allowed as a principal use on a property must meet the requirements below. Cemeteries that are allowed as an accessory use to a church or other place of worship must comply with provisions in Section 4.2.41, Places of worship.

A. A cemetery, columbarium or mausoleum shall be located on property with a minimum lot size of ten (10) acres.

B. The lot on which a cemetery, columbarium or mausoleum is located shall have a minimum public road frontage of one hundred (100) feet.

C. Permanent public ingress/egress shall be provided for the lot on which a cemetery, columbarium or mausoleum is located.

D. Compliance must be maintained with all requirements of the State of Georgia and the County Tax Commissioner.

### 4.2.18 Check cashing.

Check cashing establishments designed as a primary use on its own lot or as a part of a retail shopping center shall not be permitted within one thousand (1,000) feet of an existing check cashing establishment.

### 4.2.19 Child day care facility (up to 6 children), or child day care center (7 or more children).

Each child day care facility and child day care center shall be subject to the following requirements. A child day care facility or center may also be a kindergarten or preschool.

A. Each child day care facility and child day care center shall comply with all applicable state day care requirements for standards, licensing and inspection. A City of Tucker business license is required.

B. Prior to the issuance of a business license for a child day care facility or child day care center, the necessary licensing from the State of Georgia shall be obtained, including compliance with all requirements related to minimum area for classrooms, play areas, and fencing. Each child day care facility and child day care center shall provide off-street parking spaces as required by the applicable zoning district. Each child day care center shall provide an adequate turnaround on the site.

C. The exterior appearance of any child day care facility located in a residential district shall be maintained as a residential structure, and no signs other than those otherwise authorized within the applicable zoning district shall be erected (no cut-outs, animal characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises).

D. No child day care facility shall be located within one thousand (1,000) feet of another child day care facility.

E. See also additional approval criteria in Article 7, Administration.

### 4.2.20 Coliseum, stadium, amphitheater.

The following provisions apply to coliseums, stadiums and amphitheaters:

A. Prior to the issuance of a land disturbance permit, a traffic study shall be submitted to the department of public works.

B. All structures shall be located and all activities shall take place no less than one hundred (100) feet from any property line adjacent to a residential district or use.

### 4.2.21 Commercial recreation and entertainment.

A. *Drive-in theaters*. The following provisions shall apply to drive-in theaters:

1. The theater screen, projection booth and any other structures associated with the drive-in theater use shall be set back not less than fifty (50) feet from any property line.
2. Driving and parking areas shall be paved.
3. Ingress and egress from a public street shall be designed and constructed so as to provide for safe traffic movement.
4. Central loudspeakers shall be prohibited.
5. The theater screen shall not be visible from any freeway or thoroughfare.
6. The portion of the property used for drive-in theater purposes shall be enclosed by a six (6) foot high screening fence.
7. The property shall have a minimum buffer area ten (10) feet in width surrounding the portion of the property used for drive-in theater purposes.

B. *Fairgrounds and amusement parks*. The following provisions shall apply to fairgrounds and amusement parks:

1. All buildings and structures associated with such uses shall be set back not less than two hundred (200) feet from any property line.
2. Such uses shall not be permitted within five hundred (500) feet of a residential district.
3. Such facilities shall be enclosed by a six (6) foot screening fence.

C. *Golf driving ranges and batting cage facilities*. The following provisions shall apply to golf driving ranges and batting cage facilities:

1. Such uses shall be enclosed by a six (6) foot high screening fence or a twenty-five (25) foot wide buffer to screen adjacent property.
2. Central loudspeakers shall be prohibited.

3. Lighting shall be directed inward such that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

D. *Miniature golf courses*. The following provisions shall apply to miniature golf courses:

1. Such uses shall be enclosed by a six (6) foot high screening fence and a buffer ten (10) feet in width to screen adjacent property.
2. Central loudspeakers shall be prohibited.
3. Lighting shall be directed inward such that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

E. *Golf courses*. The following provisions shall apply to golf courses:

1. Except for emergency purposes, loudspeakers shall be prohibited.
2. Lighting shall be directed inward such that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

F. *Recreation grounds, fishing lakes and other related facilities*. The following provisions shall apply to recreation grounds and facilities:

1. Such uses shall be enclosed by a screening fence six (6) feet in height or a twenty-five (25) foot wide buffer to screen adjacent property.
2. Central loudspeakers shall be prohibited.
3. Lighting shall be directed inward such that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

G. *Tennis centers, clubs and facilities*. The following provisions shall apply to tennis centers, clubs and facilities:

1. Such uses shall be enclosed by a screening fence six (6) feet in height or a twenty-five (25) foot wide planted buffer to screen adjacent property.
2. Central loudspeakers shall be prohibited.
3. Lighting shall be directed inward such that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways.

H. *Go-cart concessions*. The following provisions shall apply to outdoor go-cart concessions:

1. All buildings and structures associated with such use shall be set back not less than two hundred (200) feet from any property line.
2. Such use shall not be permitted within five hundred (500) feet of the boundary of a residential district.
3. Such use shall be enclosed by a six (6) foot high masonry wall.
4. The motor size of any cart used shall not exceed five (5) horsepower.
5. The maximum area occupied by the facility, excluding areas used solely for parking, shall not exceed forty thousand (40,000) square feet.
6. Central loudspeakers shall be prohibited.

I. Other outdoor recreation shall meet the standards provided in subsection G of this section.

### 4.2.22 Crematories.

Crematory use shall be located at least one hundred (100) feet from the property line of any property zoned or used for residential purposes.

### 4.2.23 Drive-through facility, restaurant.

Restaurants with drive-through services shall meet the following requirements:

A. Drive-through facilities shall not be located within sixty (60) feet of a residentially zoned property, as measured from any menu or speaker box to the property line of adjacent residential property.

B. No drive-through facility shall be located on a property less than ten thousand (10,000) square feet in area. Stacking spaces for queuing of cars shall be provided for the drive-through area as required in Article 6.

*C.* Drive-through lanes and service windows shall be located to the side or rear of buildings. If on a corner lot, only the pickup window may be located on the side between the principal structure and a public street.

D. Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.

E. Speaker boxes shall be pointed away from adjacent residential properties. Speaker boxes shall not play music but shall only be used for communication for placing orders.

F. Stacking spaces shall be provided for any use having a drive-through facility or areas having drop-off and pick-up areas in accordance with the following requirements. Stacking spaces shall be a minimum of ten (10) feet wide and twenty-five (25) feet long. Stacking spaces shall begin at the last service window for the drive-through lane (typically the "pick-up" window).

G. Financial institutions with drive-through windows, car washes (automated or staffed facilities), drive-through coffee sales facilities, and any other uses with drive-through facilities with the exception of restaurants with drive-through facilities, shall provide three stacking spaces for each window or drive-through service facility.

H. Restaurants with drive-through facilities shall provide ten (10) stacking spaces per lane for each window or drive-through service facility.

I. The following general standards shall apply to all stacking spaces and drive-through facilities:

   a. Drive-through lanes shall not impede on and off-site traffic movements, shall not cross or pass through off-street parking areas, and shall not create a potentially unsafe condition where crossed by pedestrian access to a public entrance of a building.

   b. Drive-through lanes shall be separated by striping or curbing from off-street parking areas. Individual lanes shall be striped, marked or otherwise distinctly delineated.

   c. All drive-through facilities shall include a bypass lane with a minimum width of ten (10) feet, by which traffic may navigate around the drive-through facility without traveling in the drive-through lane. The bypass lane may share space with a parking access aisle.

J. Drive-through lanes must be set back five (5) feet from all lot lines and roadway right-of-way lines.

### 4.2.24 Dwellings: cottage, mobile home, townhouse, urban single-family, and condominium.

A. *Cottage.* Notwithstanding any other provision to the contrary, a cottage development may be subdivided into individual lots that do not meet the minimum street frontage requirements and may be treated as fee-simple or condominium lots.

B. *Mobile home or manufactured home.* When permitted outside of a Mobile Home zoning district, mobile homes or manufactured homes may be used to house caretakers or security personnel only, and may not be used for commercial purposes.

C. *Townhouse and urban single-family (U-SF).* Notwithstanding any other provision to the contrary, a townhouse or U-SF development may be subdivided into individual lots that do not meet the minimum street frontage requirements and may be treated as fee simple or condominium lots.

D. *Condominium standards*. If a condominium form of ownership is proposed for a development, the development shall meet all applicable state laws, including the Georgia Condominium Act (O.C.G.A. 44-3-70, et. seq.). Proposed bylaws and the articles of incorporation for the condominium association shall be submitted to the community development director with the application for development approval.

E. *Multifamily Developments*. Multifamily residential units up to and including twenty-four (24) units per acre may be permitted based on the zoning district or overlay district, however, multifamily residential units over twenty-five (25) units per acre shall require a special land use permit. This subsection shall pertain to all developments with a multifamily component.

### 4.2.25 Emission stations.

Emission stations shall be setback no less than thirty-five (35) feet from the public right-of-way. A metal building may be used if it has a brick base at least three (3) feet high. No fabric structures may be used. Large planters for landscaping must be installed around any building.

### 4.2.26 Extended stay motels/hotels.

Extended stay motels/hotels shall meet the following requirements:

A. Extended-stay motels/hotels shall have no more than twenty-five (25) guest rooms per acre.

B. Each guest room must have a minimum of three hundred (300) square feet and access with a magnetic keycard entry/locking device.

C. Extended-stay hotels/motels shall not be more than four (4) stories in height.

D. Extended-stay hotels/motels must be constructed on a tract of land containing at least two (2) acres.

E. Extended-stay hotels/motels must contain an enclosed, heated and air conditioned laundry space containing a minimum of three (3) clothes washers and three (3) clothes dryers for the use of guests.

F. Extended-stay hotels/motels must provide a minimum of one thousand (1,000) square feet for recreational use by guests. In computing the one thousand (1,000) square feet requirement, swimming pools, fitness or recreation centers and other recreational facilities may be used in determining the square footage required by this subsection.

G. Management must be on the property twenty-four (24) hours a day, seven (7) days a week.

H. Daily maid service must be included in the standard room rate.

I. Parking areas must have security fencing and lighting with a minimum luminescence of one (1) foot-candle at pavement level.

J. No extended stay motel/hotel may be located within one thousand (1,000) feet of another extended stay motel/hotel.

K. Change of location or name.

1. No applicant shall operate, conduct, manage, engage in, or carry on an extended-stay motel/hotel under any name other than his name and the name of the business as specified on the occupation tax certificate.

2. Any application for an extension or expansion of a building or other place of business where an extended-stay motel/hotel is located shall require inspection and shall comply with the provisions and regulations of this article.

3. The applicant shall pay an administrative fee to be set by the mayor and city council to apply for a change of name for an extended-stay motel.

### 4.2.27 Farmers markets, temporary seasonal.

Temporary or seasonal farmers markets must obtain a Special Administrative Permit for Temporary Seasonal Sales or Event in order to operate and shall adhere to the following requirements:

A. The operator of a farmers market shall obtain a Business License from the City of Tucker prior to opening the farmers market.

B. The City of Tucker shall be provided a list of the names of persons, firms or corporations who shall provide produce or merchandise for sale as part of the public market. The list shall also generally describe the type of item sold by each said person, firm or corporation. The list shall be updated quarterly during the term of the business license.

C. Displayed inventory of the products sold may include:

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

2. Value-added farm products such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or prepared foods.

3. All other items may not be displayed and sold.

D. At least seventy-five (75) percent of the vendors participating during the market's hours of operation must be either producers (a person or entity that raises farm products on farms the person or entity owns, rents or leases), family members, employees or agents of producers or preparer of said products.

E. If a booth sells farm products or value-added farm products that are not produced by the vendor, said booth must explicitly disclose the producer's name and location in writing with lettering that is at least two (2) inches tall and visible to the consumer.

F. Vending structures may include a temporary, movable booth, stall, table, tent or other structure used for the sale of goods or for display purposes at a farmers market.

G. *Hours of operation.* Temporary or seasonal market hours may be between 7:00 a.m. and 9:00 p.m. Temporary or seasonal markets shall not operate more than six (6) hours per day nor more than three days per week. Set-up of market operations shall begin no earlier than 6:00 a.m. and take-down and clean-up shall end no later than 10:00 p.m.

H. *Market manager.* On-site presence of a market manager is required during all hours of operation. The market manager shall direct the operations of all vendors participating in the market and verify that the requisite number of individual vending structures are operated by producers.

I. *Parking.* Two (2) parking spaces per vendor shall be provided on site or within five hundred (500) feet of the boundary line of the property hosting a temporary or seasonal farmer's market.

J. Access to public toilet facilities shall be provided to customers.

K. Farmers markets must obtain a Special Administrative Permit for Temporary Seasonal Sales or Event to operate in the City of Tucker. The application shall include:

1. Name and current address of the applicant.

2. A notarized letter signed by the property owner(s) or authorized property manager or agent, consenting to the placement of the farmers market on the property.

3. A site plan drawn to-scale showing:

a. Property lines, street curbs, street names, adjacent sidewalks as applicable.

b. Plan layout and dimensions showing the on-site market area including the number, arrangement, and size of the vending structures to be located in the market.

c. Location of onsite and offsite parking spaces.

d. Any other documents or information requested and deemed by the community development director as applicable to the specific application.

### 4.2.28 Fuel pumps, accessory.

Fuel pumps as accessory uses shall comply with the following standards:

A. The primary building (i.e., convenience store or automobile service station) shall conform to all primary building setbacks.

B. Canopies covering gasoline dispensers shall be set back not less than fifteen (15) feet from all street rights-of-way.

C. The canopy shall not exceed the height of the principal building, but in no case shall exceed twenty (20) feet in height.

D. The canopy and its columns shall be complementary to the overall color scheme and building materials scheme of the building façade to which the canopy is accessory.

E. Canopy lighting shall not extend beyond the area beneath the canopy and all fixtures shall be recessed, including any fixture or lens. Lighting shall project inward and downward, shall not have any spillover to adjacent properties, and shall cut off no later than thirty (30) minutes after closure of the facility.

F. Automobile service stations with gas sales shall have a capacity to store one (1) car per bay (car area in front of a pump), so as not to interfere with driveway ingress and egress traffic flow.

G. A minimum of thirty (30) feet is required between a property line and the nearest gasoline pump.

### 4.2.29 Heavy industrial uses.

In addition to the submission requirements of Article 7, any application for a special land use permit (SLUP) or a rezoning related to a heavy industrial use shall provide the following information as applicable:

A. Submit within the Letter of Application the following details:

1. Specific operations to be performed.
2. Hours of operation.
3. Whether operations will be indoors or outdoors.
4. How long materials will be stored on the property.
5. Whether any hazardous wastes will be involved in the operation, including an explanation of how safety measures will ensure that there is no air or water contamination and how the operators will safely dispose of such hazardous materials.
6. A description of any solid wastes handled, produced, or disposed of, including whether the operations will require a solid waste handling permit.
7. How many employees there will be.
8. Whether the operation will be open to the public.
9. What types of vehicles will be delivering materials to the property; and, how many and how often, what thoroughfares or major route plan the trucks will take to get to and from the site to minimize any impact on residential area, and whether trucks will be covered to minimize dust/odor impacts on adjacent roadways used to get to the site.
10. Whether the proposed use requires the submittal of a Development of Regional Impact (DRI).

B. Copies of any required state and/or federal agency applications, requirements, environmental assessment reports, or related data; or, if none have been submitted, an indication as to whether such documentation is required.

C. Data from reputable industry sources on current industry standards regarding the proposed land use and how the proposed operation will comply with industry standards to ensure that surrounding properties are not adversely impacted.

D. For any of the following uses, certification by an environmental professional that the proposed operation will not have any adverse air or water quality impacts on surrounding properties:

1. Any use requiring a solid waste handling permit.
2. Any use which utilizes burning, melting, or degasification.
3. Any use which involves the emissions of particulate matter.
4. Any use which processes or stores hazardous materials.
5. Any landfill.

E. Detailed information on proposed methods to minimize any adverse air/water quality impacts based on current industry standards.

F. Detailed information on proposed methods to minimize any noise, odor, dust, and vibration on surrounding properties in light of current industry standards.

G. Detailed information regarding how traffic impacts will be accommodated on the surrounding road network.

H. Any data regarding any monthly, quarterly, or yearly required inspections by any state or federal agency to ensure compliance with any state or federal permits once use has been approved by the City of Tucker.

### 4.2.30 Heliport, General Aviation Airport.

Heliports must comply with FAA regulations AC No.150/5390 for design standards for General Aviation, Hospital Heliports, and Rooftop Emergency Facilities.

### 4.2.31 Home occupations and private educational uses.

The following provisions apply to home occupations:

A. A home occupation where no customer contact occurs shall be considered a Type I home occupation and may be conducted with administrative approval by the community development director.

1. Up to two (2) full time residents of the premises are allowed to conduct separate home occupations in the same dwelling. In reviewing such a request, the local government may consider the reason, potential residential impact, parking needs, hours of operation and other relevant factors.

B. All home occupations other than Type I home occupations shall be considered a Type II home occupation and shall require a special land use permit (SLUP). Additional conditions may be placed on the approval of a Type II home occupation in order to ensure the home occupation will not be a detriment to the character of the residential neighborhood.

1. Customer contact is allowed for Type II home occupations.
2. Up to two (2) full time residents of the premises are allowed to conduct separate home occupations in the same dwelling. In reviewing such a request, the local government may consider the reason, potential residential impact, parking needs, hours of operation and other relevant factors.

C. All home occupations shall meet the following standards:

1. There shall be no exterior evidence of the home occupation.
2. No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.

3. The use shall be conducted entirely within the dwelling unit, and only persons living in the dwelling unit shall be employed at the location of the home occupation.
4. No more than twenty-five (25) percent of the dwelling unit and or five hundred (500) square feet, whichever is less, may be used for the operation of the home occupation.
5. No more than one (1) business vehicle per home occupation is allowed.
6. No home occupation shall be operated so as to create or cause a nuisance.
7. Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, or car wash.
8. Occupations that are mobile or dispatch-only may be allowed, provided that any business vehicle used for the home occupation complies with Article 6.1.3, and is limited to one (1) business vehicle per occupation.

D. Private educational services shall comply with home occupation standards and no more than three (3) students shall be served at a time. Family members residing in the home are not counted towards the three (3) students allowed.

### 4.2.32 Late-night establishments and night clubs.

A. The regulations that follow regarding late-night establishments and nightclubs are intended to afford protection to residential uses and other uses so as to protect the public health, safety, and welfare while respecting and providing adequate opportunities for nightlife in the city.

B. Late-night establishments and nightclubs shall be subject to all of the following standards:

1. Parking facilities within a lot may be shared in accordance with Article 6, Parking.
2. Valet parking shall not be used to satisfy the requirement to meet applicable parking standards.
3. Methods of traffic circulation, ingress and egress shall be consistent with best management practices as approved by the transportation division of the public works department.
4. Noise from the proposed use shall be contained within the subject retail center units or standalone structures. The facility shall comply with the noise ordinance.

C. No late night establishment or night club boundary line shall be located within one thousand five hundred (1,500) feet from the boundary line of property zoned for residential use without the issuance of a special land use permit (SLUP). A late-night establishment or night club is not required to obtain a special land use permit when their closest residential neighbor is on the opposite side of an interstate highway.

D. Every special land use permit application for a late-night establishment or nightclub shall include a scaled drawing of the location of the proposed premises, showing the distance measured in feet from the boundary line of the property proposed to be used as a late-night establishment or nightclub to the boundary line of property zoned for residential use. Such drawing shall be certified by a land surveyor or professional engineer registered in the State of Georgia. For the purposes of this section, distance shall be measured in feet as follows:

1. From the property line of the land upon which the late-night establishment or nightclub is located;
2. To the property line of the land which is zoned for a residential use;
3. Along a straight line which describes the shortest distance between the two property lines (i.e., “as the crow flies”).

E. Any late-night establishment or nightclub operating pursuant to a validly issued business and liquor license issued prior to the effective date of this ordinance, shall be a legal nonconforming use as defined in Article 9. No late-night establishment or nightclub currently operating under a valid license issued prior to the effective date set forth in this section shall be required to secure a special land use permit from the

mayor and city council in order to continue operation. Such establishments shall be required to comply with the applicable provisions of Article 4, Division 5 of this chapter regarding cessation, expansion, movement, enlargement or other alteration of the late-night establishment or nightclub. If a licensee is operating a legal nonconforming late-night establishment or nightclub at a particular location pursuant to this Zoning Ordinance, and such license is revoked, upon revocation, the legal nonconforming status of the licensee at that particular location shall be terminated

### 4.2.33 Live-work.

A live-work unit is a residential unit used as both living accommodations, which includes cooking space and sanitary facility in conformance with applicable building standards and Board of Health standards, and adequate working space accessible from the living area. If a live-work unit is not constructed to commercial fire safety standards, the commercial portion of the live-work unit may only be operated by one or more persons who reside in the unit. If a live-work unit is constructed to commercial fire safety standards, a resident of the live-work unit may allow the commercial portion of the live-work unit to be operated by a third-party.

A. Live-work units shall meet all of the following standards:

1. Uses shall be compatible with residential uses and shall not produce or create noise, smoke, vibrations, glare, fumes, odors, electrical interference, or fire hazards that would unreasonably interfere with residential uses.
2. If a live-work unit is in a residential district, permitted uses shall be limited to those uses allowed in the Neighborhood Shopping (NS) District. For a live-work unit located in a non-residential district, permitted uses shall be limited to those uses allowed in that district.
3. Restroom facilities shall be provided to serve the commercial portion of the unit. Individual public restrooms facilities are not required within each live-work unit when disabled accessible public restroom facilities are provided elsewhere on an accessible route within the building or building site.
4. A live-work unit will be subject to all applicable licenses and business taxes.
5. See also Article 5 for additional design requirements, including section 5.7.7.

### 4.2.34 Mines, mining, quarries, gravel pits, borrow pits, and sand pits.

The following regulations apply to the use of land as a mine, mining operation, quarry, gravel pit, borrow pit, and sand pit. See also Article 7, Administration for additional approval criteria.

A. The following provisions apply to removal or extraction of dirt, sand and soil:

1. Drainage plans and a plan for the redevelopment of the site when the removal is completed shall be submitted with the application for a development permit.
2. The use shall not be established within one thousand (1,000) feet of a residential zoning district or use nor within three hundred (300) feet of any other use.
3. This subsection shall not prohibit the removal of earth and rock and filling and grading in any district done for land development purposes, upon issuance of a development permit in accordance with the provisions of this Chapter.

B. *Quarry and mining*. The following provisions apply to the use of any parcel of land for a quarry, mine or mining operation:

1. All improved and maintained entrances shall be fenced and locked during non-business hours. The property shall be adequately posted as is required by state law, and evidence of such posting shall be filed with the community development director.

2. Operators shall comply with state department of natural resources, surface mining land reclamation program rules and regulations, and the mining permit number issued by the state shall be filed with the community development director.

3. A blasting limit of two (2) inches per second peak particle velocity, as measured from any of three (3) mutually perpendicular directions in the ground at off-site buildings, shall not be exceeded.

4. An air blast limit of one hundred twenty-eight (128) decibels (linear-peak), measured at off-site residential buildings, shall not be exceeded.

5. Seismographic and noise instrumentation shall be required for a minimum of one (1) blast per three (3) month period. The records of such instrumentation and records of all blasts, including total charge weight, charge weight per delay, charge depth, date and time, location and meteorological conditions, shall be retained by the operator for a period of not less than two (2) years. All non-instrumented blasts shall be in compliance with the recommended scaled distance, as defined by the United States Department of the Interior, Bureau of Mines Bulletin 656, entitled "Blasting Vibrations and Their Effects on Structures."

C. Prior to the issuance of any development permit for any mine, quarry, gravel pit, or sand pit, the applicant shall provide to the director of public works a reuse or reclamation plan which meets all requirements of Chapter 14 of the Code.

### 4.2.35 Mini-warehouses.

A. Outside storage for mini-warehouses shall be limited to vehicles such as boats, RV's etc. and shall only be allowed in side and rear yards. Outside storage shall be screened per the standards in 5.4.6.

B. Storage units may not be used for the following uses: the operation of a business or service enterprise; personal activities such as hobbies, arts and crafts, woodworking, repair, restoration or maintenance of machinery or equipment; hazardous or toxic material storage; and/or living or sleeping quarters.

C. Wares, goods and/or personal property stored therein shall not include explosives, paint, flammable chemicals or other materials which might be corrosive or hazardous.

D. Buffer standards in Article 5 shall apply.

E. Exterior lighting for a mini-warehouse facility shall project inward and downward, and shall not spillover to adjacent properties.

4.2.35 (1) Multi-warehouses

A. No outside storage shall be allowed, including vehicle leasing.

B. All buildings shall have windows or architectural treatments that appear as windows.

C. Multi-warehouses shall be climate-controlled.

D. Storage units may not be used for the following uses: the operation of a business or service enterprise; personal activities such as hobbies, arts and crafts, woodworking, repair, restoration or maintenance of machinery or equipment; hazardous or toxic material storage; and/or living or sleeping quarters.

E. Wares, goods and/or personal property stored therein shall not include explosives, paint, flammable chemicals or other materials which might be corrosive or hazardous.

F. Buffer standards in Article 5 shall apply.

G. Exterior lighting for a mini-warehouse facility shall project inward and downward, and shall not spillover to adjacent properties.

### 4.2.36 Moving buildings, requirements.

No dwelling unit or other permanent structure shall be moved within or into the city unless, when relocated, it meets all requirements of Chapter 23, Article III, and Chapter 27 of the Code and is first approved by the community development director.

### 4.2.37 Outdoor display and seating.

This section applies to the placement of merchandise and/or merchandise vending machines outside the walls of any enclosed building with the intent being to entice potential customers onto the premises through the public display of such merchandise and/or merchandise vending machines. The term “outdoor display” shall not apply to merchandise which is placed outside temporarily for the purpose of sales. See section 4.3, Temporary Uses. Outdoor display shall be permitted in conjunction with permitted uses in the NS, C-1, C-2, MU districts, M, and M-2 zoning districts, provided the following requirements are met:

A. Areas devoted to outdoor display, as referred to in this section, shall be allowed on public and private sidewalks, provided that all ADA requirements are fulfilled.

B. All outdoor display areas shall be located contiguous to the principal building, subject to all fire safety requirements.

C. No outdoor display shall be permitted to occupy or interfere with traffic circulation, required parking areas or pedestrian access.

D. The type of merchandise permitted in outdoor displays shall be limited to automobiles, boats, recreational vehicles, farm equipment, yard and garden accessories, prefabricated storage sheds, nursery and agricultural products, gas pump island beverage shelving, and vending machines. This section shall not be interpreted to include supply yards, salvage yards, or other items or materials considered outdoor storage.

E. Outdoor displays of tires shall be within 10 feet of the building.

F. Outdoor displays shall be permitted in any yard, but shall not encroach into any public rights-of-way.

G. Outdoor displays shall present a neat and orderly appearance.

H. Outdoor displays shall be permitted only where such display is incidental to and supportive of the principal use of the structure located on the same parcel.

I. Each outdoor display location must be shown on the site plan at time of initial permitting of land development permits and building permits and shall not encroach on any required landscaping and parking areas.

J. These standards shall apply to outdoor seating areas at restaurants, coffee shops, etc.

### 4.2.38 Outdoor storage of materials, supplies, equipment or vehicles.

The following regulations shall apply to outdoor storage of materials, supplies, equipment, or vehicles. The term outdoor storage does not include outside display of merchandise; outdoor temporary sales or events; auto-dealerships; salvage yards; junk yards; automobile wrecking yards; or storage yards for non-operable, confiscated, or dilapidated vehicles, equipment, or materials.

A. In the O-I, NS, and C-1 districts, accessory outdoor storage associated with the operation of a business is allowed subject to the following requirements:

1. The outdoor storage area shall be at least fifty (50) feet from the street right-of-way.
2. The outdoor storage area shall be screened so as not to be visible at ground level from any adjoining property or public street.
3. The materials stored must be for use by the owner and not displayed for sale to third parties.
4. Fleet vehicles associated with the operation of the business are exempt from these requirements.

B. In the C-2, M, and M-2 districts, any outdoor storage areas (Primary or Accessory) are allowed subject to the following requirements:

1. The outdoor storage area shall be at least fifty (50) feet from the street right-of-way.
2. The outdoor storage area shall be screened so as not to be visible at ground level from any adjoining property or public street.
3. A ten (10) foot wide evergreen landscape buffer around the outside perimeter of the screened area shall be provided when adjacent to any property not zoned C-2, M, or M-2.
4. Fleet vehicles associated with the operation of a business are exempt from these requirements.

C. In residential districts, outdoor storage is allowed for items such as barbecue grills, lawn furniture, hoses, garden tools, lawn equipment and outdoor play equipment. Outdoor storage of the following are expressly prohibited:

1. indoor appliances, whether or not in use;
2. indoor furniture, whether or not used for “outdoor leisure” furniture; and

3. items that are no longer used for their intended purpose; for example, a bike missing a tire, broken machinery, old appliances and scrap metal or other scrap materials.

### 4.2.39 Parking, commercial lot.

Commercial parking lots shall meet all the streetscape, landscaping, buffering and screening requirements provided in Article 5 of this chapter.

### 4.2.40 Pawn shops.

The following provisions shall apply to pawn shops, whether designed as a primary, standalone use or as a primary use tenant of a shopping center:

A. This use shall not be permitted within one thousand (1,000) feet of an existing pawn shop or check cashing facility.

### 4.2.41 Personal care homes and child caring institutions.

A. *Personal care homes, general requirements*.

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

2. No personal care home may display any exterior signage that violates the sign ordinance in Chapter 21 of the Code or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.

3. Personal care homes may apply for an FHA Accommodation Variance as provided for in Section 7.5.9 of this chapter.

B. *Personal care home, group (4-6 persons).*

1. Two (2) copies of complete architectural plans for the subject group personal care home, signed or sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.

2. Each group personal care home must provide at least four (4) parking spaces within a driveway, garage or carport and must comply with any applicable requirements in Article 6.

3. In order to prevent institutionalizing residential neighborhoods, no group personal care home located in the RE, R-LG, R-100, R-85, R-75, R-50, R-SM, or MR-1 zoning district may be operated within one thousand (1,000) feet of any other group personal care home. The one thousand (1,000) foot distance requirement is measured by a straight line which is the shortest distance (i.e., “as the crow flies”) between the property lines of the two tracts of land on which the group personal care homes are located.

C. *Personal care home, community (7 or more persons).*

1. Two (2) copies of complete architectural plans for the subject community personal care home, signed or sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.

2. Each community personal care home must provide at least one-half (0.50) parking spaces for each employee and resident, and must comply with any applicable requirements in Article 6.

D. *Child caring institutions, general requirements.*

1. Each child caring institution must obtain all license(s) and/or permit(s) required by the State of Georgia in order to operate. Each child caring institution must display its State-issued license(s) and/or permit(s) in plain view, visible from the front doorway of the facility.

2. No child caring institution may display any exterior signage that violates the sign ordinance in Chapter 21 of the Code or the sign provisions in the zoning regulations for the underlying zoning district where the personal care home is located.

E. *Child caring institution, group (4-6 children).*

1. Two (2) copies of complete architectural plans for the subject group child caring institution, signed or sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.

2. Each group child caring institution must provide at least four (4) parking spaces within a driveway, garage or carport, and must comply with any applicable requirements in Article 6.

F. *Child caring institutions, community (7 or more children).*

1. Two (2) copies of the complete architectural plans of the subject community child caring institution, signed and sealed by a registered architect, shall be submitted to the community development director prior to issuance of a building permit or business license.

2. Each community child caring institution must provide at least one-half (0.50) parking spaces for each employee and resident, and must comply with any applicable requirements in Article 6.

### 4.2.42 Places of worship, convents; monasteries; temporary religious meetings.

The following subsections shall apply to places of worship, convents and monasteries and their related uses, buildings and structures located in a residential district:

A. Any building or structure established in connection with places of worship, monasteries or convents shall be located at least fifty (50) feet from any residentially zoned property. Where the adjoining property is zoned for nonresidential use, the setback for any building or structure shall be no less than twenty (20) feet for a side-yard and no less than thirty (30) feet for a rear-yard.

B. The required setback from any street right-of-way shall be the front-yard setback for the applicable residential district.

C. The parking areas and driveways for any such uses shall be located at least twenty (20) feet from any property line, with a visual screen, provided by a six (6) foot high fence or sufficient vegetation established within that area.

D. Places of worship, convents and monasteries shall be located on a minimum lot area of three (3) acres and shall have frontage of at least one hundred (100) feet along a public street.

E. Places of worship, convents and monasteries shall be located only on a thoroughfare or arterial.

F. Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.

### 4.2.43 Private elementary, middle and high school.

A. The minimum lot size for private elementary, middle and high school, for which an application for a special land use permit is filed, shall be as follows:

1. *Elementary school*: Two (2) acres plus one (1) additional acre for each one hundred (100) students based on the designed capacity of the school.

2. *Middle school*: Three (3) acres plus two (2) acres for each one hundred (100) students based on the designed capacity of the school.

3. *High school*: Five (5) acres plus two (2) acres for each one hundred (100) students based on the designed capacity of the school.

B. The minimum public road frontage for a private school is two hundred (200) feet.

C. Accessory ball fields shall be located at least fifty (50) feet from a residential district or property used for a residential purpose.

D. A fifty (50) foot undisturbed buffer is required if adjacent to a residential district or property used for a residential purpose.

### 4.2.44 Salvage yard, junkyard.

The following provisions shall be required for automobile salvage, wrecking yards and junkyards, primary or accessory:

A. The site shall be enclosed by a wall or opaque fence not less than eight (8) feet in height.

B. No activity and no vehicle storage associated with such uses shall be conducted within one hundred (100) feet of any property zoned or used for residential purposes.

C. No activity and no vehicle storage associated with such uses, except for deliveries, pickups, and signs, shall be conducted within fifty (50) feet of the street right-of-way.

D. No activity and no vehicle storage associated with such uses shall be conducted within fifty (50) feet of the side and rear property lines, unless the adjacent property is zoned M or M-2.

E. The use shall not be permitted within three hundred (300) feet of any property used for a school, park, playground or hospital.

F. The sale of automobile parts removed from vehicles on the site shall be permitted.

G. A ten (10) foot wide evergreen landscape buffer around the outside perimeter of the screened area shall be provided when adjacent to any property not zoned C-2, M, or M-2.

### 4.2.45 School, specialized and vocational.

Specialized and vocational schools must meet the applicable requirements of section 4.2.42 and, with the exception of facilities located in industrial districts, all activities shall occur within enclosed buildings.

### 4.2.46 Senior housing: independent and assisted living, nursing, and continuing care.

A. *Primary uses*: Senior housing facilities shall include either independent living units or assisted living units, or both. The independent living units may be either single-family (detached) residences or multi-family (attached) residences.

B. *Accessory uses*: Senior housing facilities shall include one (1) or more of the following accessory uses:

1. Ancillary clinics, personal service, retail (e.g., pharmacy, hair salon, medical offices).

2. Central kitchen and dining facility.

3. Recreation and amenities.

4. Building/Clubhouse for classes, meetings, concerts, storytelling, etc.

5. Adult day care.

C. The maximum number of unrelated residents living independently (not requiring personal care) and at age fifty-five (55) or older allowed in an independent living unit is one (1) per bedroom.

D. *Height Standards*: A senior living facility in which all of the occupied units are occupied by at least one senior aged fifty-five (55) or older is authorized up to ten (10) stories without a height SLUP in HR, MU-3, MU-4, and MU-5 zoning districts, subject to transitional height plane regulations in Article 5.

E. *Accessibility standards*: All senior housing shall incorporate accessibility standards that meet certification requirements for Easy Living or Universal Design and/or include all of the following minimum features:

1. At least one (1) step free entrance to the main floor at either the front or side of the structure; if only one (1) is provided, it shall not be from a patio or raised deck.
2. Main floor of each unit shall include a kitchen, entertaining area, and master bedroom with full bathroom.
3. Every door on the main floor shall provide a minimum width of thirty-four (34) inches of clear passage.
4. Blocking shall be installed in the master bath around toilet, tub, and shower for placement or future placement of grab bars.

F. Assisted living, nursing and continuing care facilities shall provide the following:

1. *Primary and secondary support services*: Approval for assisted living, nursing or continuing care facilities shall not be granted without documentation of provisions for the following primary and secondary services:
   a. *Primary services:* on-site dining facility, 24-hour on-call medical services, on-site licensed practical nurse, on-call registered nurse, linen and housekeeping services, and transportation services.
   b. *Secondary services*: physical therapy, medication administration program, care technician services (clothes changing, bathing, etc.), on-site personal care (barber, beauty salon), fitness center, library.
   c. Access to outdoor seating and walking areas shall be provided as part of every assisted living, nursing or continuing care facility.

G. A senior housing facility shall only be approved after consideration of the use permit criteria, found in Article 7 and after consideration of the following:

1. Proximity and pedestrian access to retail services and public amenities.
2. Transportation alternatives.
3. Integration into existing neighborhoods through connectivity and site design.
4. Diverse housing types.
5. Site and building design that encourages social interaction.
6. Building design that meets Easy Living standards.

H. In addition, in consideration of the special land use permit or special administrative permit for a senior housing facility, the following criteria shall be evaluated based on the degree to which these elements provide transition from the proposed project to adjacent existing development:

1. Building height.
2. Landscaping.
3. Maximum lot coverage.
4. Setbacks from exterior property lines.
5. Site size.

6. Access to thoroughfare.

I. *Submittal requirements*. The following documents and information are required for submittals for rezoning, special land use permits, land development permits and building permits associated with proposed senior living facilities:

1. Survey and site plan (per established requirements in Article 7).
2. Landscape and tree plan.
3. Number and location of residential units.
4. Types of units.
5. Amenities.
6. Institutional/non-residential services.
7. Proximity to services such as health care, shopping, recreation, and transit.
8. Other documents addressing the approval criteria in subsections G and H above.

### 4.2.47 Service areas, outdoor, for nonresidential uses.

All service areas for nonresidential uses shall be established so as not to encroach into any yard requirement and shall be visually screened from adjacent residential properties.

### 4.2.48 Shelters for homeless or battered persons and transitional housing facilities.

A. No shelter for homeless or battered persons and no transitional housing facility shall be designed to exceed a capacity of twenty (20) persons, unless accessory to a place of worship.

B. Prior to issuance of any approvals for operation of a shelter for homeless or battered person or transitional housing facility, the applicant for such approval shall disclose, in writing, the capacity and floor plan of the facility.

C. Such shelters shall comply with all applicable building, housing, and fire codes and shall fully comply with O.C.G.A., §§ 30-3-1, et seq. before a certificate of occupancy can be issued. The loss of any state license or permit shall result in an automatic revocation of that county issued permit or license.

D. There shall be no use on the property other than the shelter, unless accessory to place of worship.

E. No new shelter or transitional housing facility shall be located within one thousand (1,000) feet of an existing shelter or transitional housing facility.

F. Shelters for homeless or battered persons and transitional housing facilities may apply for an FHA Accommodation Variance as provided for in Section 7.5.9 if the residents would constitute disabled persons under the FHA.

### 4.2.49 Solid waste facility regulations.

A. The mayor and city council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit, or any development or building permit related to a landfill if such landfill is not in compliance with the applicable requirements of Georgia's Comprehensive Solid Waste Management Act, O.C.G.A. § 12-8-20 et seq., and as may hereafter be amended.

B. The mayor and city council shall not approve any amendment to the zoning maps, the comprehensive land use map or any application for a special land use permit related to a landfill unless the applicant obtains written verification from the Georgia Environmental Protection Division of the Georgia Department of Natural Resources that the landfill complies with or is not yet required to comply with all the applicable requirements set forth in the Comprehensive Solid Waste Management Act.

C. As used in this section the term "landfill" means a disposal facility, a materials recovery facility, a solid waste handling facility, a solid waste landfill, a private industry solid waste disposal facility, a solid waste handling facility, a solid waste thermal treatment technology facility, and a disposal facility for biomedical waste, hazardous and/or toxic materials including radioactive materials as all such terms are defined in O.C.G.A. § 12-8-22 and as may hereafter be amended.

### 4.2.50 Swimming pool, community.

Community swimming pools and their customary accessory buildings and structures shall be setback at least fifteen (15) feet from all side and rear lot lines and be enclosed by a wall or fence, not less than four (4) feet nor more than six (6) feet in height. Setback is measured from the pool decking except where established elsewhere.

### 4.2.51 Telecommunications towers and antennas.

See “Wireless Telecommunications.”

### 4.2.52 Tennis court, accessory to residential.

Tennis courts on individual residential lots shall be located in rear yards and shall be setback at least fifteen (15) feet from all side and rear property lines and be enclosed by a fence or freestanding wall at least eight (8) feet high. Lighting for the private tennis court shall not be permitted, except by a special administrative permit.

### 4.2.53 Transit shelters.

A. Transit shelters may be located within a street right-of-way with permission from the community development director or within an established yard fronting a street, but may not be located so as to obstruct the sight distance triangle per Article 5.

B. A schematic plan of the transit shelter must be submitted and approved by the community development director. The plan must include the following:

1. The location of the proposed shelter relative to street, property lines, and established building yards;

2. The size and design of the shelter, including front, side, and rear elevations, building materials, and any public convenience or safety features such as telephone, lighting, heating, or trash containers. Trash containers shall be provided for all transit shelters.

### 4.2.54 Truck stop.

The following provisions apply to truck stops whether designed as a primary use or accessory use as part of an industrial development:

A. Truck stops shall be permitted only on parcels of ten (10) acres or more.

B. Entrance drives for truck stop facilities shall not be closer than three hundred (300) feet from any point of an interstate highway interchange.

C. Truck stops shall meet all state and federal environmental guidelines and requirements.

### 4.2.55 Urban garden or community gardens.

A. If an urban garden or community garden is greater than five (5) acres, a special administrative permit is required. The permit shall expire twenty-four (24) months from issuance, and such use shall thereafter only operate upon issuance of a new permit in the manner prescribed herein.

B. The following items shall be submitted with the special administrative permit application:

1. Name and current address of the applicant.

2. Address of the garden.

3. Proof of ownership or leasehold interest (for the duration of the special administrative permit) of the lot on which the garden is located; or a notarized letter signed by the property owner(s), or authorized property manager or agent, consenting to the placement of a garden on the lot.
4. A site plan showing:
   a. Property lines, street curbs, street names, and adjacent sidewalks as applicable.
   b. Plan layout and dimensions showing plot layout, structures and compost areas.
   c. Source of water, including any rain barrel locations.
5. Permit fee.
6. Other documents or information reasonably deemed necessary to determine the compatibility of the use identified in the permit application.

C. Sales of produce from the community garden site is allowed with the approval of a special administrative permit for temporary outdoor seasonal activities, provided the following regulations are met and documentation, where required, is provided with the application:
   1. *Sales hours*. Garden sales and pickups may occur between 7:00 a.m. and 9:00 p.m. Set-up of sales operations shall begin no earlier than 6:00 a.m., and take-down and clean-up shall end no later than 10:00 p.m.
   2. *Management*. An individual shall be present onsite during all sales hours to direct the vending operations.

D. The following requirements apply for all urban or community gardens, of any acreage. Gardens accessory to a residence are excluded from these standards.
   1. *Garden operating rules and regulations.* A set of operating rules shall be established to address the governance structure of the garden, hours of operation, maintenance, and security.
   2. *Fencing.* All fences shall comply with all applicable sections in the Code pertaining to the relevant zoning district in which the garden is located.
   3. *Synthetic fertilizers, pesticides, and herbicides*. Gardens may submit documentation of organic methods. Alternatively, the garden shall be designed and maintained so that synthetic fertilizers, pesticides, and herbicides will not harm any adjacent property.
   4. *Waste removal*. The garden shall recycle and remove waste in accordance with all applicable sections of the Code.
   5. *Parking requirements.* The garden shall provide a minimum of one (1) parking space per one-half (0.5) acre of property on which the community garden is located during the hours of operation. The parking requirement may be met by providing either on-site parking or off-site parking within five hundred (500) feet of the property line of the property on which the community garden is located.
   6. *Permitted structures*. The following structures are permitted in association with an urban or community garden:
      a. Greenhouses, hoop houses, cold-frames and similar structures used to extend the growing season.
      b. Storage buildings limited to tool sheds, shade pavilions, barns, restroom facilities with composting toilets, and planting preparation houses.
      c. Benches, bike racks, raised and accessible beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, chicken coops, beehives and children's area.

7. *Use of machinery*. Use of machinery and equipment is allowed, but use of machinery is limited to the hours of 8:00 a.m. to 8:00 p.m. When not in use, all such machinery and equipment (with the exception of machinery and equipment that is (i) intended for ordinary household use, (ii) borrowed or rented for a period not to exceed seven (7) days, or (iii) located in an urban garden in Light Industrial District or Heavy Industrial District) shall be stored so as not to be visible from any public street, sidewalk, or right-of-way.
8. *Buildings.* Buildings shall be setback a minimum of ten (10) feet from property lines.
9. A minimum of twenty (20) feet of lot frontage along a public right-of-way, or an access easement not less than ten (10) feet wide to provide vehicular access in case of an emergency is required.
10. Driveways and parking may be surfaced with pervious material, including gravel.
11. The site should be designed and maintained so that water does not cause erosion or allow sedimentation on adjacent property.
12. No fencing shall exceed six (6) feet in height. Fencing along the front shall not exceed four (4) feet.
13. Compost and waste collection bins must be located in the rear yard (if a building exists) and be placed at least ten (10) feet from any property line.
14. One (1) sign located on a community garden site is permitted, provided that it shall not exceed six (6) square feet of sign area, excluding the base, and shall not exceed four (4) feet in height. Garden signs shall not be illuminated. Internally located directional, instructional, educational and labeling signs are allowed without a permit.
15. Hours of operation (other than sales) shall be allowed from dawn until dusk. No lighting is allowed.
16. Community gardens must comply with supplemental regulations regarding livestock, bee keeping, and temporary, seasonal sales or events, as applicable.

### 4.2.56 Utility structure necessary for transmission or distribution of service.

Any utility structure necessary for the transmission or distribution of service, whether an authorized use or a permitted use, shall provide security fencing and landscaping to lessen the visual impact of such structures on adjoining property. Noise resulting from temporary construction activity pursuant to a valid development or building permit, that is not a part of the usual and ongoing operation of the use on the site, that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section. Such structures shall be located only within the buildable area of any lot where permitted or authorized by zoning and shall meet all requirements of the district in which such structure is located.

### 4.2.57 Wireless telecommunications (cell tower).

A. *Purpose and goals.*

The purpose of this section is to ensure that residents, public safety operations, and businesses in the City of Tucker have reliable access to wireless telecommunications networks and state of the art communication services while also ensuring that this objective is achieved in a manner consistent with the City of Tucker's planning and zoning standards, to maintain to the extent possible the aesthetic integrity of the community, and in accordance with applicable state law and with federal law, regulations, and guidance, including the Telecommunication Act of 1996 which preserved, with certain limitations, local government land use and zoning authority concerning the placement, construction, and modification of wireless telecommunication facilities.

The goals of this section are:

1. To ensure the City of Tucker has sufficient wireless infrastructure to support its public safety communications throughout the city;

2. To provide access to reliable wireless telecommunication services by residents, businesses, and visitors throughout all areas of the city;
3. To minimize the total number of support structures within the city by promoting and encouraging the joint use of new and existing wireless support structures among wireless service providers;
4. To encourage the location of wireless support structures, to the extent possible, in areas where adverse impacts on the community will be minimized;
5. To encourage the design and construction of towers and antennas to minimize adverse visual impacts;
6. To avoid potential damage to property caused by wireless communications facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound;
7. To preserve those areas of scenic or historic significance;
8. To facilitate implementation of an Existing Tower Map;
9. To promote and encourage the joint use of new and existing tower sites among service providers;
10. To enhance the ability of the providers of wireless communications services to deliver such services to the community effectively and efficiently;
11. To be consistent with all overlay districts within the city, to the extent practicable and so as to not to conflict with this section.

B. *Definitions*. For the purposes of this Ordinance, the following definitions apply:

*Abandon* means when a tower is not operated for a continuous period of six (6) months.

*Accessory Equipment* means any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.

*Administrative Approval* means zoning approval that the community development director is authorized to grant in the form of a Special Administrative Permit.

*Administrative Review* means evaluation of an application by the community development director in connection with the review of an application for a building permit.

*Antenna* means any communications equipment that transmits, receives, or transmits and receives electromagnetic radio signal used in the provision of all types of wireless communication services including, but not limited to, cellular, paging, personal communications services (PCS) or microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.

*Application* means a formal request submitted to the City of Tucker to construct, collocate or modify a wireless support structure or a wireless facility.

*Attached wireless telecommunications facility* means an antenna or antenna array that is secured to an existing building or structure (except an antenna support structure) with any accompanying pole or device which attaches it to the building or structure, together with transmission cables and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure, and do not significantly change the profile of the existing structure and are not readily noticeable to the untrained eye. Attached wireless telecommunications facilities may be concealed or contained in an architectural

feature and should complement the existing theme and rhythm of the structure. An attached wireless telecommunications facility is considered to be an accessory use to the existing principal use on a site.

*Collocate or Collocation* means the placement or installation of new wireless facilities on previously approved and constructed wireless support structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of accessory equipment within an existing equipment compound.

*Carrier on Wheels or Cell on Wheels ("COW")* means a portable self-contained Telecommunications Facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure, though it may use a separate temporary mast for the placement of antennas.

*Distributed Antenna Systems ("DAS")* means a network of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure.

*Equipment Compound* means an area surrounding or adjacent to the base of a wireless Support Structure within which accessory equipment is located.

*Existing Structure* means previously erected Support Structure or any other structure, including but not limited to, buildings and water tanks, to which Telecommunications Facilities may be attached.

*Fall Zone* means the maximum distance from its base a wireless support structure will collapse in the event of a failure, usually less than the total height of such structure. This distance must be defined by a professional civil or structural engineer licensed in the State of Georgia.

*Geographic Search Area (GSA)* means a geographic area designated by a wireless provider or operator as the area within which a new Telecommunication Facility must be located to serve an identified system need, produced in accordance with generally accepted principles of wireless engineering.

*Modification* means the improvement, upgrade, expansion, or replacement of wireless facilities on an existing wireless support structure or within an existing equipment compound and may include: (i) an increase in structure height of a pre-existing tower up to thirty (30) percent so long as such height increase does not trigger FAA lighting requirements; or (ii) the removal and replacement of a pre-existing tower with a new tower at the same location that may be up to thirty (30) percent taller so long as any such structure height increase does not trigger FAA lighting requirements.

*Monopole* means a single, freestanding pole-type structure supporting one or more Antennas. For purposes of this Section, a Monopole is not a Tower.

*Ordinary Maintenance* means action taken to ensure that Telecommunications Facilities and Support Structures are kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity, aesthetic and structural integrity; for example the strengthening of a Support Structure's foundation, or of the Support Structure itself. Ordinary Maintenance includes replacing Antennas of a similar size, weight, shape and color and Accessory Equipment within an existing Telecommunications Facility, and relocating the Antennas of approved Telecommunications Facilities to different height levels on an existing Monopole or Tower upon which they are currently located. Ordinary Maintenance does not include Modifications.

*Replacement* means constructing a new Support Structure of the same proportions and of equal height, or such other height that would not constitute a modification to a pre-existing Support Structure, in order to support a Telecommunications Facility or to accommodate Collocation and removing the pre-existing Support Structure.

*Support Structure (new or existing)* means a structure designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

*Stealth Telecommunications Facility* means any Telecommunications Facility that is integrated as an architectural feature of an Existing Structure or any new Support Structure designed so that the purpose of the Facility or Support Structure for providing wireless services is not readily apparent to a casual observer. This term includes, but is not limited to artificial trees, clock towers, bell steeples, church towers and steeples, light poles, flag poles, monopoles with modified flush mount antennae and similar alternative-design structures that, in the opinion of the community development director or mayor and city council, as may be appropriate based on the requirements for approval in the zoning district in which the Telecommunications Facility is to be located, are compatible with the natural setting or surrounding structures and effectively camouflage or conceal the presence of antennas or towers.

*Telecommunications Facility(ies)* means any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Telecommunication Facility can consist of one or more Antennas and along with accessory equipment located in an equipment compound.

*Tower* means a lattice-type structure, guyed or freestanding, that supports one or more Antennas or Antenna Arrays.

C. *Approvals Required for Telecommunications Facilities, Stealth and New Support Structures*. It shall be unlawful for any person to erect, install, construct, enlarge, move, alter or convert any Tower or Antenna or cause the same to be done within the City of Tucker except in accordance with the provisions of this section. In addition, except as otherwise specifically provided herein, all Towers and Antennas shall also comply with all regulations applicable to the zoning district in which said Tower or Antenna is located and any permits authorizing said tower or antennas.

1. All Telecommunications Facilities, Stealth and New Support Structures shall require the issuance of a building permit in compliance with the administrative review processes described in this chapter. The building permit for a Telecommunications Facilities, Stealth and New Support Structures shall be in addition to either a special administrative permit or a special land use permit if required.

2. Telecommunications Facilities, Stealth and New Support Structures permitted pursuant to Table 4.1 upon issuance of a special administrative permit by the community development director shall be considered in accordance with the standards set forth in this chapter. A building permit for a Telecommunications Facilities, Stealth and New Support Structures may be applied for and considered contemporaneously with an application for a special administrative permit.

3. Telecommunications Facilities, Stealth and New Support Structures not permitted by a special administrative permit shall be permitted upon the granting of a special land use permit by the City of Tucker mayor and city council in accordance with the standards set forth in this chapter, before submittal for Administrative Review (building permit).

D. *Exempt*. Ordinary Maintenance of existing Telecommunications Facilities, Stealth and New Support Structures shall be exempt from zoning and permitting requirements. In addition, the following facilities are not subject to the provisions of this Ordinance:

1. Antennas used by residential households solely for broadcast radio and television reception;

2. Satellite antennas used solely for residential or household purposes;

3. Telecommunication Facilities, Towers, Stealth and New Support Structures, and Monopoles located on County or City-owned property;

4. COWs placed for a period of not more than one hundred twenty (120) consecutive days at any location within the City of Tucker after a declaration of an emergency or a disaster;

5. Television and AM/FM radio broadcast towers and associated facilities; and

6. DAS facilities when located within a building or on the exterior of a building.

E. Telecommunications Facilities, and Modifications Permitted by Administrative Review (Building Permit).

1. Telecommunications Facilities Located on Existing Structures.

a. Attached Wireless Telecommunications Facilities are permitted in all zoning districts, except single family residential, when located on any Existing Structure (other than a single family residential structure or a multi-family residential structure less than four (4) stories or fifty (50) feet in height) subject to Administrative Review in accordance with the requirements of this

b. Attached Wireless Telecommunication Facilities may exceed the maximum building height limitations within a zoning district, above the roof line of a flat roof or the top of a parapet wall to which they are attached, but shall be camouflaged or screened with an architectural feature compatible with the building. Modifications are permitted to all existing Stealth and Support Structures and associated equipment compounds in accordance with the requirements of this Ordinance. Any modification involving increasing the height of an existing Tower, either directly or by replacement, shall be permitted only upon a demonstration deemed sufficient to the community development director that increasing structure height will allow collocation on the Tower by a wireless service provider and that such collocation will obviate the need for a new Telecommunications Facility in the same Geographic Search Area (GSA). Approval of a modification involving an increase in the height of an existing Tower, either directly or by replacement, shall also authorize a corresponding increase in the size of the associated equipment compound sufficient to accommodate the accessory equipment needed by the wireless service provider collocating on the Tower.

2. A Monopole or Replacement pole that will support utility lines as well as a Telecommunications Facility shall be permitted within utility easements or rights-of-way, in accordance with the requirements of this chapter, subject to the following regulations:

a. The utility easement or right-of-way shall be a minimum of one hundred (100) feet in width.

b. The easement or right-of-way shall contain overhead utility transmission and/or distribution structures that are eighty (80) feet or greater in height.

c. The height of the Monopole or Replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

d. Monopoles and all Accessory Equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

e. Single carrier Monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by subsection (iii) above.

Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

3. The community development director must issue a written decision approving, approving with conditions, or denying the application for modification or collocation within 90 days of submission of the initial application.

F. *Telecommunication Facilities and Structures Permitted by Special Administrative Permit or Special Land Use Permit.*

1. *New Support Structures and Attached Wireless*.

a. New Support Structures up to one hundred and fifty (150) feet in height shall be permitted in the NS and OIT zoning districts by special land use permit in accordance with the requirements of this Chapter.

b. New Support Structures up to one hundred ninety-nine (199) feet in height shall be permitted by special administrative permit in the OI, OD, C-1, C-2, M and M-2 zoning districts in accordance with the requirements of this chapter.

c. Only Attached Wireless Telecommunications (AWT) facilities are allowed in single family residential districts, RE, RLG, R-100, R-85, R-75, R-60 and RSM. An AWT shall be located only on property that is used for non-residential purposes, and attached to non-residential structures. The height of the facility shall be measured to include the height of the structure. These facilities shall be permitted by special administrative permit in accordance with the requirements of this chapter.

d. New Support Structures either up to one hundred fifty (150) feet in height, or up to one hundred ninety-nine (199) feet in height depending on the zoning district in which the New Support Structure is located, may be permitted administratively or through the special land use permit process as described in Table 4.1. The height of any proposed support structure shall not exceed the minimum height necessary to meet the coverage or capacity objectives of the Facility. Stealth design is encouraged.

2. *Stealth Design Telecommunications Facilities.*

a. Any Telecommunications Facility that otherwise complies with the requirements of this chapter, including procedural approvals, may be designed as a Stealth Telecommunication Facility.

b. Stealth Telecommunication Facilities are mandatory in medium and high density residential districts and shall not exceed one hundred and fifty (150) feet in height. All towers in medium and high density residential districts must be approved by a special land use permit.

c. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

d. Existing Structures utilized to support the Antennas must be allowed within the underlying zoning district. Such structures may include, but are not limited to, buildings, flagpoles, bell towers, clock towers, religious crosses, monuments, smoke stacks, parapets, and steeples.

3. *Cell on Wheels/Carrier on Wheels (COW) Facilities.* The use of COWs shall be permitted in any zoning district after Special Administrative Permit Approval and Administrative Review (building permit). COWs may be placed for a period of not more than one hundred twenty (120) consecutive days at any location within the City of Tucker if used during a non-emergency or special event. Placement of a COW for the purpose of providing wireless telecommunication service in connection with a special event, subject to the COW's compliance with all federal requirements, may be up to forty-five (45) consecutive days before such special event, for the duration of the event, and for up to fourteen (14) consecutive days thereafter. After a declaration of an emergency or disaster by federal or state government, by DeKalb County, by the City of Tucker, or a determination of public necessity by the community development director, COWs are authorized without permitting.

4. *General Standards, Design Requirements, and Miscellaneous Provisions.* Unless otherwise specified herein, all Telecommunications Facilities and Support Structures permitted by Special Administrative Permit Approval are subject to the applicable general standards and design requirements contained herein.

5. *Special Administrative Permit Review Process*. All Special Administrative Permit applications must contain the following:

a. The Special Administrative Permit application form signed by the applicant.

b. A copy of a lease or letter of authorization from the owner of the property on which the Telecommunications Facility and Support Structure are located evidencing the applicant's

authority to pursue the application. Such submissions need not disclose the financial lease terms.

c. Site plans detailing proposed improvements complying with the City's site plan requirements. Site plans must depict all improvements and satisfaction of all applicable requirements contained in this Code, including property boundaries, setbacks, topography, elevation sketch, landscaping, fencing, and dimensions of improvements.

d. In the case of a new Support Structure:

i. A statement indicating why collocation could not meet the applicant's requirements. Such statement may include justifications, including why collocation is either not reasonably available or technologically or structurally feasible, as applicable, to document the reason why collocation is not a viable option.

ii. The applicant shall provide a list of all the existing structures considered by it as alternatives to the proposed location. The applicant shall provide a written explanation why the alternatives considered were either reasonably unavailable, or technologically or structurally infeasible.

iii. Applications for new Support Structures with accompanying Telecommunications Facilities shall be considered together as one application requiring only a single application fee.

iv. A list of all Towers and Support Structures in DeKalb County in which the applicant has an ownership interest or use agreement. The list shall include the location, the type of structure, the height of the structure, the number of facilities located on the same structure, and the number of facilities for which collocation would be available under existing conditions.

v. A color propagation map demonstrating the existing coverage of all Telecommunications Facilities owned and proposed by the applicant within the GSA.

vi. Current and proposed coverage map for the proposed tower.

vii. A structural integrity analysis of a tower shall be included where antennas and equipment will be attached to such existing tower, or to establish the fall zone. Such certification and structural integrity analysis shall bear the signature and seal of a professional engineer licensed in the State of Georgia.

viii. A Special Administrative Permit application fee as listed in the City of Tucker's published fee schedule.

6. *Procedure.*

a. Within thirty (30) days of receipt of an application for Special Administrative Permit, the community development director shall either: (1) inform the Applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the director informs the Applicant that its application is incomplete within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information necessary to complete the application.

b. An applicant that receives notice of an incomplete application may submit additional documentation to complete the application. An applicant's failure to complete the application within sixty (60) days after receipt of written notice of incompleteness shall result in the withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

c. The community development director the application within one hundred fifty (150) days of the submission of the initial application unless:

i. The community development director notified applicant in writing that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred fifty (150) day total review time is suspended until the Applicant provides the missing information; or

ii. An extension of time is agreed to by the Applicant in writing.

d. After making a decision, the community development director shall have ten (10) calendar days to post a sign on the subject property which reflects the decision of the director and includes the deadline for taking an appeal of the decision.

e. An aggrieved person, as such term is defined by Georgia courts, may appeal any decision of the community development director approving, approving with conditions, denying an application, or deeming an application incomplete, within thirty (30) days of such decision to Zoning Board of Appeals in accordance with this chapter.

G. *Special Land Use Permit review process.*

1. Any Telecommunications Facility, Stealth or New Support Structure, located in a medium to high density residential district, or NS and OIT (except for an Attached Wireless Telecommunication Facility) shall meet the requirements of this chapter and shall be approved by a special land use permit subject to:

a. The submission requirements below;

b. The applicable standards below; and

c. The requirements of the special land use permit general requirements provided in Article 7.

2. *Submission requirements for special land use permit applications*.

a. All special land use permit applications for Telecommunications Facilities, Stealth and New Support Structures, must contain the following:

i. The special land use permit application form signed by applicant.

ii. A copy of a lease or letter of authorization from the property owner evidencing applicant's authority to pursue the special land use permit application. Such submissions need not disclose the financial lease terms.

iii. A legal description of the parent tract, the leased parcel and any associated easements, as applicable.

iv. A scaled site plan clearly indicating the location, type and height of the proposed Tower or accessory structure to be utilized, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines and residential structures (if located on adjacent property), elevation drawings of the proposed Tower, design of the tower and how visible obtrusiveness is reduced, accessory structure and any other structures, topography on site and of surrounding property, existing streams, wetlands and floodplains, and other information deemed necessary by the director of planning to assess compliance with this section.

v. A letter of intent providing a detailed narrative regarding the proposed facility, including the needs it is intended to meet, the area to be served, design characteristics, collocation alternatives, nature of uses on adjacent properties, and any other information deemed necessary by the community development director to provide an adequate description of the proposal.

vi. A radio frequency study including a description of the area of coverage, capacity and radio frequency goals to be served by the proposed facility, and the extent to which such proposed

facility is needed for coverage or capacity needs. The study shall include all planned, proposed, in-service or existing sites operated by the Applicant in or near the boundaries of and a color propagation study demonstrating the existing coverage of all Telecommunications Facilities owned and proposed by the applicant within the GSA. The study shall also demonstrate that the proposed height is the minimum necessary to achieve the required coverage. The study shall bear the signature of a qualified radio frequency engineer.

vii. Certification that the Telecommunications Facility, the foundation and all attachments are designed and will be constructed to meet all applicable local codes, ordinances, and regulations, including any and all applicable county, state and federal laws, rules, and regulations. A structural integrity analysis of an existing tower shall be included where antennas and equipment will be attached to such existing tower. Such certification and structural integrity analysis shall bear the signature and seal of a professional engineer licensed in the State of Georgia.

viii. Line-of-sight diagram or photo simulation, showing the proposed Support Structure set against the skyline and viewed from at least four (4) directions within the surrounding areas.

ix. A list of all Towers and Support Structures in DeKalb County in which the applicant has an ownership interest or use agreement. The list shall include the location, the type of structure, the height of the structure, the number of facilities located on the same structure, and the number of facilities for which collocation would be available under existing conditions.

x. A statement indicating why collocation is not feasible. Such statement shall include:

(1) Such technical information and other justifications as are necessary to indicate the reasons why collocation is not a viable option; and

(2) A list of the existing structures considered by the applicant as possible alternatives to the proposed location and a written explanation why the alternatives considered were structurally deficient or otherwise unsuitable.

xi. A statement certifying that the proposed Stealth or New Support Structure will be made available for collocation to other service providers at commercially reasonable rates.

xii. Notification to surrounding property owners as required by this chapter.

xiii. A special land use permit application fee as listed in the City of Tucker's published fee schedule.

