City of Tucker, GA

COMMUNITY COUNCIL

November 9, 2016 | **COMMUNITY COUNCIL AGENDA** | **7:00 PM**

Discover DeKalb
1957 Lakeside Parkway, Suite 510
Tucker GA 30084

A) Roll Call

B) Pledge of Allegiance

C) Approval of Minutes:

1. Community Council Meeting Minutes – October 12, 2016
2. Special Called Community Council Meeting Minutes – October 26, 2016

D) Old Business: (None)

E) New Business:

1. **Recommendation to Planning Commission** for SLUP-16-006 and SLUP-16-007 for the conversion of an existing hotel into a senior housing development at 2180 Northlake Parkway.
2. **Recommendation to Planning Commission** for text amendments to Article 7 of the City of Tucker Zoning Ordinance.

F) City Business Items: (None)

G) Comments by Staff and Community Council Members

H) Adjournment

COMMUNITY COUNCIL MINUTES

October 12, 2016

DRAFT COPY

CITY OF TUCKER
COMMUNITY COUNCIL MEETING MINUTES
October 12, 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
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 7:08 pm

MINUTES:

MOTION TO APPROVE THE MINUTES FROM THE SEPTEMBER 14, 2016 COMMUNITY COUNCIL MEETING.
By: Seth Burrow
Seconded by: Janet Curtis
Vote: (7-0) (Burrow, Curtis, Arroyo, Luton, Sapp, Schroeder, Vaughters)

OLD BUSINESS: None

NEW BUSINESS:

The Agenda was amended to include New Business Item 4 (SLUP-16-005)

1. **Recommendation to Planning Commission** to adopt a revised Zoning Ordinance

   John McHenry, Community & Economic Development Director, gave a brief overview of proposed changes to the Zoning Ordinance. Community Council members discussed, among other items, questions regarding proposed changes. Comments from the public concerned, among other items, clarification of changes and requested more notification.

MOTION TO RECOMMEND ADOPTION OF A REVISED ZONING ORDINANCE.
By: Seth Burrow
Seconded by: Frank Luton
Vote: (7-0) (Burrow, Luton, Arroyo, Curtis, Sapp, Schroeder, Vaughters)

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.

   Michele Battle, applicant, gave a brief overview of the application. Community Council members discussed, among other items, height of the new building and other buildings on the property, signage, master plan for the property, and time of construction. Comments from the public concerned, among other items, detention pond.

   MOTION TO RECOMMEND APPROVAL OF SLUP-16-003, VS-16-003-01, AND VS-16-003-02.
   By: Janet Curtis
   Seconded by: Cara Schroeder
   Vote: (7-0) (Curtis, Schroeder, Arroyo, Burrow, Luton, Sapp, Vaughters)

3. **Recommendation to Planning Commission** for SLUP-16-004 and VS-16-004-01 for a drive-through facility at 4328 Lavista Road.

   Kathy Zickert, applicant, gave a brief overview of the application. Community Council members discussed, among other items, hours of drive-through, lighting, and buffer. Comments from the public concerned, among other items, vegetation plans, proximity of the neighborhood, and elevation plan.

   MOTION TO RECOMMEND APPROVAL OF SLUP-16-004 AND VS-16-004-01 WITH THE FOLLOWING CONDITION: PROVIDE ELEVATION AND VEGETATION PLAN TO PLANNING COMMISSION.
   By: Frank Luton
   Seconded by: Jonathan Vaughters
   Vote: (7-0) (Luton, Vaughters, Arroyo, Burrow Curtis, Sapp, Schroeder)

4. **Recommendation to Planning Commission** for SLUP-16-005 for a 210-unit multi-family development (30-units per acre) at 2200 Northlake Parkway and 2180 Northlake Parkway.

   Kathy Zickert, applicant, gave a brief overview of the application. Community Council members discussed, among other items, timeliness of the application, incomplete application submitted, and traffic. Comments from the public concerned, among other items, traffic, sewer issues, surrounding area projects, and urged community council not to make a recommendation.