3. *Procedure.*

a. Within thirty (30) days of the receipt of an application for special land use permit, the community development director shall either: (1) inform the Applicant in writing of the specific reasons why the application is incomplete and does not meet the submittal requirements; or (2) deem the application complete. If the director informs the Applicant in writing that its application is incomplete within thirty (30) days, the overall timeframe for review is suspended until such time that the Applicant provides the requested information necessary to constitute a Complete Application.

b. If an application is deemed incomplete, the Applicant may submit additional materials to complete the application. An applicant's unreasonable failure to complete the application within sixty (60) days after receipt of written notice of incompleteness shall result in the withdrawal of the application without prejudice. An application withdrawn without prejudice may be resubmitted upon the filing of a new application fee.

c. A Complete Application for a special land use permit shall be scheduled for a hearing date as required by the City of Tucker.

d. Applications for Stealth and New Support Structures with accompanying Telecommunications Facilities shall be considered as one application requiring only a single application fee.

e. The posting of the property and public notification of the application shall be accomplished in the same manner required for any special land use permit application under this Ordinance.

f. The community development director must provide the Applicant with a written decision of the mayor and city council approving, approving with conditions, or denying the request within one hundred-fifty (150) days of the submission of the initial application unless:

i. The community development director notified applicant in writing that its application was incomplete within thirty (30) days of filing. If so, the remaining time from the one hundred-fifty (150) day total review time is suspended until the Applicant provides the missing information in writing; or

ii. An extension of time is agreed to by the Applicant.

H. *General Standards and Design Requirements.*

1. *Design*.

a. Support Structures shall be subject to the following:

i. Designed to accommodate a minimum number of collocations based upon their height, as follows:

(1) Support Structures less than one hundred (100) feet in height shall be designed to support at least two (2) antenna arrays;

(2) Support Structures between one hundred (100) and one hundred-fifty feet (150) shall be designed to support at least three (3) antenna arrays; and

(3) Support Structures greater than one hundred-fifty (150) feet in height shall be designed to support at least four (4) antenna arrays.

ii. The compound area surrounding the Support Structure must be a minimum eighty (80) feet x eighty (80) feet in size to accommodate Accessory Equipment for the appropriate number of collocations.

iii. Property leased or purchased for the purpose of a telecommunication facility is not required to have minimum road frontage or lot area of the zoning district. However, the applicant must demonstrate access to a public road via an access easement.

b. Stealth Telecommunications Facilities shall be designed to accommodate the collocation of other Antennas whenever economically and technically feasible.

c. Upon request of the Applicant, the community development director may waive the requirement that new Support Structures accommodate the collocation of other service providers if the community development director determines that collocation at the site is not essential to the public interest and that the construction of a shorter support structure with fewer Antennas would minimize adverse impact on the community. Additionally, the Director may reduce the required size of the compound area if it can be demonstrated that the proposed compound is of sufficient size to accommodate the required number of co-locations.

2. *Setbacks.*

a. *Property Lines*. Unless otherwise stated herein, Stealth and New Support Structures shall be set back from all property lines a distance of the fall zone plus twenty (20) feet, or if adjacent to

property zoned residential, the greater of (a) the fall zone plus twenty (20) feet or (b) one hundred (100) feet.

b. *Residential Dwellings*. There shall be no setback requirement from dwellings located on the same parcel as the proposed structure.

c. Unless otherwise stated herein, all Accessory Equipment shall be set back from all property lines in accordance with the minimum setback requirements in the underlying zoning district and any overlay district. Accessory Equipment associated with an existing or Replacement utility pole shall not be subject to setback requirements.

d. The zoning board of appeals shall have the authority to vary any required setback upon the request of the applicant if:

i. The Applicant provides a letter stamped by a certified structural engineer licensed in the State of Georgia documenting that the proposed structure's fall zone is less than the requested setback; and

ii. The proposed Telecommunications Facility, Stealth or New Support Structure is consistent with the purposes and intent of this Ordinance.

3. *Height.*

a. In non-residential districts, Support Structures shall be designed to be the minimum height needed to meet the service objectives of the Applicant, but in no event shall exceed one hundred ninety-nine (199) feet in height as measured from the base of the structure to its highest point, excluding any appurtenances.

b. In medium and high density residential districts, Stealth Support Structures shall not exceed one hundred fifty (150) feet. Stealth Support Structures shall be measured from the base of the structure to the top of the highest point, excluding appurtenances. Any proposed Stealth Support Structure shall be designed to be the minimum height needed to meet the service objectives of the applicant.

c. In all zoning districts, the Zoning Board of Appeals shall have the authority to vary the height restrictions listed in this section upon the request of the applicant and a satisfactory showing of need for a greater height. With its variance request the Applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Zoning Board of Appeals.

4. *Aesthetics.*

a. *Lighting and Marking*. Telecommunications Facilities or Support Structures shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

b. *Signage*. Signs located at the Telecommunications Facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited.

c. *Landscaping*. The visual impacts of a Tower shall be mitigated by landscaping. Unless located in heavily wooded areas, Towers shall be landscaped with a landscape buffer which effectively screens the view of the tower compound from all sides. The use of existing plant material and trees shall be preserved to the maximum extent practicable and may be used as a substitute for, or in supplement towards, meeting landscaping requirements.

d. Landscape buffers shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the Tower compound.

e. All landscaping shall be of the evergreen variety and shall conform to the City's buffer standards.

5. *Accessory Equipment, including any buildings, cabinets or shelters.*

   a. Accessory Equipment shall be used only to house equipment and other supplies in support of the operation of the on-site Telecommunication Facility or Support Structure.

   b. Any equipment not used in direct support of such on-site operation shall not be stored on the site.

   c. Accessory Equipment must conform to the setback standards of the applicable zoning districts. In the situation of stacked equipment buildings, additional screening/landscaping measures may be required by the community development director in order to accomplish the purposes and goals of this section.

I. No sound emanating from the facility generator during normal operations shall be audible above seventy (70) decibel which would allow normal conversation within fifteen (15) feet of the compound.

J. *Miscellaneous provisions.*

1. *Fencing.*

   a. Ground-mounted Accessory Equipment and Support Structures shall be secured and enclosed with a fence to a height of at least six (6) feet.

   b. Fencing shall be decorative, including brick or concrete columns.

   c. The community development director may waive the requirement of Subsection (1)(a) above if it is deemed that a fence is inappropriate or unnecessary at the proposed location in order to accomplish the purposes and goals of this section.

2. *Neighborhood Identity*. If located in residential area, towers may incorporate features that identify neighborhoods, such as banner arms or monuments.

3. *Abandonment and removal*. If a Support Structure is abandoned, the community development director may require that the Support Structure be removed, provided that the community development director must first provide written notice to the owner of the Support Structure and give the owner the opportunity to take such action(s) as may be necessary to reclaim the Support Structure within sixty (60) days of receipt of said written notice. In the event the owner of the Support Structure fails to reclaim the Support Structure within the sixty (60) day period, the owner of the Support Structure shall be required to remove the same within six (6) months thereafter at the owner's expense. The City shall ensure and enforce removal by means of its existing regulatory authority.

4. *Multiple Uses on a Single Parcel or Lot*. Telecommunications Facilities and Support Structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

K. *Telecommunications Facilities and Support Structures in Existence on the Date of Adoption of this Ordinance.*

1. Telecommunications Facilities and Support Structures that were legally permitted nonconforming uses on or before the date this chapter was enacted shall be considered a legal, lawful use, subject to the nonconforming use regulation in this chapter and state law.

2. Ordinary Maintenance may be performed on a nonconforming Support Structure or Telecommunications Facility.

3. Collocation or Modifications of Telecommunications Facilities on an existing nonconforming Support Structure shall not be construed as an expansion, enlargement or increase in intensity of a nonconforming structure and/or use and shall be permitted through the Administrative Approval of a Building Permit process.

## 27.4.3 DIVISION 3. TEMPORARY USE REGULATIONS

### 4.3.1 Temporary outdoor uses: general requirements.

A. Temporary outdoor uses shall not be held, unless the necessary special administrative permit is obtained from the community development department, subject to the provisions of Article 7, and any other applicable agency which may require review prior to issuance of permits.

B. Any applicant for a permit for temporary outdoor use shall have the written authorization of the owner of the property to use the property for the specific event for which the application was submitted.

C. All applicants for a permit for temporary outdoor use shall obtain a business license, if applicable.

D. All approvals, permits, or licenses granted under this division must be displayed in a conspicuous manner on the premises at all times for inspection by the City of Tucker.

E. No temporary outdoor use may be located within or encroach upon any drainage easement, public sidewalk or right-of-way, fire lanes, designated loading areas, driveways, maneuvering aisles, or ADA minimum four (4) foot sidewalk width within private sidewalks or other areas intended for pedestrian movement.

F. Temporary signage is permitted subject to the size and height standards in accordance with Chapter 21, Signs.

G. No operator, employee, or representative of the operator of a temporary outdoor use shall solicit directly from the motoring public.

H. Any temporary outdoor uses which have not complied with this division shall be a violation of this section. Any person or entity found to be in violation of this section may be punished as provided for in Article 7.

I. No temporary outdoor use shall be conducted within any public right-of-way unless permitted by public entity.

J. Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or flow of traffic.

K. Merchandise shall only be displayed in an area not wider than fifty (50) percent of the total linear frontage of the building occupied by the merchant.

L. The premises for a temporary outdoor use shall be restored to a sanitary condition, i.e., cleaned and cleared of all litter, trash and debris; and all equipment, materials, signs, temporary power poles, etc., associated with the temporary outdoor use shall be removed from the property within two (2) days of the last day specified for such use, except for yard sales. All unsold yard sale merchandise remaining at the conclusion of the sale must be removed immediately. Purchased yard sale merchandise must be removed within twenty-four (24) hours of conclusion of the sale.

### 4.3.2 Duration, frequency and hours of operation of temporary outdoor uses.

The maximum duration, frequency and hours of operation for temporary outdoor uses shall be limited as shown in Table 4.3, below:

Table 4.3 Temporary outdoor uses operational requirements

| Operational requirement maximums for temporary outdoor uses | | | | |
|---|---|---|---|---|
| **Temporary Use** | **Duration** | **Frequency** | **Hours of Operation** | **Special Administrative Permit Required?** |
| Christmas tree sales | Nov.15 thru Jan. 1 | | Cease at 9 p.m. Mon. – Thurs. & Sun.; 10 p.m. Fri.& Sat. | Yes |
| Pumpkin and Halloween sales | Sept. 15 thru Oct.31 | | Cease at 9 p.m. Mon. – Thurs. & Sun.; 10 p.m. Fri.& Sat. | Yes |
| Charitable/non-profit event | 7 consecutive days | 4 times/calendar year | Daylight hours only | Yes |
| Temporary Produce stand | One full year | Year round | Daylight hours only | Yes |
| All other seasonal sales | 3 consecutive days | 4 times/ calendar year | Daylight hours only | Yes |
| Temporary outdoor retail sales display | 30 consecutive days | 4 times/calendar year | Cease at 9 p.m. Mon. – Thurs. & Sun.; 10 p.m. Fri.& Sat. | Yes |
| Temporary outdoor event | 14 consecutive days | 2 times/calendar year | Cease at 9 p.m. Mon. – Thurs. & Sun; 10 p.m. Fri. & Sat. | Yes |
| Yard sales | 3 consecutive days | Once/six months | Daylight hours only | No |
| Farmer's Markets | Year Round | 3 consecutive days per month or one day per week | Cease at 9 p.m. Mon. – Thurs. & Sun.; 10 p.m. Fri. & Sat. | Yes |

### 4.3.3 Temporary outdoor seasonal activities.

Temporary outdoor seasonal activities include the sale of retail merchandise associated only with recognized seasonal and federal holidays, the sale of farm produce, Mother's Day, Easter, and Valentine's Day, subject to the following regulations:

A. *Use regulations.*

1. A special administrative permit shall be required, for all temporary outdoor seasonal activities.
2. Events or sales of retail merchandise not customarily associated with seasonal or federal holidays or farm produce is prohibited.
3. Produce stands in residential areas shall only be located on property of nonresidential uses such as churches, schools, or recreational areas.

B. *Lot and parcel restrictions.*

1. A temporary outdoor seasonal activity may be held on a vacant parcel if within a non-residential zoning district.
2. A temporary outdoor seasonal activity may be held on parcels where the temporary outdoor seasonal activity is not associated with the principal use of the property.

3. Temporary outdoor seasonal activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress.

4. All exterior lighting utilized in conjunction with temporary outdoor seasonal activities shall be directed downward to minimize glare on adjacent properties.

5. Spotlights and high-temperature process lighting for temporary outdoor seasonal activities are prohibited.

C. *Setback and structure requirements.*

1. All temporary outdoor seasonal activities, including installation or erection of associated temporary display and sales structures, shall not be within any public right-of-way, and no display or sales area shall be located within twenty-five (25) feet of the street.

2. Tents over two hundred (200) square feet and canopies over four hundred (400) square feet shall require issuance of a building permit and approval by the Fire Marshall.

3. A sign may be erected on the property in accordance with Chapter 21, Sign Ordinance, for the duration approved by the administrative permit.

### 4.3.4 Temporary outdoor retail sales displays.

Temporary outdoor retail sales displays and related outdoor storage activities include the exhibition or representation of goods, merchandise, materials, or other items sold or bought at a retail establishment in which the items are displayed or sold outside the confines of a wholly enclosed building, and which are associated with the principal use of an existing business. Temporary outdoor retail sales displays shall not include events for which no business license is required (e.g. cookie sales). Temporary outdoor retail sales displays shall be subject to the following regulations.

A. *Use regulations.*

1. A special administrative permit must be approved in accordance with the provisions of Article 7.

2. Temporary outdoor retail sales displays shall include the display and sale of retail merchandise associated only with the principal use of the primary business on the property for a limited period of time.

3. Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service or event, shall also be considered part of the temporary outdoor retail sales display.

4. Sales transactions associated with the temporary outdoor retail sales display shall be conducted by employees of the principal use, and goods shall be owned by the owner or tenant of the principal use, not a consignment operation or temporary arrangement with a transient merchant/vendor.

5. Sales transactions associated with the temporary outdoor retail sales display must be consummated inside the building housing the principal use located on the site.

B. *Lot and parcel restrictions.*

1. Goods and merchandise may be displayed on public sidewalks only when a sidewalk abuts the store or building. Displays on public or private sidewalks shall not interfere with pedestrian travel, and the minimum ADA-required sidewalk width clearance shall be maintained.

2. Temporary outdoor retail sales display activities are prohibited on a vacant parcel.

3. Temporary outdoor retail sales display activities shall be conducted only on a paved surface, unless approved by the director.

4. Temporary outdoor retail sales display activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress and are not permitted within areas

required, set aside or designated for loading and maneuvering areas, emergency access ways, driving aisles and driveways.

5. Property zoned M (Light Industrial) and M2 (Heavy Industrial) are exempt from B.(1) and B.(2) and the duration limits (Table 4.3). An administrative use permit is required, and duration of use is subject to the approval of the director.

C. *Setback and display requirements.*

1. All temporary outdoor retail sales display activities, including installation or erection of associated temporary display and sales structures, and stand-alone merchandise, display tables, or display racks, must be set back at least ten (10) feet from a city, county or state right-of-way.

2. A temporary shade structure, tent, tilt-up, umbrella or covering may be erected as a part of the temporary outdoor retail sales display activity. Mobile buildings are prohibited. Tents over one hundred (100) square feet shall require issuance of a building permit.

3. Display tables, racks or shelves may be used as part of a temporary outdoor retail sales display activity.

4. Temporary outdoor retail sales display items, excluding shade structures, tents, tilt-ups, umbrellas or coverings, shall not exceed six (6) feet above grade.

5. A sign may be erected on the property in accordance with Chapter 21, Sign Ordinance, for the duration approved by the administrative permit.

### 4.3.5 Temporary outdoor events.

Temporary outdoor events may include temporary art shows, carnival rides, special outdoor social or religious event, entertainment, athletic events, rodeos, horseshows, and other events of community interest.

A. *Use regulations.* Temporary outdoor events shall be governed by the following regulations:

1. *Site conditions.*

a. Employees shall be uniformed and identified.

b. Security or off-duty police officers shall be on-site during operating hours.

c. Portable toilets or access to bathrooms shall be provided.

2. If the temporary outdoor event involves structures that require issuance of a building permit, a site plan of the event shall be included with the building permit application. The site plan submittal required by Article 7 shall indicate compliance with all Zoning Ordinance requirements.

B. *Lot and parcel restrictions.* Temporary outdoor event activities shall be setback at least one hundred (100) feet from any residential district or use.

C. *Temporary sites for worship*. The establishment of sites and tents for temporary worship conducted on a site not designated as a place of worship requires the grant of a special administrative permit by the community development director.

### 4.3.6 Yard sales.

A. Yard sales may be conducted without a permit on private property, but shall not be conducted within the public right-of-way.

B. Goods sold at yard sales must originate as the legal property of the home owner, other persons participating in the sale, or members of a participating organization. Goods shall not include any items purchased for resale at the yard sale.

1. Two (2) temporary signs are permitted during the yard sale, provided that such signs shall be on private property with permission of the owner, not within the public right-of-way or attached to a utility pole. Signs must be removed immediately following the conclusion of the sale.
2. All unsold yard sale merchandise remaining at the conclusion of the sale must be removed immediately. Purchased yard sale merchandise must be removed within twenty-four (24) hours of conclusion of the sale.

### 4.3.7 Temporary buildings, use and construction of.

Except where herein otherwise specifically permitted, temporary buildings, such as a mobile home or trailer, shall not be allowed in any district except: (1) for caretakers residence in the industrial districts, (2) to serve as a home sales office for a subdivision only during such time as a subdivision is under development, or (3) in conjunction with construction work or pending completion of a permanent building for a period concurrent with approved land disturbance and building permits. Such temporary buildings shall be sited and permitted in any district upon approval of the community development director through a special administrative permit. Such temporary buildings shall be removed when the construction has been completed.

# Article 5. Site Design and Building Form Standards

**Article 5. Site Design and Building Form Standards ..... 2**
**27-5.1 DIVISION 1. BLOCK AND LOT REQUIREMENTS ..... 2**
5.1.1 Blocks. ..... 2
5.1.2 Lots. ..... 2
5.1.3 Lots, access. ..... 2
5.1.4 Lots, corner. ..... 3
5.1.5 Lots, double frontage. ..... 3
5.1.6 Every use must be upon a lot of record. ..... 3
5.1.7 Buildings on single family and duplex lots. ..... 3
5.1.8 Multiple principal buildings on a lot. ..... 3
5.1.9 Minimum lot size and minimum lot width. ..... 4
5.1.10 Maximum lot coverage. ..... 4
5.1.11 Street frontage for lots. ..... 4
5.1.12 Lots served by wells and septic tanks; sewer and water connections. ..... 4
**27-5.2 DIVISION 2. GENERAL YARD AND MEASUREMENT PROVISIONS ..... 4**
5.2.1 Minimum required yards and building setbacks. ..... 4
5.2.2 Minimum floor area per dwelling unit. ..... 5
5.2.3 Compatibility of new and existing subdivisions. ..... 6
5.2.4 Transitional height plane. ..... 6
5.2.5 Height measurement requirements and thresholds. ..... 7
**27-5.3 DIVISION 3. SUPPLEMENTAL STREET REGULATIONS AND TRAFFIC IMPACT ..... 9**
5.3.1 Design standards by street type. ..... 9
5.3.2 Street connectivity. ..... 9
5.3.3 Sight visibility triangles. ..... 9
5.3.4 Traffic impact study. ..... 9
5.3.5 Traffic calming features. ..... 10
**27-5.4 DIVISION 4. STREETSCAPE AND LANDSCAPING REQUIREMENTS ..... 10**
5.4.1 Purpose and intent. ..... 10
5.4.2 Applicability. ..... 10
5.4.3 Streetscape elements and dimensions. ..... 11
5.4.4 Site and parking area landscaping. ..... 15
5.4.5 Transitional buffers. ..... 17
5.4.6 Screening. ..... 19
5.4.7 Walls, fences, and retaining walls. ..... 19
**27-5.5 DIVISION 5. OPEN SPACE STANDARDS ..... 21**
5.5.1 Applicability. ..... 21
5.5.2 Maintenance, management and ownership. ..... 22
5.5.3 Standards and design. ..... 23
**27-5.6 DIVISION 6. SUPPLEMENTAL SITE IMPROVEMENTS ..... 28**
5.6.1 Outdoor lighting. ..... 28
5.6.2 Stormwater detention facilities. ..... 29
**27-5.7 DIVISION 7. BUILDING FORM AND CONFIGURATION STANDARDS ..... 29**
5.7.1 Application of standards. ..... 29
5.7.2 Exemptions and variances. ..... 30
5.7.3 Conflict with other standards and review. ..... 30
5.7.4 Materials. ..... 30
5.7.5 Detached houses. ..... 32
5.7.6 Single-family attached buildings. ..... 34
5.7.7 Multi-family, non-residential, live/work and mixed-use buildings. ..... 39
5.7.8 Large-scale retail – additional standards. ..... 42

# Article 5. Site Design and Building Form Standards

All development shall comply with this Article's site, design, and building form standards, in addition to the requirements in Article 2, Zoning Districts and Chapter 14, Land Development.

## 27-5.1 DIVISION 1. BLOCK AND LOT REQUIREMENTS

### 5.1.1 Blocks.

A. *Intent*. The intent of this section is to have the lengths, widths and shapes of blocks in residential subdivisions designed with due regard to:

1. Provision of building sites suitable to the special needs of:
   a. the building form contemplated;
   b. the conservation of open space; and/or
   c. existing historic features.
2. Zoning requirements for lot sizes and dimensions;
3. Needs for convenient access by pedestrians and bicyclists to public transit, nearby schools, and commercial districts, vehicular circulation at safe speeds and adequate access for emergency vehicles; and
4. Limitations of, and opportunities for, topography to minimize land disturbance and erosion.
5. Connectivity standards in Section 5.3.2.

B. *Block length*.

1. When blocks are subdivided by new streets or created as part of a new development, including mixed-use, the minimum length of resulting new blocks shall be two hundred (200) to three hundred (300) linear feet.
2. The maximum block length for new subdivisions in the Suburban character area is six hundred (600) linear feet.
3. The maximum block length for new subdivisions in the Activity Center character area is five hundred (500) linear feet.

C. *Blocks and pedestrian access*. If a new development provides for a path with an easement through a block:

1. An easement for pedestrian use only shall be at least five (5) feet wide.
2. An easement for pedestrian and bicycle use shall be at least ten (10) feet wide.

### 5.1.2 Lots.

All lots shall conform to the minimum requirements for the zoning district in which such lot is located, to all applicable requirements of this Article, and the requirements of Chapter 14 of the Code. In the event of a conflict between the provisions of this chapter and Chapter 14 of the Code with respect to regulation of lots, the provisions of this chapter shall prevail.

### 5.1.3 Lots, access.

Each lot shall have vehicular access to a public or approved private street, or, in the case of townhouses, fee simple condominiums or cottage lots, to an alley or private internal drive, provided the overall townhouse or cottage development site provides access to a public street. In new subdivisions with three (3) or more single-

family detached or single-family attached units, lots on minor or major thoroughfares with lot frontages less than one hundred (100) feet shall have driveway access via shared driveways.

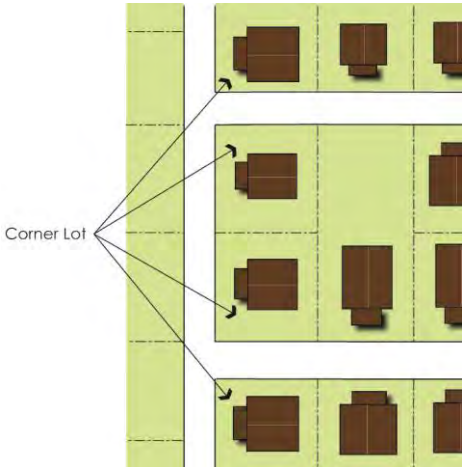
### 5.1.4 Lots, corner.

A. *Front yard building setback*. On corner lots, the lot frontage with the shortest distance to a public right-of-way shall be designated as the front yard, and development shall comply with front yard building setback requirements of the zoning district in which the lot is located.

B. *Side corner yard*. Once the front of a corner lot is determined pursuant to Section 5.1.4.A, the remaining side adjacent to a street is the side corner yard.

C. *Side corner yard building setback*. The minimum side corner yard building setback on corner lots shall be as designated by the zoning district regulations in Article 2. Unless otherwise restricted, buildings may face either the front or side corner.

D. *Lot width*. The minimum width of corner lots with residential uses shall be increased by fifteen (15) feet above the minimum width required for the zoning district in which the lot is located.



Corner Lot

E. *Side corner yard for nonconforming residential*. The side corner yard building setback in residential districts may be reduced to sixty percent (60%) of the minimum front yard building setback in the zoning district if:

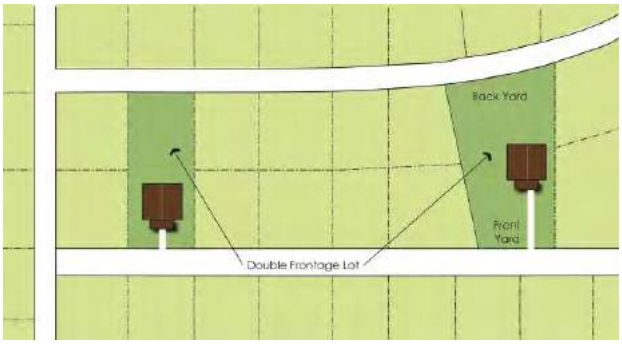
1. The lot is a legal nonconforming lot; and
2. The lot does not abut a thoroughfare.

### 5.1.5 Lots, double frontage.

A. Lots which adjoin public streets in both the front and rear shall provide the minimum required front yard setback on each street.

B. For purposes of front yard regulations, there shall be only one front yard designated, depending on which street the front of the house is built to face.

C. Driveway access on double frontage lots shall be limited to one street only. A ten (10) foot no-access easement shall be provided along the frontage of the street not used for a driveway.



Double Frontage Lot

### 5.1.6 Every use must be upon a lot of record.

No building or structure shall be erected and no use shall be established unless upon a lot of record.

### 5.1.7 Buildings on single family and duplex lots.

On all single-family detached and two-family residential lots, only one principal building, together with its permitted accessory structures and uses, shall occupy each lot.

### 5.1.8 Multiple principal buildings on a lot.

Multiple principal buildings with non-residential uses, mixed-uses and mixed attached or multi-family residential uses (townhouse, condominium, apartment) may be established on a single unified lot, provided that all other provisions of Article 5 and this chapter are met.

### 5.1.9 Minimum lot size and minimum lot width.

A. No lot shall be created that fails to meet the minimum lot size and minimum lot width for the zoning district in which the lot is located as established in Article 2, except as otherwise provided in Article 8.

B. Flag lots are prohibited.

### 5.1.10 Maximum lot coverage.

No lot shall be developed to exceed the maximum allowable coverage by buildings, structures, driveways or parking areas, or any other impervious surface specified for the zoning district in which the lot is located. In addition to the maximum impervious surface amount, pervious materials may be added up to a maximum amount of fifteen percent (15%) of the total lot area for non-vehicular uses only, such as walkways, patios and pool decks.

### 5.1.11 Street frontage for lots.

All lots shall meet the minimum street frontage requirements of the zoning district in which the lot is located.

### 5.1.12 Lots served by wells and septic tanks; sewer and water connections.

A. Any lot that is to be served by an individual well or septic tank shall have an area of not less than that required by state and DeKalb County health regulations. The site location on the lot of the facility shall be approved by the County Board of Health in accordance with applicable Board of Health regulations.

B. Sewer and water facilities and connections shall be approved by the DeKalb County Department of Watershed Management.

## 27-5.2 DIVISION 2. GENERAL YARD AND MEASUREMENT PROVISIONS

### 5.2.1 Minimum required yards and building setbacks.

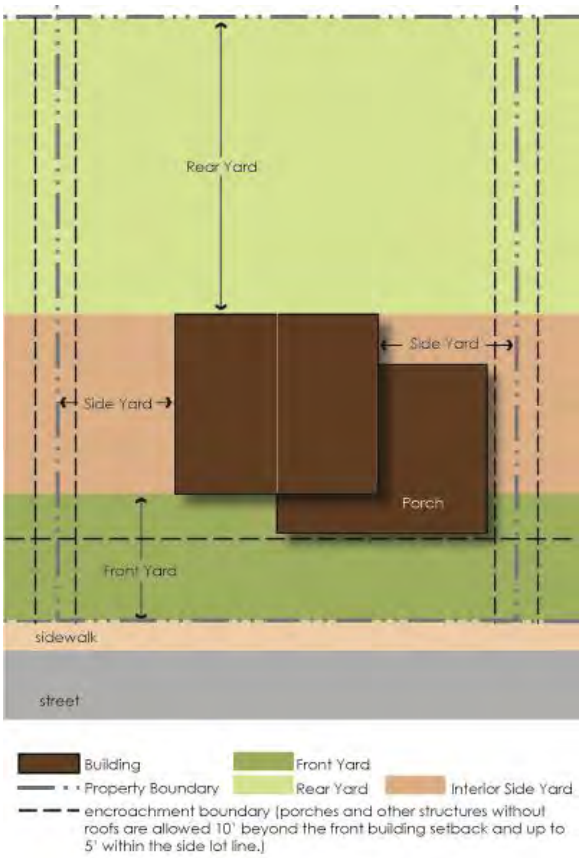
A. *Projections into yards*.

1. Every part of a required yard shall be open to the sky and unobstructed except for the ordinary projections of sills, belt courses, cornices, eaves, awnings, chimneys, buttresses and other ornamental and architectural features, provided that these features do not project more than three (3) feet into any required yard and do not encroach on other lots or rights-of-way.

2. An open, unenclosed porch, balcony or hard-surfaced terrace, steps, stoops and similar fixtures of a building may project into a required front yard or rear yard for a distance not to exceed ten (10) feet, and into a side yard to a point not closer than five (5) feet from any lot line.

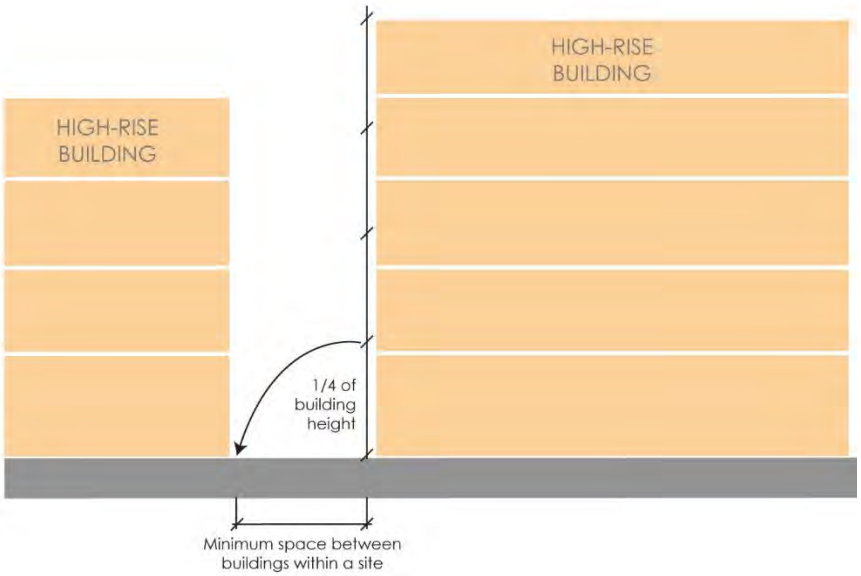
3. Enclosed porches may encroach for a distance of up to eight (8) feet into the front or rear yard, but shall be no closer than five (5) feet from the side property line.

B. *Spacing between buildings*. For single-family attached buildings and multi-family buildings:




Projections into yards

1. Building shall be separated a distance as required by the International Codes Council (ICC).
2. Except when located in a MU-1, MU-2, MU-3, MU-4 or MU-5 zoning district and except when located in a town or regional center character area, the minimum spacing between high-rise multi-family buildings on a single site shall be a distance equal to one-fourth (0.25) of the height of the taller building.




High-rise multi-family spacing

C. *Setback averaging.* When a vacant lot located in a zoning district authorized for single-family detached dwellings is proposed for development, and is located where at least sixty percent (60%) of the other lots on the same block face are occupied by single family detached dwellings, then setback averaging shall apply. Where setback averaging applies, the minimum front setback for the vacant lot to be developed shall be the average of the actual front setback(s) of the existing dwelling(s) adjacent to the vacant lot and on the same blockface. Where application of setback averaging would require that the proposed dwelling be located closer to the street than the otherwise applicable minimum front setback for the zoning district where the vacant lot is located, then setback averaging shall not be applied. Where application of setback averaging would make it impossible for the proposed dwelling to comply with the applicable zoning district's rear yard setback requirement, then the proposed dwelling may be constructed closer to the street, up to the minimum front setback required in the subject zoning district, only to the extent necessary to satisfy the minimum rear yard setback requirement. If the actual front setback(s) of the existing dwelling(s) on the adjacent lot(s) on the same blockface as the vacant lot differ from each other by more than thirty (30) feet, then the minimum front setback for the vacant lot shall be the actual front setback of the dwelling closest to the street.

### 5.2.2 Minimum floor area per dwelling unit.

A. No new dwelling unit shall have less than the minimum floor area of the applicable zoning district specified in Article 2.

B. No existing dwelling unit shall be reduced in size so that its floor area is less than the minimum floor area for a dwelling unit established by the applicable zoning district specified in Article 2.

### 5.2.3 Compatibility of new and existing subdivisions.

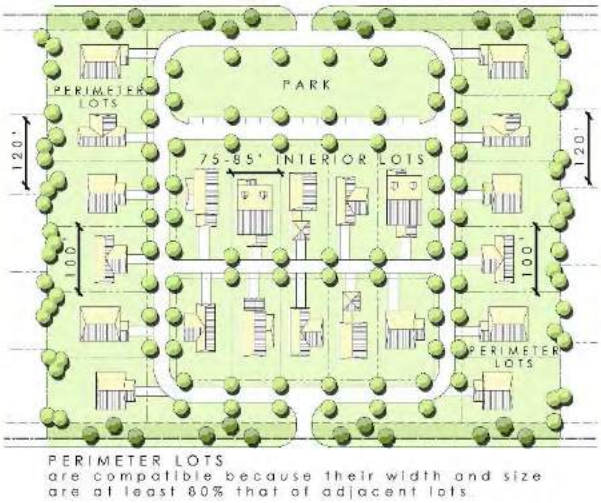
A. *Lot size variability.* Lots created as part of a new or redeveloped single family detached subdivision, containing twenty (20) or more lots, shall be compatible with existing developed single family lots to which they are adjacent as described in subsection (B).

B. Compatibility of new lots with adjacent lots shall be demonstrated by at least two (2) of the following:

1. The lot width of the new lot is at least eighty percent (80%) of the lot width of an adjacent existing subdivision lot;
2. The lot size of the new lot is at least eighty percent (80%) of the lot size of an adjacent existing subdivision lot or eight tenths (0.8) acre, whichever is less;
3. The new lot provides a minimum transitional buffer of twenty (20) feet;
4. The lot depth of the new lot is at least twenty (20) feet deeper than the depth of the adjacent existing lot.

C. *Calculations for measuring compatibility:*

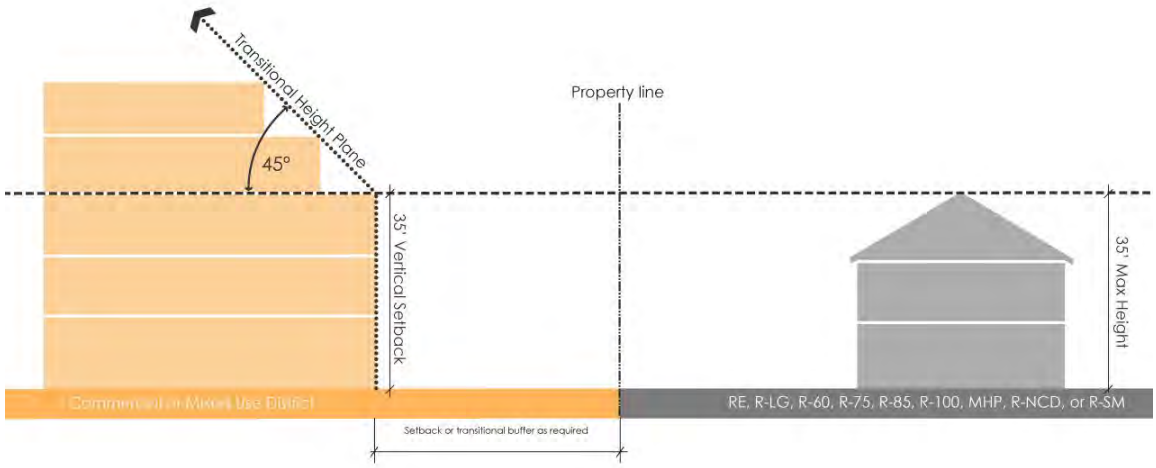
1. Only lots with existing residential structures adjacent to the proposed development will be used in the calculation.




Perimeter Lot Diagram

### 5.2.4 Transitional height plane.

A transitional height plane shall apply to commercial or multi-family buildings that is either (1) adjacent to, or (2) separated by a street with a width of fifty (50) feet or less from any property zoned RE, RLG, R-60, R-75, R-85, R-100, MHP, RNC or RSM. No portion of a commercial or multi-family structure shall protrude into a transitional height plane. The transitional height plane shall begin at a point thirty-five (35) feet above any setback or transitional buffer line, whichever is furthest from the property line, and then extend at an upward angle of forty-five (45) degrees over the lot of the commercial or multi-family building.




Transitional Height Plane Diagram

### 5.2.5 Height measurement requirements and thresholds.

A. Building height of all structures other than single-family detached dwellings shall be measured from average finished grade (determined by averaging the elevations of finished grade around the entire footprint of the structure) to the top of the highest roof beams on a flat roof, to the deck level on a mansard roof, and to the average distance between the eaves and the ridge level for gable, hip, shed and gambrel roofs.

B. Building height for single-family detached dwellings shall be measured from the front-door threshold of the structure to the highest point of the roof of the structure. Threshold means the top of the subfloor in the opening that is designated as the front door of a dwelling.

C. Building height for buildings located within Residential Infill Overlay Districts shall meet the standards established in the Overlay District regulations of Article 3.

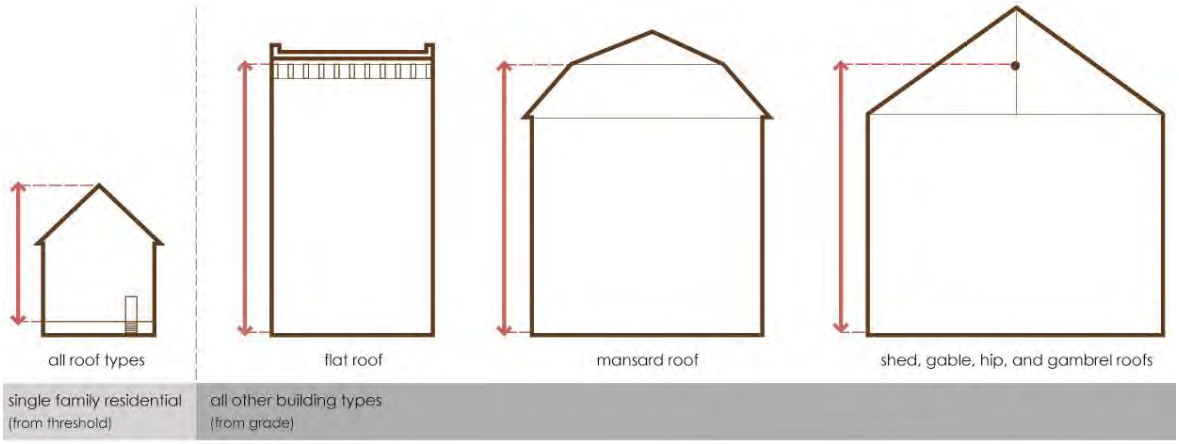
D. *Elevation of single-family detached dwelling thresholds.* The following standards shall apply to single-family detached dwellings that are not located in a Residential Infill Overlay District:

1. *Replacement of a single-family detached dwelling.* If new construction of a single-family detached dwelling would require alteration or eradication of the threshold of a previously existing residential structure, the proposed front door threshold elevation for the new single-family detached dwelling shall not be more than two (2) feet higher than the front door threshold elevation of the previously existing residential structure, which shall be measured and certified by a licensed surveyor or engineer.

2. *Construction on vacant or undeveloped lot.* If no dwelling previously existed on the lot, the threshold shall be no higher than the average elevation of the existing natural grade at the front building line.

3. *Sewer conditions.* If the existing residence or lot is not connected to county sewer and if an applicant for a building permit establishes that the minimum threshold height prevents gravity flow connections to county sewer, the community development director, upon the recommendation of the watershed management director or designee, may grant an administrative variance to allow the threshold height to be up to five (5) feet above the threshold of the previously existing residence in order to allow for gravity flow into the existing sewer tap. Should a greater increase in threshold height be required, a variance from the zoning board of appeals must be obtained in accordance with the process set forth in Article 7.

4. *Topographical conditions.* If exceptional topographical restrictions exist on the subject lot that were not created by the owner or applicant, then the community development director may grant an administrative variance to allow the threshold to be up to three (3) feet above the threshold of the previously existing house.




Building Height Measurement

E. *Height requirements*.

1. The maximum height of a new single-family detached dwelling shall comply with the requirements of Table 2.2.

2. The height limitations established in this chapter shall not apply to the following:

   a. Barns, silos or other similar structures when located on farms; belfries, steeples, cupolas and domes; chimneys; and flagpoles.

   b. Bulkheads, elevator penthouses, rooftop mechanical equipment, water tanks and scenery lofts and similar structures, provided that these structures shall not cover more than twenty-five percent (25%) of the total roof area of the building on which the structures are located.

   c. Telecommunications towers and antennas otherwise permitted by this chapter by special administrative permit or permitted by special land use permit by the mayor and city council pursuant to Section 4.2.56.

   d. Any single-family detached dwelling that exceeds the building height limitations set forth in subsection (A) and has been damaged by fire or other act of nature may be reconstructed to its verifiable original height.

   e. When an undeveloped single-family lot is located within a platted subdivision in which at least sixty percent (60%) of the lots have had certificates of occupancy issued for single-family detached homes that exceed the building height limitations set forth in subsection (1) above, a single-family detached residential structure built on the undeveloped single-family lot may be built to a maximum height equal to the average building height of the existing single-family detached homes within the same block in which the undeveloped single-family lot is located.

   f. Rooftop mechanical equipment, vent pipes, lightning rods, solar panels, and/or wind vanes that are less than six (6) feet in height measured from top of roof adjacent to such structure.

## 27-5.3 DIVISION 3. SUPPLEMENTAL STREET REGULATIONS AND TRAFFIC IMPACT

### 5.3.1 Design standards by street type.

Public and private streets shall be designed according to standards for street classification established in Section 14-190 of Chapter 14 of the Code, except as otherwise provided in Section 5.7.6 of this Chapter.

### 5.3.2 Street connectivity.

A. *Connectivity measures*. New streets shall be designed to create an interconnected system of grid-patterned roads, modified only to accommodate topographic conditions. Each new street shall connect to the existing street grid.

B. *Pedestrian connectivity*. Common areas shall be connected by pedestrian pathways in accordance with Article 5.1.1 (C).

C. *Small area transportation plan conformity*. New streets shall demonstrate conformance with the intent of any and all city or county adopted transportation plans, thoroughfare plans and subarea plans.

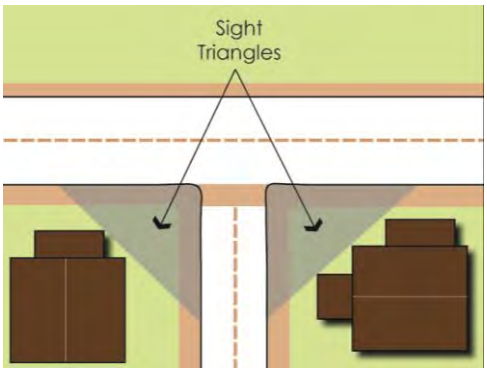
D. *Waivers*. The requirements of subsections (A) and (B) may be waived by the community development director in accordance with Article 7 and as provided below:

1. Waivers may only be granted for hardships resulting from unusual topography or when access constraints or other requirements imposed by city or county departments impede compliance.

2. As part of the waiver request, the applicant shall prepare and submit a site plan, drawn to scale and showing the existing public and private street network, and shall provide an explanation as to how the proposed street plan supports the intent of this section to design an interconnected system of grid-patterned roads.

### 5.3.3 Sight visibility triangles.

A. No structure, fence, wall, sign, hedge or planting, or any similar improvement will be permitted to obstruct the sight lines or visibility of motorists and/or pedestrians at any intersection of public or private streets or at any driveway intersection with a public or private street. All intersecting streets and driveways must meet the intersection and stopping sight distance requirements as outlined in the American Association of State Highway and Transportation Official's (AASHTO's) "A Policy of Geometric Design of Highways and Streets," current edition.



Sight Triangles

B. For purposes of this section, obstructions shall be prohibited if any part thereof is more than thirty (30) inches and less than eight (8) feet above local streets and driveways, or more than thirty (30) inches and less than twelve (12) feet above any street classified as collector or higher.

C. Properties requiring GDOT approvals shall also comply with GDOT standards for sight visibility triangles and sight distances.

### 5.3.4 Traffic impact study.

A traffic impact study, the scope of which shall be determined by the transportation division of the department of public works as necessary to establish the impact of a development project on the surrounding roads and what improvements may be available to mitigate such impacts, is required for any rezoning, special land use permit, sketch plat, and land disturbance or building permit applications for projects reasonably expected to meet any of the following criteria:

A. Multi-family development with over three hundred (300) new units at build-out;

B. Single-family developments with over two hundred (200) new lots or units at build-out;

C. Retail developments with over one hundred twenty-five thousand (125,000) gross square feet (GSF);

D. Office developments with over two hundred thousand (200,000) GSF;

E. Medical office developments with over fifty-five thousand (55,000) GSF;

F. Industrial/warehouse developments with over two hundred eighty thousand (280,000) GSF, employing more than six hundred fifty (650) workers, or covering more than two hundred (200) acres;

G. Any mixed-use development which could reasonably expect to generate two thousand (2,000) or more gross daily trips; or

H. Special traffic generating uses, including truck stops, quarries, landfills, stadiums, etc. which would require Development of Regional Impact review.

### 5.3.5 Traffic calming features.

New subdivisions may provide a traffic calming structure for every five hundred (500) feet of road length. Traffic calming structures, curves and other traffic calming features are subject to the approval of the transportation division of the department of public works, which approval shall be given where the proposed traffic calming structure or traffic calming feature is designed in such a way as to reduce traffic speeds to a reasonably safe speed for the location.

## 27-5.4 DIVISION 4. STREETSCAPE AND LANDSCAPING REQUIREMENTS

### 5.4.1 Purpose and intent.

The requirements and regulations for landscaping in the City of Tucker are a critical public concern that are necessary in order to preserve and enhance property values, the aesthetic beauty of the county, and the safety and general welfare of its residents. The intent of landscape regulations is to:

A. Provide buffering between non-compatible land uses.

B. Protect, preserve, and promote aesthetic appeal and scenic beauty.

C. Reduce noise pollution and air pollution.

D. Reduce storm water run-off, erosion and degradation of water quality.

E. Filter and reduce glare from artificial light sources.

F. Provide shaded areas along streets and in parking areas.

G. Reduce solar heat islands.

### 5.4.2 Applicability.

A. *New developments, principal building or use*. The requirements and regulations for streetscape and landscaping apply to principal buildings, new developments or open uses of land constructed or established after the effective date of this Zoning Ordinance.

B. *Change of use, expansions or reconstruction*. Where a change of use, expansion to, or reconstruction of an existing building or site improvement(s) (such as parking lots) impact streetscape and/or landscape improvements, the landscaping requirements shall apply only to the area disturbed in the development process.

C. *Publicly owned buildings*. To the extent allowed by law, the requirements and regulations for streetscape and landscaping apply to improvements to land owned by public agencies except utility rights-of way or easements.

### 5.4.3 Streetscape elements and dimensions.

All development shall comply with the streetscape element requirements described below and in Table 5.1. Topping of canopy trees within this section is prohibited.

A. *Streetscape dimensions and placement*.

1. *New streets*.

a. *Applicability*. New streets shall be constructed with continuous streetscape zones on both sides of the street, beginning from back of curb.

b. *Streetscape zone elements for new streets*. The streetscape zone on new streets shall consist of a landscape strip, a sidewalk, and, when required per Table 5.1, a supplemental zone.

c. *Sidewalks*. Sidewalks shall be provided between the landscape strip and the supplemental zone, as required in Table 5.1 and the figures following the Table.

d. *Landscape strips*.

i. Landscape strips shall be located between the curb and the sidewalk.

ii. Landscape strips shall be designed with street trees and pedestrian scale streetlights as required in Table 5.1 and the figures following the table.

iii. See 5.4.3(C) for planting and materials requirements.

iv. Large scale retail has additional landscape standards adjacent to streets as provided in Section 5.7.8.

e. *Supplemental zone*. New streetscape zones in non-residential areas shall provide a supplemental zone outside the right-of-way on a private easement. Private easement agreements shall be submitted to the community development director. See Section 5.4.3.D.

2. *Improvements on existing streets*.

a. *Applicability*. New development and redevelopment occurring on existing streets shall provide a streetscape zone on the side of the street where the development takes its access.

b. *Streetscape zone elements for existing streets*.

i. The streetscape zone for existing streets shall consist of a minimum of eleven (11) feet along the existing shoulder, as indicated in Table 5.1.

ii. The streetscape zone for existing streets shall consist of a landscape strip and a sidewalk, as shown in Table 5.1 and the figures following the table.

c. *Sidewalk and landscape strip dimensions*. The width and location of sidewalks and landscape strips shall be determined by the director of public works based on GDOT standards, if applicable, and compatibility with existing sidewalks and utilities.

d. *Landscape strips*.

i. Landscape strips shall be located between the curb and sidewalk, and/or between the sidewalk and the property line. The required total width of the landscape strip may be distributed on either side of the sidewalk so as to accommodate existing infrastructure.

ii. Landscape strips shall be designed with street trees and pedestrian scale streetlights as shown in Table 5.1 and the figures following the Table.

iii. See Section 5.4.3(C) for planting and materials requirements.

iv. Large-scale retail has additional landscape standards as provided in section 5.7.8.

e. *Programmed road improvement projects*. If the City of Tucker, DeKalb County or GDOT has a programmed road improvement project along the frontage to be developed, then the streetscape shall be constructed consistent with the design standards for such road improvements plans.

f. *Administrative variance.* The community development director shall have the power to grant administrative variances for streetscape requirements on existing streets upon written request by the property owner and compliance with Article 7 based on a finding that the requirement of the Section 5.4.3(A)(2) would have a significant adverse effect on the historic pattern or cannot be met due to circumstances beyond the control of the applicant, including, but not limited to:

i. Inadequate right-of-way;

ii. Conflicting standards between this section and GDOT design standards;

iii. Unique topographic or subsurface conditions;

iv. Need to relocate existing utilities.

B. *Sidewalks and interior walks*.

1. Sidewalks shall be paved in concrete and paver accents approved by the community development director and kept clear and unobstructed for the safe and convenient use of pedestrians.

2. Sidewalks shall adhere to ADA guidelines.

3. Sidewalks shall be continued across intervening driveways by continuation of the sidewalk paving materials or other methods of differentiation.

4. Where newly constructed sidewalks abut existing sidewalk(s), the newly constructed sidewalk shall provide safe transition of pedestrian traffic flow to the adjacent sidewalk(s). Development that disturbs existing sidewalks on another property shall replace disturbed areas to their pre-disturbance state and condition.

5. For uses other than single-family residential, safe and convenient paved pedestrian pathways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes to parking decks and through parking lots and between adjacent buildings, transit stops, street crossings within the same development. All such pathways shall have a minimum width of three (3) feet.

C. *Landscape strip materials and maintenance*.

1. *Required mix of materials*. Landscape strips in the streetscape zone shall be planted with a variety of deciduous, over story and understory trees. Species of shrubs, flowering plants, grass and other ground covers, which are well adapted to the local climate, may be included in the landscape strip.

2. *Sidewalks*. Sidewalks shall be paved in concrete and paver accents approved by the community development director and kept clear and unobstructed for the safe and convenient use of pedestrians.

3. *Pedestrian crossing*. Landscape strips may include brick, concrete, or granite pavers where on-street parking is provided or regular pedestrian crossing of the landscape strip is reasonably anticipated to occur.

4. *Maintenance*. Required landscape strips shall be established and maintained by the owner(s). Topping of canopy trees is prohibited.

5. *Permanent structures*. Permanent structures such as buildings, driveways that are not perpendicular to the landscape strip, parking spaces, dumpsters, drainage structures and detention facilities shall

be prohibited in required landscape strips. The prohibition of this subsection shall not include crossings perpendicular to the strip, necessary retaining walls four (4) feet or lower, bike racks, benches, trash receptacles, signs, mailboxes, and drainage swales.

6. *Planting specifications, all trees.*

   a. Planting areas for trees shall contain a minimum depth of twelve (12) inches of screened topsoil. Below twelve (12) inches the soil shall be un-compacted to a depth sufficient to allow proper drainage and root growth.

   b. Use of root barriers such as U.B.36 or an equivalent is required at the back of the sidewalk or back of the curb if no sidewalk exists.

   c. Trees shall meet the standard for American Nursery Stock ANSI Z60.1.

7. *Street trees*.

   a. Street trees shall be overstory trees unless site constraints prohibit the use of large maturing trees, subject to the approval of the community development director.

   b. Street trees shall be provided with spacing as depicted in Table 5.1.

   c. Street trees shall not be planted closer than twenty (20) feet from the curb line of intersecting streets and not closer than ten (10) feet from intersecting lines of alleys or private drives.

   d. Street trees shall not be planted closer than twelve (12) feet from light standards. No new light standard location shall be positioned closer than ten (10) feet to any existing street tree.

   e. Street trees shall not be planted closer than two-and-one-half (2.5) feet from the back of the curb.

   f. Where there are overhead power lines, street tree species are to be chosen from a list provided by the arborist that will not interfere with those lines.

   g. Street trees, as they grow, shall be pruned to provide at least eight (8) feet of clearance above sidewalks and twelve (12) feet above driveways and roadway surfaces.

   h. Street trees shall be a minimum of two (2) inch caliper measured at six (6) feet above ground level at the time of planting and shall have a mature height of at least twenty-five (25) feet.

   i. Street trees shall be planted in a mulched area of at least twenty five (25) square feet.

D. *Supplemental zone*.

   1. In supplemental zones in commercial areas where building setbacks are fifteen (15) feet or less, the supplemental zone must contain hardscape and street furniture such as trash receptacles, bike racks, and benches.

   2. For additional requirements for supplemental zones abutting parking lots, see Section 5.4.4.

E. Street lighting shall be accomplished with pedestrian scale lighting and street lights. Street lights shall be placed on property lot lines abutting the street. Lighting plans must be approved by the department of public works. Lighting shall be installed by local power company employees or contractors.

F. An administrative variance to streetscape standards may be granted by the community development director for adaptive reuse and redevelopment projects as specified in this section or to preserve historic patterns. In addition to other required materials, an applicant for an administrative variance to the streetscape standards shall include a site plan, drawn to scale, showing the existing right-of-way and specific conditions of the lot.

Table 5.1 Required Streetscape Dimensions

| Required Streetscape Dimensions (Minimum, unless stated) | | | | | | |
|---|---|---|---|---|---|---|
| **New Streets** | | | | | | |
| **Street Type** | **Streetscape Zone** | | | | **Landscape Strip Elements** | |
| | ***Total Width*** | **Landscape Strip** | **Sidewalk** | **Supplemental Zone** | **Light Pole Spacing** (Max) | **Street Tree Spacing** (typical *) |
| Local Residential | *11'* | 6' | 5' | NONE | 100' | 30' |
| Local Non-residential | *22'* | 6' | 6' | 10' | 80' | 50' |
| Arterial and Collector Non-residential & Mixed Use | 20' | 10' | 6' | 4' | 80' | 40' in Activity Centers<br>50' outside Activity Centers |
| **Existing Streets** | | | | | | |
| **Street Type** | **Streetscape Zone** | | | | **Landscape Strip Elements** | |
| | ***Total Width*** | **Landscape Strip** | **Sidewalk** | **Supplemental Zone** | **Light Pole Spacing** (Max) | **Street Tree Spacing** (typical *) |
| Local Residential | *11'* | 6' | 5' | NONE | 100' | 30' |
| Local non-residential | *12'* | 6' | 6' | NONE | 80' | 50' |
| Arterial and Collector Non-residential & Mixed Use | 16' | 10' | 6' | NONE | 80' | 40' in Activity Centers<br>50' outside Activity Centers |

* Location of street trees is subject to infrastructure and utility locations and approval by the county arborist and GDOT if state roads.

Streetscape Figure – Local Streets, Single Family Residential Districts

Streetscape Figure – Local Streets, all Other Districts

Streetscape Figure – Arterial and Collector Streets

### 5.4.4 Site and parking area landscaping.

A. *Single-family residential lots.* Each single-family residential lot on which new development occurs shall be planted with a minimum of three (3) new trees. Street trees along the lot frontage shall count towards

this requirement. The species and specifications for the trees to be planted in compliance with this requirement shall meet the requirements of a list approved by the Arborist.

B. *Interior strips*. Interior to non-residential, mixed-use and multi-family developments, three (3) foot wide planted landscape strips shall be required along all interior drives and pedestrian paths.

C. *Property perimeter landscape strip*. Along non-residential, mixed-use and multi-family development perimeter lot lines, a perimeter landscape strip shall be required, as follows:

1. A five (5) foot wide continuous perimeter landscape strip is required along all property lines that are not subject to streetscape requirements. This applies to individual tenant sites interior to a master planned project, even in instances where individual tenant sites do not have separately platted lot lines.

2. A perimeter landscape strip shall include one (1) overstory deciduous shade tree, or three (3) understory or three (3) evergreen trees, for every fifty (50) linear feet at a minimum size of two (2) inch caliper for deciduous trees and eight (8) foot height for evergreen trees.

3. A perimeter landscape strip is not required where a transitional buffer is also required.

D. *Parking area landscaping*. All surface parking lots that contain a total of fifteen (15) or more parking spaces that are constructed or redeveloped subsequent to the effective date of this chapter shall comply with the following requirements:

1. A minimum of ten (10) percent of the total lot area of the parking lot shall be landscaped.

2. Non-continuous barrier curbs shall be installed around the perimeter of the parking lot and around landscaped areas that are required herein, except where the perimeter abuts an adjacent building or structure and except at points of ingress and egress into the facility, so as to prevent encroachment of vehicles onto adjacent property, rights-of-way, sidewalks and landscaped areas.

   a. Barrier curbs shall be a minimum of six (6) inches in height and six (6) inches in width, shall be concrete or stone, shall be securely installed, and shall be maintained in good condition.

3. A continuous hedge, berm, or short wall with landscaping thereon, not to exceed three (3) feet in height shall be required between surface parking and an adjacent public street right-of-way.

4. *Tree and island quantity*. A minimum of one (1) tree per eight (8) parking spaces, and one (1) island per ten (10) parking spaces, shall be provided.

5. *Landscape islands*. All trees planted in a parking lot shall be planted in a landscape island, which island shall be a minimum of two hundred fifty (250) square feet.

6. In addition to trees, ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, ivy, liriope, pine bark mulch, or other similar landscaping material.

7. Ground cover shrubs in parking area landscaping shall be maintained at a maximum height of thirty (30) inches, except where such shrubs are screening the parking surface from an adjacent residential area.

8. Newly planted trees in parking area landscaping shall be a minimum of two (2) inch caliper as measured at a height of six (6) inches above ground level, shall be a minimum of ten (10) feet in height at planting, shall have a thirty (30) foot minimum mature height, and shall be drought tolerant. Trees shall be planted at least thirty (30) inches from any barrier curb, so as to prevent injury to trees from vehicle bumpers. A minimum of seventy-five (75) percent of the trees planted pursuant to these requirements shall be deciduous hardwood shade trees.

9. All landscaped areas shall be properly maintained in accordance with landscape plans approved as part of the land disturbance permit. In the event that a tree or any plant material dies, it shall be

replaced within twelve (12) months so as to meet all requirements of this Section and to allow for planting in the appropriate planting season.

10. All trees planted pursuant to the requirements of this Section shall be counted for the purpose of meeting the tree planting and tree replacement requirements required by Section 14-39 of the Code.

### 5.4.5 Transitional buffers.

A. *Intent*. Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of non-residential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.

B. *General requirements.* Natural or planted transitional buffers required by this Article shall be established and permanently maintained by the property owner as follows:

1. The required transitional buffer shall be depicted in detail on each site plan or plat prior to final approval. Type and location of natural and planted vegetation shall be included.

2. Within the transitional buffer, the natural topography of the land shall be preserved and existing growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth or to enhance the buffer with additional landscaping in order to provide a screen so as to prevent view of the higher density development from the lower density development.

3. Grading or construction adjacent to the transitional buffer zone shall not disturb or encroach upon the transitional buffer zone.

4. Notwithstanding subsection (3), if grading is required in the transitional buffer in order to prevent or control erosion, the area of such grading shall cover no more than twenty (20) percent of the required transitional buffer, shall be immediately replanted upon completion of easement improvements and shall avoid disturbance of the soil within the dripline of trees within the transitional buffer.

5. Any approved utility crossings shall be perpendicular to the transitional buffer.

6. A pedestrian walkway, a maximum width of five (5) feet, may be located in the buffer to provide pedestrian access to the adjoining property. Where a pedestrian walkway is provided, a gate shall be installed in the required screening fence.

7. If existing vegetation in a buffer area does not meet the transitional buffer standards, a five (5) foot high, landscaped berm may be installed subject to the approval of the City Arborist. Grading to construct the berm shall not remove significant plants designated by the City Arborist as part of the approval of the landscaped berm.

C. *Buffer planting and materials.* When the conditions of the existing natural topography and vegetation are insufficient to achieve the visual screening required by this section, a landscape planting plan to enhance the transitional buffer shall be prepared and implemented to supplement existing natural growth or to provide new plant materials of such growth characteristics as will provide a screen meeting the standards below:

1. *Planting height*. Proposed planting as part of an enhanced transitional buffer shall have a height of at least six (6) feet at the time of planting and planted in a minimum of two (2) rows, with staggered on center spacing such that a continuous opaque screen is created within two (2) years of planting.

2. *Plant types.* Plant species in an enhanced transitional buffer shall be evergreen, native, naturalized or other species well-adapted to the local climate and rainfall patterns, disease and pest-free, healthy and vigorous, and meet standard for American Nursery Stock, ANSI Z60.1.

3. *Plant functions.* Plants shall be approved from a list made available from the community development department, but shall not be exclusive of other plants which may be suitable, provided they can provide a continuous opaque screen.

4. *Fences.* Fences are required with transitional buffers and shall meet the requirements of Section 5.4.7.

5. *Wall and fence finishes.* Walls and fences shall be constructed with the finished or decorative side facing outward from the property.

D. *Buffer dimensions and specifications.* Table 5.2(a) identifies the Transitional Buffer Class required for each zoning district based on the zoning district to which it is adjacent. Table 5.2(b) summarizes the minimum width of the required transitional buffer for each Transitional Buffer Class (A-E).

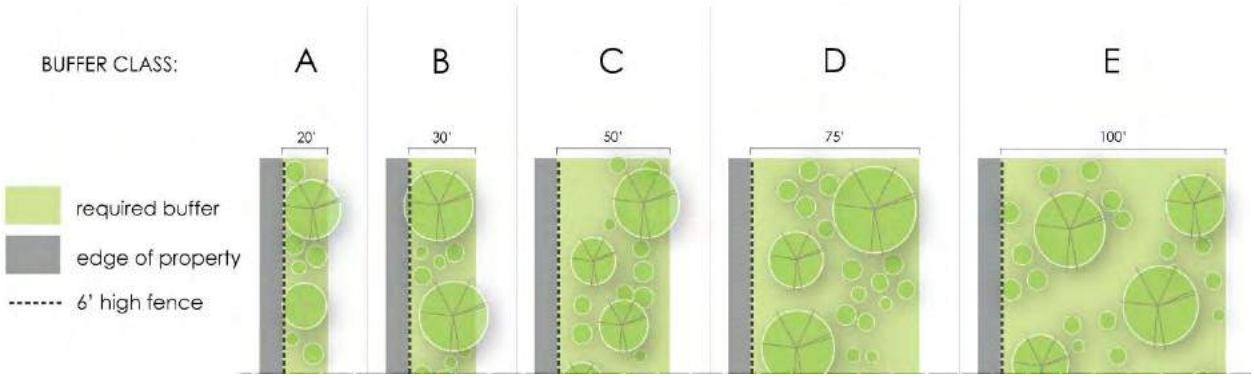
Table 5.2(a): Transitional Buffer Class by District

| Transitional Buffer Class by District | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Districts | Adjacent District | | | | | | | | | | | |
| Residential Districts | R* | MHP | RNC | RSM | MR-1 | MR-2 | HR-1-3 | MU-1 | MU-2 | MU-3 | MU-4 | MU-5 |
| MHP | C | - | - | - | - | - | - | - | - | - | - | - |
| RNC | B | - | - | - | - | - | - | - | - | - | - | - |
| Mixed Residential Districts | | | | | | | | | | | | |
| RSM** | A | C | A | - | - | - | - | - | - | - | - | - |
| MR-1** | B | C | B | B | - | - | - | - | - | - | - | - |
| MR-2** | C | C | C | C | C | - | - | - | - | - | - | - |
| HR-1-3** | C | C | C | C | B | B | - | - | - | - | - | - |
| Mixed-Use Districts | | | | | | | | | | | | |
| MU-1 | B | B | B | B | - | - | - | - | - | - | - | - |
| MU-2 | C | B | B | B | B | - | - | - | - | - | - | - |
| MU-3 | C | C | C | B | A | B | B | B | B | - | - | - |
| MU-4 | C | C | C | B | A | B | B | B | B | - | - | - |
| MU-5 | C | C | C | B | A | B | B | B | B | - | - | - |
| Non-Residential Districts | | | | | | | | | | | | |
| OI | C | C | C | C | C | C | C | B | B | B | - | - |
| OIT | C | C | C | C | C | C | C | B | B | B | - | - |
| NS | C | C | C | C | C | C | C | A | A | A | - | - |
| C-1 | C | C | C | C | C | C | C | B | B | B | - | - |
| OD | D | D | D | D | D | D | D | D | D | D | D | D |
| C-2 | C | C | C | C | C | C | C | B | B | B | B | B |
| M | D | D | D | D | D | D | D | D | D | D | D | D |
| M-2 | E | E | E | E | E | E | E | E | E | E | E | E |

* R= RE, RLG, R-100, R-85, R-75, R-60 (except when R-60 use is single-family attached)
** Where the Mixed Residential District has single-family units along an adjacent residential ( R ) boundary, then a transitional buffer is not required.

Table 5.2(b):Transitional Buffer Minimum by Buffer Class

| Transitional Buffer Minimum Width by Buffer Class | |
|---|---|
| **Buffer Class** | **Width** |
| A | 20' |
| B | 30' |
| C | 50' |
| D | 75' |
| E | 100' with fence |




Transitional Buffers Figure

### 5.4.6 Screening.

Trash and recycling areas, loading areas, mechanical and utility equipment, parking decks, detention facilities, and outdoor storage shall be surrounded by opaque fences, walls, or vegetation. Vegetative screening shall be at least seventy-five percent (75%) evergreen, with a minimum of two (2) rows of plants, and shall grow to a height of six (6) feet in two (2) years.

A. *Loading areas*. All loading areas must be screened from view so as not to be visible from any public street or adjacent property.

B. *Trash and recycling areas*. All dumpsters must be screened from view on all four (4) sides so as not to be visible from adjacent properties and the public street. The screen may incorporate access to the dumpster by using a wood fence or other opaque device to serve as a gate.

C. *Parking decks*. All parking decks and above-ground parking structures shall have a six (6) foot wide landscape strip immediately contiguous to the façade of the parking deck or structure, unless otherwise screened from view by an intervening building.

D. *Mechanical and utility equipment*. All mechanical and utility equipment must be screened from view so as not to be visible from any public street.

E. *Detention facilities*. In addition to fencing requirements set forth in Chapter 14 of the Code, detention facilities shall be planted with evergreen plant material consistent with buffer standards in Section 5.4.5(C). No trees shall be allowed in the ten (10) foot maintenance shelf. However, detention facilities "designed as open space amenities" may be approved by the community development director and in compliance with Division 5 of this Article. A detention facility located in a historic district that is subject to architectural design review shall require a certificate of appropriateness, for appearance only, from the DeKalb County Historic Preservation Commission.

F. *Outdoor storage.* See Section 4.2.38 for screening regulations for outdoor storage of materials, supplies, equipment or vehicles regulations.

### 5.4.7 Walls, fences, and retaining walls.

A. *General*.

1. When this chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to the issuance of a certificate of occupancy for the principal structure.

2. No wall or fence shall be constructed in any public right-of-way.

3. See Table 5.3 Fence and Wall Standards for additional requirements.

B. *Single-family residential standards*.

1. Fences or free-standing walls constructed in a front yard shall not exceed four (4) feet in height.

2. No freestanding wall or fence, other than a retaining wall, shall be more than eight (8) feet high from finished grade.

3. Subdivision or project identification monuments at the entrance to a subdivision or residential development that incorporates a wall or fence shall only be located in a common area or private easement and shall not exceed six (6) feet in height.

4. Retaining walls on lots developed with single-family dwellings shall abide by the following: (1) the entire wall structure, including footer, shall not encroach on adjacent property, (2) drainage shall be properly conveyed on both sides of the wall in conformance with state, county, and city codes, and (3) a construction/maintenance easement shall be obtained from the adjoining property owner, if applicable. Newly constructed retaining walls shall not be higher than four (4) feet; however, existing retaining walls may be repaired and replaced so long as the height of the repaired or replaced wall is no greater than the original height of the wall.

   a. If exceptional topographical restrictions exist that were not created by the owner or his agent on a lot, and it is established to the reasonable satisfaction of the community development director that no practical alternative design of such wall is feasible, then the community development director may, upon application therefor, grant an administrative variance allowing up to two (2) additional feet in the applicable retaining wall maximum height limitation set forth in this subsection (4). An applicant for a retaining wall administrative variance shall include with the application a certified field-run site plan or a topographical map certified by an engineer or landscape architect.

   b. If exceptional topographical restrictions exist that were not created by the owner or his agent on the lot, and it is established to the satisfaction of the zoning board of appeals that no practical alternative design of such wall is feasible, the zoning board of appeals may, upon application therefor, grant a variance allowing newly constructed retaining walls to be greater than six (6) feet. Notwithstanding any provision in this chapter to the contrary, no variance may be granted to allow the height of a retaining wall above eight (8) feet. In addition to the materials otherwise required for a variance in Division 5 of Article 7 of this chapter, an applicant for a retaining wall variance shall provide a certified field-run site plan or a topographical map certified by an engineer or landscape architect with the application for the variance.

C. *Height*. The height of a wall or fence is measured along the adjacent finished grade. However, if located within fifteen (15) feet of any street, and if the street grade is above the adjacent finished grade, the fence or wall height may be measured from the street grade.

D. *Material composition*.

1. No freestanding walls, retaining walls or fences may be composed of exposed common concrete block, tires, junk, pallets, railroad ties, loose stone, vinyl and other discarded materials.

2. With the exception of M and M-2 zoning districts, fences, freestanding walls or retaining walls erected within the front yard shall be constructed of brick, stone, wood, wrought iron, or aluminum that looks like wrought iron. Any other material, including but not limited to, chain link and other wire fences are prohibited in the front yards of all districts, with the exception of M and M-2 zoning districts.

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

F. Temporary fencing may be erected during construction for security and public safety purposes.

G. Fences and walls in the M and M-2 zoning districts are exempt from regulations governing the height and materials of fences and walls.

H. No freestanding wall or fence in a multi-family, non-residential or mixed use zoning district may be more than ten (10) feet in height.

Table 5.3 Fence and Wall Standards

| Use | Height | Setbacks | Variance Allowed |
|---|---|---|---|
| Single-family fences in the front yard | Up to four (4) feet from finished or street grade. | Outside right-of-way | May apply for a variance from zoning board of appeals to increase height. |
| Single-family fences in side or rear yards | Up to eight (8) feet. | Fences may be on property line; retaining walls, including footings, must not encroach over property line. | No variance can be approved to exceed eight (8) foot height. |
| Single-family retaining walls | Up to four (4) feet from finished or street grade. Cannot exceed eight (8) feet on side or rear property line. | Retaining walls, including footings, shall not encroach over property line. | Administrative variance allowed to increase wall from four (4) to six (6) feet based on topography. |
| Single- and Multi-family identification monument walls | In front yard, cannot exceed ten (10) feet in height. | Cannot be located in right-of-way. Setback varies, depends on sight visibility. | May apply for a variance from zoning board of appeals to increase height. |
| Non-residential, multi-family and mixed-use zoning districts | Up to ten (10) feet. | Cannot be located in right-of-way. Setback varies, depends on sight visibility. | May apply for a variance from zoning board of appeals to increase height. |
| Industrial | No limit. | No limit. | N/A |

## 27-5.5 DIVISION 5. OPEN SPACE STANDARDS

### 5.5.1 Applicability.

A. All development that is required to have open space shall, upon application for a land disturbance permit, identify all open space by a functional category established pursuant to the requirements of this chapter. Further, in commercial and mixed-use developments, open space requirements of individual parcels may be met by open spaces that are owned, maintained, and held in common for use by multiple properties that are subject to legal agreement for maintenance and association approved by the community development director.

B. The open space requirements in Division 5 of this chapter do not apply to residential subdivisions with less than five (5) acres or less than thirty-six (36) residences.

C. The minimum quantity of open space for approved developments is established by zoning district and controlled by Table 5.4.

D. Open space shall be maintained as open space until such time that the entire existing development is proposed for redevelopment and shall be landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials.

E. Open space may include hardscape elements depending on functional type as described in Table 5.6. If serving a conservation function, open space may be preserved in a natural state without enhancements.

### 5.5.2 Maintenance, management and ownership.

A. *Ownership and management of open space.*

Open space shall be owned by one of the following entities, which shall be responsible for maintenance and management as described herein:

1. *City of Tucker*.

   a. Open space agreements may be made with the city to deed the required open space to the city. The City of Tucker is under no obligation to accept any proposed dedication of open space used to meet the requirements of this ordinance.

   b. Public access easement agreements may be made with the city for open space so dedicated by the owner for city trails, parks or other public recreational amenities, as agreed to by the City of Tucker and whereby maintenance agreements shall be executed between the owner and city.

2. *Land conservancy or land trust*. The responsibility for maintaining the open space and any facilities located thereon may be transferred to a land conservancy or land trust, subject to prior approval by the City of Tucker.

3. *Homeowners' or property owners' association*. A homeowners or property owners association representing residents or property owners of the subdivision may own and be responsible for maintenance and management of open space. Membership in the association shall be mandatory and automatic for all homeowners or property owners, and their successors. The homeowners/property owners association shall have lien authority to ensure the collection of dues from all members. The homeowners' or property owners' association organizational documents must first be submitted to the community development director for review to insure compliance with this subsection. The homeowners or property owners association shall be formed and maintained in compliance with all applicable state law.

4. *Recording of open space.* Open space shall be shown on the final approved plat as a conservation easement, permanent restrictive covenant or equivalent legal document in a form approved by the City of Tucker, which shall include a provision rendering the covenant or document void when a property is being redeveloped or redesigned, in which case applicable zoning standards shall apply to ensure consistency with this chapter. At no time shall the development provide less than the required open space.

B. *Maintenance of open space.*

1. Undeveloped open space used to satisfy the requirements of this Division shall be preserved in a natural state except for the removal of litter, dead trees, invasive species and plant materials that obstruct pedestrian movement, as well as other maintenance necessary to preserve the natural state of the open space as approved by the director of planning. Natural water courses and stream channels shall be kept free of litter and obstructions and shall be maintained so as to not alter floodplain levels, and as required by stream buffer regulations in Chapter 14 of the Code.

2. Open space shall be maintained so that there exist no hazards, nuisances or unhealthy conditions.

3. Permitted elements as described in Table 5.6 shall be maintained in good repair.

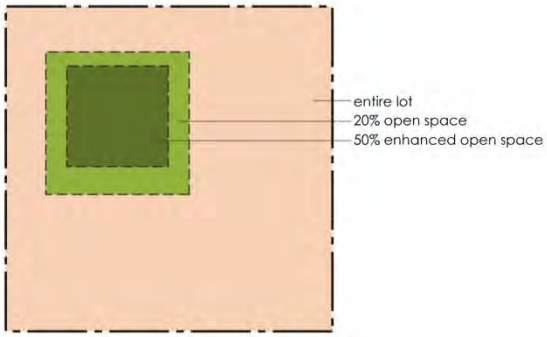
4. New landscaping in required open space shall be maintained such that planted materials that die within one (1) year of the installation, shall be replaced within six (6) months or the next appropriate planting season as determined by the City Arborist.

### 5.5.3 Standards and design.

A. Required open space shall meet the standards of Table 5.4: Enhanced Open Space: Minimum Requirements.

B. All deeded open space created shall be platted and provide a public access easement in a form approved by the City of Tucker.

C. Prior to issuance of a land disturbance permit or building permit:



Open space and enhanced open space calculations

1. For development projects with residential uses requiring enhanced open space, no lot or multifamily building shall be more than one-quarter (0.25) mile distance from a designated enhanced open space. If site constraints limit access to the enhanced open space, the distance may exceed the minimum setback requirement of this subsection, subject to the approval of the community development director. Measurement of distance shall be based on the distance of road and/or pathway providing connectivity to the enhanced open space.

2. A development project with residential uses not within one-half (0.5) mile distance to a public park or recreation facility that is required to provide enhanced open space shall incorporate at least one (1) enhanced open space type identified as clubhouse/pool amenity, neighborhood park with active recreation, and/or playground. If a development is intended for senior housing, a passive park with benches and paved paths, common patio, courtyard, barbecue/fire pit shall be considered an enhanced open space.

3. For development projects with residential uses within one-half (0.5) mile of an existing or programmed public school, park, trail or library, the applicant for a land disturbance permit shall provide for pedestrian access to the school, park, trail or library. If an existing or future pedestrian network and/or multi-use trail is identified by the City of Tucker or DeKalb County, the applicant may be required to provide a future reservation for such a connection. Where a programmed facility has no current concept design for potential alignment, an applicant for a land disturbance permit requiring connection to a park shall meet with the parks and recreation department to determine whether any reasonable spur connection would be possible.

   a. For measurement of distance to a qualifying public amenity, measurement shall be taken along an improved walkway or sidewalk to the entrance of the public amenity.

   b. For measurement to nearby existing or proposed public trail or greenway, measurement shall be taken from a point along the exterior boundary of the development directly to the nearest point of the trail or greenway.

D. *Enhanced open space*. Enhanced open space shall be required as set forth in Table 5.4. Standards for enhanced open space are found in Table 5.5 and 5.6. In addition, each function may be designated as either public (subject to the approval of and acceptance by the City of Tucker) or private ownership.

E. *Open space and enhanced open space standards*.

1. Required open space shall conform to the zoning district requirements in Article 2. Where Table 5.4 conflicts with Article 2, Article 2 shall prevail. Open space and enhanced open space design within a historic district that is subject to architectural design review shall require a certificate of appropriateness from the DeKalb County Historic Preservation Commission.

2. Lakes or ponds may be included as part of the open space requirements in a development, provided they are incorporated as part of enhanced open space design, subject to limitations of the riparian buffer as set forth in Chapter 14 of the Code.

3. Dry detention basins shall be designed by a professional engineer and may not count toward open space area requirements unless designed as an amenity or aesthetic feature.

4. Enhanced open space may include hard space surface areas in accordance with the permitted elements identified in Table 5.6.

5. Below ground utilities or facilities may be located in the open space area.

6. Designated wetlands and dedicated Conservation Areas for native species and/or vegetation may count toward open space requirements in accordance with Table 5.5.

7. Open space adjacent to existing buildings that have historical or cultural significance may be counted toward the minimum required open space if made accessible for the common usage of the development. However, the enclosed building area may not be included in the minimum required open space requirement.

8. Stormwater facilities may be located within open space if the stormwater facility is designed and approved as an amenity and/or low impact stormwater management technique, and is in compliance with applicable regulation of Chapter 14 of the Code, including approved Best Management Practices. Such facilities may be exempt from fencing, provided that the public health safety and welfare is not jeopardized by the lack of fencing as determined by the director of planning.

F. No residential lots shall be allowed to extend into the required open space nor shall individual residential yards count toward open space requirements.

Table 5.4 Enhanced open space: minimum requirements

| Total and Enhanced Open Space: Minimum Requirements | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | **SF-RES Cottage** | **SF-RES Attached or Detached** | **Mobile Home Parks** | **Multi-family** | **Mixed-Use** | **Commercial/ Retail** | **Large Retail** | **Office** | **Industrial** |
| Open Space Minimum Required % of Total Square Footage of the Development | See Section 5.7.5 | 20% | 10% | See Specific Zoning District | See Specific Zoning District | 15% | 20% | 15% | 20% |
| Enhanced Open Space Minimum Required % | 3,000 sq. ft. minimum. See Sec. 5.8.4.M | Minimum 50% of total open space | Minimum 25% of total open space | See Specific Zoning District | Site plan specific | N/A | Minimum 50% of total open space | N/A | N/A |

G. Enhanced open space standards and types.

1. Enhanced open space areas are areas readily accessible, practical, and generally acceptable for active or passive recreation uses. If able to meet these characteristics, enhanced open space areas may not include required setback areas, drainage easements required by the director of public works, dedications with existing above ground facilities, or contain structures not intended for landscape or recreational purposes.

2. Maintenance of such areas is not the responsibility of the City of Tucker unless formally established and approved by the City through legal agreements. Maintenance shall be the responsibility of the owner or homeowners association in a form approved by the City of Tucker.

3. Total enhanced open space may be distributed throughout the project, but each individual enhanced open space type shall meet the enhanced open space dimensional standards of Table 5.5.

4. Elements shown under the "Permitted Elements" column in Table 5.6 are allowed for the various enhanced open space types. Other elements that are not listed may be allowed by the community development director if they are consistent with the enhanced open space type.

5. Table 5.5 establishes enhanced open space types and minimum dimensional standards. The minimum size for any enhanced open space type shown in Table 5.5 may be reduced below the minimum amount if another enhanced open space type in the same development is increased by a corresponding amount above the minimum size shown in Table 5.5. Table 5.5 is supplemented further by Table 5.6 which provides design requirements for each type.

6. Table 5.6 establishes the requirements for each enhanced open space type and its associated design requirements. Elements may be required by specific development types according to Table 5.6.

Table 5.5 Enhanced Open Space Types with Minimum Size

| Enhanced Open Space Dimensional Standards | |
|---|---|
| **Enhanced Open Space Types** | **Minimum Size (sf)** |
| Clubhouse* / Pool Amenity Area | N/A |
| Greens / Attached Squares | 500 |
| Greenway | N/A |
| Pocket Park | 2,000 |
| Neighborhood Park | 43,560 |
| Plaza | 3,000 |
| Square | 2,000 |
| Playground | 3,000 |
| Detention facilities designed and approved to serve as aesthetic amenity | N/A |

Table 5.6: Enhanced Open Space Types and Requirements

| Enhanced Open Space Type | General Description | Permitted Elements | Design Requirements |
|---|---|---|---|
| *Clubhouse/Pool or Tennis Amenity Area* | Clubhouses and swimming pools must meet all applicable building and health codes. | Clubhouse<br>Pool<br>Toilet facilities, public or private<br>Ornamental water features and fountains<br>Gazebo/Pavilion/Picnic Areas<br>Accessory concession stands<br>Benches<br>Trash receptacles<br>Tennis courts | Pedestrian connectivity to all residents<br>Parking shall be adjacent to pool and clubhouse facilities and not interfere with pedestrian activity or movement |
| *Green* | A Green is an urban open space that is natural in its details. Greens are small, civic, and surrounded by buildings. Tree plantings can be informal and the topography irregular. Greens may be used to protect specimen trees and provide for conservation functions. | Toilet facilities, public or private<br>Ornamental water features and fountains<br>Gazebo/Pavilion/Picnic Areas<br>Benches<br>Trash receptacles<br>Paved walks/trails (not within stream buffer)<br>Urban Garden (50% max of Green) | Landscaped with trees at the edges and lawns at the center<br>No rear facing lots allowed adjacent to a Green |
| *Greenway* | Greenways connect residences and recreational areas. Greenways incorporate natural settings, such as creeks and significant stands of trees within neighborhoods. Greenway details are natural (i.e., informally planted), except along rights-of-way, and may contain irregular topography. | Pedestrian trails<br>Picnic tables<br>Benches<br>Trash receptacles<br>Conservation areas for natural, archeological or historic resources<br>Meadows, wetlands, wildlife corridors, game preserves, other | Shall have a minimum width of at least 50'<br>Conserve existing tree canopy and landscape<br>Protect existing natural drainage way and creeks<br>Land shall not be cleared except for trails<br>Water bodies are allowed provided that they do not count toward more than 50% of the required open space |
| *Pocket Park* | A pocket park is a small outdoor space, usually no more than ¼ of an acre, most often located in an urban area that is surrounded by commercial buildings or houses on small lots. | Toilet facilities, public or private<br>Hardscape materials<br>Gazebo/Pavilion/Picnic areas<br>Trash receptacles<br>Ornamental water features and fountains<br>Public art<br>Recreational courts<br>Urban Garden (25% max of Pocket Park) | Rear facing lots are allowed<br>Attractive landscaping<br>Minimize negative impacts on adjacent residents |
| *Neighborhood Park* | A neighborhood park, by size, program, and location, provides space and recreation activities for the immediate neighborhood in which it is located. It is considered an extension of neighborhood residents' "out-of-yard" and outdoor use area. | Gazebo/Pavilion/Picnic areas<br>Hardscape materials<br>Toilet facilities, public or private<br>Picnic tables<br>Benches<br>Trash receptacles<br>Paved walks/trails<br>Ornamental water features and fountains<br>Recreational courts and fields<br>Urban Garden (25% max of park)<br>Playground (swings, slides)<br>Dog parks | Shall be bounded by streets on at least 50% of its perimeter<br>Active recreation areas (25% max) |

Table 5.6, Enhanced Open Space Types, Continued

| Enhanced Open Space Type | General Description | Permitted Elements | Design Requirements |
|---|---|---|---|
| Community Park | Community Parks are designed for active recreational use. Community Parks create a central open space that services an entire neighborhood or group of neighborhoods, or incorporates physical features that are an asset to the community (e.g., lake or river frontage, high ground, or significant stands of trees). Community Parks may be combined with parkways and greenways. | Gazebo/Pavilion<br>Hardscape materials<br>Toilet facilities, public or private<br>Picnic tables<br>Benches and other outdoor seating<br>Trash receptacles<br>Ornamental water features and fountains<br>Public/private art<br>Promenades and esplanades<br>Playground (swings, slides)<br>Recreational courts<br>Urban Garden (25% max of Community Park) | Trees shall be planted parallel to all perimeter rights-of-way<br>Trees shall be planted at the edge of active recreational use areas<br>Tree spacing shall be a minimum of 15' to a maximum of 50' on center<br>Interior portions of parks may be kept free of tree plantings<br>Active recreation (25% max)<br>Shall be bounded by streets on a minimum of 50% of their perimeter<br>Golf courses shall be allowed but shall not count toward more than 50% of the required open space |
| Square | A Square provides a means to emphasize important places, intersections, or centers. Squares are bordered on all sides by street(s). | Gazebo<br>Hardscape materials<br>Benches and other outdoor seating<br>Trash receptacles<br>Ornamental water features and fountains | Shall be bound by streets on a minimum of 3 sides or 75%<br>May be bound by front facing lots on 1 side or 25% of their perimeter<br>No rear facing lots allowed adjacent to a square<br>Trees plantings are encouraged parallel to the street right-of-way |
| Plaza | Plazas are areas for passive recreational use that are entirely bounded by streets and/or lanes. Buildings. | Hardscape materials<br>Toilet facilities, public or private<br>Benches and other outdoor seating<br>Trash receptacles<br>Ornamental water features and fountains<br>Public art | Shall be square or rectangular with a length of not less than 1.5 of its width<br>Shall be level, stepped or gently sloping |
| Playground | A Playground provides space for parental supervised recreation of toddlers and young children within a neighborhood, or as part of a larger neighborhood or community park and urban center, including retail shopping areas. | Hardscape materials<br>Active recreational, playground equipment<br>Toilet facilities, public or private<br>Benches and other outdoor seating<br>Ornamental water features and fountains<br>Trash receptacles | Shall be designed with commercial grade play equipment for two age groups, ages 1 to 5 and ages 6 to 10<br>Must have shock absorbing surface with a maximum 2% slope<br>Shall meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act |

H. *Phasing Provisions*. If a project's required open space is developed in phases, the amount of open space shall be computed separately for each phase, but may be combined with existing open space in earlier phases:

1. The first phase of development shall contain, at a minimum, its *pro rata* share of the total amount of required open space based on the size and type of the development; and
2. The total amount of open space set aside in each phase shall meet the open space standard as applied to the total area of the phase and previously approved phases.

I. *Conservation or water quality*.

1. No more than fifty (50) percent of required open space may consist of floodplain, wetlands, steep slopes, streams and buffers.
2. Green roofs may contribute to open space minimum area requirements with documentation from a licensed professional that such feature serves a water quality or alternative stormwater function.

J. *Prohibited uses of open space*. The following shall not be considered when calculating open space:

1. Individual wastewater disposal systems, such as septic tanks, septic fields, etc.
2. Private yards that are not subject to an open space or conservation easement.
3. Public street rights-of-way or private street easements, including streetscapes located within those rights-of-way or easements.

## 27-5.6 DIVISION 6. SUPPLEMENTAL SITE IMPROVEMENTS

### 5.6.1 Outdoor lighting.

Lighting must provide adequate vehicular and pedestrian visibility and security of on-site areas such as building entrances, parking, service delivery and pedestrian walkways. A professional outdoor lighting plan shall be required for all non-single-family residential developments of three (3) acres or more and for community recreation that proposes to use outdoor lighting

A. *Exceptions*. This section shall not apply to the following:

1. Lighting established by a governmental authority within public rights-of-way.
2. Lighting activated by motion sensor
3. Construction or emergency lighting provided it is temporary and is discontinued immediately upon construction completion or emergency cessation
4. Security lighting less than two (2.0) average foot candles.
5. Sites requiring fewer than five (5) lighting fixtures.
6. In A.(1) through A.(5), lighting in all zoning districts shall be established in such a way that no direct light is cast upon or adversely affects adjacent properties and roadways.

B. *All lighting fixtures.*

1. Lighting in all zoning districts shall be established in such a way that no direct light is cast upon or adversely affects adjacent properties and roadways.
2. Light fixtures shall include glare shields to limit direct rays onto adjacent residential properties.
3. All lighting fixtures (luminaries) shall be cutoff luminaries whose source is completely concealed with an opaque housing. Fixtures shall be recessed in the opaque housing. Drop Dish Refractors are prohibited.
4. Light source shall be Light Emitting Diodes (LED), Metal Halide, or Color Corrected High-pressure Sodium not exceeding an average of four and one-half (4.5) foot-candles of light output throughout the parking area. A single light source type shall be used for any one site. Fixtures must be mounted in such a manner that the cone of the light is not directed at any property line of site.
5. The minimum mounting height for a pole is twelve (12) feet. The maximum mounting height for a pole is twenty-five (25) feet excluding a three (3) foot base.

C. Lighting plans shall include the following:

1. The location and mounting information for each light.
2. Illumination calculations showing light levels in foot candles at points located on a ten (10) foot center grid, including an illustration of the areas masked out per the requirements regarding points of measurements.

3. A schedule listing the fixture design, type of lamp, distribution and wattage of each fixture, and the number of lumens.
4. Manufacturer's photometric data for each type of light fixture, including initial lumens and mean depreciation values.
5. An illumination summary including the minimum average and maximum foot candle calculation (array values) and the total number of array points (points used on the 10 foot grid calculations).
6. Points of measure shall not include the area of the building or areas which do not lend themselves to pedestrian traffic.
7. Average level of illumination shall not exceed the calculated value, as derived using only the area of the site included to receive illumination.
8. An outdoor lighting plan required within a locally designated historical district that is subject to architectural design review shall require a certificate of appropriateness from the Historic Preservation Commission.

Table 5.7 Lighting Level Standards by Footcandle

| Location or Type of Lighting | Minimum Level | Average level | Maximum level |
|---|---|---|---|
| Non-residential Parking Lots | 0.6 | 2.40 | 10.0 |
| Multifamily Residential Parking Lots | 0.2 | 1.50 | 10.0 |
| Walkways, Access Drives and Loading/ Unloading Areas | 0.2 | 2.00 | 10.0 |
| Landscaped Areas | 0.0 | 0.50 | 5.0 |

### 5.6.2 Stormwater detention facilities.

Stormwater detention facilities shall be located on an individual parcel of land not meant for other improvements. A detention facility for a subdivision of fee simple single-family residences shall not be located on the same lot with a single-family home.

## 27-5.7 DIVISION 7. BUILDING FORM AND CONFIGURATION STANDARDS

### 5.7.1 Application of standards.

A. This Division establishes standards for the form and configuration for the following building types:

1. Detached and attached houses;
2. Multi-family;
3. Live/work; and
4. Non-residential except industrial use buildings.

B. *Compliance review*. Review of proposed development to ensure compliance with the standards of Division 7 shall occur concurrent with any zoning compliance review conducted during the process of approving a rezoning, use permit, variance or modification of conditions, a sketch plat, a land disturbance permit, a development permit, or any other applicable permit or license.

C. These standards apply to new buildings as well as to the substantial redevelopment and renovation of such buildings, as applicable per Article 8 regarding nonconformities.

### 5.7.2 Exemptions and variances.

A. Historic structures and structures in historic districts that are subject to architectural design review and structures that are individually designated historic are exempt from the requirements of this Division 5.7.

B. *New residential infill*.

1. *Modification of building form*. Article 7 provides for an administrative procedure that allows an applicant to request a waiver from the building form or materials standards on a case-by-case basis during the compliance review process.

2. Where the architectural style of existing residential development building types on the same block as the proposed project conflicts with the building form standards herein, a land disturbance permit applicant may apply to the community development director for an administrative waiver from the building form standards in accordance with Article 7.

### 5.7.3 Conflict with other standards and review.

A. *Conflict with overlay standards*. In the event the standards of this Division conflict with the overlay district standards in Article 3, as determined by the community development director, the standards in Article 3 shall prevail.

B. *Conflict with other provisions in the zoning code*. In the event the standards of this Division conflict with any other provision of this Chapter, the more restrictive provision, as determined by the community development director, shall prevail.

C. *Conflict with other City standards*. In the event the standards in this Division conflict with any City ordinance not included within this Chapter, as determined by the community development director, this Division shall prevail.

### 5.7.4 Materials.

A. *Exterior building materials*.

1. Except for exempted buildings described in subsection A(5) below, exterior wall materials of primary buildings shall consist of any of the following types:

a. Brick masonry;

b. Stone masonry;

c. Cement wood or fiber cement siding, including simulated half-timbering;

d. Hard coat stucco;

e. Cedar shingles or fiber cement;

f. Textured face concrete block;

g. Architectural concrete;

h. Precast or tilt-up panel (for industrial buildings only);

i. Glass;

j. Material not listed in this section, which shall contribute to innovative design or green construction as determined by the community development director on a case by case basis; and/or

k. Architectural accent materials as approved by the community development director.

2. Exterior building material requirements do not preclude solar panel installation on building roofs.

3. The following materials may be used as secondary building material or siding, up to forty percent (40%) of total facing:
   a. Standing seam or corrugated metal siding;
   b. *Exterior Insulation and Finish System (EIFS)*. If within three (3) feet of grade or within six (6) feet of grade adjoining a public right-of-way or a parking area, the EIFS shall have ultra-high impact resistance in accordance with ASTM E2468. EIFS is prohibited for use on single-family, two-family, and three-family dwellings.
   c. Vinyl siding and other polymeric siding provided the siding shall:
      i. Be installed by a certified installer or an individual certified as trained through the VSI Certified Installer Program sponsored by the Vinyl Siding Institute, Inc. (VSI) or an approved equivalent program;
      ii. Be certified and labeled as conforming to the requirements of ASTM D3679 Standard Specifications for Rigid Poly (Vinyl Chloride) (PVC) Siding by an approved quality control agency:
      iii. Have a minimum thickness of 0.046 inches;
      iv. Have panel projections of no less than 5/8" for clapboard and dutchlap styles;
      v. Have double (rolled over) nail hem, up to 0.92" nominal thickness strength;
      vi. Meet or exceed the color retention requirement of ASTM D6864, 3679 or D7251;
      vii. Be installed in accordance with the manufacturers' instructions and in accordance with ASTM D4756. Polypropylene siding shall be certified and labeled as conforming to the requirements of ASTM D7254 Standard Specification for Polypropylene (PP) siding by an approved quality control agency. Insulated Vinyl Siding shall be certified and labeled as conforming to the requirements of ASTM D7793 Standard Specification for Insulated Vinyl Siding by an approved quality control agency.
4. The following exterior building materials shall be prohibited on all buildings:
   a. Plywood;
   b. Common concrete block;
   c. Oriented Strand Board (OSB).
5. Universities, and structures located in M or M-2 zoned districts shall be exempt from the requirements of subsections A(1) and A(3), provided:
   a. Such structures are located interior to the site with an intervening building facing the street.
   b. If materials in A(3) are used as primary exterior building materials, at least thirty (30) percent of total façade area shall be brick or stone masonry.

B. *Arrangement of materials*.
   1. Where two (2) or more materials are proposed to be combined on a façade, the heavier and more massive material shall be located below the lighter material.
   2. Material changes on a façade shall occur along a continuous horizontal line or where two (2) building forms meet. Secondary building materials may be used as trim, around windows, doors, cornices, at corners, or as a repetitive pattern within a wall covered in a primary building material.
   3. Primary façade materials shall wrap around at outside building corners for at least four (4) feet.

C. *Roof and accessory structure materials*.

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

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

### 5.7.5 Detached houses.

A. This section shall apply to the following housing types:

1. *Conventional single-family detached*. A development with one (1) dwelling unit per lot of record with private yards on all four (4) sides.

2. *Single-family cottage*. A development with one (1) or one-and-one-half (1.5) story small detached dwelling units arranged whereby cluster around a commonly shared open space and each dwelling unit is located on a separate lot with private rear, side, and front yards.

3. *Urban single-family detached.* A development with single-family detached dwelling units located on small lots. Urban single-family (Urban-SF) residential buildings share similar configurations to townhouse developments; however, they are detached and may have lot lines that coincide with the building envelope, provided that a yard area is provided in the dimensions required by the zoning district.

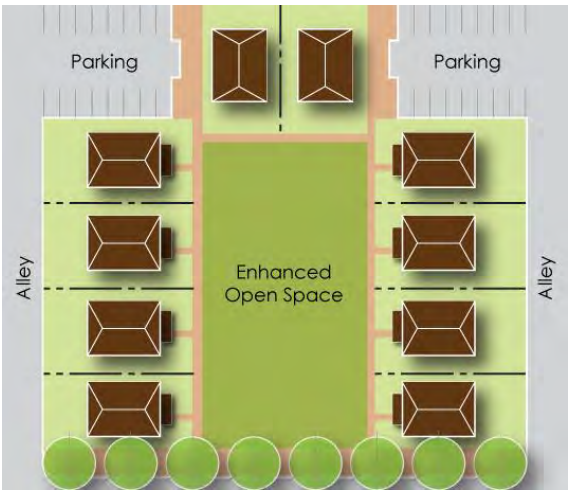
B. *Dimensional and use requirements*. Minimum lot size, width, and setbacks shall meet the dimensional requirements set forth for the applicable base zoning district in Article 2.

C. *Orientation*.

1. Lots along the perimeter of a development of single family detached residences shall be oriented so that dwellings front internal local streets instead of a thoroughfare. Lots with rear yards abutting a thoroughfare shall provide a ten (10) foot no access easement and: a twenty (20) foot landscape strip, a six (6) foot high decorative fence, or a five (5) foot high landscaped berm to screen the rear view of houses from the thoroughfare.

2. Single-family cottage lots shall be oriented toward the enhanced open space.

3. Street frontage requirements in Section 14-258 of the Code shall not apply to individual lots within a cottage or urban type residential development provided the overall site complies with minimum street frontage requirements and an alley or private drive provides access directly to a public street.



Cottage housing orientation

D. Each dwelling unit shall be metered for water individually.

E. An easement for water and sewer shall be required and subject to the approval of the watershed division of the public works department.

F. *Access driveway, internal private drive and alley standards*.

1. Single-family cottage or urban residences shall have vehicular access from the rear of the property from an alley or similar private drive, or may have an off-street parking area located on the side or

rear of the development. Such parking area may not occupy more than thirty (30) feet of frontage and be located no more than two hundred (200) feet from the unit's entrance. The alley shall be at least twenty (20) feet in width and meet the standards of International Fire Code (IFC) 503, unless another width is approved by the director for one-way direction only.

2. Single-family detached residences may share a driveway serving two (2) lots, provided that the width of the driveway at the street shall not exceed the width requirements established in Chapter 14 of the Code, and that the driveway width not increase for the first ten (10) feet of drive.

G. Urban single-family dwellings may gain access through private drives that meet the standards of section 5.6.7.C.4.

H. Driveways shall not exceed ten (10) feet between garage door and sidewalk.

I. *Maximum size*.

1. Conventional single-family detached residences shall follow the requirements set forth in Article 2.

2. Single-family cottages shall not exceed a building footprint of eight hundred (800) square feet and gross floor area of twelve-hundred (1,200) square feet.

J. *Architectural variability*.

1. Residential subdivisions of three (3) or more lots intended for conventional single-family detached residences shall include distinctly different front façade designs within each phase of the development. "Distinctly different" shall mean that each front façade must differ from adjacent buildings' front façades in at least four (4) of the following six (6) ways:

a. The use of different primary exterior materials;

b. Variation in the width or height of the front façade by four (4) feet or more;

c. Variation of the type, placement or size of windows and doors on the front façades;

d. Variations in rooflines, including the use of dormers and changes in the orientation of rooflines;

e. Variation in the location and proportion of front porches; and

f. Variation in the location or proportion of garages and garage doors.

2. No conventional single-family detached residence shall be of the same front façade design as any other conventional single-family detached residence along the same block face within eight (8) lots of the subject residence. Mirror images of the same configuration are not permitted on the same block face.

3. No single front façade design may be used for more than twenty-five (25) percent of the total units of any single phase of a conventional single-family detached residence subdivision.

K. *Porches and stoops*. Any porch shall have minimum dimensions of four (4) feet by eight (8) feet for porches, and any stop shall have minimum dimensions of and four (4) feet by four (4) feet. Porches and stoops shall be no closer than two (2) feet from a utility easement.

L. *Façades*. Any conventional single-family detached residence with a front façade width of forty (40) feet or more shall incorporate wall offsets in the form of projections or recesses in the front façade plane. Wall offsets shall have a minimum depth or projection of two (2) feet so that no single wall plane exceeds twenty-five (25) feet in width.

M. *Roof and overhangs*. Conventional single-family detached residences shall incorporate the following standards:

1. Roofs covering the main body of the structure shall be symmetrical gables, hip-style, or mono-pitch (shed) style.

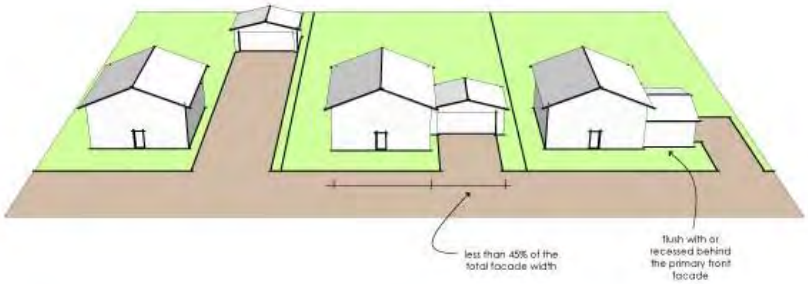
2. Mono-pitch roofs shall have a minimum pitch of 4:12, and all other roofs covering the main body of a detached house shall have a minimum roof pitch of 6:12.

3. Overhanging eaves shall extend at least twelve (12) inches beyond the exterior wall.

4. To the maximum extent practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear façades or configured to have a minimal visual impact as seen from an adjacent street.

N. *Garages*. The following standards shall apply:

1. Street-facing garage façades shall not comprise more than forty-five (45) percent of the total width of the conventional single family detached residence's front façade. Street-facing garages shall be at least two (2) feet behind the primary front façade plane of a conventional single-family detached residence.




Acceptable garage configurations

O. *Enhanced open space*.

1. Clubhouse/pool amenity areas, greens, playgrounds, pocket parks, neighborhood parks, or detention facilities designed to serve as amenities shall meet dimensional requirements in the base zoning district (Article 2) and the standards of Article 5, Division 5, Open Space Standards.

2. Cottage residential development enhanced open space.

   a. Single-family cottages shall be clustered around an enhanced open space green that is a minimum of three thousand (3,000) square feet or four hundred (400) square feet per cottage served by the enhanced open space, whichever is greater.

   b. The enhanced open space green shall have a minimum dimension of twenty (20) feet on each side.

   c. At least two (2) sides of the enhanced open space green shall have cottages along its perimeter.

### 5.7.6 Single-family attached buildings.

Single-family attached residential buildings are buildings in which dwelling units are attached to one another in a variety of ways, each with its own external entrance. Fee simple condominiums share similar configurations to townhouse developments, and they have lot lines that coincide with the building footprint. This section applies to the following development types:

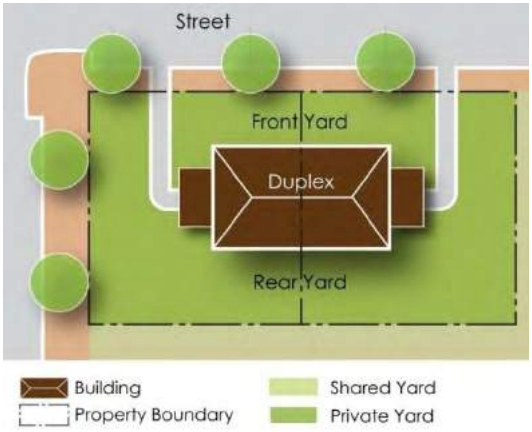
A. *Single-Family Attached, Two- or Three-Family Attached (also called duplex or triplex)*. A house with two (2) or three (3) attached principal dwelling units located on a single lot. The units may be located on separate floors or side-by-side. A side-by-side, single-family attached duplex may also be permitted to be located on two (2) lots, whereby each unit is located on its own lot.

B. *Fee simple condominium*. One (1) or more single-family attached buildings where the owner has fee simple title to the building and the land beneath the building. The building may or may not have a small yard in front of or behind the building. The remaining land is under common ownership.

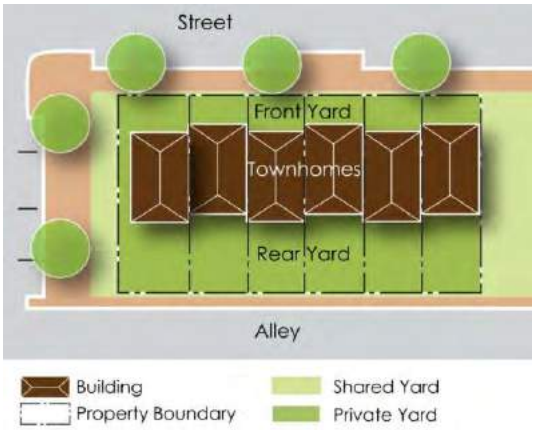
C. Single-family attached, and townhouse developments shall meet the following standards.

1. The overall tract of land for townhouse or fee simple condominium development shall have frontage on a public or private street.

2. The overall tract of land for townhouse or fee simple condominium development must meet the dimensional requirements of the zoning district.




Single-family attached housing on two (2) lots

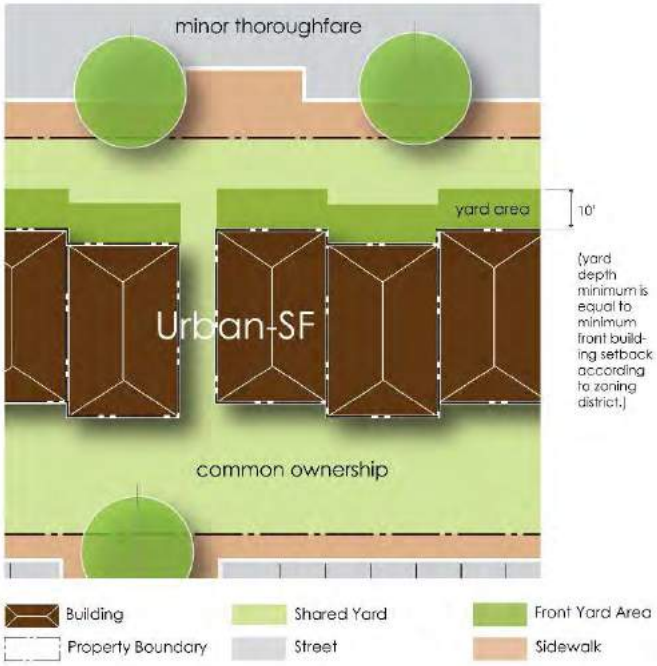


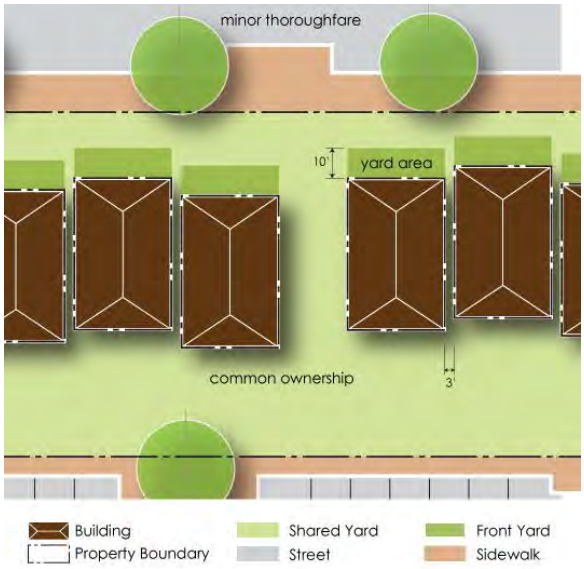

Traditional Townhouse lot:

Townhomes may be placed on individual lots which include yards on the individual property.

Urban Single-Family (Urban-SF) Detached lot:

Urban-SF lot lines may coincide with the building envelope. Yard area designated for each unit, however, must still be provided even if held in common ownership. Dimensions of yard areas shall equal the setback that is specified by the zoning district (or approved master plan).






Urban Single-Family (Urban-SF) Detached lot:

Urban-SF detached residential lots may include yards on the individual property or provide yard area held in common ownership.

3. Private drives shall meet the requirements of Section 14-189.1 of the Code, except as follows:
   a. Private drives shall provide a ten (10) foot unobstructed easement on both sides of the drive, measured from back of curb.
   b. Private drives shall have a minimum twenty-two (22) foot road width measured from back of curb to back of curb.
   c. Private drives shall have the same base and paving specifications as required for public streets.
   d. Roadway shoulders for private drives shall consist of a combination of five (5) foot sidewalk, five (5) foot landscape strip for street trees, and may include parallel parking spaces.
   e. Private drives shall be maintained in accordance with Section 14-189.3 of the Code.
4. The development shall incorporate a pedestrian circulation plan that separates pedestrians from automobiles by providing rear access to the units or designing an alternative location for pedestrian paths or sidewalks.
5. Sidewalks and pedestrian ways shall provide a continuous network that connects each dwelling unit with adjacent public streets and all on-site amenities designed for use by residents of the development.
6. Sidewalks may go to back of curb when adjoining on-street parking space.
7. Street trees shall be planted on both sides of the street fifty (50) feet on center or every other unit, whichever distance is less.
8. Buildings shall be no more than two hundred (200) feet in length.
9. Spacing of buildings shall be consistent with International Codes Council (ICC).
10. *Alleys*.
    a. Alleys shall be at least twelve (12) feet wide, subject to the standards of IFC 503.
    b. Dead end alleys over one hundred fifty (150) feet in length are prohibited.

11. *Ownership*.

    a. There shall be a mandatory property owners association clearly stating the residents' responsibility to share in the ownership and maintenance of common areas including roadways, alleys, parking, utilities, landscaping, and stormwater management facilities subject to Section 14-189.3 of the Code. The City shall have no ownership or maintenance responsibility of any common areas unless expressly agreed otherwise.

    b. Individual ownership of the units shall comply with the Georgia Condominium Act or shall require membership in a property owners association in accordance with Georgia law.

    c. Upon approval of the development plans, a final plat shall be recorded before any units are sold.

D. *Building orientation*. The primary entrance and front façade of individual buildings within a townhouse development may be oriented toward streets, private drives or enhanced open space, and shall not be oriented toward off-street parking lots, garages, or carports.

E. Each dwelling unit shall be metered for water individually.

F. An easement for water and sewer shall be required with the location subject to approval of the watershed division of the county's public works department.

G. *Roofs*. Roofs of attached residential buildings shall comply with the following standards:

    1. Roofs shall be symmetrical gables, flat with parapet, hip-style, or mono-pitch (shed) style, but alternative roof forms or pitches may be used over porches, entryways, and similar features. Overhangs allowed on principal structures shall be no less than twelve (12) inches.

    2. Mono-pitch roofs shall have a minimum pitch of 4:12.

    3. Gable and hip-style roofs shall have a minimum roof pitch of 6:12.

    4. Roof forms shall be designed to shelter building entrances.

H. *Roof penetrations and equipment*. To the maximum extent practicable, roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear façades or screened from view so as to have a minimal visual exposure as seen from an adjacent street.

I. *Façades*. For the purposes of this subsection, a building façade shall be considered the entire wall surface on a building side from grade level to underneath an overhanging eave or to the top of a cornice. All single-family attached buildings shall comply with the following façade standards:

    1. Façades facing a street shall provide doors, porches, balconies, or windows in the following ratios:

        a. A minimum of sixty (60) percent of front façade; and

        b. A minimum of thirty (30) percent of side and rear building façades.

    2. All front façades shall provide a minimum of three (3) of the following design features for each residential unit:

        a. Projections or recesses in the façade plane that contrast with an adjoining unit, with a minimum depth or projection of one (1) foot;

        b. Exterior building materials or colors different from the materials or colors of the other units;

        c. Decorative patterns on exterior finish (e.g., shingles, wainscoting, window box, and similar ornamental features);

        d. A dormer window, cupola, turret, tower, or canopy;

        e. A recessed entrance;

f. A covered porch or balcony;

g. Pillars, posts, or pilasters;

h. A box or bay window with a minimum twelve (12) inch projection from the façade plane;

i. Eaves with either exposed rafters or a cornice projecting a minimum (12) inches from the façade plane; or

j. A parapet wall with an articulated design that varies in height.

3. Front façades should be varied to avoid long, flat building fronts so that no more than twenty (20) percent of the front façades of the units in the same building are substantially the same, unless designed as brick row houses.

J. *Garages*.

1. Garages for dwelling units shall not face public streets, and shall be accessed by alleys or private drives. Garages that face private drives must comply with subsection 5.7.6(C)(5) for pedestrian and vehicle separation plan.

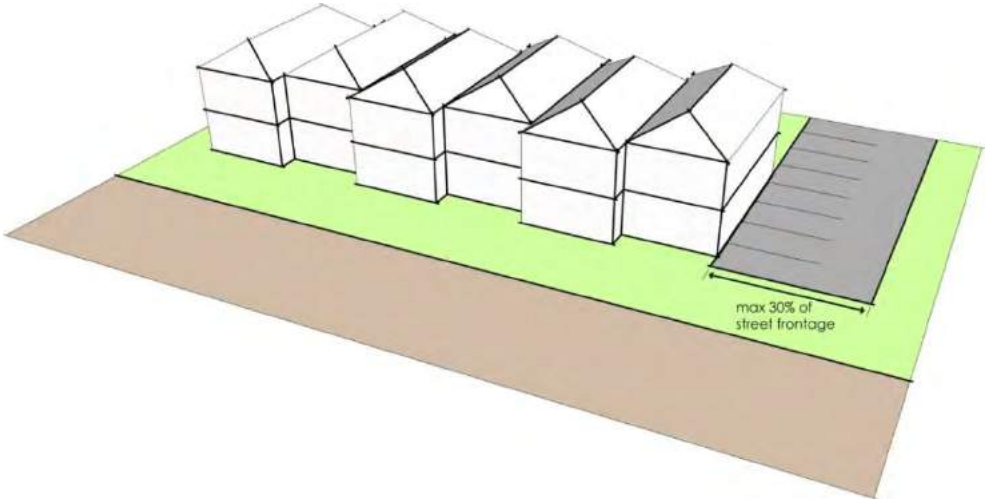
2. Parking spaces for dwelling units shall be located behind buildings, within individual units, on designated on-street spaces or off-street parking lots as provided in subsection (K), Off-street parking.

3. Garage entrances shall be set back between three (3) and ten (10) feet from adjacent streets and sidewalks.

4. Garage entrances shall be set back a minimum of three (3) feet and a maximum of ten (10) feet from alleys.

K. *Off-street parking*.

1. Off-street surface parking lots (including access and travel ways) located on the side of an attached residential building shall not occupy more than thirty (30) percent of the primary street frontage for the attached residential building.




Off-street parking on the side of attached residential buildings

2. Off-street parking required for each attached residential unit is not required on the same lot as the dwelling unit, but the edge of the off-street parking lot shall be no more than two hundred (200) feet from the unit's entrance.

L. The architectural features of a parking deck or structure shall be compatible with the primary building(s).

M. *Streetscape design*. Single family attached residential developments shall comply with the streetscape design standards in Division 5.4.

### 5.7.7 Multi-family, non-residential, live/work and mixed-use buildings.

A. Multi-family residential building and non-residential buildings include the following building types: multi-family low rise (three (3) stories and fewer); multi-family high rise (four (4) stories and greater); live/work buildings; and large-scale retail.

1. Multi-family residential buildings contain four (4) or more residential dwelling units consolidated into a single structure. Dwelling units within a building may be situated either wholly or partially over or under other dwelling units, and units share common walls. Structures appearing as townhouses but with internal units that are located one below the other (also known as "stacked townhouses") are also considered multi-family residential buildings.

2. Large-scale retail refers to freestanding buildings containing single-tenant retail sales uses that exceed sixty-thousand (60,000) square feet in size.

3. Live/work units incorporate both living and working space in a single unit. A kitchen and a bathroom must be included in each unit. The residential portion may not be less than thirty-three (33) percent of the unit's total floor area. Within two-story live/work buildings, non-residential uses shall be located on the ground floor only. Within single story units, the non-residential use shall be located in the front, with street access. Living space within the live/work unit shall have direct and internal access to work space. Each live/work unit may have a primary entrance from the sidewalk, enhanced open spaces, arcades or public spaces. See also Section 4.2.33 for additional live/work use requirements. Multi-family residential orientation shall comply with Section 5.7.6.

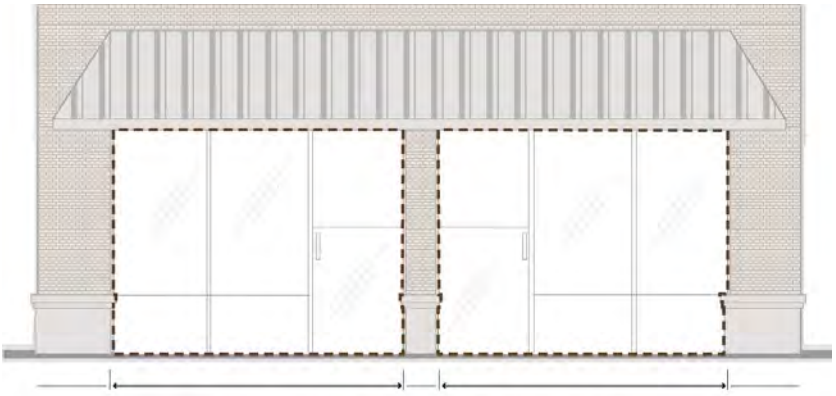
B. All development types other than single-family, shall comply with the following:

1. *Dimensional and use requirements*. Lot size, width, and setbacks shall meet the dimensional requirements set forth for the applicable base zoning district in Article 2.

2. *Building plane and scale*.

a. Building façades shall not exceed forty (40) feet in length without projections, recesses or other architectural features.

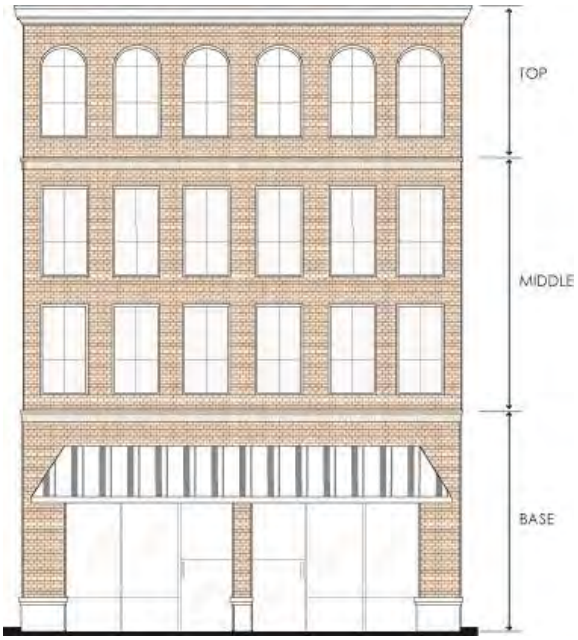
b. *Windows and doorways*. Structures built to the edge of the street right-of-way or located within mixed-use and non-residential districts shall have windows and/or doorways that occupy at least twenty-five (25) percent of the width of the first floor street-level front façade.



windows and doorways at street level:
minimum 25% of total façade width

c. All buildings regulated by Section 5.7.7 that are four (4) stories or greater shall:

i. Clearly articulate the building base, middle and top through materials, architecture details and/or changes in the plane of the wall (projections and recessions).




Building Articulation: Clearly defined base, middle and top

ii. Provide side step-backs at the fourth story when adjacent to the side of another building four (4) stories or greater and along a private or public street.

Side step-backs between mid-and high rise buildings

C. *Roofs.*

1. Multi-family low-rise buildings regulated by Section 5.7.7 shall have roof design and features that comply with Section 5.7.6(G).
2. Multi-family buildings adjacent to a courtyard may be designed with a flat roof.
3. Rooflines of large-scale retail buildings shall be varied to add interest and variety to the large building form through the use of parapets, hips, gables, eaves, dormers or other similar features. These features shall be incorporated along a minimum of fifty percent (50%) of the length of the roofline facing a public street.
4. Flat roofs shall provide parapets to screen mechanical equipment from street view and from the primary drive facing the front façade.

D. *Parking configuration*. Non-residential and mixed-use buildings located in Activity Center character areas, as identified in the comprehensive plan, shall:

1. have no more than one (1) double row of parking within the front yard where there is no intervening building between parking and the street; and
2. be allowed to locate parking along the side or rear or as on-street parking dedicated as right-of-way by the applicant for a land disturbance permit or building permit.

E. Multi-family developments shall meet the building separation requirements provided in subsection 5.2.1(B).

F. Off-street surface parking lots (including access and travel ways) consisting of five (5) or more spaces shall be located on the side or to the rear of a multi-family structure or development.

G. Multi-family housing developments shall provide and maintain outdoor play and recreation areas with a minimum area of five (5) percent of the total area of the lot or four thousand (4,000) square feet, whichever is greater.

H. *Low-rise multi-family building types*. The following low-rise multi-family buildings shall be allowed, provided they meet the requirements set forth herein:

1. *Mansion*. The mansion style low-rise multi-family building shall have four (4) to eight (8) units within the structure, which shall be distinguished as a building designed to appear as a typical single family detached home.

2. *Courtyard*. The courtyard building shall be oriented such that the courtyard faces the street or roadway and has buildings facing along the other three sides.

   a. Minimum width of the courtyard is thirty (30) feet and depth is fifteen (15) feet.

   b. Building walls facing a courtyard may be separated by more than the maximum building separation requirements.

3. *All other*. To reduce massing and promote livability, all other low-rise multi-family building types shall provide:

   a. functional balconies for all exterior units;

   b. landscaping around each building within ten (10) feet of building and along both sides of all internal sidewalks.

I. *Multi-building non-residential development, excluding industrial.* Buildings in a non-residential development composed of multiple buildings totaling one hundred thousand (100,000) square feet or more for the whole development shall:

1. Be configured to break up the site into a series of smaller “blocks” defined by streets with pedestrian walkways forming an interconnected circulation route;

2. Face the corner of an existing street intersection or entry point to the development;

3. Frame and enclose:

   a. a "main street" pedestrian or vehicle access corridor entering the development site;

   b. at least three (3) sides of parking areas, public spaces, or other site amenities; and

   c. provide outdoor gathering spaces for pedestrians between buildings.

J. *Outparcel development.*

1. Outparcels and their buildings shall be aligned in order to define continuous street edges with well-defined entry points.

2. Spaces between buildings shall be improved to provide landscaped pedestrian amenities such as plazas, seating areas, arcades, pedestrian connections, and gathering spaces.

### 5.7.8 Large-scale retail – additional standards.

A. *Entrances.*

1. The primary entryway into a large-scale retail building shall be clearly articulated by greater architectural detail, incorporating no fewer than three (3) of the following elements:

   a. Projecting or recessed, covered entrance;

   b. Distinct roof form above entrance shall include at least one (1) of the following:

      i. Roof overhangs;

      ii. Awnings, canopies or porticos;

      iii. Raised corniced parapets;

iv. Gabled or peaked roof form;

v. Arches;

c. Display windows directly adjacent to the entrance;

d. Architectural details and ornamentation emphasizing the building entrance;

e. Arcades connecting the entrance to adjacent pedestrian attractions;

f. Outdoor plaza with a minimum depth of twenty (20) feet adjacent to the entrance and having seating and a water feature or landscaping; or

g. Landscape areas or seating areas.

B. *Off-street parking*.

1. Parking for large-scale retail development shall be distributed around the principal structure on at least two (2) sides.

2. No more than fifty percent (50%) of parking may be located between the principal structure and primary street. If located within an activity node, no parking shall be allowed between the principal structure and the primary street, except required parking spaces.

C. *Pedestrian circulation*.

1. Continuous internal sidewalks and pedestrian walkways shall be provided to connect the public sidewalk or right-of-way with the principal building entrance of all principal buildings on the site. Such sidewalks shall also connect key pedestrian focal points such as transit stops, street crosswalks, and building entry points.

2. Internal pedestrian walkways and sidewalks shall be at least five (5) feet in width.

3. Sidewalks shall be provided along all sides of the lot adjacent to a public street.

4. Sidewalks shall be provided for the principal building along any façade featuring a public entrance and along any façade leading to a public parking area.

5. Internal pedestrian walkways and sidewalks shall be differentiated from vehicular driveways and parking spaces through the application of colors and durable surface materials such as pavers, brick, or scored concrete, in order to enhance pedestrian safety and appearance of the pedestrian walkway or sidewalk.

D. *Landscaping.* In addition to the landscape and screening requirements of Division 4 of this Article, the following requirements shall also apply:

1. *Building frontage*. Beginning fifteen (15) feet from the principal customer entrance, along the building façade, a landscape area with trees shall be required for the entire length of the building. Each of the trees required herein shall be at least four-and-a-half (4.5) inch caliper and eight (8) feet tall at installation. Trees required herein shall be spaced no more than one hundred (100) feet apart.

2. *Landscape strip.* A landscape strip at least fifteen (15) feet wide shall be required along any property line adjacent to a public street. When parking lot landscape strip requirements coincide with this location, the fifteen (15) feet shall not be required in addition to the parking lot landscaping, but shall serve as the parking lot dimensional requirement and planted according to parking lot landscaping standards in Division 4 of this Article.

3. *Walkways.* Pedestrian walkways connecting a public street adjacent to the lot on which the principal building is located and parking aisles shall be provided approximately every one hundred and twenty (120) feet perpendicular to street frontages.

E. *Open space and enhanced open space areas.*

1. An outdoor gathering space (plaza or square) shall be developed with requirements by open space functional category and enhanced open space types as specified in Division 5 of this Article.
2. Sites containing one (1) or more large-scale retail building shall include an outdoor gathering space equal to at least three (3) percent of the total square footage of the building.
3. Outdoor gathering spaces shall be connected to the sidewalk and pedestrian walkway network, and shall provide at least three (3) of the following features per space:
    a. Lighted bollards;
    b. Tables and chairs;
    c. Fountains or other water features;
    d. Benches;
    e. Seat walls and/or raised landscape planters;
    f. Shade trees lining the gathering space;
    g. Pots or hanging baskets filled with seasonal plant material;
    h. Information kiosks;
    i. Sculptures or other public art features; or
    j. Other features as approved by the community development director if the feature enhances the visual impact of the outdoor gathering space.

**Article 6. Parking ..... 2**
6.1.1 Introduction. ..... 2
6.1.2 Interpretation. ..... 2
6.1.3 Parking regulations, off-street parking spaces. ..... 2
6.1.4 Off-street parking ratios. ..... 3
6.1.5 Off-street parking reduction for shared parking. ..... 8
6.1.6 Shared driveways and inter-parcel access. ..... 9
6.1.7 Number of handicapped parking spaces required. ..... 10
6.1.8 On-street parking. ..... 10
6.1.9 Parking structures. ..... 10
6.1.10 Parking area landscaping. ..... 10
6.1.11 Paving surfaces. ..... 11
6.1.12 Stacking spaces. ..... 11
6.1.13 Valet parking requirements. ..... 11
6.1.14 Off-street loading requirements. ..... 11
6.1.15 Parking of trailers in residential districts. ..... 13
6.1.16 Alternative fuel vehicles parking. ..... 13
6.1.17 Bicycle/moped parking requirements. ..... 13

# Article 6. Parking

## 6.1.1 Introduction.

This chapter establishes the standards for the number, location, and development of motor vehicle parking facilities, standards for on-site loading areas, and standards for bicycle parking.

## 6.1.2 Interpretation.

A. *Fractions.* Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be the next lowest whole number.

B. *Parking space requirement not specified.* Where the parking requirement for a particular use is not described in Table 6.2, and where no similar use is listed, the community development director shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, total square footage, potential customer use, or other expected demand and traffic generated by the proposed use. If the community development director reasonably determines that a parking generation study should be prepared by a qualified professional, the community development director may require submission of such a study to aid the community development director in making a determination with respect to the number of required parking spaces.