   MOTION TO DEFER SLUP-16-005.
   By: Janet Curtis
   Seconded by: Cara Schroeder

Vote: (7-0) (Curtis, Schroeder, Arroyo, Burrow, Luton, Sapp, Vaughters)

CITY BUSINESS ITEMS: None

ADJOURNMENT: The Community Council Meeting adjourned at approximately 9:11 pm.

Approved,

Attest:

_____

Will Arroyo, Chairman

_____

Jennifer Davis, City Clerk

(Seal)

COMMUNITY COUNCIL MINUTES

October 26, 2016

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CITY OF TUCKER
COMMUNITY COUNCIL MEETING MINUTES
October 26, 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
Community Council Member	Frank Sapp - Absent
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 7:03 pm

MINUTES: None

OLD BUSINESS: None

NEW BUSINESS:

1. **Recommendation to Planning Commission** for SLUP-16-005 for a 210-unit multi-family development (30-units per acre) at 2200 Northlake Parkway and 2180 Northlake Parkway.

   Kathy Zickert, applicant, gave a brief overview of the application. Community Council members discussed, among other items, number of units, traffic, time of construction, parking, sewer issues, and sidewalks. Comments from the public concerned, among other items, green space, parking, runoff, rent for apartments, and traffic.

   MOTION TO RECOMMEND APPROVAL OF SLUP-16-005.
   By: Frank Luton
   Seconded by: Jonathan Vaughters
   Vote: (6-0) (Luton, Vaughters, Arroyo, Burrow Curtis, Schroeder)

CITY BUSINESS ITEMS: None

ADJOURNMENT: The Community Council Meeting adjourned at approximately 8:01 pm.

Approved,

Attest:

_____

Will Arroyo, Chairman

_____

Jennifer Davis, City Clerk

(Seal)

SLUP-16-006
SLUP-16-007

LAND USE PETITION

Case Information:

Case Number: SLUP-16-006; SLUP-16-007

Current Zoning: OI (Office-Institutional)

Proposed Zoning: OI (Office-Institutional)

Location: 2180 Northlake Parkway (front portion of lot)

Acreage: 3.184 acres (entire parcel); 1.731 acres (front portion of lot)

Future Land Use Map Designation: RC (Regional Center)

Overlay District: Northlake; Tier 2

District: 18th District

Land Lot(s): 210

Project Description: Conversion of existing hotel into a 72-unit senior housing development (41.62-units per acre). Applicant is required to obtain two special land use permits: one for senior housing and one density (over 24 units/acres).

Applicant: Parc 786, LLC

Owner: Parc 786, LLC

Expected Hearing Dates:

Community Council (Special Called): November 9, 2016

Planning Commission: December 19, 2016

Mayor and City Council: January 9, 2017 and January 23, 2017

APPLICATION

APPLICANT INFORMATION	OWNER INFORMATION
NAME: PARK 786, LLC	NAME: FARHAD AMARSI
ADDRESS: 2180 NORTHLAKE PARKWAY	ADDRESS: 1213 LEXHAM DR.
CITY: TUCKER, GA	CITY: MARIETTA
STATE: GA ZIP: 30084	STATE: GA ZIP: 30068
PHONE: 404-259-5130	PHONE: 404-259-5130

CONTACT PERSON: LAILA AMARSI PHONE: 404-259-5130

CONTACT'S E-MAIL: Laila.amarsi@gmail.com

APPLICANT IS THE:

☐ OWNER'S AGENT ☑ PROPERTY OWNER ☐ CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): O&I REQUESTED ZONING DISTRICT: O&I

PRESENT LAND USE CATEGORY: _____ REQUESTED LAND USE CATEGORY: _____

LAND DISTRICT(S): 18 LAND LOT(S): 210 ACREAGE: 3,184

ADDRESS OF PROPERTY: 2180 NORTHLAKE PARKWAY

PROPOSED DEVELOPMENT: ASSISTED LIVING FACILITY

CONCURRENT VARIANCES: _____

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units _____	No. of Buildings/Lots: 1
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. 60,280
Density: _____	Density: _____