C. *Computations for multiple floor uses within a building.* In cases where a building contains some combination of residential use, office space, retail or wholesale sales area, or bulk storage area, the community development director may determine on a proportional basis the parking and loading requirements based on separate computations for each use.

## 6.1.3 Parking regulations, off-street parking spaces.

Off-street parking spaces shall be provided in accordance with the following requirements:

A. Each application for a development permit or building permit, other than for a detached single-family residence, shall be accompanied by a parking plan showing all required off-street parking spaces, driveways, and the internal circulation system for each such parking lot.

B. All parking lots and spaces shall conform to the following requirements:

1. All vehicles shall be parked on a paved surface that is connected to and has continuous paved access to a public or private street, except as otherwise allowed in this section.

2. Each parking space, except those located on a single-family residential lot, shall comply with the minimum dimensions established in Table 6.1. Each parking lot shall have adequate space for each car to park and exit every parking space and space for internal circulation within said parking lot.

3. Each parking lot, except those parking spaces located on property used for single-family residential purposes, shall comply with section 5.4.4, Site and parking area landscaping.

4. All parking lots and parking spaces, except those located on property used for single-family residential purposes, shall conform to the geometric design standards of the Institute of Traffic Engineers.

5. Parking and loading shall not be permitted within the front yard in any MR, HR, O-I, or O-I-T zoning district, except for required handicapped parking. Notwithstanding the previous sentence, parking and loading shall be permitted within the front yard where provision of adequate parking spaces within the rear is impractical and upon issuance of a variance pursuant to Article 7.

6. Parking shall not be permitted within the front yard of any property used for single-family residential purposes, except within a driveway, or in a roofed carport or enclosed garage. Within any single-

family residential district, not more than thirty-five percent (35%) of the total area between the street right-of-way line and the front of the principal building shall be paved.

7. No parking space, driveway or parking lot shall be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicle or equipment, unless located within a zoning district which otherwise permits such use.

8. The parking of business vehicles on private property located within residential zoning districts is prohibited. This section shall not prohibit: (1) typical passenger vehicles, with or without logos, including automobiles, pickup trucks, passenger vans, and dually trucks, (2) vehicles engaged in active farming, construction activities or contractor services on the private property, or the temporary parking (12 hours or less) of vehicles for the purpose of loading/unloading within residential zoning districts; nor (3) the parking of vehicles on property located in residential zoning districts, where such property is used for an authorized non-residential use such as a church. Vehicles used in law enforcement are exempt from the restrictions of this subsection.

9. All parking lots shall conform to the requirements of section 6.1.7.

Table 6.1: Minimum Parking Space Dimensions

| Minimum Parking Space Dimensions | | | |
|---|---|---|---|
| **Parking Angle** | **Minimum Stall Width** | **Minimum Stall Depth** | **Minimum Parking Aisle Width** |
| Regular-sized vehicles | | | |
| 90 degrees | 9’ | 18’ | 24’ |
| 75 degrees | 9’ | 19’ | 21’ |
| 60 degrees | 9’ | 17’ | 14’ |
| 45 degrees | 9’ | 15’ | 11’ |
| Compact vehicles | | | |
| 90 degrees | 8.5’ | 15’ | 22’ |
| 75 degrees | 8.5’ | 16 | 20’ |
| 60 degrees | 8.5’ | 15’ | 14’ |
| 45 degrees | 8.5’ | 14’ | 10’ |

### 6.1.4 Off-street parking ratios.

A. Minimum on-site parking requirements may be reduced through use of shared parking, in accordance with section 6.1.5.

B. In residential districts in which garage space is provided, the garage space may count for no more than one (1) required space per two hundred (200) square feet of garage space.

C. Tandem parking is permitted in association with all single-family detached and single-family attached housing types.

D. *Minimum and maximum parking ratios*: Unless otherwise regulated elsewhere in this chapter, off-street parking spaces shall be provided for all uses listed are specified in Table 6.2. Unless otherwise noted, the parking requirement shall be based on the gross square footage of the building or buildings devoted to the particular use specified. Maximum parking standards shall not apply to existing uses so long as the building or parking lot is not expanded.

E. *Phased development.* Where a project is intended to be developed in phases, the community development director may approve phased development of a parking lot intended to serve current and future development.

F. *Reduction of minimum parking requirements*. The minimum number of required spaces described in Table 6.2 for a particular use may be reduced by ten percent (10%) by the community development director pursuant to an administrative variance in compliance with Article 7. If the use is within one thousand (1,000) feet of a designated heavy rail, streetcar/light rail or bus rapid transit station, the minimum number of required spaces may be reduced by twenty-five percent (25%) in accordance with Article 7.

G. *Carpool/vanpool parking*. For office, industrial, and institutional uses where there are more than twenty (20) parking spaces on the site, the following standards shall be met:

1. At least five percent (5%) of the parking spaces on site must be reserved for carpool use.
2. Except as otherwise provided by applicable law, parking lots shall be designed so as to provide the most convenient access to building entrances by persons arriving by vanpools and carpools. In the event of a conflict between the priority described in this subsection and section 6.1.16, this subsection shall prevail.
3. Signs shall be posted identifying spaces reserved for carpool use.

Table 6.2: Off-street Parking Ratios

| Minimum and Maximum Parking Spaces | | |
|---|---|---|
| **Residential** | | |
| **Use** | **Minimum Parking Spaces Required** | **Maximum Parking Spaces Allowed** |
| Detached single-family dwelling | Two (2) spaces per dwelling unit. | Four (4) spaces per dwelling unit. |
| Two-family and three-family dwellings | One (1) space per dwelling unit. | Four (4) spaces per dwelling unit. |
| Detached single-family condominium | Two (2) spaces per dwelling unit. | Four (4) spaces per dwelling unit. |
| Attached single-family dwelling | One and a half (1.5) spaces per dwelling unit, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. | Three (3) spaces per dwelling unit, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. |
| Attached two-family and three-family dwellings | One and a half (1.5) spaces per dwelling unit, not including garage, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. | Three (3) spaces per dwelling unit, not including garage, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. |
| Multi-family dwellings | One and one-half (1.5) spaces for every dwelling unit. | Three (3) spaces for every dwelling unit. |
| Mobile Homes | Two (2) spaces per mobile home lot. | Four (4) spaces per mobile home lot. |
| Multi-family dwellings, supportive living | One-half (0.5) space per dwelling unit. | One (1) space per dwelling unit. |
| Fraternity house or sorority house | One (1) space per bed. | One and one-quarter (1.25) spaces per bed. |
| Rooming house or boarding house, shelter | One (1) space per four (4) beds. | One (1) space per one and one-half (1.5) beds. |
| Senior housing | One-half (0.5) space per dwelling unit, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. | Two (2) spaces per dwelling unit, plus one-quarter (0.25) space per dwelling unit to accommodate guest parking. |
| Assisted Living | One-half (0.5) space per dwelling unit. | One (1) space per dwelling unit. |
| Personal care home, group | Two (2) spaces. | Four (4) spaces |

Table 6.2: Off-street Parking Ratios, Cont'd

**Residential, Cont'd**

| Use | Minimum Parking Spaces Required | Maximum Parking Spaces Allowed |
|---|---|---|
| Personal care home, community | One (1) space for every 3 beds. | One (1) space for every 2 beds. |
| Adult day care facility | Two (2) spaces. | Four (4) spaces. |
| Child day care facility | Two (2) spaces. | Four (4) spaces. |
| Child caring institution, group | Two (2) spaces. | Four (4) spaces. |
| Child caring institution, community | One-half (0.50) space for each employee and resident. | Three-quarters (0.75) space for each employee and resident. |
| Live Work dwelling | Two (2) spaces per unit. | Four (4) spaces per unit. |

**Institutional**

| Use | Minimum Parking Spaces Required | Maximum Parking Spaces Allowed |
|---|---|---|
| Ambulance service where accessory to a hospital, ambulance services, delivery services and other similar services | One (1) parking space for each fleet vehicle plus one-half (0.5) space for each administrative or service employee. | One (1) parking space for each fleet vehicle plus three-quarter (.75) space for each administrative or service employee. |
| Child day care center | One (1) space for each four hundred (400) square feet of floor area. | One (1) space for each three hundred (300) square feet of floor area. |
| Convent or monastery | One (1) space for each four hundred (400) square feet of floor area. | One (1) space for each two hundred (200) square feet of floor area. |
| Funeral home | One (1) space for each four hundred (400) square feet of floor area | One (1) space for each two hundred (200) square feet of floor area. |
| Hospital and similar institutional use | One (1) space per three beds. | No maximum. |
| Nursing care facility, nursing or convalescent home, and similar institutional use | One-quarter (.25) space per bed | One-half (.50) space per bed |
| Kindergarten | One (1) space per three hundred (300) square feet of floor area. | One (1) space per two hundred (200) square feet of floor area. |
| Places of assembly with fixed seating, including places of worship, movie theaters, stadiums, auditoriums, live performance theaters, conference centers and cultural facilities | One (1) space for each four (4) seats in the largest assembly room. | One (1) space for each two (2) seats in the largest assembly room. |
| Places of Assembly without fixed seating, including conference centers, gymnasiums, Place of Worship, libraries, museums, cultural facilities and art galleries | One (1) space for each forty (40) square feet of floor space in the largest assembly room. | One (1) space for each twenty (20) square feet of floor space in the largest assembly room. |
| Private elementary and middle school | One and one-half (1.5) spaces for each classroom. | Two (2) spaces for each classroom, plus one (1) space for each fifty (50) square feet in largest assembly room. |

| | | |
|---|---|---|
| Private high school | Three (3) spaces for each classroom. | Five (5) spaces for each classroom, plus one (1) space for each fifty (50) square feet in largest assembly room. |
| Colleges, including trade, vocational, and commercial vocational schools | Ten (10) spaces per classroom, plus two and one-half (2.5) spaces for each one thousand (1000) square feet of floor area in the library or assembly area. | No maximum. |

Table 6.2: Off-street Parking Ratios, Cont'd

**Recreation**

| Use | Minimum Parking Spaces Required | Maximum Parking Spaces Allowed |
|---|---|---|
| Athletic Field | Twenty (20) spaces per field. | Sixty (60) spaces per field. |
| Bowling alley | Four (4) spaces for each alley. | Five (5) spaces for each alley. |
| Driving range | One (1) space per tee | One and one-half (1.5) spaces per tee |
| Miniature Golf | Twelve (12) spaces | Twenty (20) spaces |
| Noncommercial club, lodge, or fraternal or social organization (other than fraternity and sorority houses) | One (1) space for each two hundred (200) square feet of floor area. | One (1) space for each one hundred (100) square feet of floor area. |
| Public or private swimming pool, neighborhood recreation club/subdivision clubhouse & amenities (recreation and meeting rooms, swimming, and playground), or similar use | One (1) space per 10 homes. | One (1) space per five (5) homes. |
| Public or private golf course | Fifteen (15) spaces per nine (9) holes. | Thirty (30) spaces per nine (9) holes. |
| Indoor recreational facilities, not including bowling alley, swimming pool, tennis courts, or neighborhood recreation centers | One (1) space for each three hundred (300) square feet of floor area. | One (1) space for each one hundred and twenty-five (125) square feet of floor area. |
| Special events facilities | One (1) space for each two hundred (200) square feet of space used for such activity. | One (1) space for each one hundred (100) square feet of space used for such activity. |
| Temporary outdoor social, religious, seasonal, entertainment or recreation activity | One (1) space for each three hundred (300) square feet of land devoted to such use; or where such use is conducted within a tent one (1) space for each three hundred (300) square feet of area within the tent enclosure. | One (1) space for each two hundred (200) square feet of land devoted to such use; or where such use is conducted within a tent one (1) space for each two hundred (200) square feet of area within the tent enclosure. |
| Public or private tennis courts | Three (3) spaces per court. | Four (4) spaces per court. |
| Outdoor recreational uses, waterparks, amusement parks | One (1) space for each three thousand (3,000) square feet of gross site area. | One (1) space for each one thousand (1,000) square feet of gross site area. |

**Commercial**

| Use | Minimum Parking Spaces Required | Maximum Parking Spaces Allowed |
|---|---|---|
| Adult entertainment establishments and adult service facilities | One (1) parking space for each four hundred (400) square feet of floor area in the building. | One (1) parking space for each twenty-five (25) square feet of floor area in the building. |
| Automobile repair garage, minor repair, and maintenance establishments | One (1) space for each four hundred (400) square feet of floor space. | One (1) space for each one hundred fifty (150) square feet of floor space. |
| Automobile service station | Two (2) spaces for each service bay, with minimum of ten (10) spaces required. | Three (3) spaces for each service bay, with maximum of fifteen (15) spaces required. |

| | | |
|---|---|---|
| Bed and breakfast inn | One (1) space for the owner-operator plus one (1) per guest bedroom. | Two (2) spaces for the owner-operator plus one (1) per guest bedroom. |
| Car wash | Two (2) stacking spaces for each car wash lane plus two (2) drying spaces per lane. | Three (3) stacking spaces for each car wash lane plus three (3) drying spaces per lane. |

Table 6.2: Off-street Parking Ratios, Cont'd

| **Commercial, Cont'd** | | |
|---|---|---|
| Convenience Store without gas pumps | Three (3) spaces for each one thousand (1000) square feet of floor area. | Four (4) spaces for each one thousand (1000) square feet of floor area. |
| Convenience Store with gas pumps | One (1) space per five hundred (500) square feet of floor area | One (1) space per one hundred fifty (150) square feet of floor area. |
| Grocery Store | One (1) space per five hundred (500) square feet of floor area. | One (1) space per two hundred (200) square feet of floor area. |
| Hotel or motel | One (1) space per lodging unit, plus one (1) space per each one hundred fifty (150) square feet of banquet, assembly, or meeting area. | One and two-tenths (1.2) spaces per lodging unit, plus one (1) space per each one hundred (100) square feet of banquet, assembly, or meeting area. |
| Laboratory, research facility | One (1) space for each one thousand (1000) square feet of floor area | One (1) space for each three hundred (300) square feet of floor area |
| Office, Professional | One (1) space for each five hundred (500) square feet of floor area. | One (1) space for each two hundred fifty (250) square feet of floor area. |
| Offices, Doctor and Dentist | One (1) space for each five hundred (500) square feet of floor area. | One (1) space for each two hundred (200) square feet of floor area. |
| Restaurant with seating for patrons (with or without drive-through) | One (1) space for each one hundred fifty (150) square feet of floor area, but not less than ten (10) spaces. | One (1) space for each seventy five (75) square feet of floor area, but not less than ten (10) spaces. |
| Late Night Establishment | One (1) space for each three hundred (300) square feet of floor area with a minimum of ten (10) spaces. | One (1) space for each one hundred fifty (150) square feet of floor area with a minimum of ten (10) spaces. |
| Nightclub | One (1) space for each three hundred (300) square feet of floor area, but not less than ten (10) spaces. | One (1) space for each one hundred fifty (150) square feet of floor are, but not less than ten (10) spaces. |
| Restaurant, drive-through, without seating area for patrons | One (1) space for each two hundred fifty (250) square feet of floor area. | One (1) space for each one hundred fifty (150) square feet of floor area. |
| Restaurant where accessory to hotel or motel | One (1) space for each three hundred (300) square feet of floor area, but not less than ten (10) spaces. | One (1) space for each one hundred seventy-five (175) square feet of floor area, but not less than ten (10) spaces. |
| Retail and personal service uses accessory to high-rise apartment building or high-rise office building | Three (3) spaces for each one thousand (1,000) square feet of floor area. | Four (4) spaces for each one thousand (1,000) square feet of floor area. |
| Retail uses, personal service uses, and other commercial and general business uses, but not including Convenience Stores or Grocery Stores or other uses described more particularly herein | One (1) space for each five hundred (500) square feet of floor area. | One (1) space for each two hundred (200) square feet of floor area. |
| Storage facilities (mini-warehouse) | One (1) space for each eight thousand (8,000) square feet of floor area | One (1) space for each five thousand (5,000) square feet of floor area |

Table 6.2: Off-street Parking Ratios, Cont'd

| Industrial | | |
|---|---|---|
| **Use** | **Recommended Minimum Parking Spaces** | **Recommended Maximum Parking Allowed** |
| Heavy and light industrial, manufacturing, and commercial establishments not involving retail sales | One (1) space for each two thousand (2,000) square feet of floor area. | One (1) space for each one thousand three hundred (1,300) square feet of floor area. |
| Warehouse, distribution | One (1) space for each two thousand twenty five (2,500) square feet of floor area. | One (1) space for each five hundred (500) square feet of floor area. |
| Wholesale membership club | One (1) space for each five hundred (500) square feet of floor area | One (1) space for each two hundred (200) square feet of floor area. |
| Wholesale trade establishments, distribution establishments, offices in conjunction with showrooms, and similar uses | One (1) space for each two hundred (200) square feet of floor area devoted to sales or display, plus one (1) space for each two thousand (2,000) square feet of gross storage area. | One (1) space for each one hundred and fifty (150) square feet of floor area devoted to sales or display, plus one (1) space for each one thousand five hundred (1,500) square feet of gross storage area. |

### 6.1.5 Off-street parking reduction for shared parking.

Parking spaces for any existing or new mixed-use development may be based upon a shared parking formula as set forth in Table 6.3.

Shared parking may be utilized for any of the combinations of uses shown in Table 6.3. If shared parking is to be used to satisfy the requirements of this Article, an application shall be submitted to the community development director seeking approval of a shared parking plan. The applicant must submit a scaled site plan for each site that will participate in the shared parking showing zoning, use, and existing parking facilities. Shared parking agreements approved by the community development director shall be executed prior to issuance of any certificate(s) of occupancy for the development.

In any shared parking agreement, at least fifty percent (50%) of shared parking spaces must lie within seven hundred (700) feet of the main entrance to the principal use for which the parking is provided, and all shared parking spaces must lie within one thousand (1,000) feet of the main entrance to the principal use for which the parking is provided. Shared spaces shall not be separated from the site by a roadway with more than four (4) through-travel lanes, unless there is a well-marked, safe pedestrian crossing such as a pedestrian hybrid beacon, a signalized crosswalk, or a refuge median.

Any change in the use of a building, shop or leased area that relies on a shared parking agreement to meet its parking requirements shall require compliance with the parking standards in this Article based on the new use in order to obtain a certificate of occupancy. No right to shared parking shall vest in a property where the use of the property changes. In the event that property on which the shared parking is located has a different owner than the owner of the principal development, a written shared parking agreement between all relevant property owners, approved by the community development director and filed on the deed records in the office of the Clerk of Superior Court for DeKalb County, shall be provided prior to approval of a certificate of occupancy for the principal development. Expiration for any reason of a shared parking agreement, on which compliance with this Article is based, shall automatically terminate the related certificates of occupancy and place the property owner(s) in violation of this zoning ordinance.

The steps for determining parking requirements in a mixed use development are:

A. Determine the minimum amount of parking required for each separate use (Table 6.2).

B. Multiply each parking requirement by the corresponding percentage for each of the time periods given below.

C. Calculate the column total parking requirement for each time period.

D. The largest column total is the shared parking requirement.

E. Example of shared parking calculation:

If the following uses were proposed with the following example number of parking spaces in accordance with the individual use:

Office – 400 spaces, Retail – 300 spaces, and Restaurant uses – 100 spaces, with a

Total parking for individual use on site: 800 spaces

Then these same land uses under the provisions for shared parking would require the number of parking spaces shown in the example Table 6.4 (by applying the percent reduction in Table 6.3):

Table 6.3: Shared Parking Reduction Table

| Shared Parking Reduction Table | | | | | |
|---|---|---|---|---|---|
| **Land Use Type** | **Weekdays** | | **Overnight** | **Weekends** | |
| | 6am – 5pm | 5pm – 1am | 1am – 6am | 6am – 5pm | 5pm – 1am |
| Office | 100% | 10% | 5% | 10% | 5% |
| Retail | 60% | 90% | 10% | 100% | 70% |
| Hotel | 75% | 90% | 100% | 75% | 90% |
| Restaurant | 50% | 100% | 10% | 100% | 100% |
| Entertainment/ Recreational | 40% | 100% | 10% | 80% | 100% |
| Church | 25% | 60% | 10% | 100% | 100% |

Table 6.4: Example of Shared Parking Reduction Calculation

| Shared Parking Reduction Table EXAMPLE | | | | | |
|---|---|---|---|---|---|
| **Land Use Type** | **Weekdays** | | **Overnight** | **Weekends** | |
| | 6am - 5pm | 5pm - 1am | 1am - 6am | 6am - 5pm | 5pm - 1am |
| Office | 400 | 40 | 20 | 40 | 20 |
| Retail | 180 | 270 | 30 | 300 | 210 |
| Hotel | 0 | 0 | 0 | 0 | 0 |
| Restaurant | 50 | 100 | 10 | 100 | 100 |
| Entertainment/ Recreational | 0 | 0 | 0 | 0 | 0 |
| Church | 0 | 0 | 0 | 0 | 0 |
| Total | 630 | 410 | 60 | 440 | 330 |

As shown in the Weekdays 6:00 a.m. – 5:00 p.m. column, 630 parking spaces would be needed for this example development. This is a reduction of one hundred and seventy (170) required spaces.

### 6.1.6 Shared driveways and inter-parcel access.

A. *Applicability.* This section shall apply to all new office, commercial, institutional, mixed use, and industrial developments and any building renovations and repaving projects of office, commercial, institutional, or industrial developments for which a land disturbance permit is required.

B. *Shared driveways.* Shared driveways between two parcels along a common property line may be required by the Planning Commission during subdivision plat review or by the community development director during the land disturbance permitting process. In such cases, each property owner shall grant an access easement to facilitate the movement of motor vehicles and pedestrians across the site. The property owner's obligation to comply with this requirement shall be limited to the extent legal permission to construct and utilize the required shared drive can be obtained from the neighboring property owner.

C. *Inter-parcel access requirements.* Inter-parcel access for vehicles between abutting and nearby properties shall be provided so that access to individual properties can be achieved between abutting and nearby developments as an alternative to forcing all movement onto highways and public roads, unless the community development director during the land disturbance permitting process determines that it is unnecessary to provide inter-parcel access due to the unlikelihood of patrons traveling among abutting or nearby sites, or due to inability after reasonable efforts by the property owner to obtain legal permission from the abutting property owners for such inter-parcel access.

### 6.1.7 Number of handicapped parking spaces required.

The minimum number of and dimensions for handicapped parking spaces shall comply with the requirements of the Americans with Disabilities Act (ADA) (Public Law 101-136), the State Building Code, and the American National Standards Institute, and any other applicable state or federal law.

### 6.1.8 On-street parking.

On-street parking spaces located immediately abutting the subject property, entirely within the extension of the side lot lines into the roadway and not within any required clear sight triangle, may be counted toward meeting the required parking ratios for all uses occurring on such abutting lots facing a local street or minor collector street. Where streets have been designated "No Parking" by the city or county, no credit for on-street parking shall be available.

### 6.1.9 Parking structures.

The following requirements shall apply for parking structures:

A. *Minimum setbacks.* Parking structures shall comply with the setback requirements for accessory structures established for the zoning district in which they are located.

B. *Maximum height.* Parking structures shall comply with the maximum height requirements established in the zoning district in which they are located.

C. *Architectural features and facades.*

1. Parking structures shall utilize materials such as brick, glass, stone, cast stone, poured-in-place concrete, hard coat stucco or precast concrete with the appearance of brick or stone on facades facing public rights-of-way.

2. Architectural features and facades for parking structures shall be compatible with abutting structures.

D. *Orientation.* Parking structures shall be oriented to the interior of the parcel by adhering to the following:

1. Residential dwelling units, retail storefronts or office façades shall line the parking structure along all first floor façades adjacent to a street, excluding alleys and driveways.

2. Parking structures, when added to an existing residential development, shall not be located between the building front and the street.

### 6.1.10 Parking area landscaping.

See parking area landscaping requirements in section 5.4.4.

### 6.1.11 Paving surfaces.

A. *Typical paving surfaces*. The paving surface of required minimum on-site and off-site parking areas shall be a dust-free, all-weather material (e.g., asphalt, concrete, or pavers). The paving surface shall have the parking stalls, loading and unloading zones, fire lanes and any other applicable designations delineated in white or yellow paint.

B. Alternative paving surfaces may be used for the number of spaces that exceed one hundred and five percent (105%) of the minimum required spaces subject to the confirmation by the community development director of the pervious nature of the alternative paving material and the numerical calculations.

1. Alternative paving surfaces may include living turf grass or similar ground cover, pervious pavers or concrete, stabilized grass lawn, or other pervious parking surfaces.

2. Driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass lawn or other pervious parking surface serving:

a. Uses within fifty (50) feet of environmentally sensitive areas identified in the Comprehensive Plan;

b. Uses which require parking for less than five (5) days per week during a typical month; and

c. Parks, playgrounds, and other similar outdoor recreation areas with less than two hundred (200) parking spaces.

### 6.1.12 Stacking spaces.

All driveway entrances, including stacking lane entrances, must be at least fifty (50) feet from an intersection. The distance is measured along the street from the junction of the two street curb lines to the nearest edge of the entrance.

### 6.1.13 Valet parking requirements.

All valet parking services shall meet the following requirements:

A. Valet parking services shall only use off-street parking to park customer vehicles.

B. A valet parking service shall be allowed only where the business establishment being served possesses the minimum required parking spaces either on-site or through a shared off-site parking agreement.

### 6.1.14 Off-street loading requirements.

A. Off-street loading spaces shall be provided as indicated in Table 6.5.

Table 6.5: Off-street loading space requirements

| Off-street loading requirements | | |
|---|---|---|
| **Type of Use** | **Gross Floor Area (Sq. Ft.)** | **Loading Spaces Required** |
| Single retail establishment services | 0 to 19,999 | 0 |
| | 20,000 to 49,999 | 1 |
| | 50,000 to 250,000 | 2 |
| | Over 250,000 | 3 |
| Shopping centers | 0 to 9,999 | 1 |
| | 10,000 to 24,999 | 2 |
| | 25,000 to 39,999 | 3 |
| | 40,000 to 99,999 | 4 |
| | Each additional 100,000 | 1 additional |
| Office buildings, multi-family residential over four stories, hospitals, health care establishments, hotels and motels | 10,000 to 49,999 | 1 |
| | 50,000 to 99,999 | 2 |
| | 100,000 to 199,999 | 3 |
| | 200,000 to 999,999 | 4 |
| | Each additional 1,000,000 | 1 additional |
| Manufacturing, warehousing, wholesaling, etc. | 10,000 to 24,999 | 1 |
| | 25,000 to 39,999 | 2 |
| | 40,000 to 99,999 | 3 |
| | Each additional 100,000 | 1 additional |
| Recycling centers | | 2 |

B. *Design and arrangement of off-street loading areas*. The following standards shall apply to off-street loading areas, which shall be comprised of loading spaces and maneuvering areas:

1. A loading space shall measure no less than twelve (12) feet by thirty-five (35) feet and have no less than fourteen (14) feet of vertical clearance.
2. For any use required to furnish three (3) or more loading spaces, at least one (1) in every three (3) shall measure no less than twelve (12) feet by fifty-five (55) feet.
3. For manufacturing and warehousing uses, all loading spaces shall measure no less than twelve (12) feet by fifty-five (55) feet.
4. Maneuvering areas shall not include required parking spaces or any portion of a public right-of-way. No off-street maneuvering area shall require vehicles to back in from or out to a public street.

C. *Off-street loading and maneuvering location limitations*. Off-street loading spaces and maneuvering areas shall be located only in those portions of a lot where off-street parking areas are allowed with the following additional limitations:

1. Industrial zoning districts: If the off-street loading spaces and maneuvering areas are across from, or adjacent to, any non-industrial zoning district, a fifty (50) foot landscaped strip shall be established between the non-industrial zoning district and the off-street loading spaces and maneuvering area.

D. *Screening of loading areas*. Loading areas shall be paved with impervious materials and shall be screened so as not to be visible from any public plaza, ground-level or sidewalk-level outdoor dining area, public sidewalk, public right-of-way, private street or any adjacent residential use.

E. *Enclosure of dumpsters and trash compactors.* All external dumpsters and loading areas shall be enclosed with opaque fence or walls at least six (6) feet in height.

### 6.1.15 Parking of trailers in residential districts.

A. In a residential zoning district, no trailer or recreational vehicle shall be parked in front of the principal structure; within the side yard setback or ten (10) feet from side property line, whichever is less; or within ten (10) feet of the rear lot line.

B. No recreational vehicle or trailer may be occupied for human habitation for more than fourteen (14) consecutive days while parked within a residential zoning district.

C. Recreational vehicles and trailers may be parked, for the limited purpose of storage between travel, on unpaved surfaces, including gravel or a similar material that prevents the vehicle's or trailer's tires from making direct contact with the earth, soil, sod or mud, so long as the unpaved surface prevents tracking of earth, soil, sod or mud onto public streets when the vehicle or trailer is moved from the property.

D. Within any residential zoning district, no recreational vehicle, trailer or storage container may be parked on a lot that does not contain a permanent dwelling unit or other structure intended for permanent human habitation as its principal use.

E. No portable storage container may be parked or stored in a residential zoning district for a period of a time exceeding fifteen (15) consecutive days, or a total of thirty (30) days during any calendar year. A container used during active construction under a valid permit may remain for the duration of the active construction, counting toward the time restrictions of this subsection.

### 6.1.16 Alternative fuel vehicles parking.

A. *Where required*. Preferential parking for alternative fuel vehicles shall be provided for all new non-residential parking areas containing one hundred (100) or more parking spaces, and for new parking areas of mixed-use projects where the non-residential portion of the project requires one hundred (100) or more parking spaces. The parking spaces shall be striped with green paint to distinguish the spaces as preferential parking spaces, and in accordance with the Georgia Department of Transportation requirements.

B. *Required number of spaces*. At least two percent (2%) of all parking spaces in parking lots identified in 6.1.16.A shall be designated for preferential parking for alternative fuel vehicles.

C. *Location of parking spaces*. The required alternative fuel preferential parking spaces shall be located as close as possible to the primary entrance without conflicting with the Americans with Disability Act requirements, or other state or federal law. In the event the priority described in this subsection shall conflict with the priority described in section 6.1.4, section 6.1.4 shall prevail.

D. *Signage required*. Each alternative fuel preferential parking space shall be provided with a sign that identifies the parking space as designated for use by alternative fuel vehicles. The sign shall be in compliance with Chapter 21, Signs.

E. *Existing vehicle recharging stations*. Existing parking spaces with vehicle recharging stations may be used to meet the requirements of this section.

### 6.1.17 Bicycle/moped parking requirements.

A. A building, commercial establishment, recreation area, or other property, whether privately or publicly owned or operated, that is required to provide automobile parking facilities, whether free of charge or for a fee, to any employees, tenants, customers, clients, patrons, residents, or other members of the public

shall provide at least one bicycle/moped parking space for every twenty (20) required automobile parking spaces. No such building, commercial establishment or other property subject to the provisions of this section shall have fewer than three (3), nor be required to have more than fifty (50) bicycle/moped parking spaces. The requirements of this section shall not apply to properties being operated primarily as commercial parking facilities, residences, or churches.

B. All bicycle/moped spaces shall be located within two hundred and fifty (250) feet of a regularly used building entrance and shall not interfere with pedestrian traffic. Each space shall include a metal anchor that will secure the frame and both wheels of a bicycle or moped in conjunction with a user-supplied lock. If bicycle/moped parking is not visible to the general visiting public, then a sign no larger than ten (10) inches by fifteen (15) inches shall be displayed that directs cyclists to the bicycle/moped parking.

C. The provisions of this section shall apply to property owners, persons occupying the property pursuant to a leasehold interest, or other managers or operators of buildings, commercial establishments and property subject to the provisions of this section.

D. The provisions of this section shall apply to any building, commercial establishment or property for which a permit for new construction is issued following the effective date of this part, and to the alteration of existing buildings in all cases where sufficient space exists to provide such parking facilities.

# Article 7. Administration .....3

**27-7.1 DIVISION 1. GOVERNING BODIES AND AUTHORITY .....3**
7.2.1. Purpose and intent; compliance with law. .....3
7.2.2. Governing bodies. .....3
**27-7.2 DIVISION 2. GENERAL PROCEDURES .....7**
7.2.1. Applications and public hearing. .....7
7.2.2. Applications. .....7
7.2.3. Reserved. .....9
7.2.4. Public hearings. .....9
**27-7.3 DIVISION 3. ZONING AND COMPREHENSIVE PLAN AMENDMENTS AND PROCEDURES .....10**
7.3.1. Initiation of proposals for text and map amendments. .....10
7.3.2. Consistency with comprehensive plan character areas. .....10
7.3.3. Staff analysis, findings of fact, and recommendations. .....10
7.3.4. Standards and factors governing review of proposed amendments to the comprehensive plan map. 11
7.3.5. Standards and factors governing review of proposed amendments to the Official Zoning Map. .....11
7.3.6. Community council review of proposed amendments. .....11
7.3.7. Action by the planning commission. .....12
7.3.8. Action by the city council. .....12
7.3.9. Conditions of zoning. .....13
7.3.10. Modifications and changes to approved conditions of zoning. .....13
7.3.11. Reserved. .....14
**27-7.4 DIVISION 4. SPECIAL LAND USE PERMITS .....14**
7.4.1. Special land use permits generally. .....14
7.4.2. Initiation of applications and public hearing requirements. .....14
7.4.3. Initiation of ordinance for application for special land use permit. .....14
7.4.4. Community council review of proposed applications. .....15
7.4.5. Staff analysis, findings of fact, and recommendation on each application. .....15
7.4.6. Special land use permit; criteria to be considered. .....15
7.4.7. Additional criteria for specified uses. .....16
7.4.8. Action by the planning commission. .....17
7.4.9. Action by the city council. .....17
7.4.10. Appeals of decisions of the city council. .....18
7.4.11. Limitations of special land use permits. .....18
7.4.12. Transfer of special land use permits. .....19
7.4.13. Compliance upon denial. .....19
7.4.14. Reserved. .....19
**27-7.5 DIVISION 5. VARIANCES AND APPEALS to the zoning board of appeals .....19**
7.5.1 Testimony and burden of proof. .....19
7.5.2 Appeals of decisions of administrative officials. .....19
7.5.3 Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances. .....20
7.5.4 Applications for variances to reduce or waive off-street parking or loading space requirements. .....21
7.5.5 Limitations of authority of the zoning board of appeals. .....22
7.5.6 Decision by the zoning board of appeals. .....22
7.5.7 Compliance with standards upon denial. .....23
7.5.8 Appeals of decisions of the zoning board of appeals. .....23
7.5.9 Fair Housing Act Accommodation Variance. .....23
7.5.10 Concurrent Variances .....23

**27-7.6 DIVISION 6. SPECIAL ADMINISTRATIVE PERMITS; WAIVERS AND VARIANCES .....24**
7.6.1. Special administrative permits generally. .....24
7.6.2. Standards for special administrative permits, criteria to be applied.....24
7.6.3. Time limitations. .....24
7.6.4. Reserved.....24
7.6.5. Administrative variances, administrative waivers: authority. .....24
7.6.6. Procedures for applications for administrative variances and administrative waivers. .....25
7.6.7. Criteria used by the director of planning in deciding administrative variances and administrative waivers. .....26
7.6.8. Persons entitled to appeal to the zoning board of appeals.....26
**27-7.7 DIVISION 7. ENFORCEMENT, VIOLATIONS, AND PENALTIES .....26**
7.7.1 Administration and enforcement; granting of permits. .....26
7.7.2 Development permits. .....26
7.7.3 Building permits and certificates of occupancy required. .....26
7.7.4 Applications for permits and certificates of occupancy.....26
7.7.5 Development and building permits; plans required. .....27
7.7.6 Issuance of development permits.....27
7.7.7 Duration of validity of development permits. .....28
7.7.8 Building inspection. .....28
7.7.9 Records.....28
7.7.10 Inspection; right of entry.....28
7.7.11 Inspection; warrants. .....28
7.7.12 Remedies.....29
7.7.13 Notice in writing order to stop work; revocation of permits. .....29
7.7.14 Fees.....29
7.7.15 Certificates of occupancy. .....29
7.7.16 Violations of this chapter. .....30
7.7.17 Penalties. .....30
7.7.18 Repeal of conflicting ordinances; validity of prior approvals and actions.....30
7.7.19 Reserved.....30

# Article 7. Administration

## 27-7.1 DIVISION 1. GOVERNING BODIES AND AUTHORITY

### 7.2.1. Purpose and intent; compliance with law.

A. This article is intended to provide certain procedures to govern:

1. Processing of various applications for rezoning, variances, comprehensive plan text amendments, comprehensive plan map amendments, special land use permits, administrative variances, and major and minor modifications to conditions of zoning.

2. The calling and conducting of public hearings pertaining to said applications.

3. Establishing criteria for making decisions on such applications.

B. The mayor and city council, planning commission, zoning board of appeals, and community councils shall comply with all applicable provisions of state law, now and as they may be amended hereafter, including, but not limited to, state law concerning open records, open meetings and records retention.

### 7.2.2. Governing bodies.

A. *Community Development Director.*

1. The provisions of this Zoning Ordinance shall be administered by the community development director, in conjunction with the planning commission, the zoning board of appeals and the mayor and city council as set forth herein. The specific duties of the community development director shall include, but not be limited to, the following:

a. Accepting and processing applications for zoning map amendments (rezonings), special land use permits, zoning certifications, continuances of nonconforming uses, text amendments to the Zoning Ordinance, modifications of zoning conditions, variances, residential lot divisions, amendments to the map and text of the comprehensive plan, or any other such business as may be scheduled for public hearing by the planning commission, zoning board of appeals, or mayor and city council.

b. Researching facts and preparing reports and recommendations for the planning commission and the mayor and city council for such applications. Such reports shall be in writing and shall be made a part of the public record.

c. Researching facts and preparing reports and recommendations regarding variances and appeals of error, or any other business as may be scheduled for public hearing by the zoning board of appeals.

d. Maintenance of permanent records concerning the administration of this Zoning Ordinance and comprehensive plan, including all maps, amendments, records of public hearings, and any other business of the planning commission and zoning board of appeals.

e. Review of applications for permits and licensing to ensure conformity with the requirements of this Zoning Ordinance and other relevant ordinances.

f. Upon written request by the property owner or owner's authorized agent and payment of a fee established by the mayor and city council, the community development director may issue a certificate verifying the current zoning of a parcel of land, or a letter confirming a legal nonconforming status.

g. Administratively correct the Official Zoning Map after a graphic or scrivener error has been identified.

h. Other duties as authorized in this Zoning Ordinance, including but not limited to the rendering of administrative decisions authorized by Section 7.6.

B. *Community council*.

1. There is hereby established a volunteer community council. The community council shall consist of seven (7) members, two (2) from each of the cities three districts whom shall be a resident of the district represented, and one (1) at large whom shall be a resident of the city.

2. Members of the community council shall serve at the pleasure of the mayor and city council making the appointment or until their successor is appointed and qualified, unless such term ends sooner in a manner set forth herein. Community council members may be reappointed to successive terms without limitation. Any vacancy in the membership of the community council shall be filled in the same manner as the initial appointment. If a community council member moves outside the district for which the community council is established, that action shall constitute an immediate resignation from the council, effective immediately.

3. The Community Council is created to review applications for rezonings, land use plan amendments, special land use permits and text amendments, and to report their recommendations to the planning commission. A community council may consider such ordinances and applications in relation to the applicable standards and criteria contained in this chapter, the adopted comprehensive plan and any of the community's quality of life issues.

C. *Historic preservation commission*. See chapter 13.5 of the Code for the establishment and authority of the historic preservation commission.

D. *Planning Commission*.

1. There is hereby established a Planning Commission which shall consist of five (5) members, all shall be residents of the City.

2. A planning commissioner may be removed at any time for failure to attend three (3) consecutive meetings or for failure to attend seventy-five (75) percent or more of the meetings within any calendar year or by the mayor and city council for any other good cause related to performance of duties. It shall be the duty of the secretary of the planning commission to keep a record of the attendance of members and to notify both the planning commissioner and the mayor and city council when any planning commissioner is removed pursuant to the failure to attend meetings requirement of this section. No hearing before the mayor and city council is allowed for a removal for a violation of the failure to attend meetings requirement. Such removal shall be effective ten (10) days following notification by the secretary of the planning commission to the mayor and city council. Upon request of the planning commissioner proposed for removal for cause other than for a failure to attend meetings, the mayor and city council shall hold a hearing on the removal before it becomes effective. A removal for cause other than for a failure to attend meetings shall require a majority vote of the mayor and city council. Planning commissioners may be reappointed to successive terms without limitation. Any vacancy in the membership of the planning commission shall be filled for the unexpired term in the same manner as the initial appointment. Members of the planning commission shall hold no other city office or city compensated position. If a planning commission member moves outside the city that action shall constitute a resignation from the planning commission, effective immediately.

3. The governing authority shall determine the amount of compensation, if any, to be paid to the members of the planning commission.

4. *Planning commission to hold public hearing and make recommendation on all proposed amendments.* No amendment to the text of this chapter, the Official Zoning Map, or the comprehensive plan text or maps shall become effective unless the subject matter of the amendment has been submitted to the planning commission for public hearing and recommendation pursuant to the requirements of this chapter.

5. *Planning commission to adopt rules of procedure.* The planning commission shall conduct its meetings in accordance with the procedures contained in this chapter. The planning commission

shall further adopt rules of procedure governing the conduct of its meetings; which rules shall be supplemental to and not conflict with this chapter. In any case where the rules do not address a procedural issue which arises before the planning commission, the most recent edition of Robert's Rules of Order shall govern. The planning commission may from time to time amend its rules by majority vote. A copy of the adopted rules of procedure and any subsequent amendment thereto shall be filed by the secretary of the planning commission and the mayor and city council, and copies of the rules shall be made available to the public by the secretary of the planning commission.

6. *Quorum, voting, and actions by board*. A quorum of the planning commission shall consist of at least 3 (three) members of the commission; but no official action shall be taken except upon the affirmative vote of at least three (3) members of the planning commission. A roll call vote shall be taken upon the request of any member. If there is not a quorum present, all items shall be rescheduled and re-advertised for the next regular meeting.

7. *Annual organizational meeting*. At its first regular meeting of each year, the planning commission shall, by majority vote of its membership elect one (1) of its members to serve as chairperson to preside over the commission's meetings and one (1) member to serve as vice chairperson. The persons so elected shall serve in these capacities for terms of the calendar year or until a replacement is elected. Vacancies may be filled for the unexpired terms only by majority vote of the planning commission membership. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may each be elected to successive terms without limitation.

8. *Secretary of planning commission; staff support.* The community development director or his/her designee shall serve as secretary of the planning commission. The community development department staff shall provide support to the planning commission as reasonable and necessary to accomplish said commission's duties. The community development department staff shall provide the members of the planning commission with all information submitted to, or generated by, city staff on each proposed amendment the planning commission considers, including but not limited to a copy of the application and the proposed amendment. The community development department staff shall keep minutes of the proceedings of the planning commission, showing the vote of each member upon each item, or, if a member is absent or fails to vote, indicating such fact, and shall keep records of the planning commission official actions and evidence submitted, all of which shall be filed in the office of the community development department and shall be a public record.

E. *Zoning board of appeals*.

1. There is hereby established a zoning board of appeals which shall consist of five (5) members, each of whom shall be a resident of the city. A member of the zoning board of appeals may be removed at any time for failure to attend three (3) consecutive meetings or for failure to attend seventy-five (75) percent or more of the meetings within any calendar year or by the mayor and city council for any other good cause related to performance of duties. It shall be the duty of the secretary of the zoning board of appeals to keep a record of the attendance of members and to notify both the zoning board of appeals member and the mayor and city council when any zoning board of appeals member is removed pursuant to the failure to attend meetings requirement of this section. No hearing before the mayor and city council is allowed for a removal for a violation of the failure to attend meetings requirement. Such removal shall be effective ten (10) days following notification by the secretary of the zoning board of appeals to the mayor and city council. The mayor and city council shall have the authority to remove zoning board of appeals appointee for cause, other than for failure to attend meetings, by providing written notice to the secretary and the zoning board of appeals member proposed to be removed. Upon request of the zoning board of appeals member proposed for removal for cause other than for a failure to attend meetings, the mayor and city council shall hold a hearing on the removal before it becomes effective. Members of the zoning board of appeals may be reappointed to successive terms without limitation. Any vacancy in the membership of the zoning

board of appeals shall be filled for the unexpired term in the same manner as the initial appointment. Members of the zoning board of appeals shall hold no other city office or city compensated position. If a member of the zoning board of appeals moves outside the city, that action shall constitute a resignation from the zoning board of appeals, effective immediately.

2. The governing authority shall determine the amount of compensation, if any, to be paid to the members of the zoning board of appeals.

3. *Meetings of the zoning board of appeals.* The zoning board of appeals shall meet at a standard day and time to be determined by the board. The chairperson may, when necessary, call for special meetings of the board. A meeting may be canceled by the chairperson if there are no matters to be acted upon by the board.

4. *Rules of procedure.* The zoning board of appeals shall conduct its meetings in accordance with the procedures contained in this chapter. The board shall further adopt rules of procedure governing the conduct of its meetings, which rules shall be supplemental to and not conflict with this chapter. In any case where the rules do not address a procedural issue which arises before the board, the most recent edition of Robert's Rules of Order shall govern. The board may from time to time amend its rules by majority vote. A copy of the adopted rules of procedure and any subsequent amendment thereto shall be filed by the secretary of the zoning board of appeals with the clerk to the mayor and city council, and copies of the rules shall be made available to the public by the secretary of the zoning board of appeals and the clerk to the mayor and city council.

5. *Hearings open to public.* All meetings of the zoning board of appeals shall be open to the public, and the agenda for each board meeting shall be made available to the public at least fifteen (15) days prior to any meeting of the board. Notice of all meetings of the zoning board of appeals shall be given in accordance with section 7.2.4.

6. *Quorum, voting, and actions by board.* A quorum of the zoning board of appeals shall consist of at least three (3) members of the board; but no official action shall be taken except upon the affirmative vote of at least three members of the zoning board of appeals. A roll call vote shall be taken upon the request of any member. If there is not a quorum present, all items shall be rescheduled and re-advertised for the next regular meeting.

7. *Annual organizational meeting.* At its first regular meeting of each year, the zoning board of appeals shall, by majority vote of its membership elect one (1) of its members to serve as chairperson to preside over the board's meetings and one (1) member to serve as vice chairperson. The persons so elected shall serve in these capacities for terms of the calendar year or until a replacement is elected. Vacancies may be filled for the unexpired terms only by majority vote of the board membership. The chairperson and vice chairperson may take part in all deliberations and vote on all issues. The chairperson and the vice-chairperson may each be elected to successive terms without limitation.

8. *Staff support.* The community development director or his/her designee shall serve as secretary to the zoning board of appeals. The community development department staff shall make audio or video recordings and keep minutes of the proceedings of the board, showing the vote of each member upon each item, or if absent or failing to vote, indicating such fact, and shall keep records of its official actions and evidence submitted, all of which shall be filed in the office of the community development department and shall be a public record.

9. *Staff analysis, findings of fact, and recommendation on each application for a variance.* The staff of the community development department shall conduct a site inspection of and shall prepare an analysis of each application for a variance applying the applicable criteria and standards set forth in this chapter to each such application. Staff shall present its findings and recommendations in written form to the zoning board of appeals at least seven (7) days prior to the public hearing thereon. Notwithstanding staff's obligations to present its findings and a recommendation, the failure to timely

do so shall not nullify the board's action on the item, constitute a ground for denial, or constitute grounds for appeal of a decision by the zoning board of appeals.

## 27-7.2 DIVISION 2. GENERAL PROCEDURES

### 7.2.1. Applications and public hearing.

This division establishes procedures that apply to all application submittals and procedures for public hearings required by this Zoning Ordinance. Prior to the processing of any application for an amendment to the Official Zoning Map, commonly referred to as a rezoning, variance, comprehensive plan text amendment, comprehensive plan map amendment, special land use permit, or modification to conditions of zoning, the applicant shall be required to file documentation and follow certain procedures as set forth in this article. Additional regulations that apply to specific application types may be found in subsequent sections of this chapter.

### 7.2.2. Applications.

A. Applications for city action that require a public hearing shall be filed with the community development director, along with a fee as set by the mayor and city council. Applications and procedures shall be made available to the public in the offices of the community development department.

B. The processing of said applications shall be based upon an annual calendar. This calendar shall be made available to the public in the offices of the community development department.

1. The community development director shall be authorized to establish application submittal requirements necessary to obtain sufficient information to allow for a compliance review of the application as well as forms and instructions for each application type or petition. No application shall be processed by the community development director unless it complies with the procedural requirements of this chapter and is found to be a Complete Application.

2. Any application that is found to be incomplete during the review for completeness shall be rejected from processing and returned to the applicant. Return of the rejected application shall constitute notice of the rejection to the applicant.

3. No major change to an application may be accepted later than the required deadline for advertising in the legal organ or a newspaper of general circulation within the city. There shall be no refund of application fees after the community development department has accepted an application.

4. The following shall constitute a major change to an application that shall result in deferral and/or re-advertising of the application:

a. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;

b. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;

c. Any decrease in the size of residential units;

d. Any increase in the number of curb cuts;

e. Any decrease in the buffer requirements;

f. Any increase in the height of any building or structure;

g. Any change in the proportion of floor space devoted to different authorized uses;

h. Any change in the zoning classification requested; or

i. Any change in the land use plan classification that increases the density of the proposed use.

5. A change to a site plan or proposed condition of zoning associated with an application, which change has been accepted and allowed to be part of the application, may be deferred by the mayor and city council for a full-cycle review if the mayor and city council determines such review is reasonably necessary as a result of the change. The amended application shall be treated as if it were a new application, for the purposes of publication, review, notice and hearings, as required under this article, including review by the community council and planning commission. An amendment to an application shall not change the original filing date of that application. An amended application shall not require a new application fee. However, in the case of a deferral requested by the applicant, the applicant shall pay a required re-advertising fee.

C. *Application fees.* The application fees for special land use permits, amendments to the Official Zoning Map and comprehensive plan map amendments shall be as established by the mayor and city council.

D. *Site plan preparation.* The community development director shall publish a checklist of requirements for site plans submitted pursuant to this Zoning Ordinance. All site plans submitted pursuant to this Zoning Ordinance shall be submitted with the applications to which they apply and shall comply with the checklist requirements.

E. *Notice of applications filed.* The secretary of the planning commission shall, no later than twenty-one (21) days following each closing date for receipt of applications, provide the mayor and city council with a list of all applications and amendments filed. The listing of applications shall be reasonably made available to the public.

F. *Withdrawal of application by applicant.* Applications may not be withdrawn without permission after they have been filed for advertising for public hearing, except as otherwise provided herein.

G. *Clerk to the mayor and city council to provide signed copy of final actions taken by the mayor and city council to community development director to be noted on Official Zoning Maps.* The clerk to the mayor and city council shall, after any final action taken by the mayor and city council, provide to the community development director a signed, certified copy of each such action. The community development director shall cause all relevant documents to be amended accordingly to reflect the final action approved by the mayor and city council.

H. *Resubmittal of rejected or denied applications.*

1. *Rezoning*.

a. If an application for rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.

b. Notwithstanding paragraph (a) above, the mayor and city council may by resolution reduce the twenty-four (24) month time restriction between applications to a period no less than the minimum required by the O.C.G.A. Section 36-66-1 et seq., as it now exists and may be amended hereafter, which currently is six (6) months as of the date of adoption of this ordinance.

c. An applicant may request that the mayor and city council allow withdrawal of an application without prejudice, in which case, if approved, no minimum time period need expire before a subsequent application for rezoning of the property may be accepted by the community development director.

2. *Variance*.

d. An application for a variance affecting all or a portion of the same property for which an application for variance for the same regulation was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the zoning board of appeals on the previous variance.

e. The zoning board of appeals may reduce this twenty-four (24) month time restriction by resolution, provided that the time restriction between the date of said denial and any subsequent application affecting the same property shall be no less than six (6) months.

3. *Special land use permit*.

a. An application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.

b. Notwithstanding paragraph (a) above, the mayor and city council may by resolution reduce the twenty-four (24) month time restriction between applications to a period no less than the minimum required by the Zoning Procedures Law, O.C.G.A. Section 36-66-1 et seq., which is six (6) months as of the date of adoption of this ordinance.

### 7.2.3. Reserved.

### 7.2.4. Public hearings.

A. *Zoning decisions*. The term "zoning decision" is defined in article 9 by reference to the definition of "zoning decision" set forth in state law, O.C.G.A. §36-66-3, as it now exists and may be amended hereafter.

B. *Zoning decisions initiated by the city*. For any zoning decision initiated by the city at least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the mayor and city council, the city shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city, a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

C. *Zoning decisions, appeals to the zoning board of appeals, variances, extensions of special land use permits, and major modifications of conditions initiated by a party other than the city.* For any zoning decision, appeal to the zoning board of appeals, variance, extension of special land use permits, or major modification of conditions initiated by a party other than the city, notice of the public hearing shall be provided as follows:

1. Written notice of each public hearing shall state the nature of the proposed change, and the date, time, and place of the public hearing before either the planning commission, zoning board of appeals or the mayor and city council and shall be mailed by first class mail by the community development director to all owners of property within two-hundred-fifty (250) feet of the boundaries adjoining the subject property, as such property owners are listed on the records of DeKalb County tax commissioner, at least fifteen (15) days ~~and not more than forty-five (45) days~~ prior to said public hearing.

2. Signs shall be posted on the subject property at least fifteen (15) days ~~and not more than forty-five (45) days~~ prior to the public hearing before the mayor and city council, the planning commission or the zoning board of appeals. The required information on each sign shall be as provided in O.C.G.A Section 36-66-1, et seq., as it now exists and may be amended hereafter. At least one (1) sign shall be posted on each street on which the subject property has frontage in a conspicuous location within ten (10) feet of the right-of-way. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage. The applicant shall pay a sign fee, in an amount to be established by the mayor and city council, to the community development department.

3. One (1) notice sign may serve both the application for an amendment to the Official Zoning Map and/or the application for a special land use permit, as long as the sign states the relevant information for all hearings relating to those actions.

4. A dated photograph of each sign shall be submitted by the applicant to the community development director as evidence of its proper posting.

5. The city shall cause a notice of each public hearing regarding a proposed zoning decision to be published in a newspaper of general circulation within the city at least fifteen (15) days and not more than forty-five (45) days prior to the public hearing. The notice shall include the date, time and place of the hearing before the planning commission, the mayor and city council, and/or the zoning board of appeals, the address of the property, the present zoning classification of the property, the proposed zoning classification of the property, the nature of the variance sought, and the proposed special land use, as applicable.

D. Staff's analysis and written recommendations shall be available in the community development department and on the departmental website prior to any public meeting held by the zoning board of appeals, the planning commission or the mayor and city council.

## 27-7.3 DIVISION 3. ZONING AND COMPREHENSIVE PLAN AMENDMENTS AND PROCEDURES

### 7.3.1. Initiation of proposals for text and map amendments.

A proposed amendment to the text of this chapter, the Official Zoning Map, or the comprehensive plan may be introduced by the community development director, one (1) or more members of the mayor and city council or by the planning commission. In addition, amendments to the Official Zoning Map (rezoning) and the comprehensive plan may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before enacting any amendment to this ordinance, the Official Zoning Map, or the comprehensive plan maps, the mayor and city council shall provide for the public notice and public hearings required by section 7.2.4 of this article.

### 7.3.2. Consistency with comprehensive plan character areas.

Any applicant seeking to rezone property to a classification that is inconsistent with the comprehensive plan maps, as established in Article 1 of this Zoning Ordinance, must first obtain approval of an amendment to the comprehensive plan maps from the mayor and city council. The comprehensive plan maps shall be amended according to a schedule approved by the mayor and city council. However, exceptions may be granted by the mayor and city council in between the regular review cycle in cases of demonstrated hardship, or in cases of large-scale developments that may provide special economic benefits to the community. Requests for exceptions shall be subject to approval by the mayor and city council during a mayor and city council meeting.

### 7.3.3. Staff analysis, findings of fact, and recommendations.

A. The staff of the community development department shall conduct a site inspection on all applications for zoning map and comprehensive plan map amendments and shall investigate and prepare an analysis of each proposed text amendment to this chapter or to the comprehensive plan.

B. The findings and recommendations of the community development department staff shall be made based on each of the standards and factors contained in section 7.3.4 or section 7.3.5, below, as applicable. In an application for rezoning, the community development staff may recommend the imposition of conditions in accordance with section 7.3.9. The staff shall present its findings and recommendations in written form to the planning commission and the mayor and city council. Copies of the written findings and recommendations of the staff shall be reasonably made available to the public.

C. Within a reasonable amount of time after acceptance of a Complete Application, the community development director shall submit the application for review by various departments and external agencies, as may be appropriate. Such departments may include, but not be limited to, land development, watershed management, fire and rescue, transportation, and public works. External agencies may include, but are not limited to, DeKalb County School Board, Georgia Regional Transportation Authority, Georgia Department of Transportation, Metropolitan Atlanta Rapid Transit Authority (MARTA), and the

Atlanta Regional Commission (ARC), and any municipality that abuts the property that is the subject of the application. Any written comments received prior to submittal of the report shall be submitted to the review bodies for consideration and such comments shall become an official public record.

### 7.3.4. Standards and factors governing review of proposed amendments to the comprehensive plan map.

The following standards and factors are found to be relevant for evaluating applications for amendments to the comprehensive plan map and shall govern the review of all proposed amendments to the comprehensive plan map:

A. Whether the proposed land use change will permit uses that are suitable in consideration of the use and development of adjacent and nearby property or properties.

B. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property or properties.

C. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

D. Whether the amendment is consistent with the written policies in the comprehensive plan text and any applicable small areas studies.

E. Whether there are potential impacts on property or properties in an adjoining governmental jurisdiction, in cases of proposed changes near county or municipal boundary lines.

F. Whether there are other existing or changing conditions affecting the use and development of the affected land areas which support either approval or denial of the proposed land use change.

G. Whether there will be an impact on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

### 7.3.5. Standards and factors governing review of proposed amendments to the Official Zoning Map.

The following standards and factors are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map:

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property or properties.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property or properties.

E. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources.

### 7.3.6. Community council review of proposed amendments.

A. Following the monthly closing date for the introduction or filing of an application to amend the Official Zoning Map, to amend the text of this chapter, to amend the comprehensive plan land use maps, for a special land use permit, or for a major modification to zoning conditions, a copy of all such applications shall be made available by the community development director to the appropriate community council for consideration. This requirement does not apply to the initial adoption by the City of the Official Zoning Map, the text of this chapter, and the comprehensive plan land use maps

B. Applicants are required to attend community council meetings to present their applications. The presentation shall take place prior to the formulation of any final written recommendations by the community development director. At the discretion of community development department staff, the applicant may be required to make a formal presentation to explain the application, but at a minimum the applicant shall be available to answer questions about the application. Community councils shall consider such applications in relation to the applicable standards and criteria contained in this chapter, the adopted comprehensive plan, and any of the community's quality of life issues.

C. The recommendation of the community council shall be presented at the subsequent planning commission meeting where the application is considered. The failure of any community council to timely comply with the provisions of this subsection shall not constitute grounds for deferral or denial of any proposed amendment by the planning commission or the mayor and city council.

### 7.3.7. Action by the planning commission.

The secretary of the planning commission shall provide the members of the planning commission complete information on each proposed application requiring a public hearing by the planning commission, including a copy of the application and all supporting materials. The planning commission, after conducting a public hearing with prior public notice as required by this article, shall consider the proposal and vote on its recommendation to the mayor and city council. Deferral of an application by the planning commission shall not be binding on the mayor and city council. The planning commission may recommend approval of the application, approval to a less intense zoning district or land use category than that requested by the applicant, approval of the application with conditions, denial of the application, deferral of the application, or, upon request of the applicant, withdrawal of the application without prejudice. In its recommendation of any application, the planning commission may recommend the imposition of conditions in accordance with section 7.3.9. All findings and recommendations of the planning commission relating to amendments to the Official Zoning Map shall be made based on each of the standards and factors contained in section 7.3.5. All recommendations of the planning commission relating to amendments to the comprehensive plan maps shall be made based on each of the standards and factors contained in section 7.3.4. The secretary of the planning commission shall make and maintain a written record of the planning commission's consideration and recommendations, which shall be public record.

### 7.3.8. Action by the mayor and city council.

At the next scheduled mayor and city council meeting pursuant to the applicant zoning calendar following appearance of the matter on the planning commission agenda, the mayor and city council, after conduct of a public hearing with public notice as required by this article, shall vote to approve the proposed amendment pursuant to this division, approve with conditions, approve to a less intense zoning district or land use category than that requested by the applicant, deny the proposed amendment, defer the proposed amendment, or, upon request of the applicant, permit withdrawal without prejudice. No proposed amendment pursuant to this division shall be approved except by the affirmative vote of four (3) members of the mayor and city council. In the approval of any proposed amendment to the Official Zoning Map, the mayor and city council may impose conditions in accordance with section 7.3.9. For each proposed zoning decision, the analysis submitted by the applicant, if any, the analysis prepared by the community development department, and the record prepared by the planning commission shall be presented in written form to each member of the mayor and city council. A limited supply of said findings shall be available at the public hearing and available upon request to the public. All decisions of the mayor and city council relating to each proposed amendment to the Official

Zoning Map shall be made based on each of the standards and factors contained in sections 7.3.4 and 7.5.3 or 7.5.4, as appropriate. All decisions of the mayor and city council relating to amendments to the comprehensive plan maps shall be made based on each of the standards and factors contained in section 7.3.4. Any proposed amendment or any proposed substitute ordinance considered by the mayor and city council shall be presented in written form prior to being voted on by the mayor and city council, or made a part of the motion.

### 7.3.9. Conditions of zoning.

Conditions of zoning may be requested by an applicant, recommended by the community development department or planning commission, or imposed by the mayor and city council, as a part of any proposed change to the Official Zoning Map, in accordance with the following requirements:

A. Conditions of zoning may be imposed so as to ameliorate the effect(s) of the proposed developmental change for the protection or benefit of neighboring persons or properties consistent with the purpose and intent of the zoning district(s) involved, and the goals and objectives of the comprehensive plan and state law. No condition shall be imposed which reduces the requirements of the zoning district(s) involved, except as stipulated in Section 8.1.12 of this chapter. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. All conditions shall be supported by a record that evidences the relationship between the condition and the impact of the developmental change. No condition in the form of a development exaction for other than a project improvement shall be imposed within the meaning of the Georgia Development Impact Fee Act, as amended.

B. Once imposed, conditions of zoning shall become an integral part of the approved amendment and shall be enforced as such. Changes to approved conditions shall be authorized only pursuant to section 7.3.10.

C. Site plans referenced in the conditions of zoning are conceptual only unless specific aspects of the site plan or the site plan itself are approved as a separate zoning condition. Development shall meet or exceed the imposed zoning conditions and all other applicable law, standards and regulations of the City of Tucker. Compliance with the conditions of zoning shall be demonstrated prior to the issuance of a land disturbance permit or building permit and conditional improvements shall be in place prior to the issuance of the first certificate of occupancy.

### 7.3.10. Modifications and changes to approved conditions of zoning.

A. The community development director shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions made necessary by actual field conditions at the time of development, and that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for minor changes to conditions shall be filed with the community development director or his/her designee on a written form which shall include a full description of the documents and/or information necessary for the application to be considered complete. At a minimum, if an approved site plan exists, the request for minor changes shall be accompanied by four copies of the proposed revised site plan. The community development director shall decide whether to grant or deny the request for minor changes to conditions within thirty (30) calendar days of receipt of a Complete Application for such minor changes. If the community development director does not decide within thirty (30) days the request for minor change shall be deemed denied as of the thirty-first (31st) day after receipt of a Complete Application. After making a decision, the community development director shall have ten (10) calendar days to post a sign on the subject property which reflects the decision of the director and includes the deadline for taking an appeal of the decision. Person(s) identified in section 7.5.2 B. shall have fifteen (15) calendar days from the posting of the sign to appeal the community development director's decision by filing an application for appeal with the secretary of the zoning board of appeals. Any major changes to conditions attached to an approved zoning amendment shall require an application and public hearings before the planning commission and the mayor and city council, as

required in Section 7.2.4 of this article for amendments to the Official Zoning Map Without limiting the meaning of the phrase, the following shall be deemed to constitute "major changes":

1. The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
2. Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
3. Any decrease in the size of residential units imposed in the original conditional zoning amendment;
4. Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;
5. Any increase in the height of any building or structure;
6. Any change in the proportion of floor space devoted to different authorized uses; or
7. Any change to conditions, except minor changes, as defined in subsection 7.3.10(A), imposed by the city council when approving any change to the Official Zoning Map, commonly referred to as a rezoning or a zoning amendment.

### 7.3.11. Reserved.

## 27-7.4 DIVISION 4. SPECIAL LAND USE PERMITS

### 7.4.1. Special land use permits generally.

A. A special land use permit is a means by which the mayor and city council gives special consideration, pursuant to a clear set of standards and criteria, to those types of uses which may or may not be compatible with uses and structures authorized as a matter of right within a particular zoning district. Special land use permits are required for uses that have operational characteristics and/or impacts that are significantly different from the zoning district's principal authorized uses and therefore require individual review pursuant to the standards and criteria set forth in this division and article.

B. Special land use permit applications shall be authorized only for those uses specifically listed in the applicable zoning district regulations, as permitted by special land use permit, and in compliance with any applicable supplemental regulations, according to Article 4 or Section 7.4.7.