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SLUP-16-006; SLUP-16-007

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, FARHAD AMARSI (Property Owner), authorize, PARK 786, LLC (Applicant),

to file for SLUP (RZ, CA, SLUP, CV), at 2180 NORTHLAKE PARKWAY, TUCKER, GA 30084 (Address)

on this date OCTOBER (Month) 17 (Day), 2016

- 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: OCT. 17th 2016

FARHAD AMARSI

Type or Print Name and Title

Signature of Notary Public — Date: October-17-2016 — Notary Seal

PUJA K VYAS
MY COMMISSION EXPIRES
NOTARY PUBLIC
OCTOBER 21, 2017
GWINNETT COUNTY, GEORGIA

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APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW STATES UNDER OATH THAT THEY ARE AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 24 MONTHS FROM THE DATE OF LAST ACTION BY THE MAYOR AND CITY COUNCIL.

Signature of Applicant — Date: Oct. 17th 2016

FARHAD AMARSI - MANAGING MEMBER.

Type or Print Name and Title

Signature of Notary Public — Date: October-17-2016 — Notary Seal

PUJA K VYAS
MY COMMISSION EXPIRES
NOTARY
PUBLIC
OCTOBER 21, 2017
GWINNETT COUNTY, GEORGIA

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DISCLOSURE REPORT FORM

WITHIN THE (2) YEARS IMMEDIATELY PRECEDING THE FILING OF THIS ZONING PETITION HAVE YOU, AS THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, OR AN ATTORNEY OR AGENT OF THE APPLICANT OR OPPONENT FOR THE REZONING PETITION, MADE ANY CAMPAIGN CONTRIBUTIONS AGGREGATING $250.00 OR MORE OR MADE GIFTS HAVING AN AGGREGATE VALUE OF $250.00 TO THE MAYOR OR ANY MEMBER OF THE CITY COUNCIL.

CIRCLE ONE: **YES** (if YES, complete points 1 through 4); **NO** (if NO, complete only point 4)

1. **CIRCLE ONE:** **Party to Petition** (If party to petition, complete sections 2, 3 and 4 below)

   In Opposition to Petition (If in opposition, proceed to sections 3 and 4 below)

2. List all individuals or business entities which have an ownership interest in the property which is the subject of this rezoning petition:

1.	5.
2.	6.
3.	7.
4.	8.

3. CAMPAIGN CONTRIBUTIONS:

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

4. The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name (print) FARHAD AMARSI

Signature: X

Date: Oct. 17th 2016

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A PLANNING PROPOSAL

FOR

PARK PLACE
AT
LA VISA

TA Design Group, Inc.
pob 81226 Chamblee, GA 30366
tadgi.com
864-553-2474

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SLUP-16-006
SLUP-16-007

Letter of intent

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PARK PLACE AT LAVISTA
LETTER OF INTENT

It is the intent of Park Place LLC. to develop and/or renovate the existing Northlake Inn into and assisted living facility for the growing aging population. The following is the concept for the development:

In this application we are asking for the following SLUP's : 1. asking for special use for the assisted living usage and 2. for the density to be raised above the 24 residential units/ acre to 72 residential units/acre.

Phase I

A. Project Summary Overview and Key Considerations.

1. Certificate of Need Requirements.

A Certificate of Need (CON) is no longer required to develop an ALF facility, except if proponent intends to serve Medicaid beneficiaries and the facility will have 25 or more beds. In this instance, Park Place Manor at Lavista will not serve Medicaid beneficiaries so a CON is not required. However, proponent's preliminary and subsequent plans and specifications are subject to State Architect and State Fire Marshall review and approval; and facility is subject to State ALF licensing rules and regulations (see **Exhibit 1**).