C. An applicant desiring to apply for a special land use permit authorized within a zoning district described in this chapter shall file an application with the community development department in accordance with this division. The mayor and city council, following consideration by the planning commission, shall determine whether the proposed use, in the particular location contemplated, meets the standards and criteria set forth in this division and chapter.

D. Such uses may further require, and the mayor and city council shall be authorized to impose, special conditions in order to assure their compatibility with surrounding uses and to minimize adverse impacts on the use of surrounding property.

### 7.4.2. Initiation of applications and public hearing requirements.

A. Procedures for applications shall comply with section 7.2.2.

B. Applications for special land use permits require a public hearing, as provided for in section 7.2.4.

### 7.4.3. Initiation of ordinance for application for special land use permit.

Upon receipt of a Complete Application for a special land use permit, the secretary of the planning commission shall prepare a proposed ordinance to grant the proposed special land use permit, and said proposed ordinance shall be referred to the planning commission for public hearing and consideration pursuant to the

requirements of this chapter and presented to the mayor and city council at their next scheduled zoning meeting after appearance on the planning commission agenda.

### 7.4.4. Community council review of proposed applications.

Special land use permit applications shall be reviewed by the community council, according to the procedures in section 7.3.6. Prior to presentation to the community council, each application for a special land use permit shall be made available to the appropriate community council in accordance with the provisions of section 7.3.6 for consideration.

### 7.4.5. Staff analysis, findings of fact, and recommendation on each application.

An application for a special land use permit shall be filed on forms provided by the community development department and shall not be considered an authorized application unless complete in all respects. Upon receipt of a Complete Application, the staff of the community development department shall conduct a site inspection and shall prepare an analysis of each application for a special land use permit and shall present its findings and recommendations in written form to the planning commission. No application shall be amended later than the required deadline for advertising in the legal organ of the city which falls immediately prior to the scheduled hearing before the planning commission. Staff analysis and recommendations on each application for special land use permit shall be based on the criteria contained in section 7.4.6 and, in addition, where applicable to the use proposed, on the criteria contained in section 7.4.7.

### 7.4.6. Special land use permit; criteria to be considered.

The following criteria shall be considered by the community development department, the planning commission, and the mayor and city council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the mayor and city council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application, and the application is in compliance with all applicable regulations in Article 4:

A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

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

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

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

E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.

G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use.

H. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use.

I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.

J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.

K. Whether or not the proposed use is consistent with the policies of the comprehensive plan.

L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

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

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

O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

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

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

R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

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

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

### 7.4.7. Additional criteria for specified uses.

In addition to the criteria contained in section 7.4.6 above, for which each applicant for a special land use permit is required to provide information, the following additional criteria shall apply to specific uses as specified below. No application for a special land use permit for the uses specified below shall be granted by the mayor and city council unless it is determined that, in addition to meeting the requirements contained within the zoning district in which such property is located and the criteria contained in section 7.4.6 above, and complying with applicable regulations in Article 4, satisfactory provisions and arrangements have been made concerning each of the following criteria:

A. *Telecommunications towers and antennas*. In determining whether to authorize a special land use permit for a telecommunication tower or antenna, the mayor and city council shall comply with and apply the requirements of section 4.2.57.

B. *Mine, mining operation, gravel pit, quarry, or sand pit*. In determining whether to authorize a special land use permit for a mine, mining operation, gravel pit, quarry, or sand pit, the mayor and city council shall also consider each of the following criteria:

1. Whether the type and volume of traffic associated with such use will cause congestion in the streets and will create noise and vibration along streets used for residential purposes or adjacent to activity centers.

2. Whether the applicant has provided a soil erosion control plan and a reuse or reclamation plan which meets the requirements of the City of Tucker and of the Georgia Surface Mining Act, O.C.G.A. § 12-4-70, et seq., as amended, and the Rules of Department of Natural Resources, Chapter 391-3-3, as amended.

3. Whether or not the applicant meets the requirements of the city's noise ordinance.

C. *Child day care facility*. In determining whether to authorize a special land use permit for a child day care facility, the mayor and city council shall also consider each of the following criteria:

1. Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility.

2. Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjoining properties so as not to adversely impact any adjoining land use.

3. Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility.

4. Whether the character of the exterior of the proposed structure will be compatible with the residential character of the buildings in the zoning district in which the child day care facility is proposed to be located, if proposed for a residential zoned district.

D. *Biomedical waste disposal facilities, disposal facilities, landfills, solid waste disposal facilities, solid waste landfills, private industry solid waste disposal facilities, solid waste handling facilities, solid waste thermal treatment technology facilities, and disposal facilities for hazardous and/or toxic materials including radioactive materials*.

1. In determining whether to authorize a special land use permit for a biomedical waste disposal facility, disposal facility, landfill, solid waste disposal facility, solid waste landfill, private industry solid waste disposal facility, solid waste handling facility, solid waste thermal treatment technology facility, or disposal facility for hazardous and/or toxic materials including radioactive materials, the mayor and city council shall also consider each of the following criteria:

a. Whether the proposed use does not pose any potential negative impact resulting from air pollution, degradation of soil and/or water quality, noise, odor, or other negative environmental effects.

b. Whether the proposed use will not have a significant deleterious effect on use of land and value of existing housing in adjacent and nearby neighborhoods.

c. Whether the proposed use will not create a negative traffic impact on any adjacent or nearby residential street(s) resulting from truck and other vehicular traffic associated with the facility.

d. Whether the proposed use does not represent an over-concentration of such uses in the area.

### 7.4.8. Action by the planning commission.

A. Community development staff shall provide the members of the planning commission complete information on each proposed application for a special land use permit that the commission considers, including a copy of the application and all supporting materials. The planning commission, after conducting a public hearing with public notice, as required by this article, shall vote on its recommendation to be provided to the mayor and city council.

B. The planning commission may recommend approval of the application, approval of the application with conditions, denial of the application, or deferral of the application.

C. The planning commission may recommend the imposition of conditions based upon the facts of a particular application in accordance with section 7.3.9.

D. The planning commission recommendation on each application shall be based on a determination as to whether or not the applicant has met the criteria contained in section 7.4.6, the criteria contained in section 7.4.7 where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located.

### 7.4.9. Action by the mayor and city council.

A. The mayor and city council, after conducting the public hearing with public notice as required by this chapter, shall vote to approve the application, approve the application with conditions, deny the application, defer the application, or, upon request of the applicant, to permit withdrawal of the application without prejudice.

B. The mayor and city council may impose conditions based upon the facts of a particular application in accordance with section 7.3.9.

C. The decision of the mayor and city council on each application for special land use permit shall be based on a determination as to whether or not the application satisfies the criteria contained in section 7.4.6, the criteria contained in section 7.4.7 where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located.

D. The mayor and city council may specify the duration of each such special land use permit approved.

### 7.4.10. Appeals of decisions of the city council.

All appeals of all final decisions of the mayor and city council under the provisions of this division shall be as follows:

A. Any person aggrieved by a final decision of the mayor and city council on an amendment to the zoning ordinance which rezones property from one zoning classification to another or which changes zoning conditions, or which denies any such ordinances may seek review of such decision by petitioning the Superior Court of DeKalb County via direct appeal, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the board is rendered.

B. Any person aggrieved by a final decision of the mayor and city council on a special land use permit may seek review of such decision by petitioning the Superior Court of DeKalb County via a writ of mandamus plainly setting forth the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the board is rendered.

### 7.4.11. Limitations of special land use permits.

A. *Development of an approved special use.* The issuance of a special land use permit shall only constitute approval of the proposed use, and development of the use shall not be carried out until the applicant has secured all other permits and approvals required by any applicable law or regulation.

B. *Expiration of a special land use permit.* Unless a building permit or other required approval(s) is applied for within twelve (12) months of the mayor and city council' approval, and construction pursuant to such building permit is promptly begun and diligently pursued thereafter, the special land use permit shall expire automatically, unless the permit is extended upon application to the mayor and city council in accordance with subsection (C) of this section.

C. *Time extension of a special land use permit.* A time limitation imposed on special land use permits by the mayor and city council and the expiration date established pursuant to subsection (B) of this section may be extended once for twelve consecutive months upon written request by the applicant and approval by the community development director. Any further time extensions shall be by the mayor city council upon written request by the applicant and approval of the mayor and city council after compliance with the public notice provisions of section 7.2.4.C. In considering a request to extend, the community development director and the mayor and city council shall consider the criteria described in section 7.4.6.

D. *Limitations on approvals for special land use permits.* A special land use permit shall expire automatically and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of twelve (12) consecutive months.

E. *Modifications to a special land use permit.* Changes to an approved special land use permit, including changes to approved conditions, expansion of the approved use, or expansion of building square footage,

shall be subject to the same application, review and approval process as a new application, including the payment of relevant fees.

### 7.4.12. Transfer of special land use permits.

A special land use permit, including the site plan and any conditions imposed at the time of the grant of the special land use permit by the mayor and city council, is granted to the person, corporation or other legal entity that applied for the permit. A special land use permit expires automatically upon change in ownership of the subject property, unless the special land use permit is transferred as authorized in this paragraph. A special land use permit may only be transferred from one person, corporation, or other legal entity to another person, corporation, or other legal entity upon application to the community development director. Any such application by any person, corporation, or other legal entity to transfer a special land use permit shall be accompanied by an affidavit of the proposed transferee certifying that the new owner or operator is familiar with and will abide by the approved site plan and all of the conditions, if any, imposed by the mayor and city council at the time of the grant of the special land use permit. At the time a special land use permit transfer is requested, the district council members shall be notified by the community development director.

### 7.4.13. Compliance upon denial.

If an application to the mayor and city council for a special land use permit is submitted due to an existing violation of this chapter and such application for special land use permit is denied, the violation shall be required to be corrected within thirty (30) days of such denial. Notwithstanding the foregoing, the community development director may extend the deadline for correction of the violation for a period up to ninety (90) days following the denial of the special land use permit application upon a showing that the violation cannot reasonably be corrected within thirty (30) days.

### 7.4.14. Reserved.

## 27-7.5 DIVISION 5. VARIANCES AND APPEALS TO THE ZONING BOARD OF APPEALS

### 7.5.1 Testimony and burden of proof.

The chairperson of the zoning board of appeals, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses by subpoena.

A. *Requirements*. The standards and requirements of this Zoning Ordinance and decisions made by public officials are presumed to be valid and just. It shall be the responsibility of an applicant seeking relief to assume the burden of proof and rebut this presumption by presenting sufficient facts and evidence to explain how the proposed appeal or variance is consistent with the general spirit and intent of this Zoning Ordinance and the comprehensive plan.

B. *Review*. It is the duty of the zoning board of appeals to review such facts and evidence in light of the intent of the Zoning Ordinance to balance the public health, safety and general welfare against the injury to a specific applicant that would result from the strict application of the provisions of this Zoning Ordinance to the applicant's property.

### 7.5.2 Appeals of decisions of administrative officials.

A. *General Power*. The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by the appellant that there is error in any final order, requirement, or decision made by an administrative official based on or made in the enforcement of this Zoning Ordinance or as otherwise authorized by local law. Administrative officials must make final decisions covered by this section within one hundred and eighty (180) days of receipt of all necessary information to make such decision. A failure to act prior to the passage of one hundred and eighty (180) days shall not be construed to be a final order, requirement or decision within the meaning of this division. If a decision is not made by the 181st day, the

requested decision is deemed denied, and becomes appealable. All such appeals shall be heard and decided following the notice requirements of section 7.2.4, and pursuant to the following criteria and procedural requirements.

B. *Appeals of decisions of administrative officials*. Appeals of decisions of administrative officials may be filed by (1) any person aggrieved by; (2) any elected member of the Mayor and City Council affected by; or (3) an owner of property within two hundred and fifty (250) feet of the nearest property line of the property that is the subject of any final order, requirement, or decision of an administrative official, based on or made in the enforcement of this Zoning Ordinance, or as otherwise authorized by local law by filing with the secretary of the zoning board of appeals an application for appeal, specifying the grounds thereof, within fifteen (15) days after the action was taken by the official that is the subject of the appeal.

C. *Appeal stays all legal proceedings.* An appeal of a decision of an administrative official stays all legal proceedings in furtherance of the action or decision appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life or property. In such a case, legal proceedings shall be stayed only pursuant to a restraining order granted by a court of competent jurisdiction directed to the officer from whom the appeal is taken and on due cause shown.

D. *Appeal stays land disturbance or construction activity in certain situations*. If the action or decision appealed from permits land disturbance or construction activity to commence or continue on residentially zoned property, the appeal stays the land disturbance or construction activity until the zoning board of appeals issues a decision on the appeal. Thereafter, land disturbance or construction activity in such cases shall only be stayed by an order from a court of competent jurisdiction. In all cases involving non-residentially zoned property, the appeal to the zoning board of appeals does not stay land disturbance or construction activity; such activity shall only be stayed by an order from a court of competent jurisdiction.

E. Thereafter, in such situations land disturbance or construction activity shall only be stayed by an order granted by a court of competent jurisdiction.

F. *Time of hearing.* The zoning board of appeals shall fix a reasonable time for the hearing of the appeal and give notice thereof pursuant to the requirements of section 7.2.4 as well as written notice to the appellant. Any party may appear at the hearing in person, by an agent, by an attorney, or by the submission of written documentation.

G. *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal and shall issue a written decision explaining the reasons for its decision. The zoning board of appeals shall decide the appeal within a reasonable time, but in no event more than sixty (60) days from the date of the hearing. An appeal shall be sustained only upon an expressed finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, erroneously applied the Zoning Ordinance to the facts, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit, provided all requirements imposed by any applicable laws are met.

### 7.5.3 Applications for variances; and criteria to be used by the zoning board of appeals in deciding applications for variances.

The zoning board of appeals shall hear and decide applications for variances from the strict application of the regulations of this chapter and chapter 21 where the strict application of any regulation enacted under said chapters would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the board shall apply the criteria specified in this section to the facts of each case. The board may attach reasonable conditions to any approved variance in accordance with section

7.3.9. Once imposed, conditions shall become an integral part of the approved variance and shall be enforced as such. No changes to an approved condition attached to a variance shall be authorized except by re-application to the zoning board of appeals in full compliance with the applicable provisions of this division. No relief may be granted or action taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter and the comprehensive plan. The zoning board of appeals shall apply the following criteria to the types of applications specified below as follows:

A. Variances from the provisions or requirements of this chapter other than variances described in section 7.5.4 shall be authorized only upon making all of the following findings in writing:

1. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.

2. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.

3. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.

4. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.

5. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.

B. Appeals of decisions regarding building architectural design standards shall be evaluated using the same criteria as section 7.6.7(B).

C. Appeals to the height standards, but not to add stories, shall be evaluated using the criteria as follows:

1. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

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

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

4. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.

5. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.

6. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.

**7.5.4** Applications for variances to reduce or waive off-street parking or loading space requirements.
The zoning board of appeals shall hear and decide applications for variances to reduce or waive required off-street parking or loading spaces in accordance with the provisions and standards of this section. All such applications shall be heard and decided based on the notice requirements of section 7.2.4. The zoning board

of appeals may waive or reduce the required number of parking or loading spaces in any district only upon an expressed finding that:

A. The character of the use of the building(s) is such as to make unnecessary the full provision of parking or loading spaces;

B. The lot upon which the building(s) is located is within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station;

C. The provision of the full number of parking spaces would have a deleterious effect on a historic building, site, district or archaeological resource;

D. The use has a characteristic that differentiates it from the typical use example used in the formulation of this Zoning Ordinance;

E. The location of the proposed development is relatively isolated where the opportunity for diversity of use, pedestrian access, and alternative modes is not available; or

F. The developer is providing the additional spaces for general public parking (for hourly or daily parking charges) to serve surrounding development.

### 7.5.5 Limitations of authority of the zoning board of appeals.

No variance shall be granted by the zoning board of appeals to:

A. Allow a structure or use not listed as a permitted use or a special use in the applicable zoning district or a density of development that is not authorized within such district. This prohibition does not apply to any variance from the supplemental regulations of Article 4 of this Zoning Ordinance or from any other accessory feature or characteristic of a permitted or special use, unless said variance is otherwise prohibited by the regulations of this chapter.

B. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the mayor and city council.

C. Reduce, waive or modify in any manner the minimum lot width unless the purpose is to reverse a lot merger.

D. Reduce, waive or modify in any manner the minimum lot area established by this chapter.

E. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the community development director.

F. Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit.

G. Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of Article 8 of this chapter.

H. Permit customer contact for a home occupation authorized by this chapter.

I. Allow any variance to increase the height of a building which will result in adding a story.

### 7.5.6 Decision by the zoning board of appeals.

Each application presented to the zoning board of appeals regarding a variance shall be scheduled for a public hearing within sixty (60) days of the filing of a Complete Application and shall be supported by findings and conclusions which shall be a part of the record established by the zoning board of appeals for each application. The zoning board of appeals shall grant or deny the variance in writing. In its written variance decision, the

zoning board of appeals must include findings of fact citing evidence of compliance with all applicable criteria imposed by this chapter or other applicable provisions of law. The zoning board of appeals may adopt the findings of fact of the staff or the applicant, they may adopt the findings of fact of the staff or applicant with modifications, or they may adopt a separate set of facts developed by the zoning board of appeals.

### 7.5.7 Compliance with standards upon denial.

In such case that an application to the zoning board of appeals is initiated due to an existing violation of this chapter and such application is denied, the violation shall be required to be corrected within thirty (30) days of such denial or as specified by the zoning board of appeals if a greater time period is required. The maximum extension of time the board may grant for correction shall be ninety (90) days.

### 7.5.8 Appeals of decisions of the zoning board of appeals.

All appeals of all final decisions of the zoning board of appeals under the provisions of this chapter shall be as follows:

A. Only persons aggrieved by a final decision of the zoning board of appeals may seek review of such decision by petitioning the Superior Court of DeKalb County by writ of mandamus, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the zoning board of appeals is rendered.

### 7.5.9 Fair Housing Act Accommodation Variance.

Notwithstanding any other provisions in this chapter to the contrary, the Zoning Board of Appeals may grant a variance to the limitations of this chapter that might have a discriminatory impact on a handicapped person, as that term is defined in the Federal Fair Housing Act, including but not limited to Sections 4.2.41 and 4.2.48 as well as the terms defined therein. A Fair Housing Act Accommodation Variance shall be issued if the applicant for such a variance shows a documented need for accommodation based on medical or scientific studies, that the requested accommodation is the minimum necessary variance from the restrictions of the Code, that the requested accommodation does not impose an undue burden or expense on the City or its citizens, and that the requested accommodation does not effectively create a fundamental alteration of the existing zoning scheme. An application for a Fair Housing Act Accommodation Variance shall comply with all other procedural requirements for consideration and approval of variances in this division.

### 7.5.10 Concurrent Variance.

The Mayor and City Council may consider a concurrent variance from any standards of the Zoning Ordinance which shall be filed simultaneously with rezoning, special land use permit or zoning modification requests on the same property based on the conceptual plan submitted with the petition for the same agenda. The Community Council and Planning Commission shall also hear and make recommendations on concurrent variances filed with rezoning's or special land use permit applications. The Mayor and City Council shall consider such concurrent variance requests in accordance with the standards set forth in Section 7.5.3. Public notification shall be in accordance with Sections 7.2.4.

A. *Limitations on Concurrent Variances.*

1. The Mayor and City Council may only consider variance requests as part of, or in conjunction with, a rezoning, use permit or modification application.
2. If an application for a variance to the Zoning Board of Appeals duplicates a concurrent variance request denied by the Mayor and City Council, such an application shall not be accepted by the Director of the Department of Community Development prior to the expiration of twenty-four (24) months from the date of the Mayor and City Council' denial of the variance request. A variance request to the Zoning Board of Appeals cannot be considered simultaneously with the same variance request pending before the Mayor and City Council.

B. *Application for Concurrent Variances.*

1. Applications for a concurrent variance shall be submitted to the Director of the Department of Community Development in accordance with the advertised filing deadlines for the Mayor and City Council meetings. A regular variance fee shall be charged and the application shall comply with all advertising and notification requirements specified in Section 7.2.4. One notice sign may serve for both the rezoning, special land use permit, zoning modification, and concurrent variance request as long as the sign is marked to indicate all actions which are pending.

2. The variance case file number for each concurrent variance requested shall be included on the rezoning petition.

## 27-7.6 DIVISION 6. SPECIAL ADMINISTRATIVE PERMITS; WAIVERS AND VARIANCES

### 7.6.1. Special administrative permits generally.

The community development director is hereby authorized to consider and decide requests for special administrative permits specifically authorized in this Zoning Ordinance. All such requests for special administrative permits shall be filed in writing on forms promulgated by the community development director.

### 7.6.2. Standards for special administrative permits, criteria to be applied.

All applications filed for special administrative permit with the community development director shall be considered and decided pursuant to the standards contained in sections 7.4.6 and 7.4.7 of this chapter, and any supplemental regulations, as applicable, in Article 4. All special administrative permits approved by the community development director shall specify the length of time of the duration of each such special administrative permit

### 7.6.3. Time limitations.

All applications for special administrative permits shall be considered and decided by the community development director no later than thirty (30) days from the receipt of a Complete Application for such special administrative permit, unless an extension of time is agreed to by the applicant and the community development director. If the community development director does not render a decision on the application within thirty (30) days the application shall be deemed denied as of the thirty-first (31st) day after receipt of a Complete Application.

### 7.6.4. Reserved.

### 7.6.5. Administrative variances, administrative waivers: authority.

A. The community development director is hereby authorized to consider and grant or deny, pursuant to the procedures and standards contained in this division, an administrative variance or an administrative waiver from the following regulations and subject to the standard limitations:

1. Reduce by variance any front, side or rear yard setback by an amount not to exceed ten (10) percent of the district requirement, but not including any transitional buffer zone or any setback which is a condition of zoning or special land use permit, pursuant to the standards specified in section 7.5.3.

2. Reduce by variance the required spacing between buildings in districts where multiple buildings are authorized on a single lot in an amount not to exceed ten (10) percent of the requirement, pursuant to the standards specified in section 7.5.3.

3. Reduce by variance the off-street parking or loading requirements imposed by this chapter in an amount not to exceed ten (10) percent of the district requirement, pursuant to the standards specified in section 7.5.4.

4. Reduce by variance the off-street parking requirements imposed by this chapter for any lot which is located within one thousand (1,000) feet of the boundary of a MARTA Rapid Transit Station in an amount not to exceed twenty-five (25) percent of the district requirement, pursuant to the standards specified in section 7.5.4.
5. Increase by variance the retaining wall height as set forth in Article 5, Division 4 by an amount not to exceed two (2) feet, but no such variance is allowed for property located in a historic district.
6. Increase by variance the distancing requirements for retaining walls set forth in Article 5, Division 4 by an amount not to exceed two (2) feet.
7. Increase by variance the elevation of residential thresholds as set forth in Article 5, Division 2 by two (2) feet.
8. Reduce by variance, as follows, if necessary to allow reasonable use following a public road right-of-way donation or acquisition:
    a. To reduce required minimum lot size by up to fifty (50) percent only to maintain the pre-determined yield.
    b. To reduce required setbacks for a permitted or existing structure on a lot in the event of public road right-of-way donations or acquisition that would otherwise cause the lot to be non-conforming with respect to the minimum setback standards.
    c. To reduce the number of parking spaces for any existing or permitted structure below the minimum required parking spaces applicable to the use.
9. Waive architectural building standards and designs provided in Article 5, Building Form Standards. The community development director shall notify the mayor and city council in writing within ten (10) days of granting said waiver.
10. No administrative variance or waiver shall be authorized to delete, modify, or change in any manner any condition imposed by the mayor and city council or the zoning board of appeals.

### 7.6.6. Procedures for applications for administrative variances and administrative waivers.

A. An application for administrative variance or administrative waiver shall be submitted to the community development director on forms approved by the community development director, along with any such fees as may be established by the mayor and city council.

1. The community development director shall review and decide upon each Complete Application pursuant to the applicable standards referred to in section 7.6.7. A written decision on each such application shall be issued no later than thirty (30) days from the date a Complete Application was filed, unless an extension is agreed to by the applicant and community development director. If the community development director does not render a decision on the application within thirty (30) days the application shall be deemed denied as of the thirty-first (31st) day after receipt of a Complete Application.
2. The application for an administrative variance or administrative waiver shall state the specific regulation from which exception is sought and the reasons the exception is needed. The application shall contain such information as the community development director deems necessary to evaluate the request.
3. It shall be the applicant's burden to provide sufficient justification for granting the variance or waiver.
4. The community development director and staff shall prepare an evaluation statement concerning each application showing the impact of the applicable criteria as set forth in this division.
5. No later than 10 calendar days after making a decision, the community development director shall post a sign on the subject property and on the City's website which reflects the decision of the

community development director and the deadline for taking an appeal of the decision to the zoning board of appeals.

### 7.6.7. Criteria used by the community development director in deciding administrative variances and administrative waivers.

A. The community development director shall grant or deny applications for administrative variances from the strict application of the regulations identified in section 7.6.5(A), where the strict application of the associated regulations would result in exceptional and undue hardship upon the owner of such property. In determining whether or not to grant a variance, the director shall apply the criteria specified in sections 7.5.3 and 7.5.4 to the facts of each application.

B. The community development director shall consider administrative waivers to amend, reduce, or waive architectural, design, or building material standards found in Article 5: Building Form Standards using the following criteria:

1. Whether the proposed change(s) in appearance will have a substantial adverse effect on the design standards set out in Article 5.
2. The extent to which the proposed project complies with the design standard in terms of architectural style, general design arrangement, texture and color (non-painted surfaces) material of architectural features, and other site features.
3. The extent to which the proposal is compatible with other structures in the area.

C. When issuing a written decision on an administrative waiver request, the community development director may make a decision to approve the waiver, approve with conditions, or deny the waiver, and shall cite the grounds relied upon in reaching the decision.

### 7.6.8 Persons entitled to appeal to the zoning board of appeals.

Any person identified in section 7.5.2 B shall have the right to appeal by a decision of the community development director related to administrative permits, variances or waivers to the zoning board of appeals. Such petition shall be filed within thirty (30) days after the decision of the director is rendered.

## 27-7.7 DIVISION 7. ENFORCEMENT, VIOLATIONS, AND PENALTIES

### 7.7.1 Administration and enforcement; granting of permits.

The community development director shall be responsible for the interpretation, administration and enforcement of the provisions of this chapter. The community development director shall have the duty to issue development permits as required with respect to this chapter.

### 7.7.2 Development permits.

Unless otherwise exempted by this article, a development permit shall be required for any proposed use of land or buildings in order to assure compliance with all provisions of this chapter and all other ordinances and regulations before any building permit is issued or any improvement, grading, or alteration of land or buildings commences.

### 7.7.3 Building permits and certificates of occupancy required.

A building permit and a certificate of occupancy shall be obtained from the community development director prior to occupancy of any building or structure. Such permit and certificate of occupancy shall be approved by the community development director.

### 7.7.4 Applications for permits and certificates of occupancy.

A. All applications for development permits shall be made to the community development director.

B. All applications for building permits and certificates of occupancy shall be made to the community development director.

C. Prior to the release of a development permit, compliance with zoning shall be reviewed and verified by the community development director.

### 7.7.5 Development and building permits; plans required.

A. *Plans required.* All applications for development permits shall be accompanied by complete plans, which shall be drawn to scale, filed in duplicate, and which shall contain the following information:

1. The name and signature of the author, and the author's address and telephone number;
2. Plans shall show the actual shape and dimensions of the lot to be built upon, based on an actual survey by a professional engineer or land surveyor registered in the State of Georgia;
3. Plans shall show all required building setback lines, buffer zones, and open space required by this chapter;
4. Plans shall show the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered;
5. Plans shall show the current zoning classification of the property including zoning conditions and zoning variances, if any;
6. Plans shall show the existing or intended use of each building or part of building, and the number of families or housekeeping units the building is designed to accommodate;
7. Plans shall show such other information as may be required by the community development director with regard to the lot and neighboring lots as may be necessary to determine and provide for the application of and enforcement of the requirements of this chapter.

B. Plans shall be returned to the owner when the plans have been approved by the community development director.

C. Approval of the preliminary subdivision plat and compliance with all applicable provisions of the subdivision regulations contained in Chapter 14 and in this chapter shall constitute approval of the development permit for a subdivision.

D. Development permits for individual structures within approved residential subdivisions or developments shall not be required.

### 7.7.6 Issuance of development permits.

All development permits shall be issued by the community development director, which shall in no case grant any development permit for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this chapter or any other ordinances and laws of the city or the state, except as provided herein. Development permits issued on properties for which any variance or special exception has been approved by the board of zoning appeals shall be in compliance with all of the terms and conditions of such approval. Development permits issued on properties for which any special land use permit has been approved by the mayor and city council shall be in compliance with all of the terms, conditions, and site plans related to such approval. Development permits issued on properties in an R-SM. MR-1, MR-2, HR-1, HR-2, HR-3, MU-1, MU-2, MU-3, MU-4 or MU-5 district (or prior classifications of retired districts of CH, TND, or any PC District) shall be in compliance with the final plans approved by the community development director. Development permits issued on properties for which conditional zoning is approved shall be in compliance with the approved statement of zoning conditions for such application. Minor alterations of conditions shall be authorized only in accordance with the provisions of this chapter.

### 7.7.7 Duration of validity of development permits.

A development permit shall be valid for two (2) years from its issuance subject to the following provisions:

A. If the work authorized in any development permit has not begun within six (6) months from the date of issuance thereof, the permit shall expire.

B. If the work described in any development permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire.

C. Written notice of the expiration shall be given to the applicant for the permit, together with notice that further work as described in the canceled permit shall not proceed until a new development permit has been obtained.

### 7.7.8 Building inspection.

The building inspection duties of the community development director with respect to this chapter shall include, but not be limited to:

A. Issuance of building permits in accordance with all provisions of this chapter and only after the community development director has issued a development permit.

B. Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being constructed or modified in accordance with the site plan for which a development permit and building permit have been issued. When a violation is found to exist, the community development director shall immediately initiate appropriate legal action to ensure compliance.

C. Ensuring that all construction has been completed in accordance with all applicable requirements of the Code of the City of Tucker prior to allowing occupancy.

### 7.7.9 Records.

The community development director shall maintain records of all official administrative actions taken by their department pursuant to their duties as set forth in this division. The community development director shall further maintain records of all complaints filed with their department pursuant to the requirements of this chapter and of all actions taken with regard to such complaints, and of all violations discovered by whatever means, with remedial action taken and disposition of cases. All such records shall be public records and shall be retained in accord with Georgia's Records Act, O.C.G.A. § 50-18-90, et seq., and pertinent record retention schedules.

### 7.7.10 Inspection; right of entry.

Upon presentation of city identification to the developer, contractor, owner, owner's agent, operator or occupant, city employees authorized by the community development director may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this chapter. Should access to the property be denied, an inspection warrant may be obtained as authorized in Section 7.7.11 below.

### 7.7.11 Inspection; warrants.

The community development director, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this division. The warrant shall authorize the community development director or the director of public works to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

A. Inspection warrants may be issued by the recorder's court when the issuing judge is satisfied that all of the following conditions are met:

1. The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.
2. The issuing judge determines that the issuance of the warrant is authorized by this section and applicable state and federal law.

B. An inspection warrant shall be validly issued only if it meets all of the following requirements:

1. The warrant is attached to the affidavit required to be made in order to obtain the warrant.
2. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.
3. The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.
4. The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

### 7.7.12 Remedies.

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this chapter, the city may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of this chapter requiring the presence of the violator in court. The city may also in such cases institute injunction or other appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate the violation or to prevent the occupancy of the building, structure or land. Where a violation of this chapter exists with respect to a structure or land, the community development director may, in addition to other remedies, require that public utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this chapter.

### 7.7.13 Notice in writing order to stop work; revocation of permits.

Whenever any building or premises is being constructed, used, or occupied contrary to the provisions of this chapter or Chapter 7, the community development director may order the work stopped in accordance with the provisions of Chapter 7. The community development director may revoke any building permit or certificate of occupancy for any land, building or this chapter in order to protect the health, safety and general structure being constructed, used or occupied in violation of welfare of the residents of the city.

### 7.7.14 Fees.

Fees and charges for permits and inspections shall be as established by official action of the governing authority.

### 7.7.15 Certificates of occupancy.

Certificates of occupancy are required as follows and shall be issued by the community development director only after all requirements of this chapter and other applicable parts of the Code have been met:

A. *For new or altered structures and uses.* No person shall use or permit the use of any building, structure, or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, in use or structure, until a certificate of occupancy reflecting the extent and location of the use shall have been issued to the owner or tenant by the community development director. Where a building permit is involved, such certificate of occupancy shall show that the structure or use, or both, to the affected part thereof, is in conformance with the requirements of this chapter. It shall be the duty of the community

development director to issue such certificate of occupancy if the community development director finds that all of the requirements of this chapter have been met, and to withhold such certificate of occupancy if the director finds that all of the requirements of this chapter have not been met.

B. *Temporary certificates of occupancy.* A temporary certificate of occupancy for a part of a building or premises may be issued in accordance with the requirements of the Code of the City of Tucker, and the community development director may impose such additional conditions and safeguards as are necessary in the circumstances of the case to protect the safety of the occupants and of the general public.

C. *Certificates of occupancy for existing uses or structures.* An owner may request a new certificate of occupancy for existing uses or structures. Said requests shall be in the form required by the community development director and shall require all professional surveys or certifications required by the community development director to adequately comply with said request. The community development director shall require as a part of said request, fees to process said requests as are established by the mayor and city council. Upon review of the application and other relevant investigation by the community development director, if in conformance with the requirements of this chapter, the community development director shall issue a certificate of occupancy for any buildings, premises or use, certifying that the building, premises or use is in conformance with the requirements of this chapter.

### 7.7.16 Violations of this chapter.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or use any land in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter.

### 7.7.17 Penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction in court shall be punished as is provided by law. Where any violation continues, each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this chapter exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. In addition, the city may revoke the business license of any entity found guilty of violating this chapter in accordance with the procedures of this subsection for a period of time not to exceed five years, except to the extent prohibited by law.

### 7.7.18 Repeal of conflicting ordinances; validity of prior approvals and actions.

Nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying zoning approval(s) or permits issued under previous zoning ordinances or resolutions, provided further that modification or repeal of these past conditions of approval may be accomplished as authorized and provided by this chapter. All variances and exceptions heretofore granted by the zoning board of appeals shall remain in full force and effect, and all terms, conditions and obligations imposed by the zoning board of appeals shall remain in effect insofar as required for the initiation of any proceedings against these violations and for the prosecution of any violations heretofore commenced.

### 7.7.19 Reserved.

Article 8. Nonconformities ..... 2
8.1.1. Statement of intent and purpose. ..... 2
8.1.2. Applicability. ..... 2
8.1.3. Legal nonconforming lot. ..... 3
8.1.4. Legal nonconforming single-family lots: lot merger requirements. ..... 3
8.1.5. Nonconforming use. ..... 4
8.1.6. Nonconforming structures. ..... 4
8.1.7. Landscaping and screening requirements for new or additional parking, service or storage areas. ..... 5
8.1.8. Nonconforming parking. ..... 5
8.1.9. Prior nonconformities. ..... 5
8.1.10. Nonconforming signs. ..... 5
8.1.11. Nonconformities caused by government action. ..... 5
8.1.12. Rezoning that results in nonconforming structures. ..... 5
8.1.13. Nonconforming uses requiring a special administrative permit or special land use permit. 5
8.1.14. Buildings and structures where construction has begun. ..... 5
8.1.15. Reconstruction of damaged or destroyed nonconforming structures. ..... 6
8.1.16. Expansion, redevelopment or improvement of legal nonconforming buildings, structures and/or sites. ..... 6
8.1.17. Prior variances, special exceptions, and special permits authorized. ..... 6

# Article 8. Nonconformities

## 8.1.1. Statement of intent and purpose.

Within the zoning districts established by this chapter, or by amendments that may later be adopted, there exist lots, uses of land, uses of land and buildings, uses of land and structures, and characteristics of buildings, structures and sites which were lawful before the effective date of this chapter's adoption or amendment, but that are now prohibited under the terms of this chapter or due to future amendments, collectively referred to as nonconforming situations. Such nonconforming situations are hereby declared to be incompatible with authorized and permitted uses in the zoning districts involved. It is the intent of the mayor and city council to require the cessation of certain nonconforming situations and to permit others to continue until they are otherwise removed or cease. It is further the intent of the mayor and city council that nonconforming situations not be used as grounds for adding other buildings, structures, or uses of land prohibited by this chapter, and that no such non-conforming building, structure, or use of land be enlarged, expanded, moved, or otherwise altered in a manner that increases the degree of nonconformity, except where expressly authorized in this Zoning Ordinance.

## 8.1.2. Applicability.

A. *Applicability*. Nonconforming regulations apply only to those nonconforming situations that were legally authorized when established or that were subsequently approved through procedures in effect at the time the approval was obtained. Additionally, except as provided in Section 8.1.5(B), nonconforming situations must have been maintained continuously and without interruption since the initial existence or subsequent approval of the nonconforming situation. Nonconforming situations which were not authorized when established or have not been continuously maintained over time in accordance with this subsection have no legal right to continue and must terminate as set forth herein.

B. *Documentation*. An owner or applicant may request from the community development director a determination of nonconforming status. The owner or applicant must provide documentation sufficient to show that the situation was authorized when established and was continuously maintained over time. Upon receipt of the owner or applicant's evidence, the community development director will determine if the evidence is satisfactory and, if so, shall issue a written determination that the lot, building, structure and/or use is a legal nonconforming situation. The burden of establishing the nonconforming status of a particular lot, building, structure or use is on the applicant or owner of the property or use.

C. *Evidence that a nonconforming situation was authorized when established.* Standard evidence that the proposed nonconforming situation was authorized, or legal, when established includes, but is not limited to:

1. Building or land disturbance permits;
2. Business licenses;
3. Adopted zoning ordinances or maps in force at the time of permitting;
4. Conditions of zoning;
5. Other appropriate evidence as determined by the community development director or designee.

D. *Evidence that a nonconforming situation has been continuously maintained since inception*. Standard evidence that the proposed nonconforming use has been continuously maintained without interruption since inception includes, but is not limited to:

1. Utility bills;
2. Tax records;
3. Business licenses;
4. Advertisements in dated publications;

5. Insurance policies;
6. Leases;
7. Receipts; and
8. Other appropriate evidence as determined by the community development director or designee.

E. *Evidence of discontinuance or abandonment.* When considering whether a nonconforming situation has been continuously maintained without interruption since inception, the community development director may consider evidence of the following:

1. Failure to maintain regular business hours, typical or normal for the use;
2. Failure to maintain equipment, supplies or stock-in-trade that would be used for the active operation of the use;
3. Failure to maintain utilities that would be used for the active operation of the use;
4. Failure to pay taxes, including but not limited to sales tax, workers' compensation taxes, corporate taxes that would be required for the active operation of the use;
5. Failure to maintain required local, state or federal licenses or other approvals that would be required for the active operation of the use;
6. Failure to maintain applicable business license(s); and
7. Other appropriate evidence as determined by the community development director.

F. *Change to a conforming situation*. A nonconforming situation may be changed to a conforming situation by right. Once a conforming situation occupies a site that was previously nonconforming, the nonconforming rights are lost, and a nonconforming situation shall not be re-established.

G. *Maintenance*. Normal maintenance and repair of nonconforming situations is allowed and does not alter legal conformity status.

H. *Strengthening and restoring to safe condition*. Nothing in this Article shall prevent the strengthening or restoration to a safe condition of any part of a building or structure declared unsafe by the community development director, and such strengthening or restoration shall not cause the loss of nonconforming status, provided such strengthening or restoration would not constitute a violation of Section 8.1.15's regulation of reconstruction of damaged or destroyed nonconforming structures.

### 8.1.3. Legal nonconforming lot.

A lot of record that at the effective date of this Zoning Ordinance does not conform to the applicable minimum road frontage requirement, minimum lot area, or lot width requirements for the zoning district in which it is located may still be used as a building site provided that the height, buffer, setback, and other dimensional requirements of the zoning district in which the lot of record is located are complied with, or a variance therefrom is obtained.

### 8.1.4. Legal nonconforming single-family lots: lot merger requirements.

A. In any zoning district in which single-family dwelling units are allowed, a single-family dwelling unit and allowed accessory structures may be erected on any single nonconforming lot of record so long as such single nonconforming lot of record is not in common ownership with any other contiguous lot or lots. A property owner shall not be permitted to erect a structure on a nonconforming lot of record if he could have used his contiguous land to avoid the nonconformity.

B. Two (2) or more contiguous lots of record that are held in common ownership on the effective date of this section or come into common ownership after the effective date of this section shall be governed by this subsection (B) or subsection (C). If any contiguous lots of record held in common ownership do not meet

the requirements established in this Code for street frontage, access requirements, lot width or lot size, then all of the contiguous lots of record held in common ownership shall be considered to be an undivided lot for the purpose of compliance with the provisions of this Code. No portion of the resulting undivided lot shall then be considered a separate lot, a nonconforming lot of record or used or conveyed in a manner which is not in compliance with the existing street frontage, access, lot width or lot area requirements established by this Code and/or any amendments thereto. No division of any hereby merged nonconforming lots of record held in common ownership shall be made which creates a substandard lot. If two (2) or more contiguous nonconforming lots of record are in common ownership and, as merged, the property is compliant for development with a single-family dwelling without violating the provisions of this Code, then none of the former nonconforming lots of record may be considered nonconforming and authorized for single-family development. A property owner shall not be permitted to create a nonconforming lot of record if he could have used his contiguous lots to avoid the nonconformity.

C. Two (2) or more nonconforming contiguous lots of record that are held in common ownership as of the effective date of this section, or that come into common ownership after the effective date of this section shall be governed by the requirements of subsection (B) unless the owner obtains a variance from the City of Tucker Zoning Board of Appeals pursuant to the provisions and the criteria set forth in Article 7.

D. Whenever a variance from the strict application of subsection (B) is sought with respect to properties located within a historic district as defined in chapter 13.5 of this Code, the variance applicant shall first obtain a certificate of appropriateness from the historic preservation commission finding that the proposed variance allowing the subject lot to retain its legal nonconforming status will not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district. In approving such a certificate of appropriateness, the historic preservation commission may include a finding that merger of lots pursuant to the strict application of subsection (B) would have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic property or the historic district.

### 8.1.5. Nonconforming use.

A legal use in existence on the effective date of this Zoning Ordinance or any amendment thereto may be continued even though such use does not conform with the use provisions of the zoning district in which said use is located, except as otherwise provided in this section.

A. *Change of use*. A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not constitute termination or abandonment of the nonconforming use, provided that the use itself remains unchanged and is continuously maintained.

B. *Discontinuance or abandonment*. A nonconforming use shall not be re-established after discontinuance or abandonment for six (6) consecutive months, unless the cessation of the nonconforming use is a direct result of governmental action impeding access to the property. Vacancy or non-use of a building for six (6) continuous months, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this subsection.

C. A nonconforming use of land shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

### 8.1.6. Nonconforming structures.

A. A legal structure in existence on the effective date of this Zoning Ordinance or any amendment thereto that could not presently be built under the provisions of this chapter because of restrictions on building area, lot coverage, height, minimum yard setbacks, or other characteristics of the structure or its location on the lot shall be deemed a legal non-conforming structure subject to this Article 8.

B. No legal nonconforming structure shall be enlarged, or structurally altered, in a way that increases its degree of nonconformity, except as expressly permitted in this Article 8.

C. Alteration of legal nonconforming structures occupied by permitted, conforming uses may be allowed for improvement or modification, provided that the structure may not be enlarged and the alterations must either comply with this chapter or result in a reduction in site or structure nonconformity. See also Section 8.1.16.

### 8.1.7. Landscaping and screening requirements for new or additional parking, service or storage areas.

New or additional automobile parking, service, or storage areas may be added to a legal nonconforming structure or site that contains a conforming use, provided that all required landscaping, lighting, and screening requirements are met in the new or additional parking, service or storage area.

### 8.1.8. Nonconforming parking.

On an existing structure, no new permitted use may be substituted, nor shall an existing permitted use be expanded unless the requirements for off-street parking and loading shall be met for the proposed use and for any expansion, unless a variance is granted, pursuant to Article 7.

### 8.1.9. Prior nonconformities.

The adoption of this chapter shall not extend the six (6) month time period of discontinuance or abandonment set forth in Section 8.1.5(B) for a legal nonconforming use that was nonconforming prior to the time this chapter was adopted.

A use, lot, building, or structure that was previously legally nonconforming shall become conforming if, as a result of amendments to this chapter, such use, lot, building, or structure complies with the requirements of this chapter.

### 8.1.10. Nonconforming signs.

See Chapter 21, Signs for provisions regarding nonconforming signs.

### 8.1.11. Nonconformities caused by government action.

If a property is required by a federal, state or local government to provide right-of-way or easements that cause an existing structure to have non-conforming yards or setbacks, the property and structure shall be deemed to be legal nonconforming, and, from that time forward, the owner may not expand any existing building in a way to increase the degree of nonconformity or to build new structures that are nonconforming.

### 8.1.12. Rezoning that results in nonconforming structures.

For structures or lots that become nonconforming due to rezoning, the structure or lot shall be considered legal nonconforming, subject to the requirements of this Article.

### 8.1.13. Nonconforming uses requiring a special administrative permit or special land use permit.

No use, building or structure that was authorized as of right prior to the effective date of this chapter but would require a special administrative permit or special land use permit upon the effective date of this chapter, shall be enlarged, expanded, moved, or otherwise altered in any manner except after application for and approval of the required special administrative permit or special land use permit. Normal repair and maintenance of legal nonconforming buildings and structures is authorized without the need for special permits. If the use of a legal non-conforming building or structure is discontinued for a continuous period of six (6) months, it may not be reestablished unless such discontinuance was a direct result of governmental action as provided by section 8.1.11.

### 8.1.14. Buildings and structures where construction has begun.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any legal nonconforming building or structure for which land disturbance or building permits were lawfully applied for or issued, or for which preliminary or final subdivision plats were

lawfully submitted, prior to the effective date of this chapter or amendment thereto, provided: (i) any application on which reliance is placed for the existence of nonconforming rights must have been complete as that term is defined in Article 9; (ii) such permit or approval has not by its own terms expired; and (iii) actual building construction is carried on pursuant to said permit or approval and limited to and in strict accordance with said permit or approval. Notwithstanding any other provisions to the contrary, no renewals or extensions of such permit or approval shall be authorized.

### 8.1.15. Reconstruction of damaged or destroyed nonconforming structures.

A legal nonconforming building or structure that has been damaged by fire, flood or other natural cause to an extent that the estimated cost of reconstruction does not exceed sixty (60) percent of its fair market value according to the DeKalb County Tax Assessor's valuation for the tax year in which the damage occurred, as determined by the community development director, may be reconstructed and used as it was prior to being damaged if a complete permit application is submitted for said re-construction within two (2) years of the date of the damage and the work progresses continuously upon issuance of the permit therefor. If said building or structure has been determined by the community development director to have been damaged to an extent that the estimated cost of reconstruction exceeds sixty (60) percent of its fair market value according to the DeKalb County Tax Assessor's valuation for the tax year in which the damage occurred, then any repair, reconstruction or new construction shall conform to the then existing requirements of the zoning district in which said building or structure is located.

### 8.1.16. Expansion, redevelopment or improvement of legal nonconforming buildings, structures and/or sites.

A. *Major redevelopment.* Expansion, alteration or redevelopment of a legal nonconforming building or structure to an extent that the estimated cost of the expansion, alteration or redevelopment exceeds sixty (60) percent of its fair market value prior to expansion, alteration or redevelopment according to the DeKalb County Tax Assessor's valuation of the improvements for the tax year in which the first permit for expansion, alteration or redevelopment is applied for shall require the entire building or structure to conform to the City of Tucker codes in every respect, except as approved by variance or special administrative permit as applicable.

B. *Minor redevelopment.* Expansion, alteration or redevelopment of a legal nonconforming building or structure to an extent that the estimated cost of the expansion, alteration or redevelopment is no greater than sixty (60) percent of its fair market value prior to expansion, alteration or redevelopment according to the DeKalb County Tax Assessor's valuation of the improvements for the tax year in which the first permit for expansion, alteration or redevelopment is applied for shall require the portion of the building or structure comprising the expansion, alteration or redevelopment to conform to all of the City of Tucker codes that are relevant to the nature of the expansion, alteration or redevelopment.

C. Proposed improvements to access, parking, landscaping, pedestrian systems, lighting, utilities, and stormwater facilities, shall conform in every respect, except as approved by variance or special administrative permit as applicable.

D. Notwithstanding subsections A, B, and C above, no building or structure on property on which a nonconforming use is located shall be expanded, altered, or redeveloped in any way.

### 8.1.17. Prior variances, special exceptions, and special permits authorized.

Variances and special permits lawfully authorized and granted prior to the effective date of this Zoning Ordinance shall continue in effect, provided the terms and conditions of said authorization are followed.

Article 9. Definitions ..... 2
9.1.1 Statement of intent and purpose. ..... 2
9.1.2 Interpretation. ..... 2
9.1.3 Defined terms ..... 2

# Article 9. Definitions

### 9.1.1 Statement of intent and purpose.

The definitions contained herein shall apply to this chapter. Any word or phrase not defined below but otherwise defined in the Code shall be given that meaning. All other words or phrases shall be given their common ordinary meaning unless the context clearly indicates otherwise.

### 9.1.2 Interpretation.

For the purpose of this chapter, words and terms are to be interpreted as follows:

A. Unless the obvious construction of the wording indicates otherwise, words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words used in the singular number include the plural; and words used in the plural include the singular. An abbreviated word shall have the same meaning as the unabbreviated word.

B. The word "shall" means “must” or “is mandatory”.

C. Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.

D. The word "lot" shall be deemed also to mean "plot"; the word “used” shall be deemed also to include “designed”, ”intended”, or “arranged to be used”; the term “erected” shall be deemed also to include “constructed”, “reconstructed”, “altered”, “placed”, “relocated” or “removed”.

E. The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."

F. Where words are not herein defined, but are defined in Section 1.2, those words shall have the meaning as defined therein. Words, terms and phrases, when used in this article, shall have the meanings ascribed to them as directed above, except where the text clearly indicates a different meaning.

### 9.1.3 Defined terms.

*ADA*: The Americans with Disabilities Act.

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

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

*Abutting*: Having property or district lines in common. This does not include property separated by a road or right-of way.

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

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

*Accessory equipment*: See section 4.2.56(B).

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

*Accessory use*: A use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use. See Article 4 for supplemental regulations.

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

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

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

*Adult day care center*: An establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of seven (7) or more adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational and social activities for said persons.

*Adult day care facility*: An establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of six (6) or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped. This may also include recreational, cultural and social activities for said persons.

*Adult entertainment establishment*: Any one (1) or any combination of the following:

*Adult bookstore*: An establishment having a substantial or significant portion of its stock in trade, books, printed materials, magazines or other periodicals or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its total floor space, devoted to the sale or consisting of said printed material or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

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

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

*Adult motion picture arcade*: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

*Adult video store*: An establishment having a substantial or significant portion of its stock in trade, videotapes, movies, CD ROMS, or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its net sales from said videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Erotic entertainment/dance establishment*: A nightclub, theater or other establishment which features live performances by dancers, entertainers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. These establishments are also regulated pursuant to Chapter 4, of the Code of the City of Tucker

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

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

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

*Affordable housing*: Housing that has a sale price or rental amount that is within the means of a household that may occupy middle, moderate, or low-income housing. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, together constitute no more than twenty-eight (28) percent of such gross annual household income for a household of the size which may occupy the unit in question. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than thirty (30) percent of such gross annual income for a household of the size that may occupy the unit in question.

*Aggrieved Person:* A person who either (a) is the applicant or the owner of property that is the subject of an application or a decision by a city administrative official; or (b) has a substantial interest in an action appealed from and that is in danger of suffering special damage or injury not common to all property owners similarly situated.

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

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

*Alcohol outlet*: A retail establishment that sells beer, wine or distilled liquor for off-site consumption. Includes retail stores, less than 25,000 square feet, that may sell beer and/or wine, as well as other products.

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

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

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

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

*Amateur radio service*: Radio communication services, including amateur satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in title 47, code of Federal Regulations, Part 97 and regulated there under.

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

*Ambulance service facility*: A privately owned facility for the dispatch, storage, and maintenance of emergency care vehicles.

*Amenity*: A natural or man-made feature that enhances a particular property, increasing aesthetics and desirability to the owner or community.

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

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

*Animal*: Any vertebrate member of the animal kingdom, excluding humans.

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

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

*ANSI*: The American National Standards Institute.

*Antenna*: See section 4.2.56(B).

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

*Apartment*: See *Dwelling, multifamily*.

*Apartment unit*: One (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing four (4) or more dwelling units.

*Apiary*: A place where beehives of honey bees are kept.

*Apiculture*: See *Beekeeping*.

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

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

*Applicant:* A person who acts in his or her own behalf or as the agent of a property owner, who seeks a zoning decision, or who seeks a decision regarding a permit or approval by the community development director.

*Arcade*: An area contiguous to a street or plaza that is open and unobstructed to a height of not less than twelve (12) feet and that is accessible to the public at all times.

*Archaeological resource*: Any material remains of past human culture or activities which are of archaeological interest, including, but not limited to the following: basketry, bottles, carvings, graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Non-fossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations of this chapter, unless found in archaeological context. No item shall be deemed to be an archaeological resource under the regulations of this chapter unless such item is at least two hundred (200) years of age.

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

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

*Art gallery*: An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This definition does not include libraries, museums, or non-commercial art galleries.

*Articulated façade*: A building elevation that faces a street and that is constructed with a variety of surfaces, materials, colors, projections, recesses, or similar features.

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

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

*Assisted living facility*: A multi-family structure whose occupants are fifty-five (55) years of age or older, or where each unit is occupied by at least one (1) person who is fifty-five (55) years of age, and where occupants receive assistance with daily living activities.

*Atrium*: An open hall lighted from above, into which rooms open at one or more levels.

*Attic*: An open space at the top of a house just below the roof; often used for storage.

*Authorized (Permitted) use*: Any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

*Automobile*: A self-propelled, free-moving vehicle, which is licensed by the appropriate state agency as a passenger vehicle. For the purpose of this chapter, the term "automobile" shall include motorcycles, scooters, small trucks used for daily passenger trips, sports utility vehicles (SUVs), and similar passenger vehicles or any vehicle classified by the Georgia Department of Driving Services as a Class “C” vehicle.

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

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

*Automobile dealership*: See *Automobile sales*.

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

*Automobile manufacture*: A facility engaged in the manufacture of passenger cars, light trucks, and/or light commercial vehicles.

*Automobile parts or tire store*: A building that is used for the retail sale of new or used parts or tires for non-commercial vehicles. This term does not include outdoor storage yards.

*Automobile rental and leasing:* A business that rents or leases automobiles.

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

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

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

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

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

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

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

*Automobile wrecking yard*: See *Salvage yard*.

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

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

*Bank*: A facility for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds.

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

*Basement*: A space having one-half (0.5) or more of its floor-to-ceiling height below the average finished grade of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6.5) feet.

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

*Bed and breakfast*: Accessory use of a single-family detached dwelling by the homeowner who resides in the dwelling, to provide sleeping accommodations to customers. Breakfast may also be provided to the customers at no extra cost. For the purpose of this definition, the term "customer" means a person who pays for the sleeping accommodations for fewer than thirty (30) consecutive days.

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

*Beekeeping*: The maintenance of honey bee colonies, commonly in hives, by humans.

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

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

*Best Management Practices (BMP):* Activities, procedures, structures or devices, systems of regulations and activities, or other measures that prevent or reduce pollution of the waters of the United States. BMPs are intended to: a) control soil loss, protect natural features such as trees, and reduce water quality degradation; b) control drainage from outside storage of materials; c) minimize adverse impacts to surface and groundwater flow and circulation patterns, and to the chemical,

physical, and biological characteristics of streams and wetlands; and d) control industrial plant site runoff, spillage, leaks, sludge or waste disposal.

*Blight*: A state or result of being blighted or deteriorated; dilapidation or decay. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare such as inadequate public or community services, vacant land with debris, litter, lack of utilities, accumulation of trash and junk or general disrepair including but not limited to peeling paint, broken windows, deteriorating wood. Also see Chapter 18 of the Code.

*Block*: An area of land bounded by a street, or by a combination of streets and public parks, cemeteries, railroad right-of-way, exterior boundaries of a subdivision, shorelines of waterways, or corporate boundaries. In cases where the platting is incomplete or disconnected, the community development director may delineate the outline of the block.

*Blockface*. That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

*Mayor and City Council*: The seven-member legislative branch of the City of Tucker.

*Boarding house*: A building containing one (1) or more lodging units but not more than twenty (20) lodging units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

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

*Brewpub*: A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises in compliance with applicable state and federal laws. Such establishments may also include restaurants as an accessory use. See also light malt beverage manufacturing.

*Broker*: A party that mediates between a buyer and a seller.

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

*Buildable area*: The area of a lot remaining after all setback requirements, including buffers, have been met.

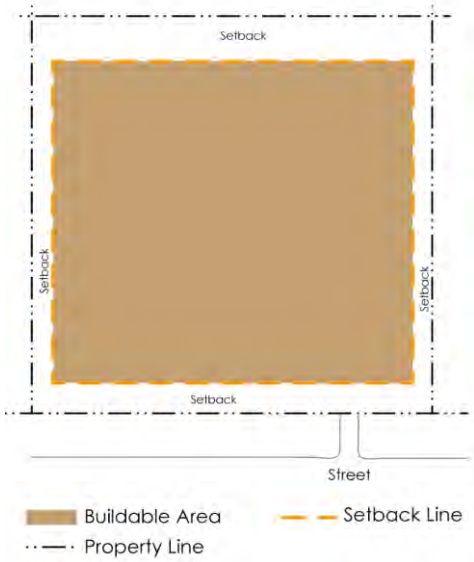



Figure 9.1 Buildable Area

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

*Building, accessory*: See *Accessory building*.

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

*Building entrance feature*: An architecturally designed element for entrances and exits of the building.

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

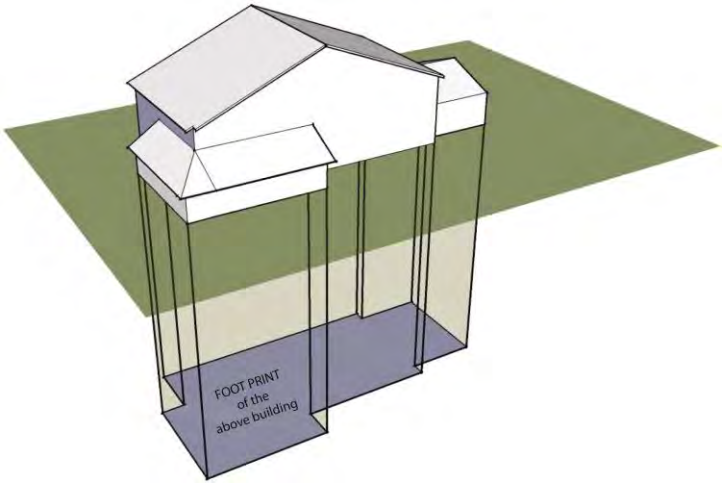



Figure 9.2 Illustration of Building Footprint

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

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

*Building height (as to all structures with the exception of single-family detached dwellings)*: The vertical distance from the average finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. See Article 5.

*Building height (as to single-family detached dwellings)*: The vertical distance from the front-door threshold of the proposed residential structure to the highest point of the roof of the structure. See Article 5.

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

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

*Building, primary or principal*: A structure in which is conducted the principal use of the lot on which it is located.

*Building scale*: The relationships of the size of the parts of a structure to one another and to humans.

*Building width*: The distance from the exterior face of the building siding as measured from side to side.

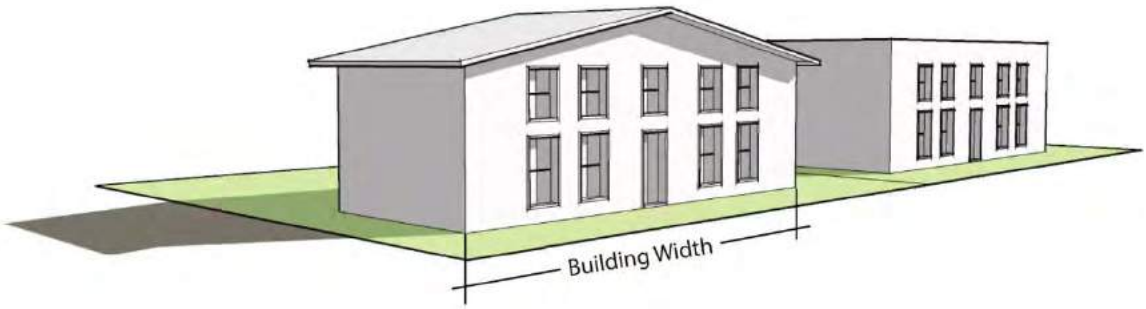



Figure 9.3 Illustration of Building Width

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

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

*Bus Rapid Transit (BRT)*: A permanent, integrated transit system that uses buses or specialized vehicles on roadways or dedicated lanes to transport passengers to their destinations.

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

*Business vehicle:* Vehicle, or heavy construction equipment, or trailer used to transport passengers or property in furtherance of a commercial enterprise. Business vehicle may include, but is not limited to: pick-up trucks with exterior equipment storage, passenger vans, passenger vehicles with or without logos or advertisements identifying the commercial enterprise, ambulances, limousines, taxi cabs, tow trucks, earthmoving machinery such as bobcats and bulldozers, dump trucks, flatbed trucks, box vans, any vehicle with a trailer attached to it, tractors, “dually” trucks (pick-up trucks with four (4) wheels on the rear axle), heavy construction equipment, and semi-tractor cabs whether or not a trailer is attached.

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

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

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

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

*Car wash*: A facility for washing, waxing, and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

*Car wash, self-service*: A car wash wherein operating functions are performed entirely by an operator owner with the use of washing, waxing, and drying equipment supplemented with manual detailing by the operator owner.

*Cat*: A feline that has reached the age of six (6) months.

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

*Cellar*: A space having less than one-half (0.5) or more of its floor-to-ceiling height below the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six-and-one-half (6.5) feet.

*Cemetery*: Property used for the interring of the dead. See Georgia cemetery regulations.

*Chapel*: See *Place of worship*.

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

*Child caring institution*: A building(s) in which housing, meals, and twenty-four (24) hour continuous watchful oversight for children under the age of eighteen (18) are provided and which facility is licensed or permitted as a child caring institution by the State of Georgia. The term “child caring institution” shall not include a “child day care center or facility.”

*Child caring institution, community*: A child caring institution that offers care to seven (7) or more children.

*Child caring institution, group*: A child caring institution that offers care to between four (4) and six (6) children.

*Child day care center*: An establishment operated by any person with or without compensation providing for the care, supervision, and protection of seven (7) or more children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody.

*Child day care facility*: An establishment operated by any person with or without compensation providing for the care, supervision, and protection of six (6) or fewer children who are under the age of eighteen (18) years for less than twenty-four (24) hours per day, without transfer of legal custody. For the purpose of computing the number of children within the child day care facility, all children who are related by blood, marriage, adoption or guardianship to the person or persons operating the facility shall be included.

*Church*: See *Place of worship*.

*Cistern*: An underground reservoir or tank for storing rainwater.

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

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

*Clubhouse*: A structure in which the activities of a private club are conducted.

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

*Code*: The Code of the City of Tucker.

*Coliseum*: A large building with tiers of seats for spectators at sporting or other recreational events.

*Collector street*: A street or road designated as a collector street in the Transportation and Thoroughfare Plan.

*College*: A post-secondary institution for higher learning that grants associate or bachelor degrees and may also have research facilities and/or professional schools that grant master and doctoral degrees. This shall also include community colleges that grant associate or bachelor degrees or certificates of completion in business or technical fields.

*Collocation*: See section 4.2.56(B).

*Colonnade*: A series of columns placed at regular intervals, usually supporting a roof.

*Columbarium*: A structure with niches for the placement of cinerary urns.

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

*Commercial parking garage/structure*: A covered or sheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

*Commercial parking lot*: An uncovered or unsheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

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

*Common open space*: Open space designed for common use by all property owners in the development.

*Common ownership*: Ownership as recognized by law of real property by one (1) or more persons, their parents, brothers, sisters, children over the age of eighteen (18), spouses or any association, firm, corporation or partnership in which such person or spouse is a corporate officer, partner or is a stockholder with an ownership interest of ten (10) or more percent.

*Community development director:* The Director of the Community Development Department of the City of Tucker, or his/her designee.

*Community garden*: See *Urban garden*.

*Community living arrangement*: See *Personal care home*.

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

*Compatible (as used in Article 2, Purpose and Intent for each established district)*: Land development that is consistent with existing, identified physical elements in proximity to that land development, such as architectural style, building mass, building scale, land uses, and landscape architecture.

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

*Complete or Complete Application.* When used in conjunction with an application under this Zoning Ordinance, the term "complete" shall mean containing all of the required elements, information, fees, approvals or other materials as set forth in this Zoning Ordinance, other applicable provisions of the Code of the City of Tucker, state law, and in the most recent checklist previously issued by the community development director.

*Composting*: The controlled biological decomposition of organic matter into a stable, odor-free humus.

*Comprehensive Plan*: The DeKalb County Comprehensive Plan adopted by the board of commissioners as it may be amended from time to time, which divides the unincorporated areas of the county into land use categories and which constitutes the official policy of the county regarding long-term planning and use of land.