2. Project Summary Description and Space Program Concept Model.

The conceptual model for the proposed Park Place Manor at Lavista is a proposed 72-unit multi-story building to be constructed on a 3.2-acre site located at 2180 Northlake Parkway in Tucker, DeKalb County, GA. The site is adjacent and bordering the eastside of Inter-State 285 less than one-third of a mile north of the La Vista Road interchange. The number and type of rooms (private and semi-private) for this analysis is based on 72 private or single bed-room units, 10 potentially double-occupancy units, and 28 memory care units, actual configuration will of course vary. Anticipate that facility will be at least 3 stories, with approximately 24 units per floor, first floor dedicated to administrative, dining, recreational, and activity spaces. will have to accommodate sufficient parking for residents, visitors, staff and deliveries. The resident units will vary in size and spatial configurations; for example, a studio unit might have 320 useable square feet ("sf") of space; a one bed-room unit 420 sf; and a two-bedroom up to 600 plus sf.

Client must determine if existing original on-site structure will be renovated or replaced by new construction. Renovation of exiting original hotel structure may be cost prohibitive. Parts of existing structure will most likely require complete demolition (unused sections).

3. Site Access and Proximity to Healthcare, Shopping and Entertainment Venues:

A map on the next page shows that the proposed Park Place Manor at Lavista site is located less than one-third of a mile from the Inter-state 285, with direct north and south access via La Vista Road interchange.

This site provides convenient access to Emory University Hospital in Decatur, Emory Orthopaedic and Spine Hospital in Tucker less than 2 miles south; and Northside Hospital and St. Joseph's Hospital in North Atlanta both located due west of Perimeter Mall, less than 8-miles northwest of the site.

This site is served by public bus transit services, and is less than one-mile from the Northlake Mall. I-285 also provides direct access to downtown Decatur, City of Atlanta, Perimeter Mall Area, and Stone Mountain Park with three golf ranges and other recreational activities; all of these attractions

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are within a 10-mile radius of Park Place Manor at Lavista's site in Tucker, DeKalb County. This site is also within close proximity to Emory University Hospital in Decatur, Northside Hospital, St. Joseph's Hospital, and other healthcare services all are less than 10 miles from the proposed Park Place Manor at Lavista Site.

There are at least 5 existing nearby Personal Care Homes (2 facilities, "PCH") and 3 ALFs with 60 or more beds. These existing facilities are no more than 6 miles from the proposed site. All of these existing facilities are approximately 15 to 30 plus years old. Two offer limited services (PCHs). There also are many small (10 beds or less) PCH facilities in close proximity. However, PCH facilities are not similar in scope to an ALF and are licensed under separate State licensing rules and regulations effective in 2010, as explained later in the report.

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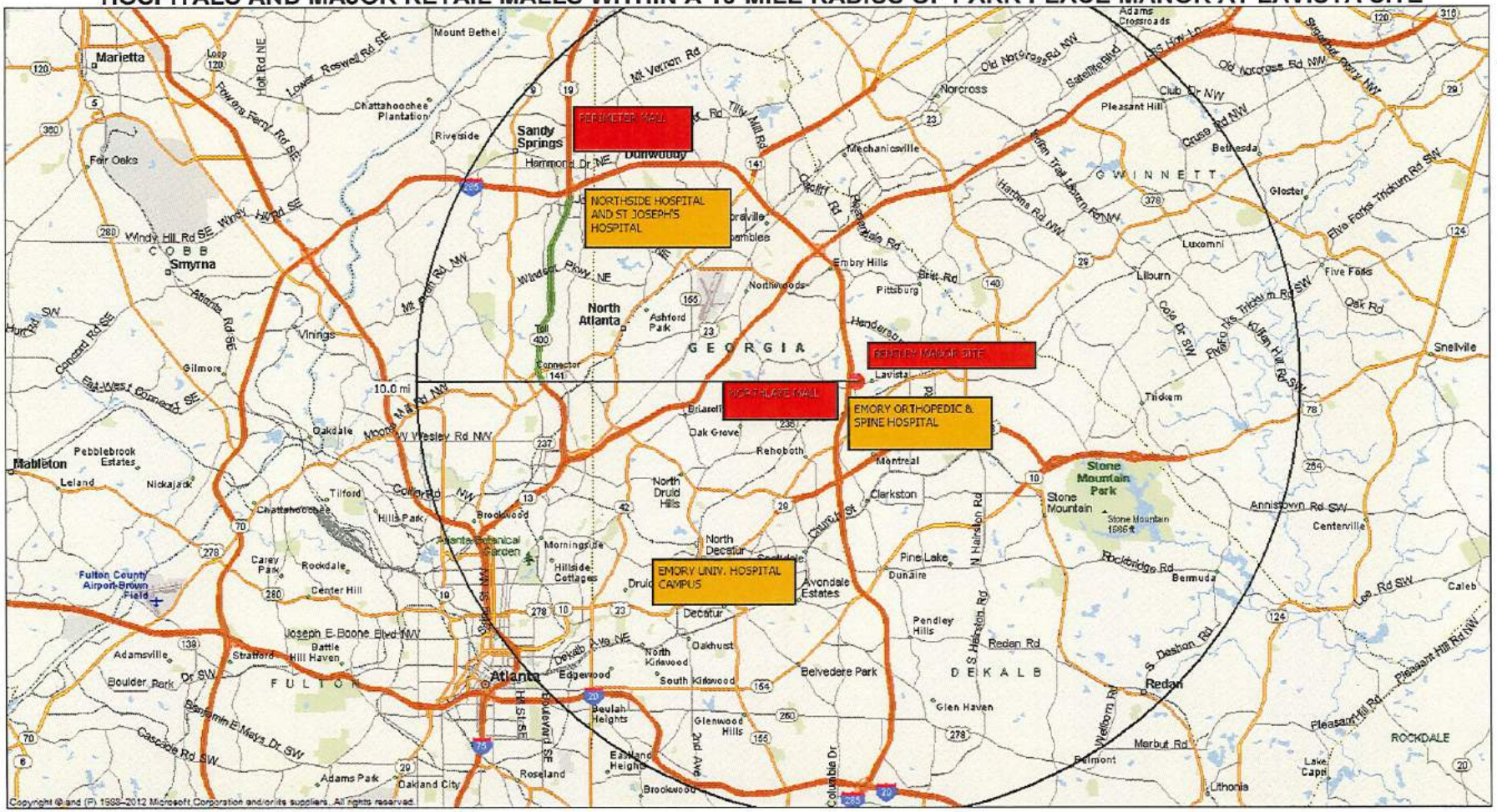
HOSPITALS AND MAJOR RETAIL MALLS WITHIN A 10-MILE RADIUS OF PARK PLACE MANOR AT LAVISTA SITE



The above map shows proximity of Park Place Manor at Lavista site in City of Tucker to downtown Atlanta, Northside and Emory University Hospital campuses, and two shopping malls (Perimeter and Northlake). Map also shows that site provides excellent inter-state 285 access to downtown via I-285 north to I-85 south. I-285 provides direct access to downtown Decatur via Highway 78.

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4. Summary overview of ALF industry:

It is fairly common in the ALF industry that 80% of the residents will be single. The objective is to design and configure most of the rooms to offer a variety of floor plans, and amenities in each room (some studio and two-room suites may have kitchenettes and a small sitting area for example). Residents will supply their own furnishings that will comply with the resident agreement requirements. Residents who wish to have a furnished unit will be assisted in arranging for rental furnishings.

The design concept should centralize administration and resident support service areas on the ground floor; staff support space should be concentrated in the basement. All resident rooms will be located on the upper floors. A centrally located elevator will serve all floors.