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

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

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

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

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

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

*Connectivity ratio*: A ratio of links to nodes in any subdivision.

a. The connectivity ratio shall be the number of street links divided by the number of nodes or end links, including cul-de-sac heads.

b. A link shall be any portion of a street, other than an alley, defined by a node at either end. Stub-outs to adjacent property shall be considered links. For the purpose of determining the number of links in a development, boulevards, median-divided roadways, and divided entrances shall be treated the same as conventional two-way roadways.

c. A node shall be the terminus of a street or the intersection of two or more streets. Any curve or bend of a street that exceeds seventy-five (75) degrees shall receive credit as a node. Any curve or bend of a street that does not exceed seventy-five (75) degrees shall not be considered a node. A divided entrance shall only count once.

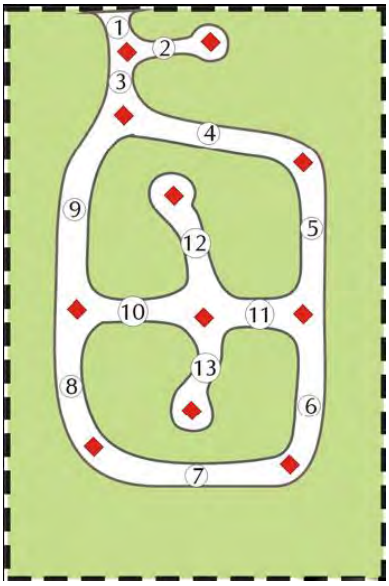



Figure 9.4 Example 1: Does not meet ratio

(13 links / 11 nodes = 1.18)

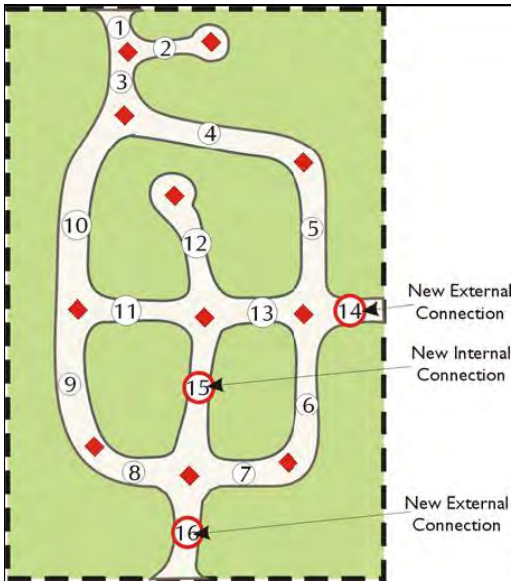



Figure 9.5 Example 2: Modified to meet ratio

(16 links / 11 nodes = 1.45)

*Construction*: Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

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

*Continuous sound*: Any sound with duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.

*Contractor, general*: A contractor or builder engaged in the construction of buildings like residences or commercial structures.

*Contractor, heavy construction*: A contractor or builder engaged in the heavy construction activities such as paving, highway construction, landscaping, and utility construction.

*Contractor, special trade*: Industries in the Special Trade Contractors subsector engage in specialized construction activities, such as plumbing, painting, and electrical work.

*Convalescent home*: A nursing care facility.

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

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

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

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

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

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

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

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

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

*Cremation*: The reduction of a dead human body or a dead animal body to residue by intense heat.

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

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

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

*Dairy*: A commercial establishment for the manufacture, processing, or sale of dairy products.

*Dance school*: A school where classes in dance are taught to four (4) or more persons at a time.

*Day:* Unless otherwise stated, day or days refer to calendar days.

*Day spa*: See *health spa*.

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

*Decibel (dB)*: The unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micropascals (zero (0) decibels), i.e., the average threshold of hearing for a person with very good hearing.

*Deciduous tree*: A tree that loses all of its leaves for part of the year.

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

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

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

*Density*: The number of dwelling units per gross acreage of land.

*Dental clinic*: See *Office, dental.*

*Department of Community Affairs (DCA)*: The state department that provides a variety of community development programs to help the state's communities realize their growth and development goals.

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

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

*Development permit*: Any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the City of Tucker.

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

*Director of public works*: The Director of the Public Works Department of the City of Tucker shall be the Community Development Director, or his/her designee.

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

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

*Dog*: A canine that has reached the age of six (6) months.

*Dog day care*: Any premises containing four (4) or more dogs, where dogs are dropped off and picked up daily between the hours of 7 a.m. and 7 p.m. for temporary care on site and where they may be groomed, trained, exercised, and socialized, but are not kept or boarded overnight, bred, sold, or let for hire. Use as a kennel shall be limited to short-term boarding and shall be only incidental to such dog day care. See *Kennel, commercial*.

*Dog grooming*: The hygienic care and cleaning of a dog, as well as enhancement of a dog's physical appearance.

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

*Dripline*: A vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

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

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

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

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

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

*Dry cleaning plant*: An establishment for dry cleaning or laundry where the operation, equipment and machinery is on site.

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

*Dwelling, mobile home*: See *mobile home*.

*Dwelling, multi-family*: See *Dwelling unit, multi-family*.

*Dwelling, single-family*: A building designed for and containing one (1) dwelling unit.

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

*Dwelling, single-family detached*: A dwelling unit on an individual lot unattached to another dwelling unit.

*Dwelling, single-family detached condominiums in the Residential Neighborhood Conservation District*: Single family detached dwelling units which are owned under the condominium form of ownership such that there are no individual lots associated with the units and the common areas are held in common ownership by a condominium association.

*Dwelling, three-family or triplex*: A building designed for and containing three (3) dwelling units.

*Dwelling, two-family or duplex*: A building designed for and containing two (2) dwelling units.

*Dwelling, urban single-family*: Residential buildings that share similar configuration to townhouse developments; however, they may be attached or detached and may have lot lines that coincide with the building envelope.

*Dwelling unit*: One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarters, with cooking, sleeping, and bathroom facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

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

*Dwelling unit, efficiency or studio*: A self-contained residential unit consisting of not more than one (1) room together with a private bath and kitchen facilities.

*Dwelling unit, multi-family*: One (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained residential unit in a building containing four (4) or more dwelling units.

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

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

*Elevation*: An architectural term referring to the view of a building seen from one side; it is a flat representation of one façade. This is the most common view used to describe the external appearance of a building. Each elevation is labeled in relation to the yard it faces (front, rear or side).

*Elevation:* Height above sea level or ground level. See *Grade, existing.*

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

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

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

*Environmental contamination*: A presence of hazardous substance(s) in the environment. From the public health perspective, environmental contamination is addressed when it potentially affects the health and quality of people living or working nearby.

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

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

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

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

*Façade:* One exterior side of a building, usually, but not always, the front. In this chapter and the design standards, it may be synonymous with architectural elevation. In architecture, the façade of a building is often the most important from a

design standpoint, as the façade elements of wall face, parapet, fascia, fenestration, and canopy establish the architectural aesthetic of a building creating the public realm.

*Façade, primary:* Refers to the exterior building wall considered the front and features the main entrance to the building. Synonymous with front façade.

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

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

*Family*: One (1) or more individual(s) related by blood, marriage, adoption, or legal guardianship, or not more than three (3) unrelated individuals, who live together in a single dwelling unit and who function as a single housekeeping unit, have established ties and familiarity with each other, jointly use common areas, interact with each other, and share meals, household activities, expenses and responsibilities. This definition shall include three (3) or fewer mentally handicapped, developmentally disabled persons, and other handicapped persons, as defined in the Fair Housing Act, 42 U.S.C. § 3601, et seq., living as a housekeeping unit and otherwise meeting the definition of "family" herein. For the purposes of calculating the number of persons who live in a dwelling, family members who are related by blood or legal status shall count as one (1) person.

*Family day care home*: A private residence in which a business, registered by the State of Georgia, is operated by any person who receives pay for supervision and care for fewer than twenty-four (24) hours per day, not more than six (6) persons who are not residents in the same private residence. For purposes of this zoning ordinance, a family day care home may be operated as a home occupation, subject to the requirements of this zoning ordinance.

*Family-oriented entertainment venues:* Places of entertainment intended to serve families.

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

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

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

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

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

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

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

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

*Fence*: A structure designed to provide separation and security constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the community development director.

*Fenestration*: The arrangement, proportioning, and design of windows and doors in a building.

*Fertilizer manufacture*: The manufacture and storage of organic and chemical fertilizer, including manure and sludge processing.

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

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

*Floodplain*: Land within the Special Flood Hazard Area (SFHA) or covered by the 'future-conditions" flood as defined in Chapter 14 of the City of Tucker Code.

*Floodway*: The channel of a stream, river, or other watercourse and the adjacent areas that must be reserved in order to discharge the Special Flood Hazard Area (SFHA) flood without cumulatively increasing the water surface elevation more than a designated height.

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

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

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

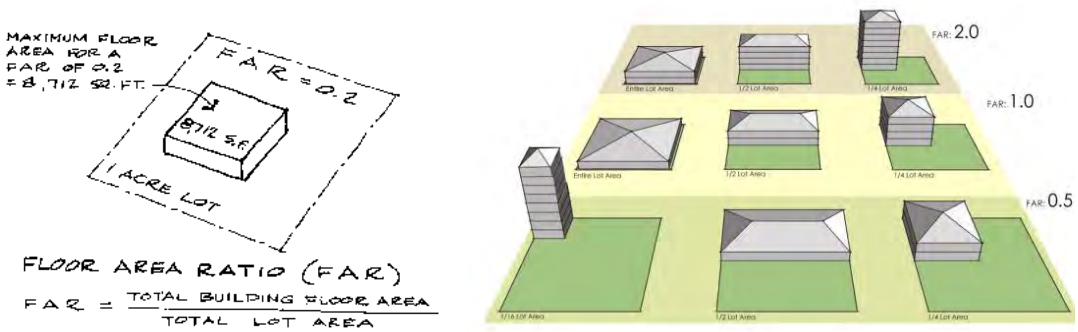



Figure 9.6 Illustration of Floor Area Ratio (FAR)

*Florist*: An enclosed retail business whose principal activity is the selling of plants which were grown off-site.

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

*Fortunetelling*: Fortunetelling shall include all forms of foretelling, including, but not limited to, palm reading, casting of horoscopes, and tea leaf reading.

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

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

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

*Freeway*: A multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes which permits access only at designated interchanges and is so designated in the Comprehensive Plan.

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

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

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

*Front façade*: See *Façade, primary*.

*Fuel and ice dealers, manufactures and wholesaler*: An establishment primarily engaged in the sale to consumers of ice, bottled water, fuel oil, butane, propane and liquefied petroleum gas, bottled or in bulk, as a principal use.

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

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

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

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

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

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

*Gift shop*: A retail store where items such as art, antiques, jewelry, books, and notions are sold.

*Glue manufacture:* The manufacturing of glue, epoxy, sealant or other adhesives.

*Go-cart*: A small low motor vehicle, with four (4) wheels and an open framework, used for racing.

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

*Go-cart track*: A track or network of tracks used for the racing of go-carts.

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

*Grade, average finished.* The average level of the finished surface of the ground adjacent to the exterior walls of the building determined by dividing the sum of the elevation of the highest point and the elevation of the lowest point by two (2).

*Grade, existing*: The elevation of the ground surface before development.

*Grade, finished*: The final grade of the ground surface after development.

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

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

*Grazing land, pasture land*: Any open land area used to pasture livestock in which suitable forage is maintained over eighty (80) percent of the area at all times of the year.

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

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

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

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

*Ground cover*: Small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation, that normally cover the ground and include trees of less than six (6) inches caliper.

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

*Gym:* See *Fitness center*.

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

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

*Hardware store*: A facility of thirty thousand (30,000) or less square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, garden supplies, and cutlery.

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

*Heavy industrial*: See *Industrial, heavy.*

*Heavy manufacturing*: See *Industrial, heavy.*

*Heavy vehicle repair*: Major or minor repair of non-passenger vehicles that are classified by the Georgia Department of Driving Services as a Class E, F, or Commercial vehicle.

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

*High-rise building or structure*: A building of any type of construction or occupancy having floors used for human occupancy located more than fifty-five (55) feet above the lowest floor level having building access of three (3) stories or greater unless otherwise defined by individual zoning or overlay district.

*Historic*: A building, structure, site, property or district identified as historic by the Historic Preservation Commission, the DeKalb County Historic Resources Survey, the Comprehensive Plan, by listing on the Georgia or National Register of Historic Places, by listing as a National Historic Landmark, or determined potentially eligible for listing in the National Register of Historic Places as a result of review under Section 106 of the National Historic Preservation Act, as amended.

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

*Home improvement center*: A facility greater than thirty thousand (30,000) square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, garden supplies, and cutlery.

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

*Home stay bed and breakfast residence*: A single-family dwelling in which is provided not more than two (2) rooms for not more than four (4) people for overnight rental and a morning meal to transient persons for compensation on a nightly basis by the occupant of said dwelling.

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

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

*Hotel/Motel*: An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service. Related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

*Hotel/Motel, extended stay*: Any building containing six (6) or more guest rooms rented or leased for sleeping purposes for periods less than one month, but in excess of one (1) week, and that contain kitchen facilities for food preparation including, but not limited to, refrigerators, stoves, and ovens.

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

*Impervious surface*: A surface that either prevents or retards the entry of surface water into the soil mantle and causes surface water to run off in greater quantities or at an increased flow rate when compared to natural, undeveloped soil mantle. Common impervious surfaces include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, pavement graveled areas, packed or oiled earthen materials or other surfaces which similarly impede the

natural infiltration of surface waters. Open uncovered flow control or water quality treatment facilities shall not be considered as impervious surfaces. See *Lot coverage* for exemptions.

*Impulsive sound*: A single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second characterized with an abrupt onset and rapid decay.

*INCE*: The Institute of Noise Control Engineering.

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

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

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

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

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

*Infill building*: Any building built or proposed to be built on an infill lot.

*Infill development*: A development surrounded by or in close proximity to areas that are substantially or fully developed.

*Infill lot*:

A vacant lot of record in an infill overlay zoning district created by the demolition of an existing residential structure for the replacement of that structure with new construction;

Any lot intended for use as a site for a single family dwelling that is created by act of subdivision which, at the time of final plat approval, is in whole or in part within the boundaries of a residential infill overlay district; or

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

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

*Intermodal freight terminal*: An industrial establishment in which freight is transferred in containers from truck to railroad cars for transportation.

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

*Jewelry repair shop*: Establishment primarily engaged in the provision of jewelry repair services to individuals.

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

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

*Keeping of chickens*: The breeding, boarding, and caring of chickens for personal or agriculture use, or raised for sale and profit.

*Keeping of livestock*: The breeding, boarding and caring of livestock for personal or agricultural use, or raised for sale and profit.

*Keeping of pigeons*: The breeding, boarding, and caring of pigeons for personal or agriculture use, or raised for sale and profit.

*Kennel, breeding*: A kennel where no more than ten (10) dogs, registered with a nationally recognized registration organization, over the age of six (6) months are owned, kept or harbored for the purpose of breeding purebred or pedigreed dogs, provided, however, this definition shall not apply to zoos or to animal hospitals operated by a veterinarian, duly licensed under the law.

*Kennel, commercial*: An establishment for the boarding, caring for and keeping of dogs over the age of six (6) months other than a breeding kennel or a noncommercial kennel.

*Kennel, noncommercial*: An establishment for the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs over the age of six (6) months, not for commercial purposes.

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

*Kindergarten*: An establishment operated by any person wherein compensation is paid for providing for the care, supervision, instruction, and protection of seven (7) or more children who are under the age of seven (7) years for less than twenty-four (24) hours per day, without transfer of legal custody. For the purpose of this zoning ordinance, a kindergarten school is considered to be a child day care center or facility.

*Kiosk*: A freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

*Kitchenette*: A small, compact apartment kitchen, often part of another room utilized for different activities.

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

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

*Land use*: A description of how land is occupied or utilized.

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

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

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

*Landscape strip*: A strip intended to be planted with trees, shrubs, or other vegetation. Same as landscape zone.

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

*Large-scale retail*: A singular retail or wholesale user who occupies no less than sixty thousand (60,000) square feet of gross floor area.

*Laundry*: A facility used or intended to use for washing and drying of clothes and fabrics.

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

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

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

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

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

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

*Light industrial*: See *Light manufacturing establishment.*

*Light malt beverage manufacturer*: A malt beverage manufacturer licensed as a brewpub per O.C.G.A. Section 3-5-36 or licensed as a brewery per O.C.G.A. Section 3-5-24. All state and federal licensing and regulatory requirements shall be met prior to the approval of a certificate of occupancy for this use. See also *Brewpub*.

*Light manufacturing*: See *Industrial, light.*

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

*Liquor store*: See *Alcohol outlet.*

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

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

*Lodge*: A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities. This definition shall not include fraternities or sororities. (See also *fraternal organization*.)

*Lodging unit*: One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with sleeping, and bathroom facilities provided within the lodging unit for the exclusive use of a single family maintaining a household.

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

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

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

*Lot of record*: A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Clerk of Superior Court of DeKalb County, Georgia, or a parcel of land described by metes and bounds, the plat or description of which has been recorded in said office.

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

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

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

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

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

*Lot, contiguous (as used in section 8.1.4)*: Lots adjoining the rear or either side of the lot(s).

*Lot, corner*: A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street.

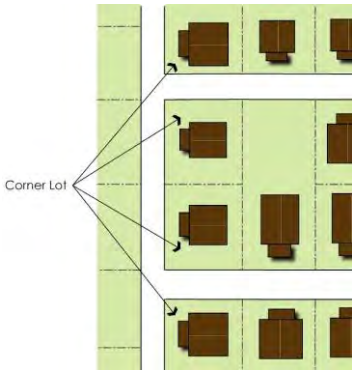



Figure 9.7 Corner Lots

*Lot, double-frontage*: A lot that abuts two (2) parallel streets or that abuts two (2) streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

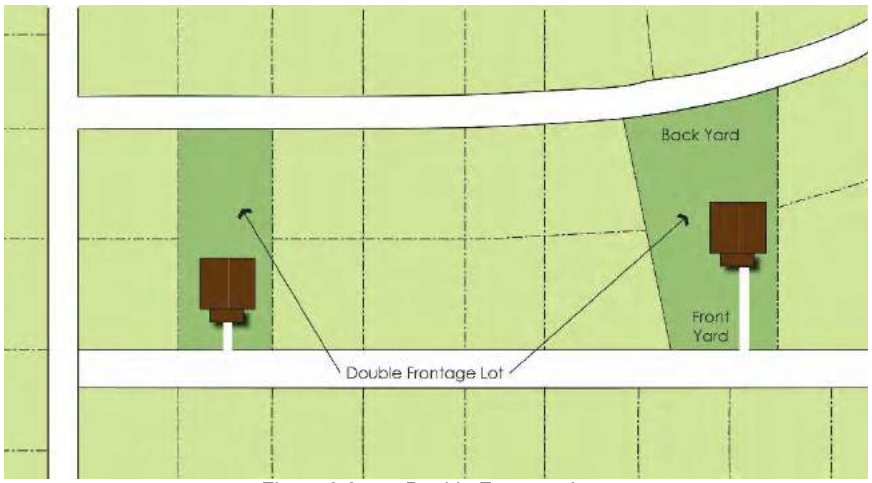



Figure 9.8 Double Frontage Lots

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

*Lot, interior*: A lot, other than a corner lot, abutting only one (1) street.

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

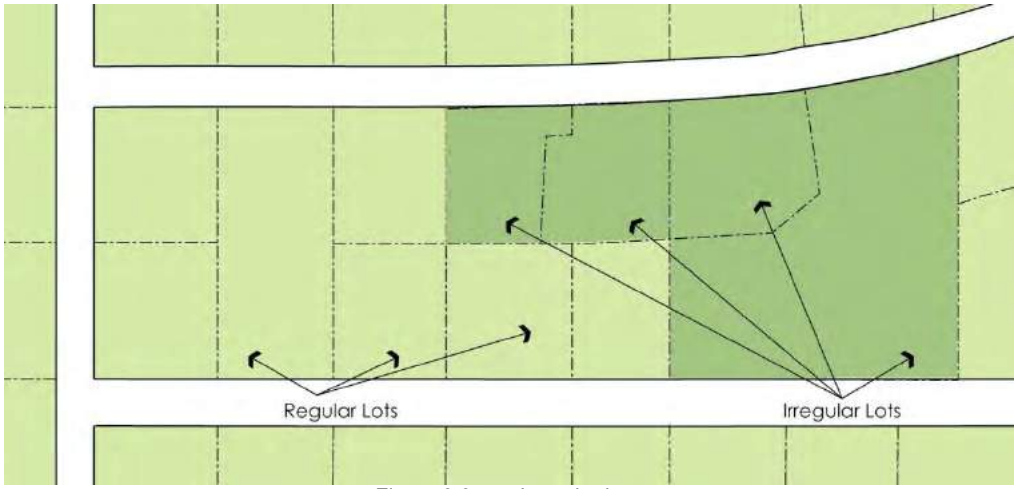



Figure 9.9 Irregular lots

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

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

*Mail room*: A room in an office which mail and package shipments are prepared and deliveries accepted.

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

*Major modification*: See section 4.2.56(B)

*Major modification to zoning conditions:* See Article 7.

*Major thoroughfare*: A street, road or highway shown as a major thoroughfare in the Transportation and Thoroughfare Plan.

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

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

*Manufacturing, heavy*: See *Industrial, heavy.*

*Manufacturing, light*: See *Industrial, light.*

*Massage establishment*: Any business properly licensed under Article VIII of Chapter 16 of the Code of the City of Tucker that is established for profit and employs one (1) or more massage therapists, operates or maintains for profit one (1) or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages. All massage therapists shall be licensed by the State of Georgia. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

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

*Mausoleum*: A building containing above-ground tombs.

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

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

*Mine*: (1) a cavity in the earth from which minerals and ores are extracted; and (2) the act of removing minerals and ores from the earth.

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

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

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

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

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

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

*Minor modification to zoning conditions:* See Article 7.

*Minor thoroughfare*: A street, road or highway shown as a minor thoroughfare in the Transportation and Thoroughfare Plan.

*Mixed-use building or development*: A development which incorporates a variety (two (2) or more) of land uses, buildings or structures, that can include both primary residential uses and primary nonresidential uses which are part of the same development. Such uses may include, but not be limited to, residential, office, commercial, institutional, recreational or public open space, in a compact urban setting that encourages pedestrian oriented development that can result in measurable reductions in traffic impacts. Such a development would have interconnecting pedestrian and vehicular access and circulation.

*Mixed Use zoning districts.* Any of the following zoning districts: MU-1, MU-2, MU-3, MU-4, and MU-5.

*Mobile home :* A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (320) or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

*Mobile home lot*: A parcel of land, approved pursuant to the subdivision requirements of Chapter 14 of the Code, in a mobile home park which is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.

*Mobile home park*: A parcel of land which has been planned and improved pursuant to the requirement of this chapter and Chapter 14 of the Code for the placement of mobile homes for non-transient use.

*Mobile home sales:* Exhibition and sale of mobile homes.

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

*Modular home*: A factory-manufactured single family dwelling which is constructed in one (1) or more sections and complies with the definition of "industrialized building."

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

*Monopole*: See Section 4.2.56(B).

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

*Mosque*: See *Place of worship.*

*Motel*: See *Hotel.*

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

*Multi-family dwelling*: See *Dwelling unit, multi-family.*

*Multi-family dwelling, supportive living*: Four (4) or more dwelling units in a single building or group of buildings which are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous twenty-four (24) hour watchful oversight, and which does not require licensure as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.

*Multi-use property*: Any distinct parcel of land that is being used for more than one (1) land use purpose.

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

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

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

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

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

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

*News dealer*: A person who sells newspapers and magazines as a retailer.

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

*Nightclub*: A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment is allowed, where music may be live, Disc-Jockey, karaoke, and/or non-acoustic.

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

*Noise control officer*: A city employee or agent who has received noise enforcement training and is currently certified in noise enforcement.

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

*Nonconforming characteristic(s) of building or structure*: A building or structure, legally existing on the effective date of this chapter, but which fails to comply with one (1) or more of the district or general non-use development regulations adopted under the terms of this chapter which are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.

*Nonconforming use of land*: A use of land, legally existing on the effective date of this chapter, but which is not an authorized use under the terms of this chapter in the district in which such land is located.

*Nonconforming use of land and building(s), or nonconforming use of land and structure(s)*: A use of land and building(s) or land and structure(s), in combination, legally existing on the effective date of this chapter, but which is not an authorized use of land and building(s) or land and structure(s), in combination, under the terms of this chapter in the district in which such use is located.

*Nonconforming use requiring special exception or special land use permit*: A use of land, or land and building(s) or structure(s) in combination, legally existing on the effective date of this chapter, but which is not an authorized use under the terms of this chapter in the district in which such use is located but is permitted only upon approval of a special exception or special land use permit by the appropriate body.

*Nonresidential development*: All commercial, office, institutional, industrial and similar lands and uses.

*Non-residential zoning district.* Any of the following zoning districts: NS, C-1, C-2, O-I-T, O-I, O-D, M and M-2.

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

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

*Nursing care facility*: An establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services, where such services have been ordered by and under the direction of a physician and the staff includes a licensed nurse on duty continuously with a minimum of one (1) full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs. The term includes convalescent homes with continuous nursing care, extended care facilities, skilled nursing homes and intermediate care nursing homes.

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

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

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

*Office, professional*: An office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like.

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

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

*Official zoning map or maps*: The zoning map(s) of the City of Tucker which are adopted with and incorporated by reference as a part of this chapter and amendments to the official zoning map are synonymous with and commonly referred to as rezonings.

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

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

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

*Open space*, *enhanced*: A planned open area suitable for relaxation, recreation or landscaping which may be held in common or private ownership, provided that all residents of the development in which the open space is located shall have a right to enter and use the open space. Such enhanced open spaces may include walkways, patios, recreational amenities, picnic pavilions, gazebos and water features. See Article 5 for types of open space functions considered “enhanced.”

*Open space, green*: An informal area for passive use bound by streets or front facing lots, typically between five hundred (500) square feet and one (1) acre, which is small, civic, surrounded by buildings, natural in its details, and may be used to protect specimen trees and provide for conservation functions.

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

*Open space, neighborhood park*: An open space designed for active or passive recreation use.

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

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

*Open space, pocket park*: An open space that provides active recreational facilities, most often in an urban area that is surrounded by commercial buildings or houses on small lots, and is typically less than one-quarter (1/4) of an acre.

*Open space, square*: An open space used to emphasize important places, intersections, or centers, bounded by streets or front-facing lots, typically between five hundred (500) square feet and one (1) acre.

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

*Ordinary maintenance*: See Section 4.2.56(B).

*Ornamental metal*: Any metalwork that serves as adornment and/or non-structural purposes during construction of a building.

*Outdoor advertising service*: A service to provide advertisements visible in the outdoors such as billboards.

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

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

*Outdoor manufacturing*: A facility established for manufacturing activities that takes place outside an enclosed building.

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

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

*Overstory tree*: Any self-supporting woody plant of a species that normally achieves an overall height at maturity of thirty (30) feet or more.

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

*Parapet*: That portion of a wall that extends above the roof line.

*Parcel*: See *Lot*.

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

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

*Parking aisle:* An area within a parking facility intended to provide ingress and egress to parking spaces.

*Parking bay*: The clear space containing one or two rows of parking stalls and a parking aisle.

*Parking garage*: A covered or sheltered structure designed, constructed and used for the parking of motor vehicles.

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

*Parking space*: A paved area of not less than one hundred twenty (120) square feet (small car space) or not less than one hundred fifty-three (153) square feet (large car space) space with dimensions of not less than eight (8) feet wide by fifteen (15) feet deep (small cars) or eight (8) feet six (6) inches wide by eighteen (18) feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.

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

*Pasture land*: See *Grazing land*.

*Path:* A paved or structurally improved walkway that provides access to areas within a development.

*Paved:* A structurally improved surface supporting the intended or allowed uses of traffic. An area may be covered by asphalt, concrete, permeable pavement or permeable pavement system that is acceptable to the community development director. For the purposes of a driveway for the parking of automobile(s), two paved tire tracks with an unpaved area between them shall be considered paved.

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

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

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

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

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

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

*Personal care home*: A building(s) in which housing, meals, personal assistance services, and twenty-four (24) hour continuous watchful oversight for adults are provided and which facility is licensed or permitted as a personal care home by the State of Georgia. The term “personal care home” shall not include a “child care institution,” “transitional housing,” a “rehabilitation housing facility,” a “rooming house,” or a “boarding house.” “Personal care home” includes a “community living arrangement,” which is an establishment licensed by the State of Georgia and providing a residence for adults receiving care for mental health, development disabilities, and/or addictive diseases.

*Personal care home, community*: A personal care home that offers care to seven (7) or more persons.

*Personal care home, group*: A personal care home that offers care to between four (4) and six (6) persons.

*Personal services establishment*: An establishment primarily engaged in providing services involving the care of a person or providing personal goods where the sale at retail of such goods, merchandise, or articles is only accessory to the provision of such services, including barber shops, beauty shops, tailor shops, laundry shops, dry cleaning shops, shoe repair shops, and similar uses, but specifically excluding adult service facilities and adult entertainment establishments.

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

*Pervious pavers:* A range of sustainable materials and techniques for permeable pavements with a base and sub-base that allow the movement of storm water through the surface.

*Pet:* See Household pet

*Pet cemetery*: Property used for the interring of dead domestic animals.

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

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

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

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

*Pitch of roof lines*: The ratio of the rise to the run of a roof.

*Place of worship:* A lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship. The term shall also include any of the following accessory uses and

buildings: schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, child day care center, kindergarten, parsonage, rectory or convent and columbarium.

*Plainly audible*: Any sound that can be detected by a person using his or her unaided hearing faculties.

*Planned Industrial Center:* An industrial development planned with multiple buildings for industrial users.

*Planning Director*: See *Community Development Director.*

*Plant material*: Material derived from plants.

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

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

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

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

*Porch, open*: A porch that is not covered by a roof.

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

*Porte-cochere*: A porch or a structure attached to a residence and erected over a driveway, not exceeding one (1) story in height and open on two (2) or more sides.

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

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

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

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

*Primary material*: The building material comprising the acceptable, dominant portion of a building exterior façade, as defined by standards within this ordinance. Compare with *Secondary material.*

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

*Principal use*: The primary or predominant use of any lot.

*Principal structure*: The building in which the principal use of the lot is located.

*Printing and publishing establishments:* An establishment providing printing, blueprinting, photocopying, engraving, binding, or related services.

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

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

*Private club*: See *Club, private*.

*Private drive*: A drive or road on privately owned property, by an individual or a group of owners who share the use and maintain the road without assistance from a government agency. A private drive has not been transferred to a governing entity. An easement of use on the private drive or road shall permit use by the public. A private drive is allowed to be exempt from the public street regulations of Chapter 14 of the Code, but shall meet dimensional requirements established in Article 5.

*Private educational use*: The instruction, teaching or tutoring of students by an occupant of a residential dwelling as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes. No articles or products shall be sold on the premises other than by telephone. Such instruction, teaching or tutoring shall be limited to a maximum of three (3) students at a time, excluding children residing in the dwelling, and shall be limited to the hours of 9:00 a.m. to 9:00 p.m. Such private educational use shall be allowed as a permitted use in all districts where home occupations are allowed but private educational uses shall be subject to the supplemental regulations in Article 4.

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

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

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

*Private road*: See *Private drive*.

*Private street*: An access way similar to and having the same function as a public street, providing access to more than one (1) property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in the Code.

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

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

*Production, fruits, tree nuts, and vegetables*: Establishment for commercial agricultural field and orchard uses including production of fruits, tree nuts and vegetables.

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

*Public art*: See *Art, public.*

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

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

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

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

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

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

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

*Recovered materials processing*: Activity of preparing source-separated recoverable materials, such as newspapers, glassware, and metal cans, including collecting, storing, flattening, crushing, or bundling prior to shipment to others who will use those materials to manufacture new products. The materials are stored on-site in bins or trailers for shipment to market. “Processing” shall mean the preparation of material for efficient shipment by such means as baling, compacting, flattening, grinding, crushing, mechanical sorting, or cleaning.

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

*Recreation, active*: See *Active recreation*.

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

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

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

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

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

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

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

*Recycling collection point*: A neighborhood drop-off point for the temporary storage of recyclables.

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

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

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

*Replacement*: See Section 4.2.56(B).

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

*Residence hall*: See *Dormitory*.

*Residential component*: The primarily residential portion of a development that may contain a mix of single family detached, single family attached and multi-family dwelling units and may include small scale, non-residential uses.

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

*Residential use*: The occupation of a building and land for human habitation.

*Restaurant*: An establishment where food and drink are prepared, served, and consumed primarily within the principal building.

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

*Retail*: The sale of goods, wares or merchandises directly to the end-consumer.

*Retail warehouse/wholesale*: An establishment exceeding seventy thousand (70,000) square feet of gross floor area and offering a full range of general merchandise to the public, and may include gasoline.

*Retaining wall*: A structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

*Riding stable*: A building where horses and ponies are sheltered, fed, or kept.

*Right-of-way line*: The limit of publicly owned land or easement encompassing a street or alley.

*Rooming house*: See *Boarding house.*

*Salvage yard*: Land and/or buildings used for the dismantling, cutting up, compressing or other processing of waste items or materials, such as scrap, paper, metal, tires, large household appliances, such as washing machines or refrigerators, automobiles or other vehicles, or inoperable machinery. Salvaged materials may be stored outdoors or in a building and may be sold wholesale or retail. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. This term includes junk yards.

*Sand pit*: A surface mine or excavation used for the removal of sand, gravel, or fill dirt for sale or for use off-site.

*Satellite television antenna*: An apparatus capable of receiving but not transmitting television, radio, or cable communications from a central device transmitting said communications.

*Sawmill*: A facility where logs or cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

*Sawmill, temporary or portable*: A facility where sawing related machines are installed on the site temporarily to run as sawmill, but which can be moved by removing and reinstalling the machines to some other site.

*School, elementary*: Public, private or parochial school offering education for first through fifth grade.

*School, high*: Public, private or parochial school for the ninth through twelfth grades.

*School, middle*: Public, private or parochial school offering education for sixth through eighth grade.

*School, parochial*: School run by a church or parish and engages in religious education in addition to the conventional education.

*School, private*: Any building or group of buildings, the use of which meets state requirements for elementary, middle, or high school education and which use does not secure the major part of its funding from any governmental agency.

*School, public*: A building or group of buildings used for educational purposes, which meets state requirements for elementary, middle, or high school education, and that is funded by a government agency.

*School, specialty*: A school specializing in teaching martial arts, dance, music, visual arts and similar fields.

*School, vocational*: A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills or specialized curriculum for special needs individuals or the arts. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone.

*Screening fence*: An opaque structure designed to provide a visual barrier constructed of materials including wood, chain link with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the community development director.

*Secondary conservation area*: That portion of a site for which application is made for cluster housing development which consists of those areas of land which are outside the primary conservation area but which are environmentally sensitive, historically or culturally significant, scenic, or which possess other unusual attributes that merit conservation.

*Secondary material:* Complimentary building material allowed by zoning standards. Compare with *Primary material.*

*Secondhand store*: A facility for retail or consignment sales of previously used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. This classification does not include secondhand motor vehicles, parts, or accessories.

*Self-service car wash*: See *Car wash, self-service*.

*Semi-nude*: The exposure of one (1) or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

*Senior housing:* A multiple-family building or detached dwelling unit, or a combination of both housing types, which is occupied by at least one person who is fifty-five (55) years of age or older per dwelling unit. Also called Senior Living.

*Senior Living.* See *Senior housing.*

*Service area*: An outdoor work area associated with a commercial use, including work areas where goods and products are assembled, constructed, or repaired but not permanently stored.

*Service organization*: A voluntary non-profit service club or organization where members meet regularly to perform charitable works or raise money for charitable works.

*Setback*: The minimum horizontal distance required between the property line and the principal building or structure on a lot or any projection thereof except the projections allowed pursuant to Article 5.

*Sexually-oriented business*: See *Adult entertainment establishment*.

*Shared parking*: Parking shared by two (2) or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. The number of parking spaces in a shared parking facility is less than the combined total of the required minimum number of spaces for each individual use.

*Shelter for homeless persons*: A building or buildings in which is provided overnight housing and sleeping accommodations for one (1) or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services. Compare with *Transitional housing facility*.

*Shoe repair*: An establishment where shoes and boots are repaired remodeled or rebuilt by skilled shoe repairers. The establishment may also mend items like handbags and luggage.

*Shopping center*: A group of at least two (2) commercial establishments typically planned, constructed, and managed as a single entity, with on-site parking for customers and employees, and with delivery of goods separate from customer access.

*Shrub*: A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground. It may be deciduous or evergreen.

*Sidewalk*: A hard surface, ADA compliant, clear pathway that does not include any street furniture.

*Sight triangle*: A triangular area of visibility required on a corner of a roadway intersection to allow for the safe operation of vehicles, trains, pedestrians, and cyclists in the proximity of intersecting streets, rail lines, sidewalks, and bicycle paths.

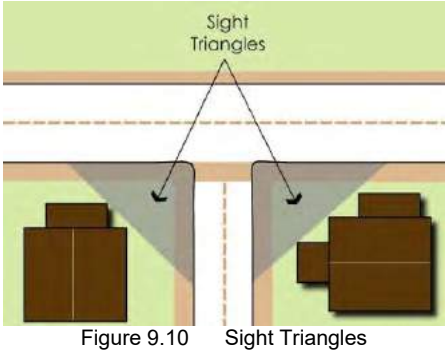



Figure 9.10 Sight Triangles

*Single-family attached*: See *Dwelling unit, single-family attached*.

*Single Family zoning district:* Any of the following zoning districts: RE, R-LG, R-100, R-85, R-75, R-60, MHP, and R-NC.

*Site*: The lot, area of a lot, or assemblage of lots subject to development.

*Site plan*: That plan required to acquire a development, construction or building permit which shows the means by which the developer will conform to applicable provisions of this chapter and other applicable ordinances.

*Soldier course*: A course of upright bricks with their narrow faces showing on the wall surface.

*Solid waste*: Any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 State. 923).

*Solid waste handling*: The storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste or any combination of such activities.

*Solid waste handling facility*: A facility primarily used for the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste.

*Solid waste thermal treatment technology facility*: Any solid waste handling facility, the purpose of which is to reduce the amount of solid waste to be disposed of through a process of combustion, with or without the process of waste to energy.

*Solid waste transfer facility*: A facility or site at which temporary storage and transfer of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A solid waste transfer facility is an intermediary point between the location(s) of waste generation (e.g., households, businesses, industries) and the site(s) of ultimate processing or disposal.

*Sorority house*: A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an institution of higher learning.

*Sound level meter*: An instrument that conforms to ANSI S1.4-1983 or its successors.

*Special administrative permit*: A written authorization granted by the community development director for a use of land pursuant to an application which that official is authorized to decide, in cases where a permit is required, pursuant to the procedures and criteria contained in Article 7.

*Special events facility*: A building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests. This definition shall not include places of worship.

*Special exception*: The approval by the zoning board of appeals of an application which that board is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in Article 7 of this chapter.

*Special land use permit*: The approval of a use of land that the mayor and city council is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in Article 7 of this chapter.

*Special permit*: A special administrative permit, special exception, or special land use permit.

*Specialty store*: A store, usually retail, that exhibits and sells specific or specialized types of items or brand. For example, a specialty store may sell cellular phones or organic food, or video games exclusively.

*Specified anatomical areas* shall include any of the following:

a. Less than completely and opaquely covered human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola; or

b. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

*Specified sexual activities* shall include any of the following:

a. Actual or simulated intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: analingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, sapphism;

b. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;

c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

d. Fondling or touching of nude human genitals, pubic regions, buttocks or female breasts;

e. Masochism, erotic or sexually oriented torture, beating or the infliction of pain;

f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being;

g. Human excretion, urination, menstruation, vaginal or anal irrigation.

*Sporting goods store*: A store that exclusively exhibits and sells items related to sports including, but not limited to, instruments, gears, shoes, and clothes.

*Stadium*: A structure with tiers of seats rising around a field or court, intended to be used primarily for the viewing of athletic events. The structure may also be used for entertainment and other public gathering purposes, such as conventions, circuses, or concerts.

*State*: The State of Georgia.

*Steady tonal quality*: Sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three (3) dB(A).

*Stealth telecommunications facility*: See Section 4.2.56(B).

*Stepback*: A step-like recession in the profile of a building, whereby the exterior wall surface of each successive story is located farther towards the interior of the building than the exterior wall of the story below it. Stepbacks may result from the transitional height plane requirement. See *Transitional height plane*.

*Stoop*: A small porch, platform, or staircase leading to the entrance of a house or building.

*Storage building*: Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, the use of which is limited solely to storage of inanimate objects.

*Storm water management facility*: Those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of storm water runoff into and through the drainage system.

*Story*: That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, shall be classified as a story.

*Street furniture zone in the Northlake Overlay District*: That portion of a sidewalk area that is intended to enhance that street's physical character and used by pedestrians, such as benches, trash receptacles, kiosks and newspaper racks.

*Street, public*: Any right-of-way set aside for public travel deeded to the city or county and any right-of-way which has been accepted for maintenance as a street by the city or county.

*Street right-of-way line*: The dividing line between a lot, tract or parcel of land and a street right-of-way.

*Structure*: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. This does not include telephone poles and utility boxes.

*Structure, accessory.* See *Accessory structure.*

*Subdivision*: As defined in Chapter 14 of the Code.

*Subdivision, major*: All subdivisions not classified as minor subdivisions, including, but not limited to, subdivisions of five (5) or more lots, or any size subdivision requiring any new street, public or private.

*Subdivision, minor*: A division of land into not more than four (4) lots, provided*:*

a. A minor subdivision does not require the construction of any public improvements including street, sidewalks, sewer or water lines and street trees.

b. All lots and any remaining tract shall be consistent with all applicable requirements of this zoning ordinance, including lot size, setbacks, frontage on a public road, width to depth ratio, and lot width.

c. At the time of filing of a subdivision plat, the property owner shall be required to show all possible lots which are permitted to be created through minor subdivision provisions of this zoning ordinance.

d. All driveway permits shall be subject to the review of the City of Tucker or DeKalb County Department of Transportation and Development or the State of Georgia Department of Transportation.

*Supplemental zone*: The additional sidewalk area other than the required sidewalk used to support outdoor dining or other amenities.

*Support structure(s)*: See Section 4.2.56(B).

*Supportive living*: A non-institutional, independent group living environment that integrates shelter and service needs of functionally impaired and/or socially isolated elders who do not need institutional supervision and/or intensive health care.

*Sustainable development*: A development that maintains or enhances economic opportunity and community well-being while protecting and restoring the natural environment upon which people and economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs.

*Synagogue*: See *Place of worship*.

*Tandem parking*: A parking space within a group of two (2) or more parking spaces arranged one behind the other such that the space nearest the street serves as the only means of access to the other space(s).

*Tattoo parlors and piercing studios*: An establishment whose principal business activity, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

*Taxi stand*: A reserved area where taxis or cabs are parked.

*Telecommunications antenna*: See Section 4.2.56(B).

*Telecommunications tower*: See Section 4.2.56(B).

*Telecommunications tower or antenna height*: See Section 4.2.56(B).

*Telecommunications facility/tower*: See Section 4.2.56(B).

*Telephone exchange building*: A building used exclusively for the transmission and exchange of telephone messages. The term shall not include wireless telecommunication towers or antennas.

*Temple*: See *Place of worship*.

*Temporary outdoor sales or event, seasonal:* Outdoor sales of products associated with seasons, holidays and agricultural seasons.

*Temporary produce stand*: A temporary vending structure used for the sale and/or display of seasonal produce.

*Tennis courts, play and recreation areas, community*: A public or private facility for the playing of tennis, swimming, or other type of outdoor recreation, including related retail sales and an accessory restaurant. This term does not include amenities for a subdivision or other form of housing.

*Theater*: A structure used for dramatic, operatic, dance, or music performances, or the rehearsal and presentation of other similar performing arts events, or for motion pictures, for which an admission fee is charged. Such establishments may include related services such as food and beverage sales and other concessions.

*Threshold:* The top of the subfloor in the opening that is designated as the front door of a dwelling.

*Thrift store:* A for-profit or non-profit business or organization that engages or specializes in the sale or resale of previously owned or used goods. This term includes antique shops, consignment stores, and secondhand stores.

*Tire retreading and recapping*: Businesses that primarily repair and retread automotive tires.

*Total sound level*: That measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

*Tow service*: Establishment that provides for the removal and temporary storage of vehicles, but does not include disposal, permanent disassembly, salvage, or accessory storage of inoperable vehicles. See also *Automobile Recovery and Storage*.

*Townhouse*: One (1) of a group of three (3) or more single-family dwelling units, attached side-by-side by a common wall. See *Dwelling, single-family*.

*Townhouse, stacked*: Multi-family building with the appearance of a townhouse (side-by-side attached), but which has multiple dwelling units whereby a unit is located above or below another.

*Trailer:* Any non-motorized vehicle or wheeled attachment designed to be towable, including, but not limited to landscape utility trailers, horse trailers, storage trailers, campers, recreational vehicle trailers designed for temporary living quarters while traveling or camping, fifth-wheel trailers, pop-up campers, transport trailers, and boat trailers.

*Transit*: The conveyance of persons or goods from one place to another by means of a local, public transportation system.

*Transitional buffer zone*: A natural or planted buffer area between two (2) different land uses which is intended to provide protection between said land uses and which meets the criteria for said buffer specified in Article 5.

*Transitional height plane*: A geometric plane that establishes the maximum permitted height of a building in a district that allows a greater density than that of an adjoining lower-density residential district. The transitional height plane shall begin at a point thirty-five (35) feet above setback or transitional buffer line, whichever is furthest from the property line, then extend at an upward angle of forty-five (45) degrees over the lot of the building.

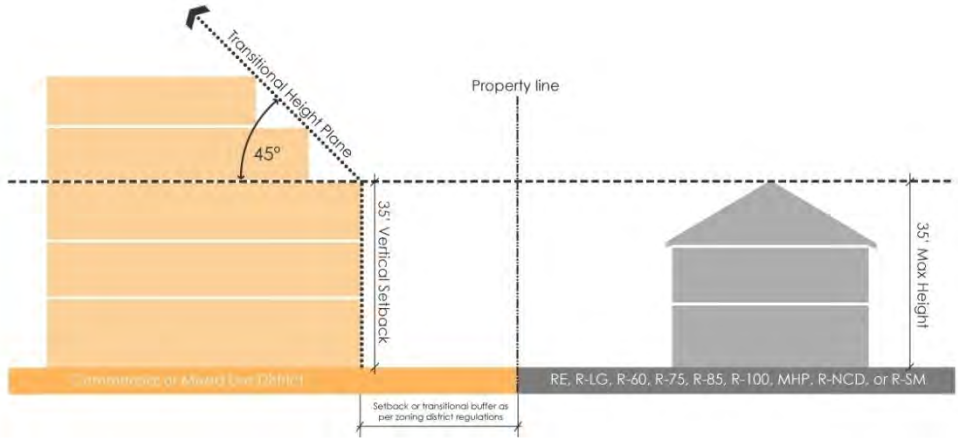



Figure 9.11 Transitional Height Plane

*Transitional housing facility*: A building or buildings in which is provided long-term but no permanent living accommodations for more than six (6) persons who have no permanent residence and are in need of long-term housing assistance. Compare with *Homeless shelter*.

*Transit oriented development (TOD)*: Moderate and high-density mixed-use development which is located along transit routes and encourages pedestrian use of public transportation.

*Transparent material*: Any material which allows light to be transmitted and objects to be seen clearly and with definition.

*Transportation equipment and storage or maintenance (vehicle)*: Any building, premises or land in which or upon which is the storage or maintenance of motor freight vehicles or equipment, without services provided, such as those provided by a truck stop. Compare with *truck terminal*.

*Tree*: Any living, self-supporting, woody perennial plant which has a trunk caliper of two (2) inches or more measured at a point six (6) inches above the ground and which normally attains a height of at least ten (10) feet at maturity usually with one (1) main stem or trunk and many branches.

*Tree canopy*: The area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

*Truck stop*: Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into such commercial vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

*Truck terminal*: An area and building where vehicles load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

*Turnaround*: A space, as in a driveway, permitting the turning around of a vehicle.

*Two-part commercial block style*: A building of two (2) stories or greater in height that has a flat roof and is characterized by a horizontal division of the building facade into two (2) distinct zones. These zones may be similar in design but shall be clearly separated from one another. The ground floor level of the building shall contain fenestration equal to seventy-five (75) percent of the width of the front facade of the building.

*Universal Barrier*: A type of root barrier for street trees.

*Understory tree*: A deciduous or evergreen tree which attains a mature height of no greater than thirty (30) feet.

*University:* See *College.*

*Urban garden*: A lot, or any portion thereof, managed and maintained by a person or group of persons, for growing and harvesting, farming, community gardening, community-supported agriculture, or any other use, which contributes to the production of agricultural, floricultural, or horticultural products for beautification, education, recreation, community or personal use, consumption, sale, or donation. An urban garden may be a principal or accessory use on lots including, but not limited to, those owned by individuals, non-profit organizations, and public or private institutions like universities, colleges, school districts, hospitals, and faith communities. This definition excludes gardens accessory to an individual's residence.

*Usable satellite signals*: Satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

*Usable open space*: See *Open space, usable.*

*Use*: The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

*Utility*: Any public or private agency that provides for the generation, transmission or distribution of electricity, gas, water, storm water, wastewater, communication, transportation, or other similar service, excluding those utilities that are public uses.

*Valet*: See *Parking, valet.*

*Value added products*: Prepared farm products such as baked goods, jams and jellies, canned vegetables, dried fruit, syrups, salsas, salad dressings, flours, coffee, smoked or canned meats or fish, sausages, or other prepared foods.

*Van service*: A commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination.

*Variance*: Permission to depart from the requirements of this chapter pursuant to the requirements of Article 7.

*Vehicle storage yard:* A building or land that is used principally for long-term parking of any class of passenger or non-passenger vehicles, including but not limited to automobile fleets associated with commercial business, delivery trucks or other commercial vehicles, or associated with government operations such as school buses, postal delivery trucks, or sanitation trucks. The term "vehicle storage yard" includes off-site parking of commercial vehicles such as those used in light or heavy landscaping or construction, but does not include transportation vehicle such as semi-tractor trailers. A vehicle storage yard may include minor repair of the vehicles as an accessory use. Compare with *Auto recovery and storage*.

*Vehicle trip: A vehicular movement either to or from the subject* property by any vehicle used in a home occupation, any vehicle associated with a home occupation, or any customer or client vehicle.

*Vehicular use area*: Any portion of a site or a property, paved or unpaved, designed to receive or accommodate vehicular traffic, including the driving, parking, temporary storage, loading, or unloading of any vehicle.

*Veterinary clinic*: See *Animal hospital*.

*Videotape sales and rental store*: An establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes, or other electronic media. Sales of film, video tapes, laser discs, CD-ROMs, and electronic merchandise associated with VCRs, video cameras and electronic games are permitted accessory uses.

*Viewshed*: The total visible area from an identified observation position or positions.

*Village center*: The central shopping or gathering place within a traditional neighborhood which contains commercial uses and open space and which may contain public space.

*Wall*: A structure used as a solid retaining, screening, or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials.

*Wall plane. A*n area of a wall between a wall offset and another wall offset or a corner.

*Waste to energy facility*: A solid waste handling facility that provides for the extraction and utilization of energy from county solid waste through a process of combustion.

*Weekday*: The time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

*Weekend*: The time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

*Wetlands*: An area of land meeting the definition of "wetlands" set forth in 33 C.F.R. Part 328.3(b) of the Code of Federal Regulations, as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

*Wind turbine*: A turbine, a rotating machine which mounted on a tower, is used to capture energy from the wind to produce electricity.

*Workforce housing*: For-sale housing that is affordable to those households earning eighty (80) percent of median household income for the Atlanta Metropolitan Statistical Area (MSA) as determined by the current fiscal year HUD income limit table at the time the building is built.

*Xeriscape*: A landscape designed and maintained with the principles that promote good horticultural practices and efficient use of water and is characterized by the use of vegetation that is drought-tolerant or of low water use in character.

*Yard*: That area of a lot between the principal building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.

*Yard sale*: The temporary residential sale of tangible personal property, such as but not limited to, household items, clothing, tools, toys, recreational equipment, or other used or secondhand items normally found in and about the home. This definition includes the terms estate sale, if held outside, garage sale, basement sale, carport sale, moving sale, or rummage sale. This temporary use may be conducted by an individual, multiple persons, churches, social civic or charitable organizations, a neighborhood group, church or civic association.

*Yard, corner side*: An open-space area of a corner lot between the exterior side lot line and the required exterior side building setback line, extending between the front building setback line and the rear building setback line.

*Yard, front*: An area extending across the total width of a lot between the front lot line and the building. With respect to limitations within the front yard, there can only be one (1) front yard.

*Yard, interior side*: A yard extending between the front and rear yards and being that area between the side lot line, where the side lot line is coincidental with the side or rear lot line of an adjacent lot, and that line or lines established by the side wall or walls of the principal structure.

*Yard, rear*: A yard extending across the total width of a lot between side lot lines and being that area between the rear lot line and that line or lines established by the rear wall or walls of the principal structure projected to intersect the side lot lines.

*Yard, side*: A yard extending between the front and rear yards and being that area between the side lot lines and the principal structure.

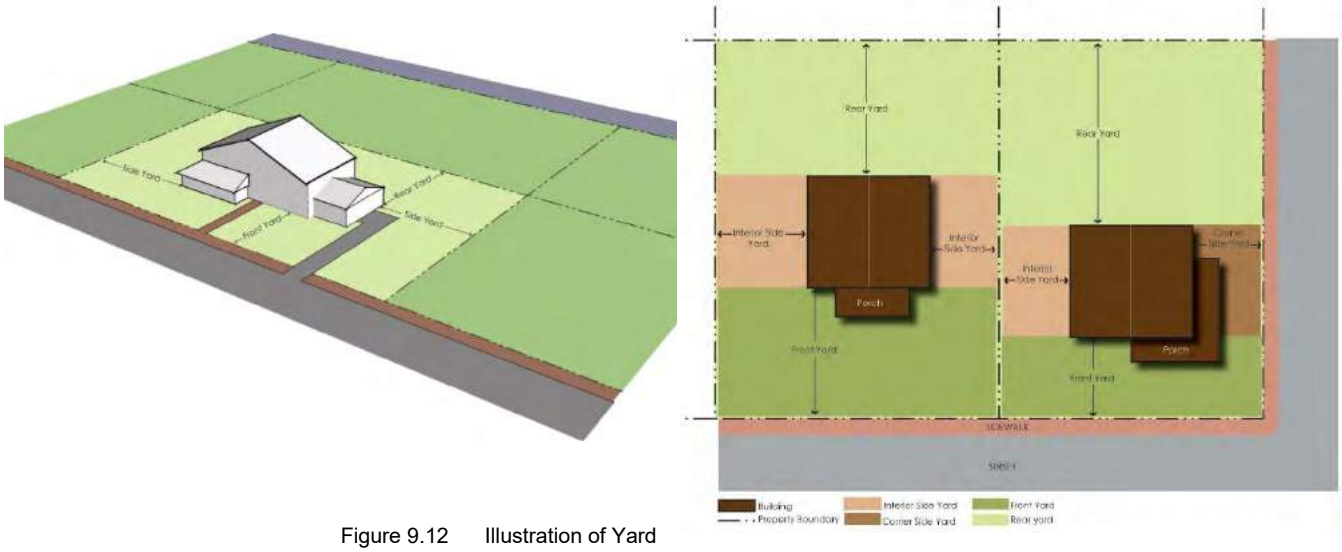



Figure 9.12 Illustration of Yard

*Zoning decision*: Final legislative action by a local government which results in:

a. The adoption of a zoning ordinance;

b. The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;

c. The adoption of any amendment to a zoning ordinance which rezones the property from one zoning classification to another;

d. The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality;

e. The grant of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by Georgia law; or

f. Denial of the aforementioned ordinances or permits.

*Zero lot line*: When location of a building in such manner that one or more of building's exterior wall is allowed to rest directly on the lot line or property boundary.

# SLUP-16-003
# VS-16-003-01
# VS-16-003-02

LAND USE PETITION SLUP-16-003

Case Information:

**Case Number**: SLUP-16-003; VS-16-003-01; VS-16-003-02

**Current Zoning:** R-85

**Proposed Zoning:** R-85

**Location:** 1983 Brockett Road

**Acreage:** 14.37

**Future Land Use Map Designation:** SUB (Suburban)

**Overlay District:** N/A

**District:** 18th District

**Land Lot(s):** 186

**Project Description:** Existing church and proposed 12,000 square-feet family life center; concurrent variance to allow an accessory structure within the front yard; concurrent variance to exceed the permitted height of an accessory structure

**Applicant:** Mt. Moriah Missionary Baptist Church of Tucker c/o Battle Law

**Owner:** Mt. Moriah Missionary Baptist Church

Expected Hearing Dates:

**Community Council:** October 12, 2016

**Planning Commission:** November 28, 2016

**Mayor and City Council:** December 12, 2016 and January 9, 2017

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

AMENDED

# APPLICATION

| APPLICANT INFORMATION | OWNER INFORMATION |
|---|---|
| NAME: Mt. Moriah Missionary Baptist Church of Tucker, Georgia, Inc. | NAME: Mt. Moriah Missionary Baptist Church of Tucker, Georgia, Inc. |
| ADDRESS: c/o Battle Law. P.C., One West Court Square, Suite 750, | ADDRESS: 1983 Brockett Road |
| CITY: Decatur | CITY: Tucker |
| STATE: Georgia ZIP: 30030 | STATE: Georgia ZIP: 30084 |
| PHONE: 404-745-0045 | PHONE: 770-934-5002 ext. 108 |

CONTACT PERSON: Michele L. Battle PHONE: 404-745-0045

CONTACT'S E-MAIL: mlb@battlelawpc.com

**APPLICANT IS THE:**

☑ OWNER'S AGENT ☐ PROPERTY OWNER ☐ CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): R85 REQUESTED ZONING DISTRICT: _____

PRESENT LAND USE CATEGORY: _____ REQUESTED LAND USE CATEGORY: _____

LAND DISTRICT(S): 18 LAND LOT(S): 186 ACREAGE: 14.366

ADDRESS OF PROPERTY: 1983 Brockett Road

PROPOSED DEVELOPMENT: existing church and a new 12,000 square-foot family life center as Accessory Use for the existing church

Allow 35ft accessory structure

CONCURRENT VARIANCES: Allow an accessory use within the front yard

| RESIDENTIAL DEVELOPMENT | NON-RESIDENTIAL DEVELOPMENT |
|---|---|
| No. of Lots/Dwelling Units _____ | No. of Buildings/Lots: 1 |
| Dwelling Unit Size (Sq. Ft.): _____ | Total Building Sq. Ft. 12,000 Sq. Ft. |
| Density: _____ | Density: _____ |

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

## APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.

Wayne M

Signature of Applicant

9/24/16

Date

Wayne Morehead, Business Administrator

Type or Print Name and Title

Signature of Notary Public

09/24/2016

Date

BATOYA CLEMENTS NOTARY PUBLIC GWINNETT COUNTY, GA My Comm. Exp. May 04, 2020

Notary Seal

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

# PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

I, Wayne Morehead (Property Owner), authorize, Michele L. Battle (Applicant),

to file for SLUP (RZ, CA, SLUP, CV), at 1983 Brockett Road (Address)

on this date 9/24/16 (Month) _____ (Day), 20_____

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Signature of Property Owner  Date

Wayne Morehead, Business Administrator
Type or Print Name and Title

Signature of Notary Public  Date 9/24/2016  Notary Seal

BATOYA CLEMENTS NOTARY PUBLIC EXP. May 04, 2020 GWINNETT COUNTY, GA

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

Amended and Restated
Environmental Site Analysis (ESA)

1. **Conformance with the Comprehensive Plan**. The Subject Property is located in a single-family residential district, zoned R-85. It has been used as a place of worship for the last thirty years. The 2025 Comprehensive Plan shows the Subject Property as having a land use designation of Suburban. Therefore, it is the Applicant's belief that the special land use proposal of the Subject Property as a place of worship will allow for a use that is more compatible with the surrounding uses.

2. **Environmental Impacts of the Proposed Project.**

   (a) **Wetlands.** According to the National Wetlands Inventory Wetlands Mapper, the Subject Property is not located within any area designated as wetlands

   (b) **Floodplain.** According to the FEMA National Flood Hazard interactive mapping system, a small portion to the rear of the Subject Property is in flood hazard Zone AE.

   (c) **Streams/stream buffers.** Based on field observation and verification by the Applicant's surveyor, there are no streams located on the Subject Property.

   (d) **Slopes exceeding 25 percent over a 10-foot rise in elevation.** Based on field observation and verification by the Applicant's surveyor, there are no slopes exceeding 25 percent over a 10-foot rise in elevation on the Subject Property.

   (e) **Vegetation (including endangered species).** To the Applicant's knowledge and based on field observation there are no endangered species located on the Subject Property.

   (f) **Wildlife Species (including fish and endangered species).** Based on field observation, and to the Applicant's knowledge, there are no wildlife species, including fish and endangered species located on the Subject Property.

   (g) **Archeological/Historical Sites.** Based on field observation and to the Applicant's knowledge, there are no archeological or historical sites located on the Subject Property.

3. Project Implementation Measures

   (a) **Protection of environmentally sensitive areas.** There are no environmentally sensitive areas located on the Subject Property.

   (b) **Protection of water quality.** All stormwater runoff generated from the site shall be adequately treated before discharge in accordance with local requirements.

   (c) **Minimization of negative impacts on existing infrastructure.** The existing infrastructure surrounding the Subject Property will not be negatively impacted by the development of the proposed project. It is the Applicant's intent to comply with all City of Tucker development regulations, and to connect into the existing utilities in the area in order to minimize disturbance in the surrounding community.

(d) **Minimization on archeological/historically significant area.** To the Applicant's knowledge, there are no archeological/historically significant areas located on or near the Subject Property.

(e) **Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project are generally compatible with nearby residential communities, and will be contained wholly within the building, and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property.

(f) **Creation and preservation of green space and open space.** The proposed project will not result in the removal of trees from the Subject Property. A significant amount of open green space will remain on the Subject Property.

(g) **Protection of citizens from the negative impacts of noise and lighting.** All lighting on the Subject Property will be in compliance with the County rules and regulations, and in accordance with the County's noise regulations.

(h) **Protection of parks and recreational green space.** To the Applicant's knowledge, there are no parks or recreational green space in the area.

(i) **Minimization of impacts to wildlife habitats.** To the Applicant's knowledge, there are no wildlife habitats on or near the Subject Property.

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

## Environmental Impact Report

**1. Environmental Adverse Uses.** There are no environmentally sensitive uses located on the Subject Property.

2. **Impact on noise levels of the surrounding area.** The use of the Subject Property will be in compliance with the City of Tucker's rules and regulations regarding noise levels. As the use on the Subject Property will be wholly contained within the proposed improvements with adequate and required noise buffering, there should be no impact on the surrounding area from the proposed use of the Subject Property.

**3. Impact on air quality of surrounding area**. As previously stated, the proposed project will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property

**4. Impacts of water quality/resources.** All stormwater runoff generated from a site shall be adequately detained and treated before discharged.

**5. Impacts on vegetation, fish and wildlife species**. There are no state waters, made ponds or other water features on Subject Property. To the best of Applicant's knowledge there is no wildlife located on or near the Subject Property. No trees will be removed during the development of the Subject Property.

**6. Impacts of thermal and explosive hazards on the surround areas.** The Subject Property will be used for a family life center which will provide office space, classrooms, and a multi-purpose room. There is no intent for thermal or explosive hazards to be located on the Subject Property, and to the extent that any such uses may be located on the Subject Property in accordance with the R-85 District Regulations, such uses will be conducted in accordance with all Federal, State and local laws and regulations.

**7. Impacts of hazardous wastes on the surrounding area.** The Subject Property will be used for a family life center which will provide office space, classrooms, and a multi-purpose room, and to the extent that any hazardous waste is generated in connection with the operation of any business to be located on the Subject Property in accordance with the R-85 District Regulations, such waste shall be disposed of in accordance with all Federal, State and local laws and regulations.

**8. Minimization of negative impacts on environmentally stressed communities.** The proposed uses in the proposed project will be contained wholly within the building, and to the knowledge of Applicant, will not generate any measurable dust, vibrations, odor, glare, emissions or noise beyond the Subject Property. Furthermore, to the best of the Applicant's knowledge, there are no environmental stressed communities within the general vicinity of the Subject Property.

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

# AMENDED AND RESTATED STATEMENT OF INTENT

And

Other Material Required by
City of Tucker, Georgia Zoning Ordinance
For

A Special Land Use Permit for a Place of Worship pursuant to
the City of Tucker Zoning Ordinance

Of

MT. MORIAH MISSIONARY BAPTIST CHURCH OF TUCKER, GEORGIA, INC.