Georgia ALF licensing rules (applicable only to ALFs with 25 or more residents). **Exhibit 1** is a copy of these regulations, Section 111-8-.63 on page 24 describes the minimum spatial features required in an ALF, including the minimum clear space required in a residents bed-room (80 clear feet of space). This proposed ALF most likely will be designed to exceed the minimum spatial requirements per resident bed-room as illustrated by the assumptions used describing this proposed 72 unit ALF.

B. General Summary Description of Assisted Living Facility Services.

New Georgia ALF licensing regulations were adopted in 2010, the following is a summary of these regulations.

1. Healthcare Facility Regulation Division ALF Definition:

Assisted living communities are personal care homes which choose to serve 25 residents or more and which provide assisted living care which consists of the provision of personal services, the administration of medications by a certified medication aide and the provision of assisted self-preservation. (Personal services include but are not limited to individual assistance with and supervision of self-administered medications and essential activities or daily living such as eating, bathing, grooming, dressing, and toileting.)

Exemptions:

- Boarding homes or rooming houses which provide no services other than lodging and meals
- Facilities offering temporary shelter, such as those for the homeless and victims of family violence
- Other facilities, homes or residences licensed by the Department of Community Health which have not been classified as assisted living communities, e.g.

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community living arrangements, personal care homes, hospices, traumatic brain injury facilities

- Facilities providing residential services for federal, state or local correctional institutions under the jurisdiction of the criminal justice system

- Charitable organizations providing shelter and other services without charging any fee to the resident or billing any fee on behalf of the residents

- Group residences organized by or for persons who choose to live independently or who manage their own care and share the cost of services including but not limited to attendant care, transportation, rent, utilities and food preparation

- Facilities licensed by the Department of Behavioral Health, Developmental Disabilities and Addictive Diseases • Host Homes as defined in O.C.G.A. §37-1-20(18)

Type Regulation:

An assisted living community must obtain a permit from the Division of Healthcare Facility Regulation, Georgia Department of Community Health.

Legal Authority

O.C.G.A. § 31-7-3, Permit Required O.C.G.A. §§ 31-7-12. and 31-7-12.3, Personal Services and Assisted Living Community.

O.C.G.A. §§ 31-2-9, 31-7-250, Criminal Records Checks O.C.G.A. § § 31-2-4 and 31-2-8, Fee and Enforcement Authority,

Rules:

Rules and Regulations for Assisted Living Communities, Chapter 111-8-63, Rules and Regulations for General Licensing and Enforcement Requirements, Chapter 111-8-25, Fees:

• Permit: 25≤ 50 beds $750, >50 beds $1500 annually

2. **Exhibit 1** is a copy of 2010 ALF license regulations, which are more extensive than the rules in place back in 2006. Under the current regulations, Park Place Manor at Lavista will be required to have in-place extensive and comprehensive detailed policies and procedures regarding staffing, quality assurance, facility maintenance, resident supervision, provision of nursing and professional services, etc. It is essential that proponent review these rules carefully to ascertain all of what is required to satisfy these regulations.

3. Factors influencing use of ALFs:

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a) The aging of America, together with extended life expectancy, is resulting in an unprecedented demand for all kinds of long-term care services. From this, a rapidly growing field known as "assisted living" has emerged.

b) The philosophy of assisted living is to provide supervision, assistance and personal care services to senior citizens and individuals with disabilities as needed. The goal is to maintain maximum independence in a home-like setting, while providing individualized care and assistance.

c) Assisted living offers a unique mix of security and independence, privacy and companionship, and physical and social well being.

d) Choosing the appropriate residential setting can make all the difference in an individual's mental, physical, and social well being.

e) Assisted living is part of a continuum of long term care services that provides a combination of housing, personal care services, and health care designed to respond to individuals who need assistance with normal daily activities in a way that promotes maximum independence.

f) Assisted living services can be provided in freestanding residences, near or integrated with skilled nursing homes or hospitals, as components of continuing care retirement communities, or at independent housing complexes.

g) Assisted living residences offer a multifaceted residential setting that provides personal care services, 24-hour supervision and assistance, activities and health-related services, designed to:

- Minimize the need to relocate;
- Accommodate individual residents' changing needs and preferences;
- Maximize residents' dignity, autonomy, privacy, independence, choice and safety; and
- Encourage family and community involvement.

4. Assisted living residences provide an important choice for consumers and their families, who want supportive housing and services but do not require the 24-hour medical supervision of a skilled nursing facility. Assisted living is a community resource that permits seniors and others to remain close to friends and family.

5. National studies indicate that most ALF resident, particularly of an ALF in an urban area, typically originate within a 15-mile radius of the assisted living residence, reinforcing the fact that assisted living truly serves a local need.

6. The average age of an ALF resident is about 87, and female widowers. They generally require some assistance with basic activities such as bathing and dressing, housekeeping, shopping and transportation. Often, residents move to assisted living when they can no longer safely live alone. Many residents experience some cognitive impairment and require supervision and "cueing" or reminders about their daily routine. Assisted living residences serve the fastest growing segment of our population—people aged 85 years and older. By the year 2025, it is projected that over 12% of the Georgia population age 80 and older will more than double.

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C. Proposed Services.

1. The Park Place Manor at Lavista will offer the following services and activities:

   a) 24-hour supervision; ratio of at least 1 Certified Nursing Assistant to every 10 Residents during normal business hours (day-time shift; ratio declines with evening and night shifts).

   b) Three meals a day in a group dining room (resident will be offered meal plans based on one, two or three meals per day; five to seven days per week); and,
   c) A range of services that promote the quality of life and independence of the individual; such as:

   - Personal care services (help with bathing, dressing, toileting, etc.);
   - 24-hour security and staff availability;
   - Emergency call system in each unit;
   - Medication management, or assistance with self-administration of medicine;
   - Limited nursing services as allowed pursuant to licensing rules.
   - Nutritional counseling;
   - Recreational and spiritual activities (theater and shopping trips; church services);
   - Wellness program (exercise and possibly occupational therapy activities);
   - Laundry and linen service;
   - Housekeeping and maintenance; and,
   - Arrangements for transportation.

2. The proposed ALF will adopt the following philosophy in keeping with the American Health Care Association "Philosophy of Consumer Choice" available at their website (http://www.longtermcareliving.com).

   - Be treated with dignity and respect;
   - Be informed of services available and the limitations of those services;
   - Manage your personal funds;
   - Retain and use your personal possessions;
   - Interact freely with others both inside the residence and in the community;
   - Have freedom of religion;
   - Control your health-related services;
   - Maintain your privacy;
   - Be free to exercise your rights and responsibilities as a resident; and,
   - Have the right to voice or file grievances.

3. The Park Place Manor at Lavista will also incorporate in their residential agreement an outline inclusive of all of the specific services, amenities and accommodations that will be offered by the facility. The following is a summary of the types of information that will be included in the agreement:

   a. Description of the Physical Plant Attributes:

   - All public areas will have handrails available to aid in walking.
   - Kitchenettes will be designed so that all cabinets and drawers are easily within reach.
   - Public and resident room floors will have non-skid material and carpet.

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- Public areas and each residence will have good natural and artificial lighting.
- The ALF will be kept clean, free of odors, and will be appropriately heated/cooled. Each room will have a programmable thermostat.
- The entire facility will be appropriately sprinklered, will have emergency lighting systems on each floor and have clearly marked exits.
- Public exists will be monitored to ensure residence security.
- The furnishings and wall coverings will be attractive, comfortable and present a home-like and welcoming setting.
- The facility floor plan will be designed to allow for easy access by residents to and from their rooms to all common areas in the building.
- All resident rooms will have an emergency call system, which will be monitored 24 hours per day, seven days per week.
- Smoke detectors will be installed in each residence and public area of the building.
- All public areas of the building will be smoke free.
- Secured and monitored private parking will be available on-site for residents and their guests.
- An elevator will serve all of the floors in the facility.
- A choice of residential floor plans will be provided, studio and single bedroom units.
- All bathrooms will be handicapped accessible.
- Residents will be allowed to furnish their units with their own furniture; arrangements for rental furniture will also be available.
- Rooms with kitchenettes will have a refrigerator, sink, microwave and small cook top.
- A full-service dining room and kitchen will be on-site serving three meals a-day.
- A wellness/exercise room will be provided.