For

+/-14.366 acres of Land
located at
1983 Brockett Road in
Land Lot 186, 18th District, City of Tucker, City of Tucker

Submitted for Applicant by:

Michèle L. Battle
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
(404) 601-7616 Phone
(404) 745-0045 Facsimile
mlb@battlelawpc.com

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

## I. STATEMENT OF INTENT

The Subject Property is a 14.366-acre tract of land located at 1983 Brockett Road, which is currently zoned R-85 and has been used as a place of worship for in excess of 30 years. Since the Applicant acquired the Subject Property, the Church has modified its use of the existing improvements. The original sanctuary is now used as a Student Center, the Sanctuary has been moved into the building formerly used as a gym, and the administrative building is still used for the same purpose. Due, however, to the differing needs of the congregation, the Church desires to develop a 12,000 sq. ft. family life center on the Subject Property will provide for additional office space, classrooms and a new multi-purpose room that will primarily be used as a basketball court. In order to develop the family life center a Special Land Use Permit must be issued for the Church, which is currently a legal non-conforming use. Brockett Road is a minor arterial road, and the Subject Property is in excess of 3 acres.

SECTION 27-873 CRITERIA

**A. Adequacy of the size of the Site for contemplated use:** The site is adequate for the proposed use. The subject property is 14.366 acres and provides ample space for the proposed use.

**B. Compatibility of the proposed use with adjacent properties:** The proposed use is compatible with the adjacent properties, which include both residential uses, as well as another place of worship located on the southern boundary line of the Subject Property.

**C. Adequacy of public services, facilities and utilities:** There are adequate public services, facilities and utilities to support the proposed uses.

**D. Adequacy of the public street:** The Subject Property is located on Brockett Road, which is classified as a "Minor Arterial" street, and as such has adequate capacity to handle the volume of traffic to be generated by the proposed use.

**E. Possibility of adverse effect along access routes to the site:** There is no possibility of adverse effect along the access route to the Subject Property as a result of the used of the Subject Property as a place of worship, including the development of the family life center.

**F. Ingress and egress to the subject property:** There is adequate ingress and egress to the Subject Property. The Subject Property has two driveways, which allow for adequate circulation for ingress and egress.

**G. Adverse impact on adjoining land use by reason of noise, smoke, odor, dust or vibration:** The Applicant's proposed use of the Subject Property will not create an adverse impact on the adjoining land uses by reason of noise, smoke, odor, dust or vibration.

**H. Adverse impact on adjoining land use by reason of hours of operation:** The Applicant's hours of operation will not have an adverse impact on the adjoining land uses. The

Church is open throughout the week during normal business hours. All evening activities at the Church are typically over by no later than 9pm. During the weekend the Church has similar hours between 8am and 9pm on Saturday and 8am and 7pm on Sunday.

**I. Adverse impact by manner of operation:** The manner of operation of the Applicant will not have an adverse impact on the adjoining land uses.

**J. Use consistent with zoning district classification:** The use of the Subject Property for a place of worship is consistent with the R85 Zoning District Regulations.

**K. Use consistent with the Comprehensive Land Use Plan:** The use of the Subject Property for a place of worship is consistent with the Comprehensive Land Use Plan designation for the Subject Property, which is Suburban.

**L. Compliance with buffer zones and setback requirements**: The proposed uses will be developed in compliance with the development requirements for the R-85 District Regulations and with the Zoning Ordinance's supplemental regulations applying to Places of Worship.

**M. Adequate provision for refuse and service areas:** There is adequate provision for refuse and service areas.

**N. Length of time for SLUP:** The special land use permit should not be limited in duration.

**O. Appropriateness of size, scale and massing of buildings in comparison to adjacent properties:** The size, scale and massing of the existing building is appropriate in comparison to the surrounding residential uses.

**P. Adverse historic impact:** The proposed project will not have an adverse impact on any historic buildings, sites, districts or archaeological resources in the surrounding area.

**Q. Satisfaction of Supplemental Regulations:** N/A

**R. Appropriateness of height:** The proposed uses will be in compliance with theR-85 District regulations, and will not exceed 35 feet in height.

**S. Compatibility with Community Needs**. The Subject Property has been a place of worship for in excess of 30 years. Its presence is woven into the fabric of the surrounding community, as it services the spiritual needs of those attending.

## CONSTITUTIONAL ALLEGATIONS

The portions of the City of Tucker Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as

to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

A denial of this Application would constitute an arbitrary and capricious act by the City of Tucker Mayor and City Council without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

# AMENDED AND RESTATED
# CONCURRENT VARIANCE JUSTIFICATION

APPLICANT: Mt. Moriah Missionary Baptist Church of Tucker, Georgia, Inc.

SUBJECT PROPERTY: 1983 Brockett Road

ATTORNEY: Michèle L. Battle, Esq.
Battle Law, P.C.
One West Court Square, Suite 750
Decatur, Georgia 30030
Phone: 404.601.7616

---

The Subject Property is a 14.366 acre tract of land located at 1983 Brockett Road which is currently zoned R-85 and has been used as a place of worship for in excess of 30 years. Since the Applicant acquired the Subject Property, the Church has modified its use of the existing improvements. The original sanctuary is now used as a Student Center, the Sanctuary has been moved into the building formerly used as a gym, and the administrative building is still used for the same purpose. Due, however, to the differing needs of the congregation, the Church desires to develop a 12,000 sq. ft. family life center on the Subject Property will provide for additional office space, classrooms and a new multi-purpose room that will primarily be used as a basketball court. In order to avoid the removal of a significant number of trees, as well as not interfering with the drainage ditch/stream buffer in the rear yard of the property, the Applicant is seeking the following concurrent variances:

1. Allow parking within the front yard for an accessory use; and
2. To allow an accessory use of 35feet in height

## VARIANCE CRITERIA

1. **By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district;**

The Subject Property has been developed as a place of worship for in excess of 30 years, with three existing structures being currently located on the site. The church sanctuary now sits to the rear of the original sanctuary and administrative building. Behind the sanctuary is a very heavily wooded area which provides a buffer from the residential community that lies immediately to the East of the Subject Property.

Additionally, within the rear yard is a drainage ditch. The parking lots are located within the side yards of the Subject Property. Therefore, the majority of the Subject Property is already built out. The area in which the Church proposes to locate the accessory building, is on a grassed area that serves no useful purpose, and would allow the Church to develop the Family Life Center with little to no disruption to the current use of the Subject Property.

With respect to the request height increase, the proposed Family Life Center will not exceed the 35ft height of the existing sanctuary. The additional height in excess of the allow 24' is needed in order to allow for the gymnasium and the office space and classrooms that will be provided for within the building.

The topographic conditions of the Subject Property were not created by the Applicant and support the approval of this concurrent variance request, as the strict application of the requirements of the City of Tucker Zoning Ordinance would deprive the Applicant of rights and privileges enjoyed by other places of worship.

2. **The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located**

It is the Applicant's contention that the requested variances do not go beyond the minimum necessary to afford relief, and do not constitute a special privilege.

3. **The grant of the variances will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located**

The granting of the requested variances will not have a negative impact on the surrounding community or be detrimental to the public welfare. In fact, the failure to grant the requested variance will result in negatively impacting the surrounding community.

4. **The literal interpretation and strict application of the applicable provisions or requirements of the Zoning Ordinance will cause undue and unnecessary hardship on the Applicant.**

The literal interpretation and strict application of the applicable provision or requirements of the Zoning Ordinance would cause undue and unnecessary hardship on the Applicant, and thereby cause the Applicant to be treated in a manner which is dissimilar to other comparable businesses.

**5. The requested variance would be consistent with the spirit and purpose of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.**

The requested variances are consistent with the spirit, purpose and intent of the City of Tucker Zoning Ordinance and the Comprehensive Plan text.

## CONSTITUTIONAL ALLEGATIONS

The portions of the Zoning Resolution of the City of Tucker as applied to the Subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph 1 and 2 of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

In addition, the development of the Subject Property subject to the present standards set forth in the Zoning Ordinance is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of applicant's property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

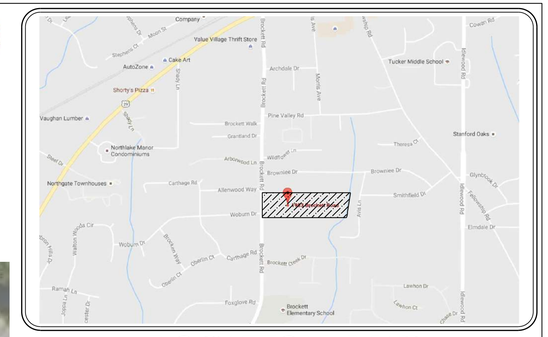
A denial of this Application would constitute an arbitrary and capricious act by the City of Tucker without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City of Tucker Mayor and City Council to grant the variances as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any variances or special exceptions granted with respect to the subject Property that are subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

# MOUNT MORIAH BAPTIST CHURCH

## FAMILY LIFE CENTER ADDITION

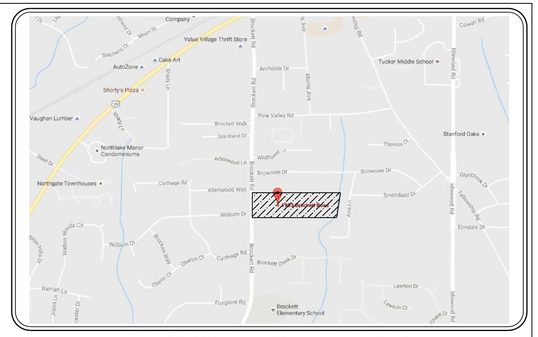
Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02


Company
Value Village Thrift Store
AutoZone
A Cake Art
Shorty's Pizza
Vaughan Lumber
Northlake Manor Condominiums
Northgate Townhouses
Tucker Middle School
Stanford Oaks
Brockett Elementary School
Brockett Rd
Pine Valley Rd
Brockett Walk
Grantland Dr
Arbordale Dr
Brownlee Dr
Carriage Rd
Allenwood Way
Woburn Dr
Wolburn Dr
Brockett Chase Dr
Foxglove Rd
Lawton Dr
Lawton Ct
Smithfield Dr
Theresa Dr
Glynbow Ct
Elmdale Dr
Chapel Rd
Richardson Rd
Mimosa Rd
Mimosa Ct
Chapel Ct
Ramah Ln
Ramah Ct
Wallace Rd
Wallace Ct
Oakton Ct
Cumhaw Rd
Oakton Dr
Brockett Chase Ct
Brownlee Ct
Arbordale Ln
Wildwood Ln
Theresa Ct
Lawton Ct
Lawton Dr
Chapel Ct
Mimosa Rd
Mimosa Ct
Elmdale Dr
Glynbow Ct
Smithfield Dr
Brownlee Dr
Brockett Chase Dr
Foxglove Rd
Woburn Dr
Allenwood Way
Carriage Rd
Arbordale Dr
Brockett Walk
Grantland Dr
Pine Valley Rd
Brockett Rd
Richardson Rd
Chapel

# MOUNT MORIAH BAPTIST CHURCH

## FAMILY LIFE CENTER ADDITION

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

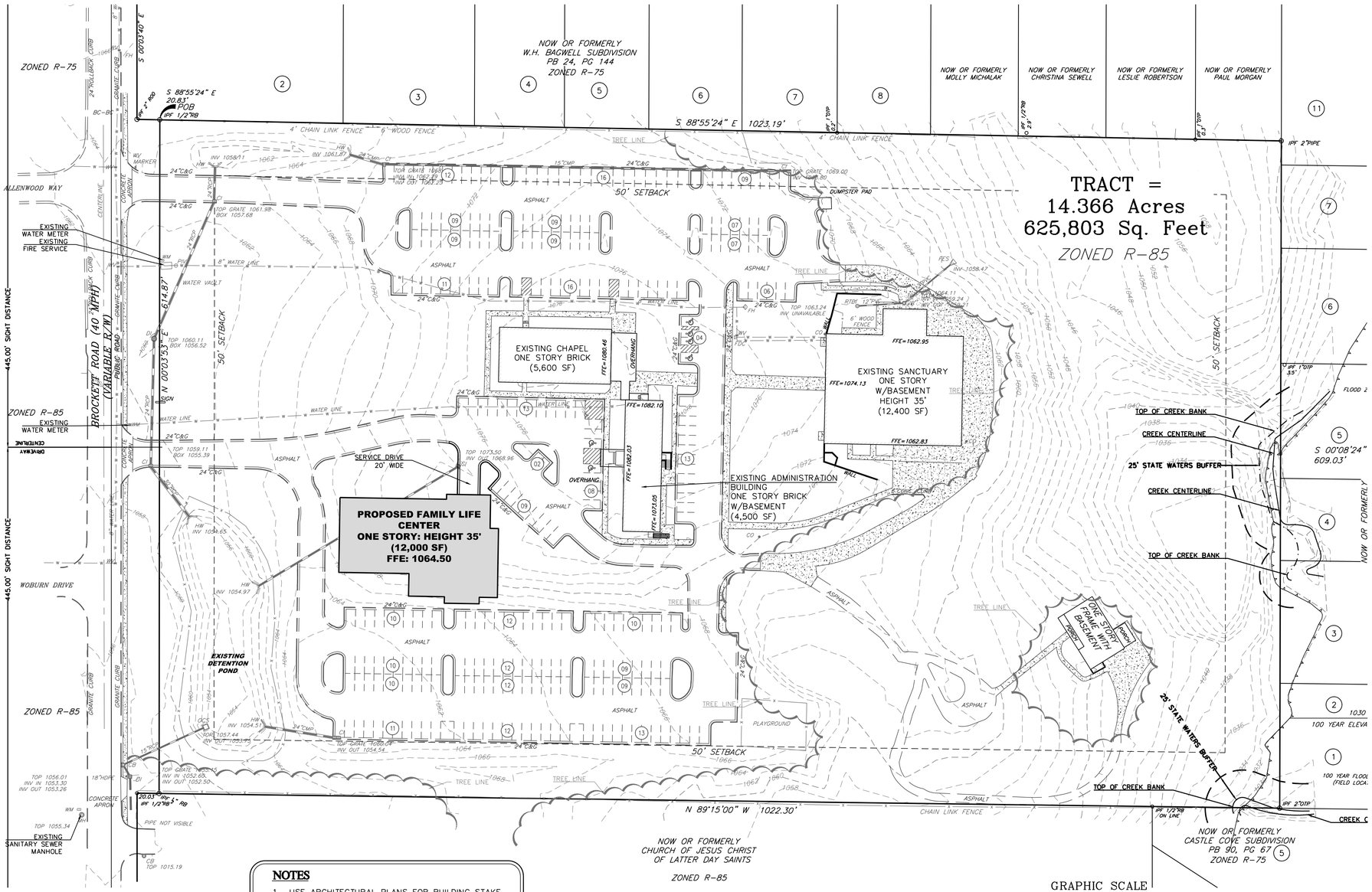


**LOCATION MAP**
N.T.S.


EBERLY & ASSOCIATES
TEL: 770.452.7849 FAX: 770.452.0086
1852 CENTURY PLACE, SUITE 202
ATLANTA, GEORGIA 30345
WWW.EBERLY.NET

LAND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE


GEORGIA REGISTERED PROFESSIONAL ENGINEER No. 025453 KEVIN S. EDWARDS




**OWNER/DEVELOPER**
DR. JEROME KING
MT. MORIAH BAPTIST CHURCH
1983 BROCKETT ROAD
TUCKER, GA 30084

**ENGINEER**
MIKE WRIGHT
EBERLY & ASSOCIATES, INC.
1852 CENTURY PLACE,
SUITE 202
ATLANTA, GEORGIA 30345
(770) 452-7849

**24 HOUR CONTACT**
CONTACT: WAYNE MOREHEAD
770-934-5002
WAYMORE@COMCAST.NET

## SITE DATA

ZONING USE: R-85
TOTAL ACREAGE: 14.366 AC
DISTURBED ACREAGE: 1.63 AC

DEKLAB COUNTY, GA
LAND LOT 186; 18TH DISTRICT
PARCEL #: 18 186 01 027

## BUILDING DATA

PROPOSED BUILDING SQUARE FOOTAGE:
12,000 sq. ft.

## PARKING DATA

REQUIRED PARKING
ONE (1) SPACE FOR EACH FOUR (4)
SEATS IN THE LARGEST ASSEMBLY ROOM

LARGEST ASSEMBLY ROOM: SANCTUARY
SANCTUARY CONTAINS 675 SEATS

REQUIRED PARKING = 675 / 4
REQUIRED PARKING = 168.75 SPACES
REQUIRED PARKING = 169 SPACES

EXISTING PARKING PROVIDED: 309 SPACES
4 HANDICAP SPACES
2 VAN H/C SPACES

**NOTES**

1. USE ARCHITECTURAL PLANS FOR BUILDING STAKE OUT.
2. ALL DIMENSIONS SHOWN ARE FROM FACE OF BUILDING, CURB, OR WALL UNLESS OTHERWISE NOTED.

GRAPHIC SCALE
50 0 25 50 100 200
( IN FEET )
1 inch = 50 ft.

CALL 811
FREE THROUGHOUT THE U.S.A.
THREE WORKING DAYS BEFORE YOU DIG.
GEORGIA811 www.Georgia811.com
Know what's below. Call before you dig.

PROJECT: MOUNT MORIAH BAPTIST CHURCH
LAND LOT 186
18TH DISTRICT
DEKALB COUNTY, GEORGIA
1983 BROCKETT ROAD
PARCEL: 18 186 01 027

REVISIONS:

SLUP SITE PLAN

| | |
|---|---|
| SCALE: | 1" = 50' |
| DATE: | 10/04/2016 |
| DRAWN BY: | ANTONIO SAMPLE |
| PROJECT MANAGER: | MIKE WRIGHT |
| QA/QC CHECK: | KRVIN EDWARDS |

PROJECT NO.
0P16-271

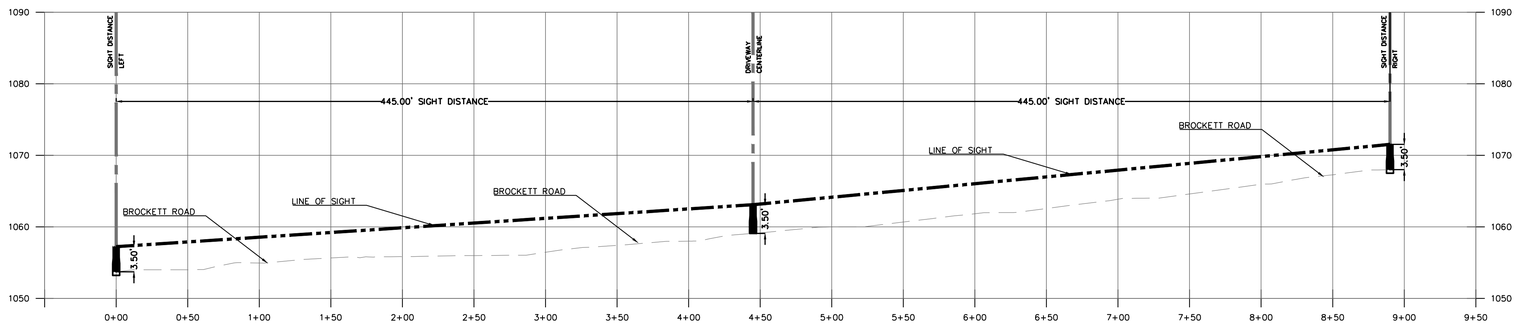
SHEET NO.
EX.2

© EBERLY & ASSOCIATES, INC.

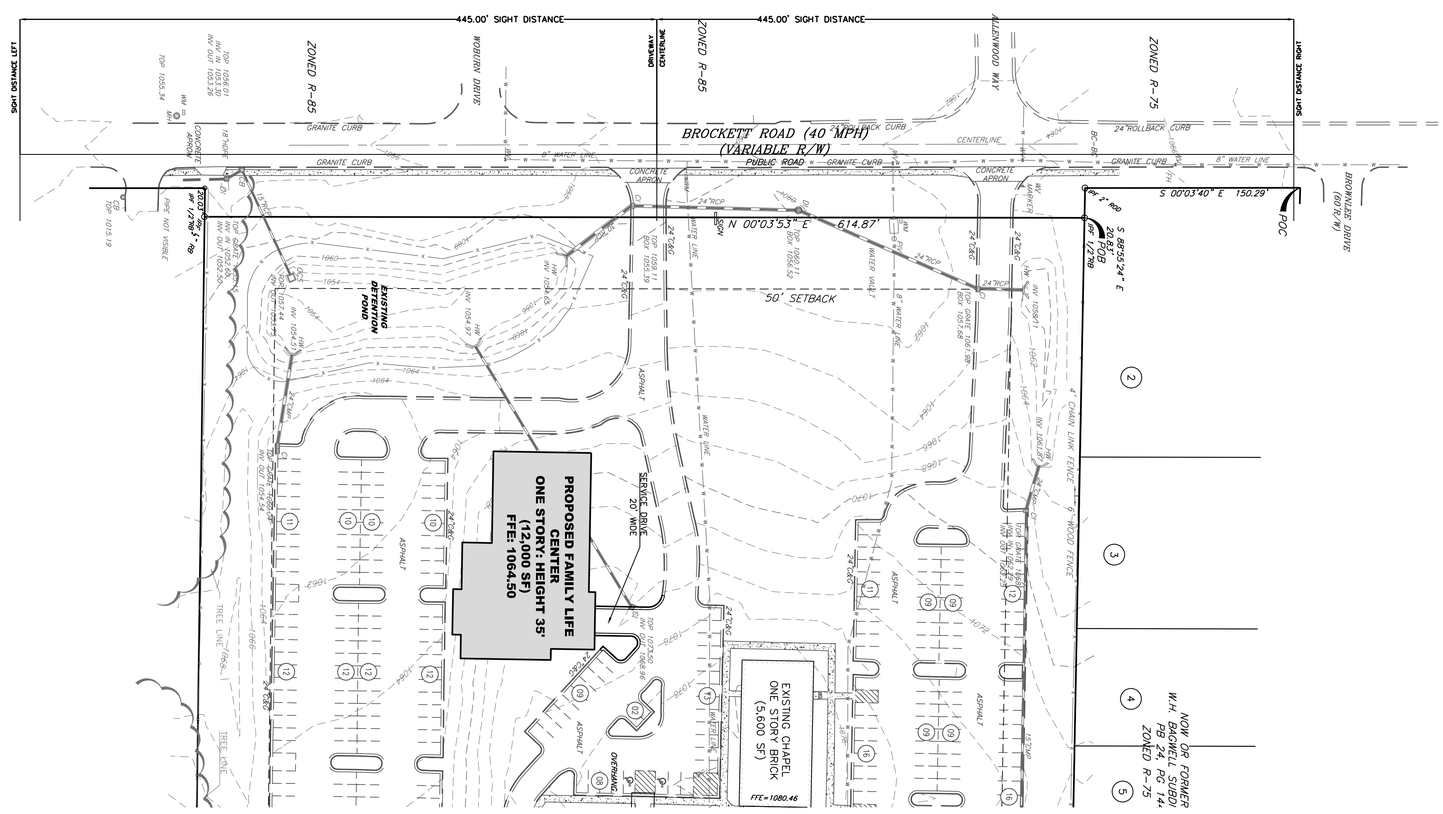
# MOUNT MORIAH BAPTIST CHURCH

## FAMILY LIFE CENTER ADDITION

Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02




SIGHT DISTANCE PROFILE

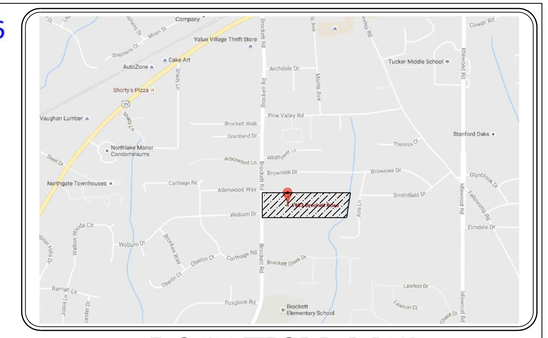



BROCKETT ROAD POSTED SPEED LIMIT = 40 MPH
PER TABLE 3-4 "INTERSECTION SIGHT DISTANCE REQUIREMENTS OF THE "GEORGIA DOT REGULATIONS FOR DRIVEWAY AND ENCROACHMENT CONTROL" MANUAL
40 MPH ON A TWO LANE ROAD = 445 FT SIGHT DISTANCE WITH 3.5' EYE HEIGHT

GRAPHIC SCALE

50 0 25 50 100 200

( IN FEET )
1 inch = 50 ft.




## LOCATION MAP

N.T.S.

**OWNER/DEVELOPER**

DR. JEROME KING
MT. MORIAH BAPTIST CHURCH
1983 BROCKETT ROAD
TUCKER, GA 30084

**ENGINEER**

MIKE WRIGHT
EBERLY & ASSOCIATES, INC.
1852 CENTURY PLACE,
SUITE 202
ATLANTA, GEORGIA 30345
(770) 452-7849

**24 HOUR CONTACT**

CONTACT: WAYNE MOREHEAD
770-934-5002
WAYMORE@COMCAST.NET

### SITE DATA

ZONING USE: R-85
TOTAL ACREAGE: 14.366 AC
DISTURBED ACREAGE: 1.63 AC

DEKLAB COUNTY, GA
LAND LOT 186; 18TH DISTRICT
PARCEL #: 18 186 01 027

### BUILDING DATA

PROPOSED BUILDING SQUARE FOOTAGE:
12,000 sq. ft.

### PARKING DATA

REQUIRED PARKING
ONE (1) SPACE FOR EACH FOUR (4)
SEATS IN THE LARGEST ASSEMBLY ROOM

LARGEST ASSEMBLY ROOM: SANCTUARY
SANCTUARY CONTAINS 675 SEATS

REQUIRED PARKING = 675 / 4
REQUIRED PARKING = 168.75 SPACES
REQUIRED PARKING = 169 SPACES

EXISTING PARKING PROVIDED: 309 SPACES
8 HANDICAP SPACES
1 VAN H/C SPACES

MAGNETIC

CALL 811
FREE THROUGHOUT THE U.S.A.
THREE WORKING DAYS BEFORE YOU DIG.

GEORGIA811
www.Georgia811.com
Know what's below. Call before you dig.


EBERLY & ASSOCIATES
TEL: 770.452.7849 FAX: 770.452.0086
1852 CENTURY PLACE, SUITE 202
ATLANTA, GEORGIA 30345
WWW.EBERLY.NET


LAND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE

GEORGIA REGISTERED PROFESSIONAL ENGINEER No. 025453 KEVIN S. EDWARDS

PROJECT:
MOUNT MORIAH BAPTIST CHURCH
LAND LOT 186
18TH DISTRICT
DEKALB COUNTY, GEORGIA
1983 BROCKETT ROAD
PARCEL: 18 186 01 027

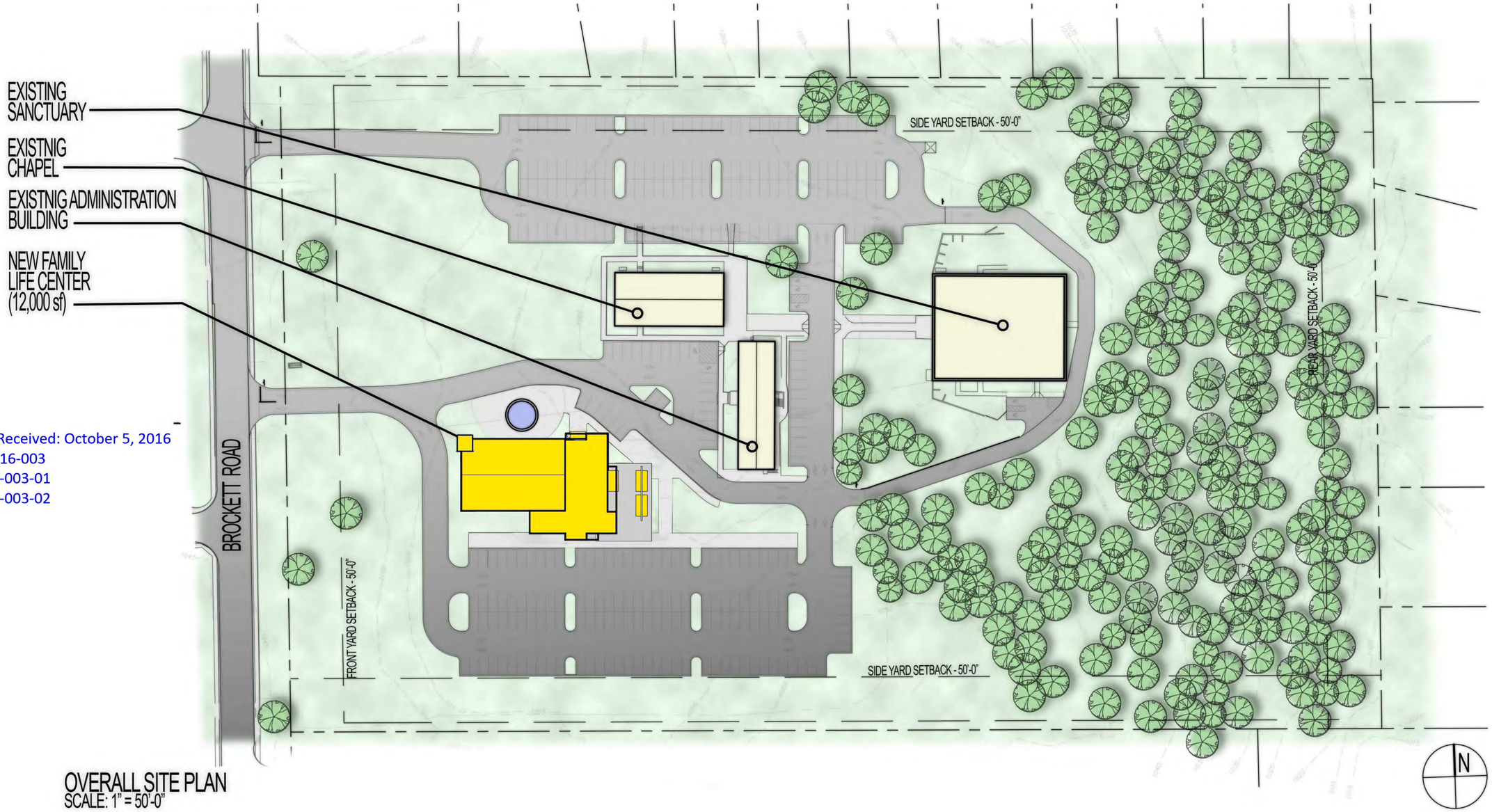
REVISIONS:

| | |
|---|---|
| SLUP SIGHT DISTANCE PROFILE | |
| SCALE: | 1" = 50' |
| DATE: | 10/04/2016 |
| DRAWN BY: | ANTONIO SAMPLE |
| PROJECT MANAGER: | MIKE WRIGHT |
| QA/QC CHECK: | KEVIN EDWARDS |

PROJECT NO.
0P16-271

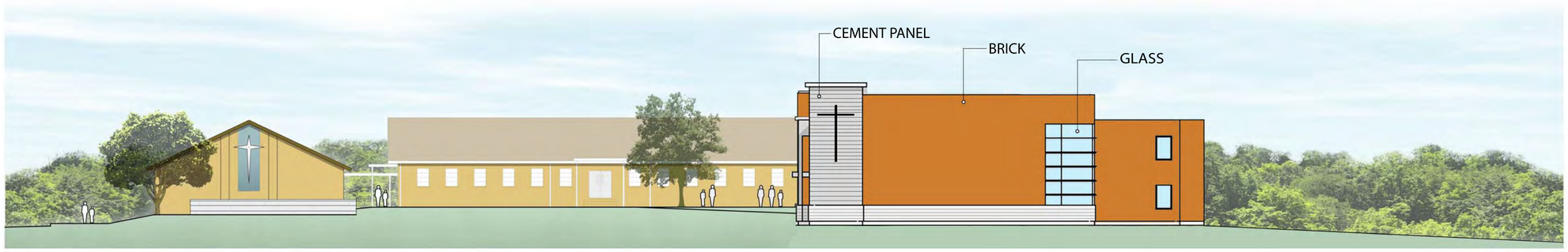
SHEET NO.
EX.3

© 2016 EBERLY & ASSOCIATES, INC.




Date Received: October 5, 2016
SLUP-16-003
VS-16-003-01
VS-16-003-02

## OVERALL SITE PLAN
SCALE: 1" = 50'-0"




## ELEVATION FROM BROCKETT RD.
SCALE: 1/16" = 1'-0"

# Mt. Moriah Baptist Church Family Life Center Addition

1983 Brockett Rd.,
Tucker, GA 30084

Goode Van Slyke Architecture

**Architect**
Goode Van Slyke Architecture Inc
409 John Wesley Dobbs Avenue
Atlanta, GA 30312
404.523.5525

COPYRIGHT © 2016 GVSA ARCHITECTURE INC

seal/signature

STATE OF GEORGIA
CHRISTOPHER VAN SLYKE GOODE
CERTIFICATE NO. 7787
REGISTERED ARCHITECT

| rev | date | description |
|---|---|---|

| | |
|---|---|
| date | 07.01.16 |
| phase | Design |
| issued for | Review |
| project number | 16013.00 |

sheet number

SP-01

# SLUP-16-004
# VS-16-004-01

LAND USE PETITION SLUP-16-004

Case Information:

**Case Number**: SLUP-16-004 and VS-16-004-01

**Current Zoning:** O-I

**Proposed Zoning:** O-I

**Location:** 2163 Northlake Parkway (4328 Lavista Road)

**Acreage:** 20.73

**Future Land Use Map Designation:** RC (Regional Center)

**Overlay District:** Northlake; Tier 2

**District:** 18th District

**Land Lot(s):** 210

**Project Description:** Drive-through facility for a Caribou Coffee/Einstein Brothers; concurrent variance to allow the drive-through lane to be located on the front side of the building.

**Applicant:** Tucker Meridian, LLC c/o Kathryn M. Zickert

**Owner:** Tucker Meridian, LLC

Expected Hearing Dates:

**Community Council:** October 12, 2016

**Planning Commission:** November 28, 2016

**Mayor and City Council:** December 12, 2016 and January 9, 2017

**FIRST AMENDED**
**STATEMENT OF INTENT**

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Special Land Use Permit
and Concurrent Variances

of

**TUCKER MERIDIAN, LLC**

For

± 20.73 Acres of Land
located in
Land Lot 210, 18th District, DeKalb County
Address: 4280, 4310, 4320, 4324 LaVista Rd., Tucker, GA 30084

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
Smith, Gambrell & Russell, LLP
Promenade Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

CITY OF TUCKER
SEP 29 2016
RECEIVED
SLUP-16-004
VS-16-004-01

## I. INTRODUCTION

This Application seeks a Special Land Use Permit ("SLUP") and concurrent variance to allow for a ± 2,550 square foot Caribou Coffee and Einstein Brothers restaurant with drive-through (the "Restaurant") as shown on the site plan filed with this application. This First Amended Application is submitted to add the written justification for the requested variance as well as to address questions raised by Staff in its preliminary review.

The Restaurant will be part of Tucker Meridian, an approximately 200,000 square foot shopping center located at the northeast intersection of LaVista Road and Northlake Parkway, consisting of ± 20.73 acres in Land Lot 210 of the 18th District of DeKalb County, Georgia (the "Subject Property"). Although subdivision of the Subject Property was contemplated during the process of acquiring users, the platting process was never initiated in DeKalb County nor in Tucker and the Subject Property will remain one tract with multiple users. Building "D," where the Restaurant will be located, is a multi-tenant building consisting of two attached suites. It will be located in the southeast corner of Tucker Meridian and will be accessible from LaVista Road. The four addresses associated with this Application will remain unchanged, as DeKalb County assigns addresses to buildings, not parcels.

The Subject Property was assembled and rezoned for a shopping center prior to the incorporation of the City of Tucker. On April 28, 2015, the DeKalb County Board of Commissioners approved the rezoning of a 2.69 acre tract within the Subject Property from R-85 to O-I (Z-15-19671) in order to allow for the unified development of Tucker Meridian. That approval was premised upon nineteen (19) conditions. Thereafter, the DeKalb County Zoning Board of Appeals approved a total of five (5) variances involving specific wall sign letter height, four of which were approved on June 10, 2015 (A-15-19928), and one of which was approved on January 13, 2016 (A-16-20466). In addition, on January 13, 2016, the DeKalb County Zoning Board of Appeals approved a variance to increase the maximum front yard from 30' to 50' on LaVista Road (A-16-20466).

The Subject Property is currently zoned O-I ("Office-Institution"), designated as being within a "Regional Center" on Tucker's Future Land Use Map, and located within the Northlake Overlay District Tier 2. The Subject Property is surrounded by similar uses: directly to the south is an IHOP, Folks Kitchen, Waffle House and Checkers restaurant with drive-through. To the west across Northlake Parkway are two smaller shopping centers, a motel, hair salon, Budget car rental, and Chevron gas station. To the north of the Subject Property are office buildings and to the east, separated by a large and heavily wooded buffer are single-family homes.

The Applicant's intent is to provide a quality, eat-in or eat-out dining option to serve Tucker Meridian and the surrounding community. The Applicant submits this document as a Statement of Intent with regard to its Application, a preservation of the Applicant's constitutional rights with respect to the Subject Property, and a written justification for the proposed SLUP and concurrent variance as required by Tucker's Zoning Ordinance, Sections 7-4-6, 7-5-10 and 7-5-3.

## II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

### A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.

The size of the Subject Property is adequate for the proposed use. The proposed Restaurant with drive-through will be located in Building "D" of Tucker Meridian, which consists of two attached suites. The Restaurant itself will be modestly sized at 2,550 square feet. The Subject Property will comply with all requirements of the O-I district and the Northlake Overlay. Adequate parking, stacking and site circulation will be provided.

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

The proposed use is fully compatible with the adjacent properties and land uses as well as those in the larger surrounding area. The proposed Restaurant will complement the other retail components of Tucker Meridian and the surrounding commercial uses, while providing a new breakfast-oriented dining option for nearby residents and workers. Notably, there is an existing Checker's restaurant with a drive-through to the southwest of the Subject Property. Additionally, a Chic-fil-A, McDonald's, Captain D and Popeyes are located within a mile of the

Subject Property, all of which have drive-throughs. Most recently, a Pollo Tropical with drive-through was approved on the Target site southwest of the Subject Property.

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

There are adequate public services, public facilities, and utilities to serve the Restaurant, which will only be ± 2,550 square feet. This use is minor in size and should not have any impact on the provision of public utilities.

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

The proposed Restaurant should not unduly increase traffic or created congestion in the area. The Subject Property is located on LaVista Road (State Route 236), a four lane road with a central left turn lane and a right turn lane into the Subject Property. According to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (Ninth Edition) (Land Use Category 940: Bread/Donut/Bagel Shop with Drive-Through Window), the proposed restaurant should only generate approximately 98 a.m. peak hour trips and 48 p.m. peak hour trips. Given the capacity of LaVista Road and surrounding roads, this minor amount of additional trips should not increase traffic or create congestion in the area.

**E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.**

There should be no change in the character of vehicles visiting the Subject Property if this SLUP is approved. Additionally, while there may be some addition to the volume of traffic visiting the site, this increase should be minimal in light of the Subject Property's access to major thoroughfares.

**F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.**

There is presently sufficient ingress and egress to the Subject Property, which will not be altered by the proposed use. The proposed Restaurant will be served by a right turn lane from LaVista Road and the internal driveways of Tucker Meridian. Pedestrian walkways are provided throughout the shopping center.

**G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration generated by the proposed use.**

The Subject Property is surrounded on three sides by commercial uses that will not be adversely impacted by the proposed Restaurant. The single-family homes to the east are separated from the Subject Property by a 60' vegetative buffer, which is heavily wooded with mature trees. Additionally, there is a 3 to 8 foot elevation change between the Subject Property and the single-family homes, which offers additional protection against any potential light or noise intrusion.

**H. Whether or not the proposed use will create adverse impacts upon any adjoin land use by reason of the hours of operation of the proposed use.**

The proposed Restaurant's hours of operation are from 5 a.m. to 9 p.m., which is similar to other restaurants in the surrounding area.

**I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.**

The manner of operation of the proposed drive-through Restaurant would be similar to that of the other retail services provided in Tucker Meridian. That is, patrons would visit the restaurant for a short time period to dine in or pick up food, much like with the patrons of the other retail providers in the shopping center. Accordingly, the proposed use would not constitute a more intense manner of operation than what is currently approved for the Subject Property.

**J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.**

The proposed Restaurant would be fully compliant with the O-I district regulations. In addition, the proposed use is compatible with the purpose and goal of the Northlake Overlay District, Tier 2, which is "to allow opportunities for residents to live close to employment and to provide accessibility to shopping areas."

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

The Subject Property is designated as "Regional Center" on Tucker's Future Land Use Map. The Regional Center character area encourages commercial and retail centers such as Tucker Meridian. The proposed Restaurant is fully allowed within this character area, and promotes the following specific goals and strategies of the City's Land Use Plan:

LUS1: Locate developments in areas with direct access to existing infrastructure.

LUS3: Encourage development within and near principal transportation corridors and activity centers.

RCCAS20: Each Regional Center should include a very high-density mix of retail, office, services, and employment to serve several neighborhoods.

**L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.**

The Northlake Overlay District Tier 2 regulations require a 20' interior side setback in addition to a 30' transitional buffer when adjacent to a residential district. The Subject Property provides a 60' vegetative buffer between its eastern property line and the single-family homes to the east. The 60' buffer is heavily wooded with mature trees, which provides an effective visual screen between the Subject Property and nearby residential properties.

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

The refuse and service areas for Tucker Meridian are adequate to accommodate the 2,550 square foot drive-through Restaurant. The location of the dumpsters results from requests by neighbors during the Subject Property's rezoning process. Moreover, the dumpsters are already designed and fully permitted for construction. The gate will be attached to the front of the dumpster enclosure. While it is possible for the gate to obstruct the bypass lane, the entire lane will already be obstructed by the trash truck. This is because the dumpsters will be serviced after hours, as is standard for drive-through operations.

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

Because the proposed drive-through Restaurant is suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

**O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.**

The size of the proposed Restaurant is appropriate in light of adjacent and nearby properties. The total building coverage on the site will be approximately 22%. This is minor in relation to many of the surrounding properties.

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

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources in the nearby or surrounding area.

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

There are no supplemental regulations applicable to the requested SLUP.

**R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not create any negative shadow impacts on adjoining properties. The Restaurant will be located in a one-story, 20' tall building. This is just a fraction of the allowed maximum height in Tier 2 of the Northlake Overlay District, and less than the transitional height plane requirement.

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

The proposed drive-through Restaurant, intended to be a Cairbou Coffee and Einstein Brothers Bagels, would not result in a disproportionate proliferation of similar uses in the subject character area. The surrounding area consists of a mix of commercial, service, and restaurant uses. While there are a number of existing restaurants in the immediate area, very few of them offer a breakfast/coffee-oriented menu. Accordingly, a Caribou Coffee and Einstein Brothers Bagels would offer a new dining option for this area that would be frequented more heavily in the morning hours when the other dining establishments are closed.

**T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

As mentioned in subsection S above, the proposed use, a Caribou Coffee and Einstein Brothers Bagels, would offer a menu unlike that of the existing restaurant options in the immediate area. Therefore, it is a desirable use because it would add a new variety for the neighborhoods and larger community that frequents this area. In sum, it would be consistent with the Comprehensive Plan's objectives for this area of the County.

## III. CRITERIA TO BE APPLIED TO CONCURRENT VARIANCES

**A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

The Applicant requests a variance from Section 4.2.23(C) of the City's Zoning Ordinance, which states that drive-through lanes and service windows shall be located to the side or rear of the building. The need for the requested variances arises with this site because the Restaurant has dual front entrances – one facing LaVista Road and the other facing the parking lot. This design is a result of the commercial reality of the site, which is a shopping center primarily served by automobiles, and the development trends in Tucker and the surrounding areas of DeKalb County, which are increasingly more urban and walkable, with particular attention to engaging pedestrians. In addition, the dumpsters serving the Restaurant, which are already fully permitted for construction, are located at the front of the Restaurant. This location was chosen at the request of neighbors during the rezoning of the Subject Property. The drive-through is configured to accommodate the request of the neighbors, while providing the most functional design for the Restaurant.

**B. The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

The Applicant seeks the minimum relief necessary to enable it to develop the proposed Restaurant.

**C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

Approving the requested variance would not cause material detriment to the public welfare or injure the property or improvements of neighboring properties. The Subject Property is located in the Northlake Overlay District, which was

adopted after the completion of an LCI study in 2002 for 1000+ acres in the immediate vicinity of Northlake Mall. The Overlay District creates uniform standards to improve existing and new commercial uses within it. The proposed Restaurant is consistent with similar commercial uses in the Northlake Overlay District.

**D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**

Not approving the requested variance would create a substantial and unnecessary hardship for the Applicant. Due to the City's prohibition against placing parking in front of the building, the Applicant is limited in where it can place the drive-through lane while still accommodating the parking needs of the Restaurant's patrons.

**E. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**

The grant of the requested variance would be consistent with the spirit and purpose of the City of Tucker's Zoning Ordinance and Comprehensive Plan. The development of the Subject Property into a shopping center is wholly consistent with the goals of the Northlake Overlay Tier 2, which anticipates providing retail amenities for nearby workers and residents. The grant of the proposed variance will allow the Applicant to develop the shopping center and Restaurant, in furtherance of this goal.

## IV. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that a refusal to approve the proposed SLUP and concurrent variance would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP and concurrent variance would amount to a taking of property, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP and concurrent variance would be in violation of the Dormant Commerce Clause of the Constitution of the United States.

A refusal to approve the proposed SLUP and concurrent variance would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP and concurrent variance would be invalid inasmuch as the Zoning Ordinance of the City of Tucker is unlawful, null and void because its adoption and map adoption/maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq*.

Tucker's Zoning Ordinance lacks adequate standards for the City Council to exercise its power to review this Application. Specifically, some of the "criteria"

set out in Section 7-4-6 and Section 7-5-3 are not sufficient to contain the discretion of the City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated criteria (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia.

Any limitation on the time for presentation of the issues before the City Council that has the power to zone and grant SLUPs and concurrent variances is a violation of the guarantees of free speech under the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State of Georgia. Further, said limitations are in violation of the right to petition and assemble, in violation of the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph IX of the Constitution of Georgia, as well as the due process clauses of the U.S. and Georgia Constitutions.

## V. CONCLUSION

For the foregoing reasons, the Applicant respectfully asks that the proposed SLUP and concurrent variance be approved. The Applicant also invites and welcomes any comments from City staff, officials, and other interested parties so

that such recommendations or input may be considered as conditions of approval of this Application.

This ___ day of September, 2016.

**Smith, Gambrell & Russell, LLP**
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
404-815-3500

_____
Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
*Attorneys For Applicant*

2016-122L

CITY OF TUCKER
SEP 26 2016
RECEIVED KB

SLUP-16-004
VS-16-004-01

**PRE-APPLICATION FORM**

**REZONING, COMPREHENSIVE PLAN AMENDMENT, SPECIAL LAND USE PERMIT, AND CONCURRENT VARIANCE**

**Purpose & Process**

A Pre-Application Meeting provides you the opportunity to present a conceptual plan and letter of intent to a representative of the Community Development Department. This meeting benefits you, the applicant, by receiving general comments on the feasibility of the plan, the process(es)/procedure(s) and fees required to process and review the application(s). Please contact Courtney Lankford at clankford@tuckerga.gov to schedule an appointment. This form will be completed during the pre-application meeting. After completing the pre-application meeting, the applicant may file the Land Use Petition.

Applicant: Ben F. Kushner Co.

Site Address: 2163 Northlake Parkway Parcel Size:

Proposal Description: SLUP for a restaurant drive thru

Existing Zoning Designation and Case Number: O-I / Northlake Overlay 16-002

Proposed Zoning Designation:

Comprehensive Land Use Map Designation: Regional Center

Overlay District: Northlake

Staff: [illegible] Date: 9/23/16

# APPLICATION

| APPLICANT INFORMATION | OWNER INFORMATION |
|---|---|
| NAME: Tucker Meridian, LLC c/o Kathryn M. Zickert | NAME: Tucker Meridian, LLC |
| ADDRESS: 1230 Peachtree St., NE, Ste. 3100 | ADDRESS: 19241 Birmingham Hwy |
| CITY: Atlanta | CITY: Alpharetta |
| STATE: GA ZIP: 30309 | STATE: GA ZIP: 30004 |
| PHONE: 404-815-3704 | PHONE: 770-886-1963 |

CONTACT PERSON: Kathryn M. Zickert PHONE: 404-815-3704

CONTACT'S E-MAIL: kmzickert@sgrlaw.com

**APPLICANT IS THE:**

☑ OWNER'S AGENT ☐ PROPERTY OWNER ☐ CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): O-I REQUESTED ZONING DISTRICT: _____

PRESENT LAND USE CATEGORY: Commercial REQUESTED LAND USE CATEGORY: _____

LAND DISTRICT(S): 18 LAND LOT(S): 210 ACREAGE: 20.73

ADDRESS OF PROPERTY: 4280, 4310, 4320, 4324 LaVista Rd.., Tucker, GA 30084

PROPOSED DEVELOPMENT: Restaurant with drive through

CONCURRENT VARIANCES: _____

| RESIDENTIAL DEVELOPMENT | NON-RESIDENTIAL DEVELOPMENT |
|---|---|
| No. of Lots/Dwelling Units _____ | No. of Buildings/Lots: _____ |
| Dwelling Unit Size (Sq. Ft.): _____ | Total Building Sq. Ft. _____ |
| Density: _____ | Density: _____ |

## APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.

Kathryn M. Zickert 9/26/16

Signature of Applicant Date

Kathryn M. Zickert, Esq.

Type or Print Name and Title

Shawna E. Avila 9-26-16

Signature of Notary Public Date Notary Seal

SHAWNA E AVILA NOTARY EXPIRES GEORGIA March 16, 2020 PUBLIC GWINNETT COUNTY

## PROPERTY OWNER'S CERTIFICATION

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of DeKalb County, Georgia, of the property identified below, which is the subject of the attached Land Use Petition before the City of Tucker, Georgia. As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Rezoning (RZ), Comprehensive Plan Amendment (CA), Special Land Use Permit (SLUP), & Concurrent Variance (CV) in request of the items indicated below.

I, Tucker Meridian, LLC (Property Owner), authorize, Kathryn M. Zickert (Applicant),

to file for SLUP (RZ, CA, SLUP, CV), at 4280, 4310, 4320, 4324 LaVista Rd.., Tucker, GA 300 (Address)

on this date September (Month) 26 (Day), 20 16

- I understand that if a rezoning is denied or assigned a zoning classification other than the classification requested in the application, then no portion of the same property may again be considered for rezoning for a period of twenty-four (24) months from the date of the mayor and city councils' final decision.
- I understand that if an application for a special land use permit affecting all or a portion of the same property for which an application for the same special land use was denied shall not be submitted before twenty-four (24) months have passed from the date of final decision by the mayor and city council on the previous special land use permit.
- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the Tucker Zoning Ordinance) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange additional permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.

Signature of Property Owner — Date 9/14/2016

Ben Kushner, President

Type or Print Name and Title

Vanessa Wallace — 9/14/2016

Signature of Notary Public — Date — Notary Seal

VANESSA WALLACE
MY COMMISSION EXPIRES
NOTARY PUBLIC
AUGUST 26, 2020
FORSYTH COUNTY, GEORGIA

## STANDARDS AND FACTORS GOVERNING REVIEW OF PROPOSED AMENDMENTS TO THE OFFICIAL ZONING MAP

Section 7.3.5 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the Official Zoning Map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

## STANDARDS AND FACTORS GOVERNING REVIEW OF PROPOSED AMENDMENTS TO THE COMPREHENSIVE PLAN MAP

Section 7.3.4 of the City of Tucker Zoning Ordinance lists standards and factors that are found to be relevant for evaluating applications for amendments to the comprehensive plan map and shall govern the review of all proposed amendments to the comprehensive plan map. The applicant shall write a detailed written analysis of each standard and factor as it relates to their proposed project.

## SPECIAL LAND USE PERMIT CRITERIA

Section 7.4.6 and 7.4.7 of the City of Tucker Zoning Ordinance lists specific criteria that shall be considered by the community development department, the planning commission, and the mayor and city council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the mayor and city council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application, and the application is in compliance with all applicable regulations in Article 4. The applicant shall write a detailed written analysis of criteria as it relates to their proposed project.

## CONCURRENT VARIANCE CRITERIA

Section 7.5.3 of the City of Tucker Zoning Ordinance lists specific criteria the board shall use in determining whether or not to grant a variance. The applicant shall provide a written analysis of how the request complies with this criteria, if they are requesting a concurrent variance.

# ENVIRONMENTAL SITE ANALYSIS (ESA) FORM

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

1. **CONFORMANCE WITH THE COMPREHENSIVE PLAN**. Describe the proposed project and the existing environmental conditions on the site. Describe adjacent properties. Include a site plan that depicts the proposed project.

   Describe how the project conforms to the Comprehensive Land Use Plan. Include the portion of the Comprehensive Plan Land Use Map which supports the project's conformity to the Plan. Evaluate the proposed project with respect to the land use suggestion of the Comprehensive Plan as well as any pertinent Plan policies.

2. **ENVIRONMENTAL IMPACTS OF THE PROPOSED PROJECT**. For each environmental site feature listed below, indicate the presence or absence of that feature on the property. Describe how the proposed project may encroach or adversely affect an environmental site feature. Information on environmental site features may be obtained from the indicated source(s).

   a. Wetlands
      - U. S. Fish and Wildlife Service, National Wetlands Inventory (http://wetlands.fws.gov/downloads.htm)
      - Georgia Geologic Survey (404-656-3214)
      - Field observation and subsequent wetlands delineation/survey if applicable

   b. Floodplain
      - Federal Emergency Management Agency (http://www.fema.org)
      - Field observation and verification

   c. Streams/stream buffers
      - Field observation and verification

   d. Slopes exceeding 25 percent over a 10-foot rise in elevation
      - United States Geologic Survey Topographic Quadrangle Map
      - Field observation and verification

   e. Vegetation
      - United States Department of Agriculture, Nature Resource Conservation Service
      - Field observation

   f. Wildlife Species (including fish)
      - United States Fish and Wildlife Service
      - Georgia Department of Natural Services, Wildlife Resources Division, Natural Heritage Program
      - Field observation

   g. Archeological/Historical Sites
      - Historic Resources Survey
      - Georgia Department of Natural Resources, Historic Preservation Division
      - Field observation and verification

# ENVIRONMENTAL SITE ANALYSIS (ESA) FORM (CONTINUED)

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

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

   b. Protection of water quality

   c. Minimization of negative impacts on existing infrastructure

   d. Minimization on archeological/historically significant areas

   e. Minimization of negative impacts on environmentally stressed communities where environmentally stressed communities are defined as communities exposed to a minimum of two environmentally adverse conditions resulting from public and private municipal (e.g., solid waste and wastewater treatment facilities, utilities, airports, and railroads) and industrial (e.g., landfills, quarries and manufacturing facilities) uses.

   f. Creation and preservation of green space and open space

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

   h. Protection of parks and recreational green space

   i. Minimization of impacts to wildlife habitats

# DISCLOSURE REPORT FORM

**WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING $250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF $250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.**

**CIRCLE ONE:** **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

   **In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

| | |
|---|---|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

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

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Ben Kushner, President, Tucker Meridian, LLC

Signature: _____ Date: 9/14/2016

# DISCLOSURE REPORT FORM

**WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING $250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF $250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.**

**CIRCLE ONE:** **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

   **In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

| | |
|---|---|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

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

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Kathryn M. Zickert, Esq., Smith, Gambrell & Russell, LLP

Signature: Kathryn M. Zickert Date: 9-26-16

# DISCLOSURE REPORT FORM

**WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING $250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF $250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.**

**CIRCLE ONE:** **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

   **In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

| | |
|---|---|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

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

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Dennis J. Webb, Jr., Esq., Smith, Gambrell & Russell, LLP

Signature: [signature] Date: 9/26/14

# DISCLOSURE REPORT FORM

**WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING $250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF $250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.**

**CIRCLE ONE:** **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

   **In Opposition to Petition** (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

| | |
|---|---|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

3. CAMPAIGN CONTRIBUTIONS:

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

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) Vickie B. Chung, Esq., Smith, Gambrell & Russell, LLP

Signature: VBChung Date: 9/26/16

**BUILDING "D" LAVISTA ROAD ELEVATION**

**BUILDING "D" PARKING LOT ELEVATION**

EXTERIOR FINISH SCHEDULE

| | | | |
|---|---|---|---|
| B-1 | MODULAR BRICK | BORAL | COLOR: WAVERLY W/ ARGOS RED MORTAR, TOOLED JOINTS |
| B-2 | MODULAR BRICK | BELDEN | COLOR: 583-605 W/ ARGOS RED MORTAR, TOOLED JOINTS |
| B-3 | MODULAR BRICK | BELDEN | COLOR: AMHERST BLEND W/ ARGOS BURNT ORANGE MORTAR, TOOLED JOINTS |
| B-4 | MODULAR BRICK | BELDEN | COLOR: MOJAVE BLEND W/ ARGOS PORCELAIN MORTAR, TOOLED JOINTS |
| SL-1 | SPLIT FACE CMU | TRENWYTH | COLOR: CAMBRIDGE W/ MORTAR, TOOLED JOINTS |
| SL-2 | SPLIT FACE CMU | TRENWYTH | COLOR: WILLIAMSBURG GREY W/ MORTAR, TOOLED JOINTS |
| SL-3 | SPLIT FACE CMU | TRENWYTH | COLOR: ANDOVER W/ MORTAR, TOOLED JOINTS |
| EF-1 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: GUIDDEN 30YY 42/145, JEFFERSON HOUSE TAN |
| EF-2 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: GUIDDEN 30YY 22/123, HALE VILLAGE |
| EF-3 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6164 NACRE |
| EF-4 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6127 NOIRE |
| EF-5 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6133 MUSLIN |
| EF-6 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6156 RAINE |
| EF-7 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6108 LATTE |
| EF-8 | STUCCO | DRYVIT | FINISH SANDBLAST, COLOR TO MATCH: SW 6120 BEJUCVNBLE BUFF |
| M-1 | COPING | BERRIDGE | METAL COPING, COLOR: ALMOND |
| M-2 | CANOPY | BERRIDGE | METAL CANOPY, COLOR: CHARCOAL GREY |
| M-3 | COPING | BERRIDGE | METAL COPING, COLOR: SIERRA TAN |
| M-4 | COPING | BERRIDGE | METAL COPING, COLOR: BUCK SKIN |
| M-5 | CANOPY | BERRIDGE | METAL COPING, COLOR: MATTE BLACK |
| SF-1 | STOREFRONT | YKK | STOREFRONT SYSTEM, COLOR: ANODIZED ALUMINUM |
| SF-2 | STOREFRONT | YKK | STOREFRONT SYSTEM, COLOR: DARK BRONZE |
| SF-3 | STOREFRONT | YKK | STOREFRONT SYSTEM, COLOR: HARTFORD GREEN |
| ST-1 | STONE | TBD | TBD |
| F-1 | AWNING | SUNBRELLA | SUNBRELLA COLOR: "BLACK" |

**DEVELOPED BY:**
BEN F. KUSHNER COMPANY
AND
LANG REAL ESTATES SERVICES

LAVISTA NORTHLAKE CENTER
RETAIL BUILDING "D"
DEKALB COUNTY, GEORGIA

MAXDesign Group Project
D16-123

18 AUGUST 2016

MaxDesignGroup
Architecture · Planning · Interiors

PRELIMINARY ELEVATIONS

2016101011 DEED BOOK 25658 Pg 209

Filed and Recorded:
7/8/2016 11:41:40 AM
Debra DeBerry
Clerk of Superior Court
DeKalb County, Georgia

Real Estate Transfer Tax $14,000.00

**RETURN DOCUMENT TO:**
**Thad C. Gould, Esq.**
**GREENFIELD, BOST & KLIROS, P.C.**
**990 Hammond Drive, Suite 650**
**Atlanta, Georgia 30328**

AFTER RECORDING RETURN TO (8)
GEORGE C. CALLOWAY, ESQ.
SPECIALIZED TITLE SERVICES, INC.
6133 PEACHTREE DUNWOODY ROAD NE
ATLANTA, GEORGIA 30328
(770) 394-7000 STS FILE NO 1165.0793

STATE OF GEORGIA
COUNTY OF FULTON

**LIMITED WARRANTY DEED**

THIS INDENTURE is made as of this 7 day of July, 2016 between **LAVISTA OFFICE PARK, LLC, a Georgia limited liability company** ("Grantor"), and **TUCKER MERIDIAN, LLC, a Georgia limited liability company** ("Grantee") (the words "Grantor" and "Grantee" to include their respective heirs, administrators, executors, personal representatives, successors and assigns where the context requires or permits).

WITNESSETH:

GRANTOR, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee the following described real property together with all, easements, rights and licenses appurtenant thereto (hereinafter collectively referred to as the "Property"):

> ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 210, 18th District, DeKalb County, Georgia, and being more particularly described on **Exhibit "A"** attached hereto and by this reference made a part hereof.

This conveyance is made subject to those items set out in **Exhibit "B"** attached hereto and made a part hereof.

8

TO HAVE AND TO HOLD the Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in any wise appertaining to the only proper use, benefit and behoof of Grantee, forever, IN FEE SIMPLE.

Grantor will warrant and forever defend the right and title of the Property unto Grantee, against the lawful claims of all persons claiming by, through, or under Grantor.

Except for the limited warranty of title contained herein, the conveyance of the Property is on an "as is" basis.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed as of the day and year first above written.

Signed, sealed and delivered in
the presence of:

WITNESS

NOTARY PUBLIC
My Commission expires:
[NOTARIAL SEAL]

PATTY S ALTMAN
MY COMMISSION EXPIRES
NOTARY
PUBLIC
SEPTEMBER 23, 2019
CHEROKEE COUNTY, GEORGIA

**LAVISTA OFFICE PARK, LLC, a Georgia limited liability company**

By: _____ (SEAL)
Printed Name: Ben F. Kushner
Title: Manager

# EXHIBIT A

## AMERIS BANK/TUCKER MERIDIAN, LLC
## LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Lands Lot 210 of the 18th District of DeKalb County, Georgia, and being more particularly described as follows:

Commencing at the intersection of the northern right-of-way of on the northern right-of-way of Lavista Road (aka State Route 235) (variable right-of-way) with the eastern right-of-way line of Northlake Parkway (80' right-of-way); Thence along said right-of-way of Northlake Parkway the following courses and distances: North 00 degrees 16 minutes 41 seconds West a distance of 92.28 feet to a point; North 07 degrees 12 minutes 18 seconds West a distance of 39.73 feet to a concrete monument found; North 02 degrees 41 minutes12 seconds West a distance of 84.02 feet to a concrete monument found; North 00 degrees 45 minutes 35 seconds East a distance of 33.70 feet to a PK nail set, said PK nail set being the **TRUE POINT OF BEGINNING**. Thence North 00 degrees 18 minutes 40 seconds East a distance of 864.71 feet to a PK nail set; Thence South 89 degrees 53 minutes 16 seconds East a distance of 259.16 feet to a PK nail found; Thence North 00 degrees 06 minutes 28 seconds East a distance of 73.20 feet to a PK nail set; Thence South 89 degrees 53 minutes 12 seconds East a distance of 378.74 feet to a PK nail set; Thence South 00 degrees 07 minutes 21 seconds West a distance of 31.00 feet to a PK nail set; Thence South 89 degrees 50 minutes 11 seconds East a distance of 29.94 feet to a PK nail found; Thence North 00 degrees 07 minutes 26 seconds East a distance of 333.28 feet to a 1/2-inch rebar found; Thence South 89 degrees 48 minutes 15 seconds East a distance of 272.71 feet to a 1/2-inch rebar found; Thence South 00 degrees 04 minutes 02 seconds West a distance of 333.40 feet to a 1/2-inch rebar found; Thence South 00 degrees 07 minutes 51 seconds West a distance of 337.38 feet to a 1/2-inch rebar found; Thence South 00 degrees 11 minutes 49 seconds West a distance of 110.00 feet to a 1/2-inch rebar found; Thence South 00 degrees 15 minutes 08 seconds West a distance of 102.26 feet to a 1/2-inch rebar found; Thence South 00 degrees 03 minutes 05 seconds East a distance of 119.59 feet to a 1/2-inch rebar found; Thence South 00 degrees 00 minutes 23 seconds West a distance of 209.16 feet to a 5/8-inch rebar set on the northern right-of-way of Lavista Road (aka State Route 235) (variable right-of-way); Thence along said right-of-way, South 72 degrees 44 minutes 16 seconds West a distance of 352.99 feet to a point; South 70 degrees 38 minutes 59 seconds West a distance of 127.87 feet to a point; Thence leaving said right-of-way, North 19 degrees 06 minutes 42 seconds West a distance of 1.94 feet to a point; Thence North 70 degrees 53 minutes 18 seconds East a distance of 53.63 feet to a point; Thence along a curve to the left having a radius of 32.50 feet and an arc length of 29.63 feet, being subtended by a chord bearing of North 44 degrees 46 minutes 13 seconds East for a distance of 28.61 feet to a point; Thence along a curve to the left having a radius of 32.50 feet and an arc length of 22.30 feet, being subtended by a chord bearing of North 01 degrees 00 minutes 10 seconds West for a distance of 21.86 feet to a point; Thence North 03 degrees 54 minutes 08 seconds East a distance of 26.58 feet to a point; Thence North 20 degrees

07 minutes 18 seconds West a distance of 88.93 feet to a point; Thence North 20 degrees 07 minutes 18 seconds West a distance of 78.93 feet to a point; Thence North 71 degrees 35 minutes 41 seconds West a distance of 50.70 feet to a point; Thence South 70 degrees 48 minutes 17 seconds West a distance of 106.22 feet to a point; Thence South 70 degrees 48 minutes 17 seconds West a distance of 307.91 feet to a point; Thence along a curve to the right having a radius of 95.43 feet and an arc length of 32.59 feet, being subtended by a chord bearing of South 80 degrees 30 minutes 44 seconds West for a distance of 32.43 feet to a point; Thence North 88 degrees 22 minutes 51 seconds West a distance of 29.06 feet to a PK nail set on the eastern right-of-way of Northlake Parkway, said PK nail set being the **TRUE POINT OF BEGINNING.**

Said tract of land contains 21.148 Acres.

# EXHIBIT "B"

## PERMITED EXCEPTIONS

1. All taxes for the year 2016 and subsequent years, which are a lien not yet due and payable.

2. Lease as evidenced by Memorandum of Lease between 200 E. 38th St. Co., a New York limited partnership, and SprintCom, Inc., a Kansas corporation, dated January 14, 1998, filed for record June 24, 1998 at 8:30 a.m., recorded in Deed Book 10071, Page 798, Records of DeKalb County, Georgia; as affected by Subordination, Non-Disturbance and Attornment Agreement by and between Ameris Bank, a Georgia banking corporation, SprintCom, Inc., a Kansas corporation, and Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

3. Lease as evidenced by Memorandum of Ground Lease by and between 200 E. 38th St. Co., a New York Limited Partnership whose sole General Partner is Allan Stillman; Richard Heller, individually, and as Executor of the Last Will and Testament of Frances H. Cahen, deceased; and Phillis H. Rosenthal; as tenants in common, d/b/a LaVista Office Park, and Dial Call, Inc., a Georgia Corporation d/b/a Nextel Communications, dated as of September 13, 1996, filed for record April 23, 1999 at 10:25 a.m., recorded in Deed Book 10665, Page 446, aforesaid Records; as assigned by Memorandum of Assignment by and between Nextel South Corp., a Georgia corporation, formerly known as Dial Call, Inc., and Tower Parent Corp., a Delaware corporation, dated as of April 20, 1999, filed for record November 20, 2001 at 2:16 p.m., recorded in Deed Book 12665, Page 689, aforesaid Records; as further assigned by Memorandum of Assignment by and between Tower Parent Corp., a Delaware corporation, and Tower Assett Sub, Inc., a Delaware corporation, dated as of April 20, 1999, filed for record November 20, 2001 at 2:16 p.m., recorded in Deed Book 12665, Page 695, aforesaid Records; as further assigned by Assignment and Assumption of Lease or Other Agreement from Tower Asset Sub, LLC, a Delaware limited liability company, to American Tower Asset Sub, LLC, a Delaware limited liability company, dated February 27, 2007, filed for record February 18, 2009 at 9:36 a.m., recorded in Deed Book 21271, Page 417, aforesaid Records; as affected by Assignment from LaVista Office Park, LLC, a Georgia limited liability company, to Tucker Meridian, LLC, a Georgia limited liability company, as to lessor's interest in the underlying ground lease, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records; and as affected by Subordination and Non-Disturbance Agreement by and between Ameris Bank, a Georgia banking corporation, American Tower Asset Sub, LLC, a Delaware limited liability company, and Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

4. Sanitary Sewer Easement between W. M. Wender and DeKalb County, Georgia, dated November 1, 1963, filed for record January 7, 1964 at 3:00 p.m., recorded in Deed Book 1841, Page 23, aforesaid Records.

5. Easement from Hicks and Associates to Georgia Power Company, dated October 18, 1972, filed for record November 1, 1972 at 10:42 a.m., recorded in Deed Book 2906, Page 515, aforesaid Records.

   Note: Georgia Power Company, by letter dated March 8, 2006, claims no further interest in the above easement except the right to operate, maintain, rebuild and renew its existing facilities within its presently maintained right-of-way.

6. Slope Easement contained in Right of Way Deed from Executive Enterprises, Inc., *et al.* to DeKalb County, a political subdivision of the State of Georgia, dated December 12, 1967, filed for record January 6, 1968 at 2:11 p.m., recorded in Deed Book 2317, Page 250, aforesaid Records.

7. Easement for connection to fire main contained in Warranty Deed from LaVista Perimeter Associates, a partnership under Agreement dated April 30, 1971, by and among Glenn E. Hicks, Jr., Curtis O. Hicks, Max R. Johnson, and Robert E. McAfee, Jr., to Richard Heller, Frances H. Cahen, Phillis H. Rosenthal, and 200 E. 38th St. Co., a New York limited partnership, having Allan Stillman and Stanley Stillman as the General Partners, dated November 24, 1975, filed for record December 3, 1975 at 9:37 a.m., recorded in Deed Book 3422, Page 69, aforesaid Records; as affected by Quitclaim Deed from BellSouth Advertising & Publishing Corporation, a Georgia corporation, and Development Authority of DeKalb County to LaVista Office Park, LLC, a Georgia limited liability company (as to a 19% undivided interest), Venture Capital Properties, Inc., a Georgia corporation (as to a 71% undivided interest), and Showcase Distributors, a Georgia general partnership composed of Warren Steinberg and Robert Khoury (as to a 10% undivided interest), dated April 3, 2006, filed for record April 5, 2006 at 10:21 a.m., recorded in Deed Book 18573, Page 621, aforesaid Records; as further affected by Quitclaim Deed from LaVista Office Park, LLC, a Georgia limited liability company (as to a 19% undivided interest), Venture Capital Properties, Inc., a Georgia corporation (as to a 71% undivided interest), and Showcase Distributors, a Georgia general partnership composed of Warren Steinberg and Robert Khoury (as to a 10% undivided interest), to Development Authority of DeKalb County, dated April 3, 2006, filed for record April 5, 2006 at 10:21 a.m., recorded in Deed Book 18573, Page 627, aforesaid Records.

8. License Agreement as evidenced by Memorandum of Agreement by and between Nextel South Corp. (f/k/a Dial Call, Inc.), a Georgia corporation, d/b/a Nextel Communications, and Powertel/Atlanta, Inc., a Delaware corporation, dated as of October 1, 1997, filed for record August 5, 1999 at 10:35 a.m., recorded in Deed Book 10869, Page 727, aforesaid Records; as affected by Subordination and Non-Disturbance Agreement by and between Ameris Bank, a Georgia banking corporation, American Tower Asset Sub, LLC, a Delaware limited liability company, and Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ ___.m., recorded in Deed Book _____, Page _____, aforesaid Records.

9. Easement from A. Stillman to Georgia Power Company, dated May 17, 1977, filed for record September 9, 1977 at 1:20 p.m., recorded in Deed Book 3699, Page 903, aforesaid Records.

   Note: Georgia Power Company, by letter dated March 8, 2006, claims no further interest in the above easement except the right to operate, maintain, rebuild and renew its existing facilities within its presently maintained right-of-way.

10. Right-of-Way Easement from LaVista Office Park to Southern Bell Telephone and Telegraph Company, dated April 25, 1980, filed for record April 29, 1980 at 10:50 a.m., recorded in Deed Book 4259, Page 226, aforesaid Records.

    Note: Bell South Telecommunications, LLC d/b/a AT&T Georgia claims no further interest in the above easement other than the rights granted by the easement or otherwise by operation of law, limited to the rights to operate, maintain, replace, add to and/or remove existing facilities under the terms and conditions of the easement and the right to operate, replace, add to and remove facilities within 25 feet of the public right of way. BellSouth Telecommunications, LLC d/b/a AT&T Georgia further retains the right to place, install, and maintain any facilities necessary to provide service to any building located on the subject tract.

11. Permanent Construction and Maintenance Easement from Richard Heller, *et al.* to Department of Transportation, dated April 5, 1988, filed for record April 29, 1988 at 3:43 p.m., recorded in Deed Book 6121, Page 137, aforesaid Records.

12. Easement from LaVista Office Park, J.V. to BellSouth Telecommunications, Inc., a Georgia corporation, dated April 28, 1998, filed for record May 4, 1998 at 8:30 a.m., recorded in Deed Book 9974, Page 542, aforesaid Records; as shown on the Survey (defined below).

13. In addition to the matters set forth above, ALTA/NSPS Land Title Survey, 2163 Northlake Parkway, for Alston & Bird LLP, Tucker Meridian, LLC, Ameris Bank, DIF-Tucker Meridian LLC, LaVista Office Park, LLC, Venture Capital Properties, Inc., and Stewart Title Guaranty Company, prepared by GeoSurvey, Ltd., bearing the seal and certification of David L. Hester, Georgia Registered Land Surveyor No. 3042, dated March 10, 2016, last revised June 28, 2016 (the "Survey"), discloses the following:

    (a) water meters, water vaults, water valves, and underground water lines located throughout the subject property;
    (b) underground communication lines located throughout the subject property;
    (c) electric transformers and underground electrical lines located throughout the subject property;
    (d) brace pole for power pole located in the westerly portion of the subject property;
    (e) power boxes and phone box located in the southeasterly portion of the subject property;

(f) sanitary sewer line with sanitary sewer manholes located in the northerly and easterly portion of the subject property; and

(g) drainage structures with drop inlets located throughout the subject property.

14. Lease as evidenced by Memorandum of Lease by and between LaVista Office Park, LLC, a Georgia limited liability company, and Hobby Lobby Stores, Inc., an Oklahoma corporation, dated March 23, 2015, filed for record April 16, 2015 at 12:26 p.m., recorded in Deed Book 24885, Page 315, aforesaid Records; as assigned by Assignment of Lease from LaVista Office Park, LLC, a Georgia limited liability company, to Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records; and as affected by Subordination, Non-Disturbance and Attornment Agreement by and between Ameris Bank, a Georgia banking corporation, Hobby Lobby Stores, Inc., an Oklahoma corporation, and Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

15. Lease as evidenced by Memorandum of Lease by and between LaVista Office Park, LLC, a Georgia limited liability company, and Ross Dress For Less, Inc., a Virginia corporation, dated June 4, 2015, filed for record August 13, 2015 at 1:40 p.m., recorded in Deed Book 25106, Page 1, aforesaid Records; as assigned by Assignment of Lease from LaVista Office Park, LLC, a Georgia limited liability company, to Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records; and as affected by Subordination, Nondisturbance and Attornment Agreement by and between Ameris Bank, a Georgia banking corporation, Ross Dress for Less, Inc., a Virginia corporation, and Tucker Meridian, LLC, a Georgia limited liability company, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

16. Restrictive Covenant by LaVista Office Park, LLC, a Georgia limited liability company, dated September 23, 2015, filed for record September 29, 2015 at 1:45 p.m., recorded in Deed Book 25181, Page 531, aforesaid Records.

17. Stormwater Detention Facility Inspection and Maintenance Agreement Plan of Meridian at Tucker by and between LaVista Office Park LLC and DeKalb County, dated September 10, 2015, filed for record October 26, 2015 at 12:43 p.m., recorded in Deed Book 25227, Page 540, aforesaid Records, and Stormwater Detention Facility Inspection and Maintenance Agreement Plan of Meridian at Tucker by and between LaVista Office Park LLC and DeKalb County, dated October 26, 2015, filed for record October 27, 2015 at 10:23 a.m., recorded in Deed Book 25229, Page 289, aforesaid Records.

18. Rights of tenants listed on the attached Exhibit "B"; as tenants only under unrecorded leases, with no right of first refusal or purchase options.

19. The following exceptions affect Swap Tract 1:

(a) Sanitary Sewer Easement between W. M. Wender and DeKalb County, Georgia, dated November 1, 1963, filed for record January 7, 1964 at 3:00 p.m., recorded in Deed Book 1841, Page 23, aforesaid Records;

(b) Drainage rights contained in Right of Way Deed by and between Glenn E. Hicks and DeKalb County, a political subdivision of the State of Georgia, dated January 7, 1971, filed for record January 15, 1971 at 10:50 a.m., recorded in Deed Book 2608, Page 73, aforesaid Records;

(c) Easement from KFC National Management Company to Georgia Power Company, dated February 10, 1977, filed for record May 16, 1977 at 12:48 a.m., recorded in Deed Book 3658, Page 609, aforesaid Records;

(d) Conveyance of Access Rights by and between the Department of Transportation, State of Georgia, and Folks, Inc., dated November 1, 1983, filed for record December 8, 1983 at 8:30 a.m., recorded in Deed Book 4883, Page 251, aforesaid Records; and

(e) Permanent Construction and Maintenance Easement from Richard King and Richard Pratt (Folks, Inc.), to the Department of Transportation, dated April 6, 1987, filed for record April 13, 1987, in Deed Book 5800, Page 50, aforesaid Records.

20. Terms and conditions of Reciprocal Construction Easement by and between Tucker Meridian, LLC, a Georgia limited liability company, and Richard W. King and Richard J. Pratt, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

21. Deed to Secure Debt from Tucker Meridian, LLC, a Georgia limited liability company, to Ameris Bank, a Georgia banking corporation, dated _____ ___, 2016, filed for record _____ ___, 2016 at ___:___ __.m., recorded in Deed Book _____, Page _____, aforesaid Records.

# STATEMENT OF INTENT

and

Other Material Required by
City of Tucker Zoning Ordinance
for the
Special Land Use Permit

of

**TUCKER MERIDIAN, LLC**

For

± 20.73 Acres of Land
located in
Land Lot 210, 18th District, DeKalb County
Address: 4280, 4310, 4320, 4324 LaVista Rd., Tucker, GA 30084

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
Smith, Gambrell & Russell, LLP
Promenade Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

## I. INTRODUCTION

This Application seeks a Special Land Use Permit ("SLUP") to allow for a ± 2,550 square foot Einstein Brothers Bagels restaurant with drive-through (the "Restaurant") as shown on the site plan filed with this application. The Restaurant will be part of Tucker Meridian, an approximately 200,000 square foot shopping center located at the northeast intersection of LaVista Road and Northlake Parkway, consisting of ± 20.73 acres in Land Lot 210 of the 18th District of DeKalb County, Georgia. (the "Subject Property"). The Restaurant will be located in the southeast corner of Tucker Meridian and will be accessible from LaVista Road.

The Subject Property was assembled and rezoned for a shopping center prior to the incorporation of the City of Tucker. On April 28, 2015, the DeKalb County Board of Commissioners approved the rezoning of a 2.69 acre tract within the Subject Property from R-85 to O-I (Z-15-19671) in order to allow for the unified development of Tucker Meridian. That approval was premised upon nineteen (19) conditions. Thereafter, the DeKalb County Zoning Board of Appeals approved a total of five (5) variances involving specific wall sign letter height, four of which were approved on June 10, 2015 (A-15-19928), and one of which was approved on January 13, 2016 (A-16-20466). In addition, on January 13, 2016, the DeKalb

County Zoning Board of Appeals approved a variance to increase the maximum front yard from 30' to 50' on LaVista Road (A-16-20466).

The Subject Property is currently zoned O-I ("Office-Institution"), designated as being within a "Regional Center" on Tucker's Future Land Use Map, and located within the Northlake Overlay District Tier 2. The Subject Property is surrounded by similar uses: directly to the south is an IHOP, Folks Kitchen, Waffle House and Checkers restaurant with drive-through. To the west across Northlake Parkway are two smaller shopping centers, a motel, hair salon, Budget car rental, and Chevron gas station. To the north of the Subject Property are office buildings and to the east, separated by a large and heavily wooded buffer are single-family homes.

The Applicant's intent is to provide a quality, eat-in or eat-out dining option to serve Tucker Meridian and the surrounding community. The Applicant submits this document as a Statement of Intent with regard to its Application, a preservation of the Applicant's constitutional rights with respect to the Subject Property, and a written justification for the proposed SLUP as required by Tucker's Zoning Ordinance, Section 7-4-6.

## II. CRITERIA TO BE APPLIED TO SPECIAL LAND USE PERMITS

**A. Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located.**

The size of the Subject Property is adequate for the proposed use. The proposed Restaurant with drive-through will be located in Building "D" of Tucker Meridian, which consists of two attached suites. The Restaurant itself will be modestly sized at 2,550 square feet. The Subject Property will comply with all requirements of the O-I district and the Northlake Overlay. Adequate parking, stacking and site circulation will be provided.

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

The proposed use is fully compatible with the adjacent properties and land uses as well as those in the larger surrounding area. The proposed Restaurant will complement the other retail components of Tucker Meridian and the surrounding commercial uses, while providing a new breakfast-oriented dining option for nearby residents and workers. Notably, there is an existing Checker's restaurant with a drive-through to the southwest of the Subject Property. Additionally, a Chic-fil-A, McDonald's, Captain D and Popeyes are located within a mile of the Subject Property, all of which have drive-throughs. Most recently, a Pollo Tropical with drive-through was approved on the Target site southwest of the Subject Property.

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

There are adequate public services, public facilities, and utilities to serve the Restaurant, which will only be $\pm$ 2,550 square feet. This use is minor in size and should not have any impact on the provision of public utilities.

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

The proposed Restaurant should not unduly increase traffic or created congestion in the area. The Subject Property is located on LaVista Road (State Route 236), a four lane road with a central left turn lane and a right turn lane into the Subject Property. According to the Institute of Transportation Engineers (ITE) *Trip Generation Manual* (Ninth Edition) (Land Use Category 940: Bread/Donut/Bagel Shop with Drive-Through Window), the proposed restaurant should only generate approximately 98 a.m. peak hour trips and 48 p.m. peak hour trips. Given the capacity of LaVista Road and surrounding roads, this minor amount of additional trips should not increase traffic or create congestion in the area.

**E. Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use.**

There should be no change in the character of vehicles visiting the Subject Property if this SLUP is approved. Additionally, while there may be some addition to the volume of traffic visiting the site, this increase should be minimal in light of the Subject Property's access to major thoroughfares.

**F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency.**

There is presently sufficient ingress and egress to the Subject Property, which will not be altered by the proposed use. The proposed Restaurant will be served by a right turn lane from LaVista Road and the internal driveways of Tucker Meridian. Pedestrian walkways are provided throughout the shopping center.

**G. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust or vibration generated by the proposed use.**

The Subject Property is surrounded on three sides by commercial uses that will not be adversely impacted by the proposed Restaurant. The single-family homes to the east are separated from the Subject Property by a 60' vegetative buffer, which is heavily wooded with mature trees. Additionally, there is a 3 to 8 foot elevation change between the Subject Property and the single-family homes, which offers additional protection against any potential light or noise intrusion.

**H. Whether or not the proposed use will create adverse impacts upon any adjoin land use by reason of the hours of operation of the proposed use.**

The proposed Restaurant's hours of operation are from 5 a.m. to 9 p.m., which is similar to other restaurants in the surrounding area.

**I. Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.**

The manner of operation of the proposed drive-through Restaurant would be similar to that of the other retail services provided in Tucker Meridian. That is, patrons would visit the restaurant for a short time period to dine in or pick up food, much like with the patrons of the other retail providers in the shopping center. Accordingly, the proposed use would not constitute a more intense manner of operation than what is currently approved for the Subject Property.

**J. Whether or not the proposed use is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located.**

The proposed Restaurant would be fully compliant with the O-I district regulations. In addition, the proposed use is compatible with the purpose and goal of the Northlake Overlay District, Tier 2, which is "to allow opportunities for residents to live close to employment and to provide accessibility to shopping areas."

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

The Subject Property is designated as "Regional Center" on Tucker's Future Land Use Map. The Regional Center character area encourages commercial and retail centers such as Tucker Meridian. The proposed Restaurant is fully allowed within this character area, and promotes the following specific goals and strategies of the City's Land Use Plan:

LUS1: Locate developments in areas with direct access to existing infrastructure.

LUS3: Encourage development within and near principal transportation corridors and activity centers.

RCCAS20: Each Regional Center should include a very high-density mix of retail, office, services, and employment to serve several neighborhoods.

**L. Whether or not the proposed use provides for all required buffer zones and transitional buffer zones where required by the regulations of the zoning district in which the use is proposed to be located.**

The Northlake Overlay District Tier 2 regulations require a 20' interior side setback in addition to a 30' transitional buffer when adjacent to a residential district. The Subject Property provides a 60' vegetative buffer between its eastern property line and the single-family homes to the east. The 60' buffer is heavily wooded with mature trees, which provides an effective visual screen between the Subject Property and nearby residential properties.

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

The refuse and service areas for Tucker Meridian are adequate to accommodate the 2,550 square foot drive-through Restaurant.

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

Because the proposed drive-through Restaurant is suitable for the Subject Property, there is no reason to limit the duration of the requested SLUP.

**O. Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings.**

The size of the proposed Restaurant is appropriate in light of adjacent and nearby properties. The total building coverage on the site will be approximately 22%. This is minor in relation to many of the surrounding properties.

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

The Applicant is not aware of any historic buildings, sites, districts, or archaeological resources in the nearby or surrounding area.

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

There are no supplemental regulations applicable to the requested SLUP.

**R. Whether or not the proposed use will create a negative shadow impact on any adjoining lot or building as a result of the proposed building height.**

The proposed use will not create any negative shadow impacts on adjoining properties. The Restaurant will be located in a one-story, 20' tall building. This is just a fraction of the allowed maximum height in Tier 2 of the Northlake Overlay District, and less than the transitional height plane requirement.

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

The proposed drive-through Restaurant, intended to be an Einstein Brothers Bagels, would not result in a disproportionate proliferation of similar uses in the subject character area. The surrounding area consists of a mix of commercial, service, and restaurant uses. While there are a number of existing restaurants in the immediate area, very few of them offer a breakfast/coffee-oriented menu. Accordingly, an Einstein Brothers Bagels would offer a new dining option for this area that would be frequented more heavily in the morning hours when the other dining establishments are closed.

**T. Whether the proposed use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood, and would not be in conflict with the overall objective of the comprehensive plan.**

As mentioned in subsection S above, the proposed use, an Einstein Brothers Bagels, would offer a menu unlike that of the existing restaurant options in the immediate area. Therefore, it is a desirable use because it would add a new variety for the neighborhoods and larger community that frequents this area. In sum, it would be consistent with the Comprehensive Plan's objectives for this area of the County.

## III. PRESERVATION OF CONSTITUTIONAL RIGHTS

The Applicant respectfully submits that a refusal to approve the proposed SLUP would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP would amount to a taking of property, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP would be in violation of the Dormant Commerce Clause of the Constitution of the United States.

A refusal to approve the proposed SLUP would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which

would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia.

A refusal to approve the proposed SLUP would be invalid inasmuch as the Zoning Ordinance of the City of Tucker is unlawful, null and void because its adoption and map adoption/maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq*.

Tucker's Zoning Ordinance lacks adequate standards for the City Council to exercise its power to review this Application. Specifically, some of the "criteria" set out in Section 7-4-6 are not sufficient to contain the discretion of the City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated criteria (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia.

Any limitation on the time for presentation of the issues before the City Council that has the power to zone and grant SLUPs is a violation of the guarantees of free speech under the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State

of Georgia. Further, said limitations are in violation of the right to petition and assemble, in violation of the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph IX of the Constitution of Georgia, as well as the due process clauses of the U.S. and Georgia Constitutions.

## IV. CONCLUSION

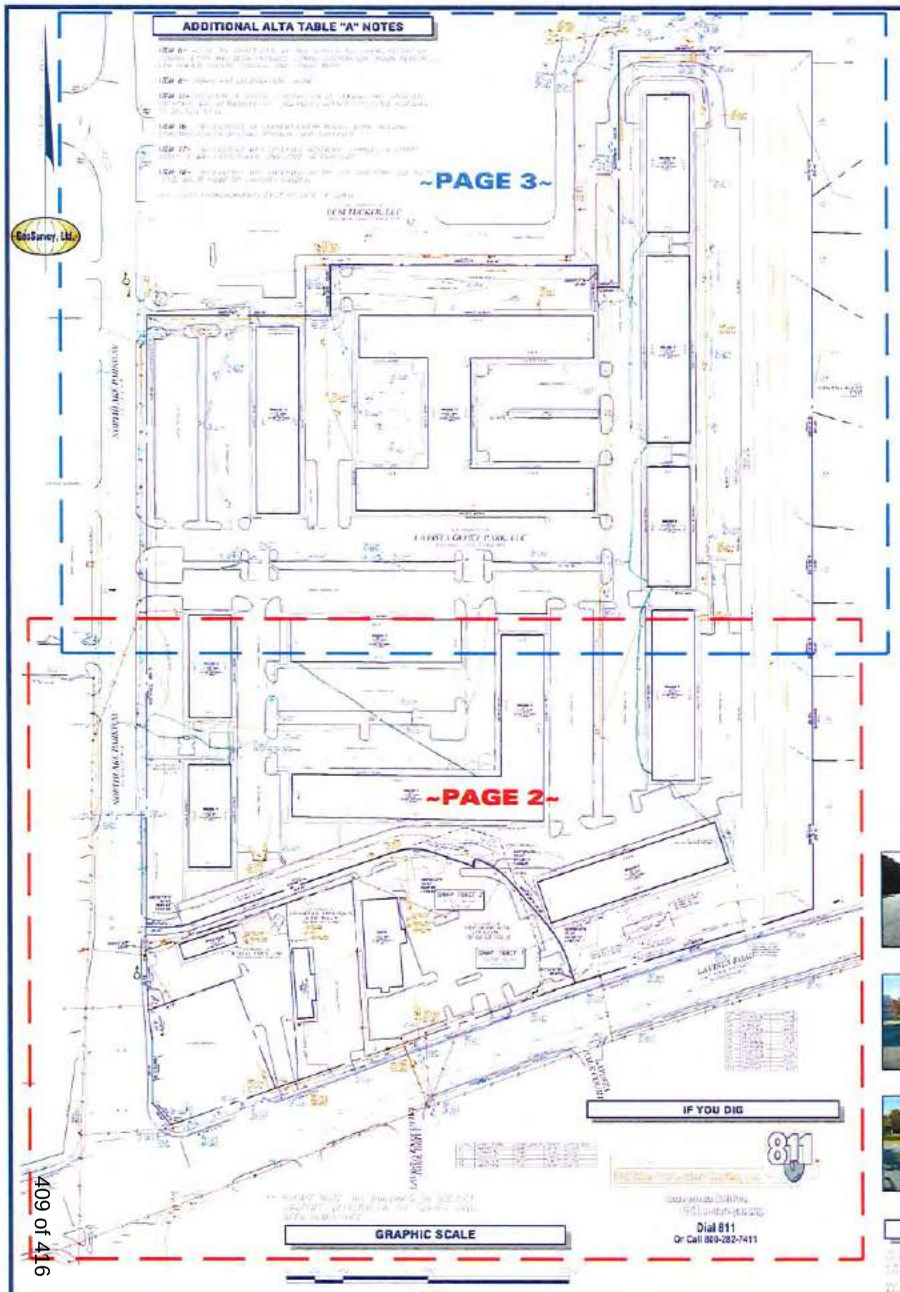
For the foregoing reasons, the Applicant respectfully asks that the proposed SLUP be approved. The Applicant also invites and welcomes any comments from City staff, officials, and other interested parties so that such recommendations or input may be considered as conditions of approval of this Application.

This 23rd day of September, 2016.

**Smith, Gambrell & Russell, LLP**
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
404-815-3500

Kathryn M. Zickert
Dennis J. Webb, Jr.
Vickie B. Chung
*Attorneys For Applicant*

## ADDITIONAL ALTA TABLE "A" NOTES




## GRAPHIC SCALE

## IF YOU DIG

Dial 811
Or Call 800-282-7411

## PROPERTY DESCRIPTION

## LEGEND

STANDARD ABBREVIATIONS

STANDARD SYMBOLS

## SITE PHOTOGRAPHS

## CLOSURE STATEMENT

## TITLE EXCEPTIONS

THE FOLLOWING EXCEPTIONS ARE LISTED IN SCHEDULE B, SECTION 2, OF A COMMITMENT FOR TITLE INSURANCE, AS PREPARED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NO. 1185.0.03 (SUB), EFFECTIVE DATE MARCH 20, 2014

AFFECTS SITE, BLANKET IN NATURE

AFFECTS SITE AS PLOTTED

NOT AFFECTS SITE, FOR WHICH SURVEY

AFFECTS SITE, BLANKET IN NATURE
Note: Georgia Power Company, by letter dated March 8, 2006, claims no further interest in the above easement except the right to operate, maintain, rebuild and remove its existing facilities within its presently maintained right-of-way

SEWER LEASEHOLD CONTAINED WITHIN SAID NON-EXCLUSIVE MAY AFFECT SITE

AFFECTS SITE, BLANKET IN NATURE

AFFECTS SITE AS PLOTTED

AFFECTS SITE, BLANKET IN NATURE
Note: Georgia Power Company, by letter dated March 8, 2006, claims no further interest in the above easement except the right to operate, maintain, rebuild and remove its existing facilities within its presently maintained right-of-way

AFFECTS SITE AS PLOTTED

AFFECTS SITE, BLANKET IN NATURE

AFFECTS SITE AS PLOTTED

DOES NOT AFFECT SITE

AFFECTS SITE, NOT PLOTTABLE

AFFECTS SITE, NOT PLOTTABLE

AFFECTS SITE, NOT PLOTTABLE

AFFECTS SITE AS PLOTTED

AFFECTS SITE, BLANKET IN NATURE

TOTAL SITE AREA

## VICINITY MAP

## GENERAL NOTES

## SURVEYOR CERTIFICATION

GEORGIA REGISTERED PROFESSIONAL LAND SURVEYOR No. 3042

GeoSurvey, Ltd.

LAND SURVEYING & MAPPING
1000 CHASTAIN ROAD, BUILDING 1000
MARIETTA, GEORGIA 30062
PHONE (770) 977-0001 FAX (770) 977-0002
WWW.GEOSURVEYS.COM
E-MAIL: GEOSURVEY@BELLSOUTH.NET

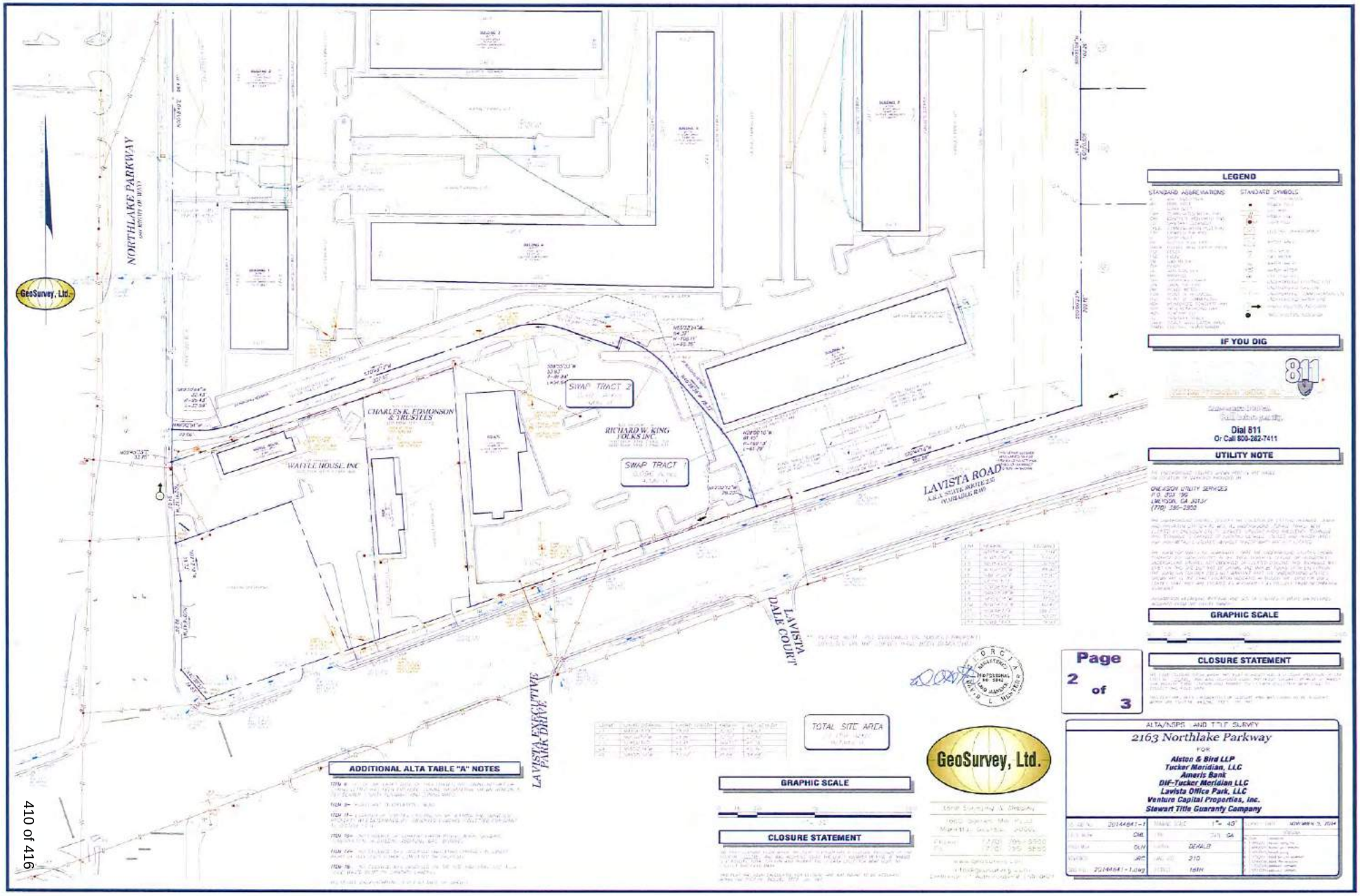
ALTA/NSPS LAND TITLE SURVEY

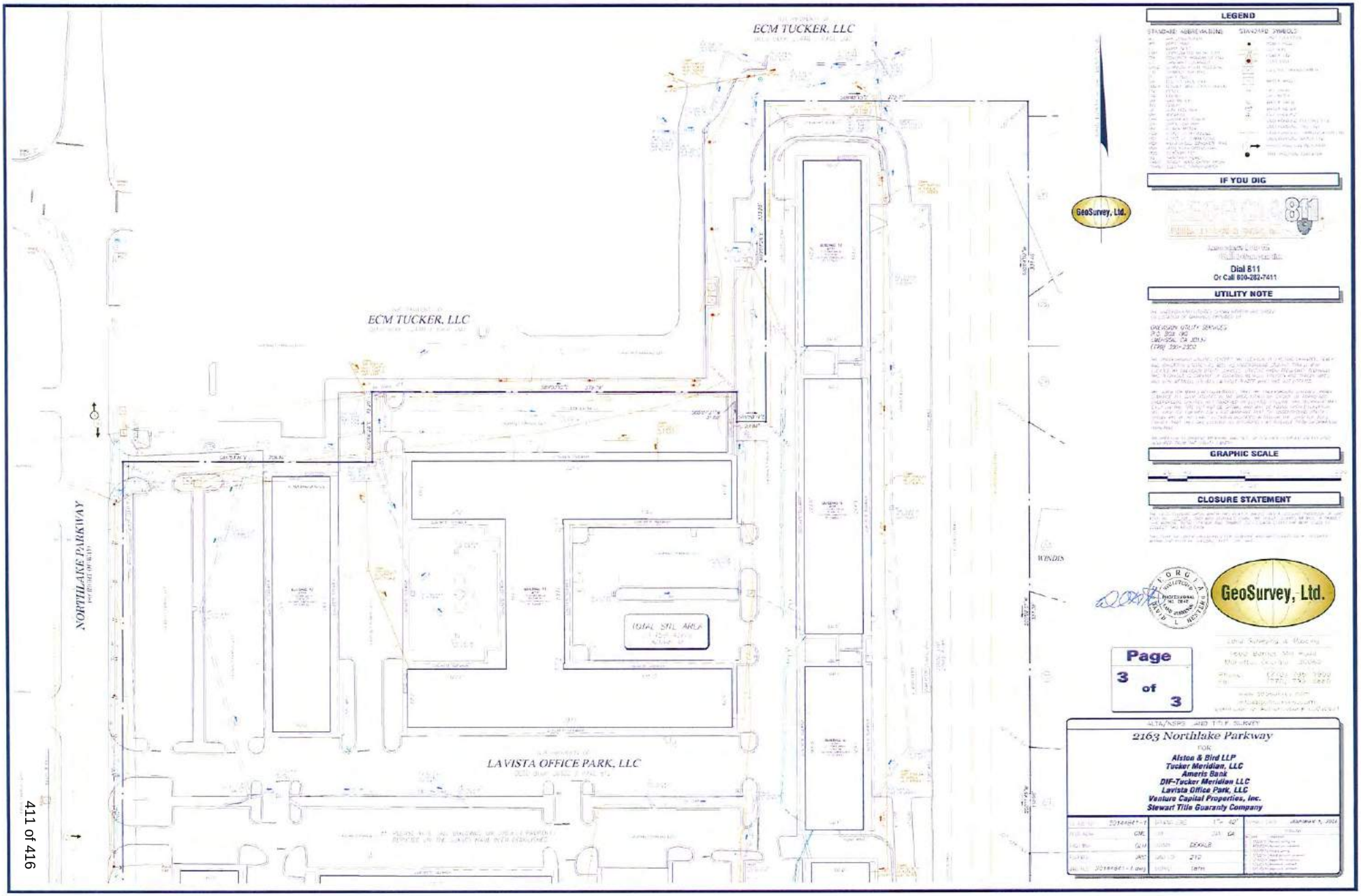
2163 Northlake Parkway

FOR

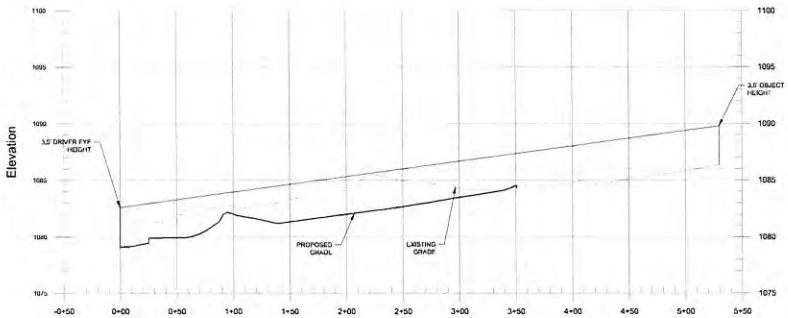
**Alston & Bird LLP**
**Tucker Meridian, LLC**
**Ameris Bank**
**DIF-Tucker Meridian LLC**
**Laviste Office Park, LLC**
**Ventura Capital Properties, Inc.**
**Stewart Title Guaranty Company**

| | | | |
|---|---|---|---|
| JOB NO. 20144841-1 | SCALE 1" = 40' | | REVISED MAY 6, 2014 |
| DRAWN BY DAL | CITY TUCKER | STATE GA | |
| CHECKED BY JEH | COUNTY DEKALB | | |
| REVISED BY JRC | FIELD BK 270 | | |
| FILE NO. 20144841-1.dwg | DATE 1-8-14 | | |

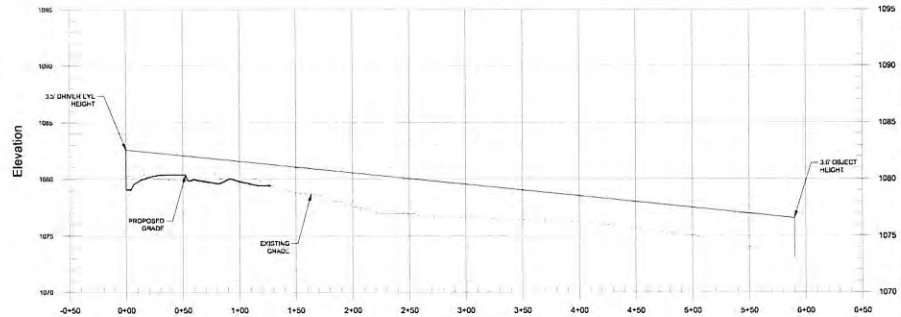

NORTHLAKE PARKWAY
GeoSurvey, Ltd.
CHARLES K. EDMONSON & TRUSTEES
WAFFLE HOUSE, INC
RICHARD W. KING FOLKS INC
SWAP TRACT 2
SWAP TRACT 1
LAVISTA ROAD
LAVISTA DALE COURT
LAVISTA EXECUTIVE PARK DRIVE
TOTAL SITE AREA
LEGEND
STANDARD ABBREVIATIONS
STANDARD SYMBOLS
IF YOU DIG
Dial 811
Or Call 800-282-7411
UTILITY NOTE
GRAPHIC SCALE
CLOSURE STATEMENT
Page 2 of 3
ALTA/NSPS LAND TITLE SURVEY
2163 Northlake Parkway
FOR
Alston & Bird LLP
Tucker Meridian, LLC
Ameris Bank
DIF-Tucker Meridian LLC
Lavista Office Park, LLC
Venture Capital Properties, Inc.
Stewart Title Guaranty Company
GeoSurvey, Ltd.
ADDITIONAL ALTA TABLE "A" NOTES
GRAPHIC SCALE
CLOSURE STATEMENT


ECM TUCKER, LLC
ECM TUCKER, LLC
NORTHLAKE PARKWAY
LAVISTA OFFICE PARK, LLC
TOTAL SITE AREA
WINDIS
LEGEND
STANDARD ABBREVIATIONS
STANDARD SYMBOLS
IF YOU DIG
Dial 811
Or Call 800-282-7411
UTILITY NOTE
GRAPHIC SCALE
CLOSURE STATEMENT
GeoSurvey, Ltd.
Page 3 of 3
ALTA/NSPS AND TITLE SURVEY
2163 Northlake Parkway
FOR
Alston & Bird LLP
Tucker Meridian, LLC
Ameris Bank
DIF-Tucker Meridian LLC
Lavista Office Park, LLC
Venture Capital Properties, Inc.
Stewart Title Guaranty Company

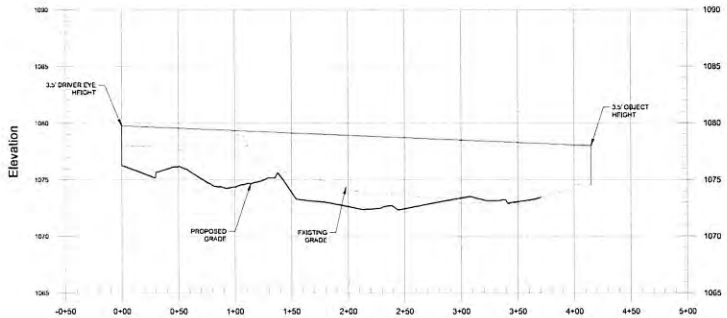
LAVISTA DRIVEWAY SDL
1" = 50' H, 1"=5' V



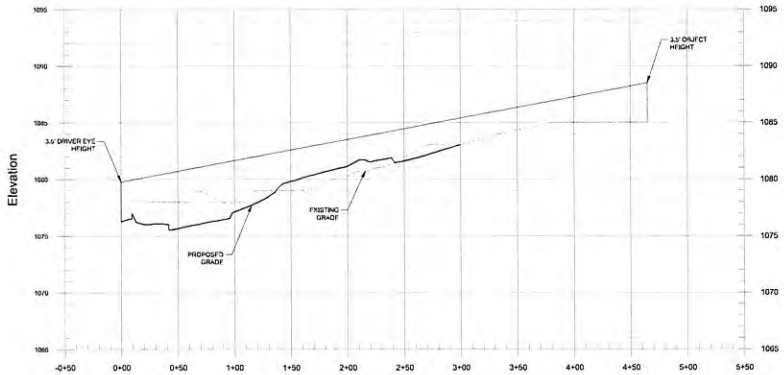

LAVISTA DRIVEWAY SDR
1" = 50' H, 1"=5' V




NORTHLAKE DRIVEWAY SDL
1" = 50' H, 1"=5' V




NORTHLAKE DRIVEWAY SDR
1" = 50' H, 1"=5' V





ENGINEER:
FORESITE group
Foresite Group, Inc.
5185 Peachtree Pkwy.
Suite 240
Norcross, GA 30092
o | 770.368.1399
f | 770.368.1944
w | www.fg-inc.net


DEVELOPER:
TUCKER MERIDIAN LLC
PREVIOUSLY (LAVISTA OFFICE PARK LLC)
10241 BRUNCHALI HIGHWAY
ALPHARETTA, GA 30004
CONTACT: JACOB LANG, P.E.

PROJECT
TUCKER MERIDIAN
PREVIOUSLY (THE MERIDIAN AT TUCKER)
4280, 4310, 4320, 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

SEAL:

| REVISIONS | DATE |
|---|---|
| | |

| | |
|---|---|
| PROJECT MANAGER: | DMS |
| DRAWING BY: | SBM |
| JURISDICTION: | DEKALB COUNTY, GA |
| DATE: | 22 SEPTEMBER 2016 |
| SCALE: | AS SHOWN |

TITLE:
SIGHT DISTANCE PROFILES

SHEET NUMBER:
3 OF 3

COMMENTS:
<NOT RELEASED FOR CONSTRUCTION>

JOB/FILE NUMBER: 555.001

## PROJECT DATA

4280 4310 4320 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

### SITE DATA

| | |
|---|---|
| TOTAL SITE AREA | 26.73 AC. |
| ZONING | OI (OFFICE-INDUSTRIAL) (NORTHLAKE OVERLAY DISTRICT) |
| LAND LOT | 210 |
| DISTRICT | 18 |
| FLOOD ZONE DESIGNATION | UNSHADED ZONE "X" (FEMA FIRM 13089C0076J DATED MAY 16, 2013) |

### PARKING DATA

| | | |
|---|---|---|
| PARKING RATIO REQUIRED: | SHOPPING CENTER: | 4 SPACES / 1,000 S.F. |
| | RESTAURANT: | 5 SPACES / 1,000 S.F. |
| PARKING REQUIRED: | SHOPPING CENTER: | 826 SPACES (206,529 S.F.) |
| | RESTAURANT: | 13 SPACES (2,558 S.F.) |
| | TOTAL: | 839 SPACES |
| PARKING PROVIDED: | | 854 SPACES |
| OFF-STREET LOADING REQUIRED: | | |
| | BUILDING A: | 2 BERTHS (12' X 35') |
| | BUILDING B: | 1 SPACE (12' X 35') |
| | BUILDING C: | 1 SPACE (12' X 35') |
| | BUILDING D: | 1 SPACE (12' X 35') |

### OPEN SPACE & LOT COVERAGE DATA

| | |
|---|---|
| OPEN SPACE AREA REQUIRED: | 20.00% (4.746 AC) |
| OPEN SPACE AREA PROVIDED: | 20.94% (4.279 AC) |
| EXISTING PERVIOUS AREA: | 5.279 AC. |
| EXISTING IMPERVIOUS AREA: | 12.054 AC. |
| PROPOSED PERVIOUS AREA: | 5.369 AC. |
| PROPOSED IMPERVIOUS AREA: | 11.344 AC. |
| TOTAL BUILDING AREA: | 209,979 S.F. |

NOTES:
1) PROPERTY LINES OBTAINED FROM SURVEY BY GEOSURVEY, LTD. DATED 2014/1195.
2) THE SITE IS ZONED OI (OFFICE-INDUSTRIAL (NORTHLAKE OVERLAY DISTRICT TIER 2: OFFICE PARK).
3) THE SITE IS NOT WITHIN THE 100-YEAR FLOODPLAIN (PER FEMA FIRM 13089C0076J DATED MAY 16, 2013). NO STREAMS ARE PRESENT ON SITE.

### LINE AND CURVE TABLE

LINES

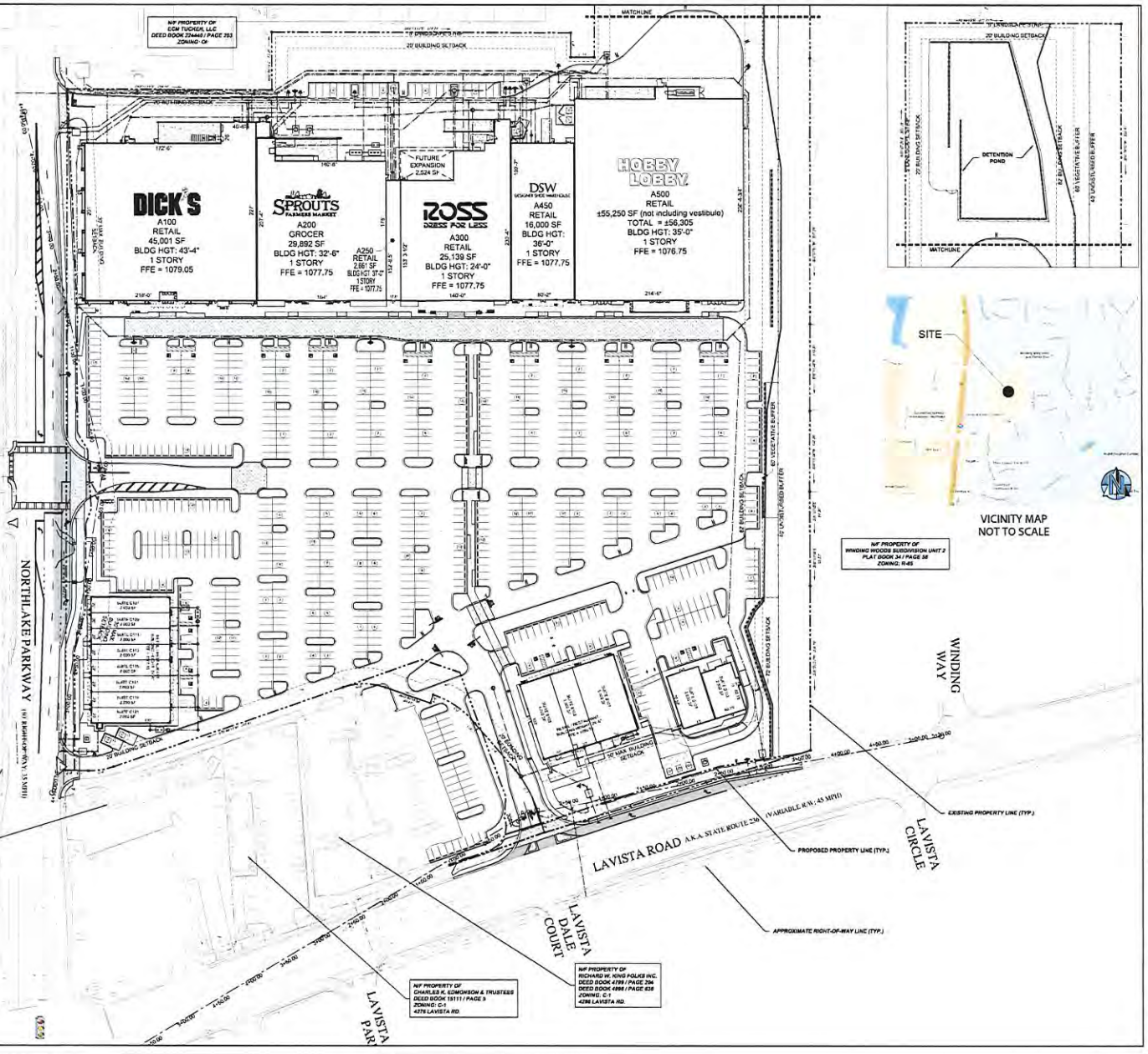
| # | BEARING | DISTANCE |
|---|---|---|
| L-1 | N70°38'04"E | 127.67' |
| L-2 | N47°22'57"W | 12.44' |
| L-3 | N47°22'57"W | 12.80' |
| L-4 | N40°38'38"W | 65.62' |
| L-5 | N40°38'38"W | 12.90' |
| L-6 | S19°00'35"W | 11.02' |
| L-7 | N88°22'57"W | 17.70' |
| L-8 | N88°22'57"W | 11.31' |
| L-9 | S00°00'03"W | 21.00' |
| L-10 | S89°59'17"E | 29.94' |
| L-11 | S72°44'38"W | 13.27' |
| L-12 | S72°44'38"W | 309.77' |

CURVES

| # | CHORD BEARING | CHORD DISTANCE | ARC LENGTH | RADIUS |
|---|---|---|---|---|
| C-1 | N78°38'06"W | 81.42' | 81.78' | 169.13' |
| C-2 | N50°32'14"W | 84.21' | 85.39' | 169.11' |
| C-3 | S89°53'32"W | 53.63' | 54.84' | 81.94' |
| C-4 | S80°00'44"W | 22.42' | 22.59' | 90.42' |

### LEGEND

| | | | |
|---|---|---|---|
| | EXISTING TRAFFIC SIGNAL | | CONCRETE PAVING |
| | NUMBER OF PARKING SPACES | | RETAINING WALL |
| | ACCESSIBLE PARKING SPACES | | FENCE |
| T | TRANSFORMER BOX ON PAD | | TREE LINE |
| | VEHICLE STACKING POSITION | | |
| | | | EXISTING OVERHEAD POWER LINE |
| | | | EXISTING UNDERGROUND POWER LINE |
| | | | EXISTING UNDERGROUND COMMUNICATION LINE |
| | | | EXISTING GAS LINE |
| | | | EXISTING SANITARY SEWER LINE |
| | | | EXISTING WATER LINE |
| | | | PROPOSED OVERHEAD POWER LINE |
| | | | PROPOSED UNDERGROUND POWER LINE |
| | | | PROPOSED UNDERGROUND TELEPHONE LINE |
| | | | PROPOSED GAS LINE |
| | | | PROPOSED SANITARY SEWER LINE |
| | | | PROPOSED WATER LINE |
| | | | PROPOSED FIRE WATER LINE |










VICINITY MAP
NOT TO SCALE

ENGINEER:

FORESITE

Foresite Group, Inc.
5185 Peachtree Pkwy.
Suite 240
Norcross, GA 30092

o | 770.368.1399
f | 770.368.1944
w | www.fg-inc.net

DEVELOPER:

**TUCKER MERIDIAN LLC**
PREVIOUSLY (LAVISTA OFFICE PARK LLC)
1921 BIRMINGHAM HIGHWAY
ALPHARETTA, GA 30004

CONTACT: JACOB LANG, P.E.

PROJECT

# TUCKER MERIDIAN

PREVIOUSLY (THE MERIDIAN AT TUCKER)

4280, 4310, 4320, 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

SEAL:

| REVISIONS | DATE |
|---|---|
| | |

| | |
|---|---|
| PROJECT MANAGER: | DMS |
| DRAWING BY: | SBM |
| JURISDICTION: | DEKALB COUNTY, GA |
| DATE: | 22 SEPTEMBER 2016 |
| SCALE: | 1" = 60' |
| TITLE: | |

## SLUP SITE PLAN

SHEET NUMBER:

1 OF 3

COMMENTS:
<NOT RELEASED FOR CONSTRUCTION>

JOB/FILE NUMBER: 555.001

N

1" = 100'

100 50 0 100 200

SCALE IN FEET

ENGINEER:

FORESITE group

Foresite Group, Inc.
5105 Peachtree Pkwy.
Suite 240
Norcross, GA 30092

o | 770.368.1399
f | 770.368.1944
w | www.fg-inc.net

DEVELOPER:

TUCKER MERIDIAN LLC
PREVIOUSLY (LAVISTA OFFICE PARK LLC)
10101 BIRMINGHAM HIGHWAY
ALPHARETTA, GA 30004

CONTACT: JACOB BLANC, P.E.

PROJECT:

TUCKER MERIDIAN
PREVIOUSLY (THE MERIDIAN AT TUCKER)
4289, 4310, 4320, 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

SEAL:

| REVISIONS | DATE |
|---|---|
| | |

| | |
|---|---|
| PROJECT MANAGER: | BMS |
| DRAWING BY: | SBM |
| JURISDICTION: | DEKALB COUNTY, GA |
| DATE: | 22 SEPTEMBER 2016 |
| SCALE: | 1" = 100' |
| TITLE: | |

EXISTING CONDITIONS

SHEET NUMBER:

2 OF 3

COMMENTS: <NOT RELEASED FOR CONSTRUCTION>

JOB/FILE NUMBER: 555.001

## PROJECT DATA

4280, 4310, 4320, 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

### SITE DATA

| | |
|---|---|
| TOTAL SITE AREA | 20.73 AC. |
| ZONING: | OI (OFFICE-INDUSTRIAL (NORTHLAKE OVERLAY DISTRICT TIER 2: OFFICE PARK)) |
| LAND LOT: | 210 |
| DISTRICT: | 18 |
| FLOOD ZONE DESIGNATION: | UNSHADED ZONE "X" (FEMA FIRM 13089C0076J DATED MAY 16, 2013) |

### PARKING DATA

| | | |
|---|---|---|
| PARKING RATIO REQUIRED- | SHOPPING CENTER: | 4 SPACES / 1,000 S.F. |
| | RESTAURANT: | 5 SPACES / 1,000 S.F. |
| PARKING REQUIRED- | SHOPPING CENTER: | 826 SPACES (206,528 S.F.) |
| | RESTAURANT: | 13 SPACES (2,550 S.F.) |
| | TOTAL: | 839 SPACES |
| PARKING PROVIDED: | | 854 SPACES |
| OFF-STREET LOADING REQUIRED: | BUILDING A: | 5 BERTHS (12' X 55') |
| | BUILDING B: | 1 SPACE (12' X 35') |
| | BUILDING C: | 1 SPACE (12' X 35') |
| | BUILDING D: | 1 SPACE (12' X 35') |

### OPEN SPACE & LOT COVERAGE DATA

| | |
|---|---|
| OPEN SPACE AREA REQUIRED: | 20.00% (4.146 AC) |
| OPEN SPACE AREA PROVIDED: | 20.64% (4.278 AC) |
| EXISTING PERVIOUS AREA: | 5.675 AC. |
| EXISTING IMPERVIOUS AREA: | 15.056 AC. |
| PROPOSED PERVIOUS AREA: | 5.388 AC. |
| PROPOSED IMPERVIOUS AREA: | 15.344 AC. |
| TOTAL BUILDING AREA | 209,078 S.F. |

NOTES:
1) PROPERTY LINES OBTAINED FROM SURVEY BY GEOSURVEY, LTD. DATED 2014111105.
2) THE SITE IS ZONED OI (OFFICE-INDUSTRIAL (NORTHLAKE OVERLAY DISTRICT TIER 2: OFFICE PARK)).
3) THE SITE IS NOT WITHIN THE 100-YEAR FLOODPLAIN (PER FEMA FIRM 13089C0076J DATED MAY 16, 2013). NO STREAMS ARE PRESENT ON SITE.

### LINE AND CURVE TABLE

LINES

| # | BEARING | DISTANCE |
|---|---|---|
| L-1 | N70°39'59"E | 127.67' |
| L-2 | N17°32'12"W | 12.43' |
| L-3 | N17°32'12"W | 13.80' |
| L-4 | N40°38'38"W | 65.62' |
| L-5 | N40°38'38"W | 12.50' |
| L-6 | S19°00'35"W | 11.02' |
| L-7 | N88°22'51"W | 17.75' |
| L-8 | N88°22'51"W | 11.31' |
| L-9 | S00°07'21"W | 31.00' |
| L-10 | S89°50'11"E | 29.94' |
| L-11 | S72°44'16"W | 13.22' |
| L-12 | S72°44'16"W | 339.77' |

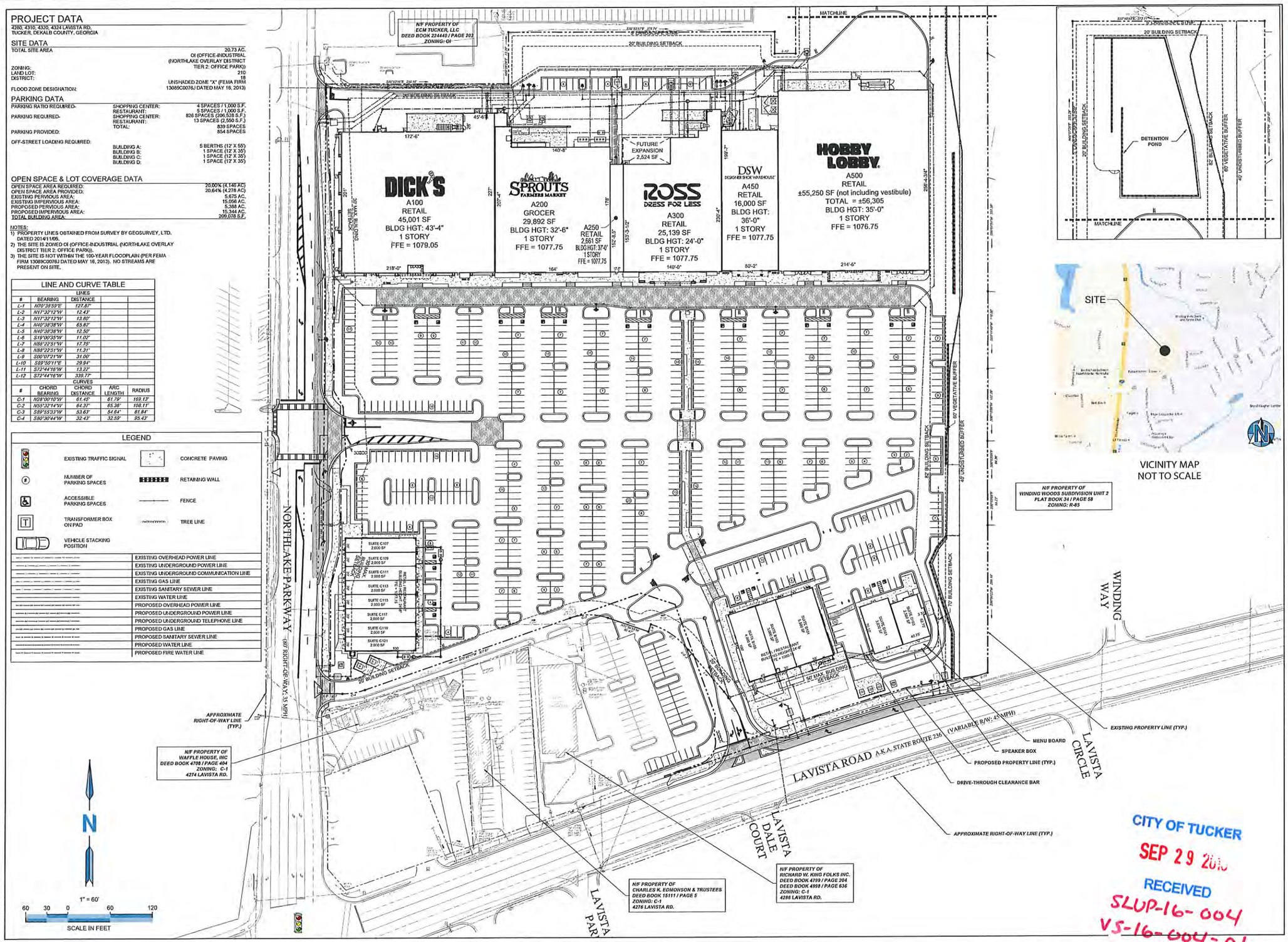
CURVES

| # | CHORD BEARING | CHORD DISTANCE | ARC LENGTH | RADIUS |
|---|---|---|---|---|
| C-1 | N28°00'10"W | 61.45' | 61.79' | 169.13' |
| C-2 | N55°32'14"W | 64.37' | 65.36' | 108.11' |
| C-3 | S89°55'33"W | 53.63' | 54.64' | 81.64' |
| C-4 | S80°30'44"W | 32.43' | 32.59' | 95.43' |

### LEGEND

EXISTING TRAFFIC SIGNAL
NUMBER OF PARKING SPACES
ACCESSIBLE PARKING SPACES
TRANSFORMER BOX ON PAD
VEHICLE STACKING POSITION
CONCRETE PAVING
RETAINING WALL
FENCE
TREE LINE

EXISTING OVERHEAD POWER LINE
EXISTING UNDERGROUND POWER LINE
EXISTING UNDERGROUND COMMUNICATION LINE
EXISTING GAS LINE
EXISTING SANITARY SEWER LINE
EXISTING WATER LINE
PROPOSED OVERHEAD POWER LINE
PROPOSED UNDERGROUND POWER LINE
PROPOSED UNDERGROUND TELEPHONE LINE
PROPOSED GAS LINE
PROPOSED SANITARY SEWER LINE
PROPOSED WATER LINE
PROPOSED FIRE WATER LINE










VICINITY MAP
NOT TO SCALE

CITY OF TUCKER
SEP 29 2016
RECEIVED
SLUP-16-004
VS-16-004-01

ENGINEER:

FORESITE group

Foresite Group, Inc.
5185 Peachtree Pkwy.
Suite 240
Norcross, GA 30092

o | 770.368.1399
f | 770.368.1944
w | www.fg-inc.net

DEVELOPER:

TUCKER MERIDIAN LLC
PREVIOUSLY (LAVISTA OFFICE PARK LLC)
19241 BIRMINGHAM HIGHWAY
ALPHARETTA, GA 30004

CONTACT: JACOB LANG, P.E.

PROJECT:

TUCKER MERIDIAN
PREVIOUSLY (THE MERIDIAN AT TUCKER)
4280, 4310, 4320, 4324 LAVISTA RD.
TUCKER, DEKALB COUNTY, GEORGIA

SEAL:

| REVISIONS | DATE |
|---|---|
| CITY COMMENTS | 09/28/2016 |

| | |
|---|---|
| PROJECT MANAGER: | DMS |
| DRAWING BY: | SBM |
| JURISDICTION: | DEKALB COUNTY, GA |
| DATE: | 22 SEPTEMBER 2016 |
| SCALE: | 1" = 60' |
| TITLE: | |

SLUP SITE PLAN

SHEET NUMBER: 1 OF 3

COMMENTS: <NOT RELEASED FOR CONSTRUCTION>

JOB/FILE NUMBER: 555.001

SLUP-16-004
VS-16-004-01

CITY OF TUCKER
SEP 29 2016
RECEIVED