b. Social and Recreational Activities

- Grooming/beauty shop services will be provided.
- Activities program will be posted weekly, events such as shopping, concert and theater trips will be planned in advance.
- Temporary home health services will be allowed arranged by the resident's physician and coordinated through administration. Administration will assist residents in obtaining temporary physical or occupational home health therapy services that will be provided in the wellness center.
- Volunteers and family members will be encouraged to participate in the provision of social and recreational activities in and outside of the ALF.

c. Atmosphere

- The reception area, business offices, and residence activities areas will all be well-designed and appointed to be comfortable and inviting.
- All staff will be welcoming and attentive to residents, guests and potential new residents.
- Staff is required to know residents' names, have familiarity with their needs and habits and to habitually greet them and interact with them on a personal level.
- Visits to the facility are welcomed, potential new residents will be afforded the opportunity to tour the facility and interact with staff and residents. Administration will maintain at least one model unit that will be fully-furnished; potential new residents will be encouraged to stay overnight to evaluate the accommodations, dining and other amenities.
- All staff members will be professionally dressed, will welcome, greet and be courteous and responsive to all visitors, guests and residents.

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d. Rental Agreement-General Conditions/Considerations

- Each resident will be provided a written rental agreement that will detail any and all costs associated with their tenancy. The agreement will provide a discrete breakdown of the base costs and any and all additional elective services.
- Each potential resident will be provided an income checklist to determine if they have sufficient income to cover their ALF charges (see Exhibit A).
- The contract will explain the terms of the tenancy; the process for cancellation of the agreement; and all other obligations of the tenant and the ALF.
- Residents will have to purchase renter's insurance.
- There will be a formal written grievance process available to all residents.
- Residents who require temporary or acute hospital stays will be able to maintain their tenancy.

e. Health related services

- The ALF can have an RN on staff; however, their provision of personal care services must fall within licensing regulations (see Exhibit 1, §111-8-63.17 (11) on page 38).
- Each resident will be assigned a Certified Nursing Assistant who will be responsible to assist that resident with activities of daily living as necessary and as spelled-out in their written plan of care.
- The ALF will assist residents who need assistance in obtaining a primary care physician if they need a new one because their existing one resides to far away.
- The facility will maintain a list of existing hospital and nursing home contacts should a resident require such a referral.
- The facility will allow home health physical or occupational therapists to use the existing wellness center or activities room for minor and temporary therapy services rendered to a resident.

Each resident will receive individualized services to help him/her function within the residence and within the community. Upon admission, a service plan is usually developed to coordinate the delivery of services to each resident. The agreement, which includes an assessment or evaluation of the resident's physical and psychosocial needs, is reviewed and updated regularly by the staff, and as the resident's condition indicates.

The resident and family, or responsible party, are encouraged to play an active role in the development of the service plan. A resident care or wellness coordinator (the LPN FTE position) will be designated to oversee the process of developing, implementing, and evaluating the progress of the service plan. A copy of the service plan is provided to the resident, family, or responsible party upon request.

D. Existing PCH and ALFs with 60 or more beds near site.

A map on the next page shows 3 existing ALFs and two nearby PCH facilities with 60 beds or more within close proximity of Park Place Manor at Lavista site. Facilities with less than 60-beds are excluded from this analysis because most are licensed personal care homes ("PCH"). PCH's typically have smaller residential rooms and limited activity areas, and operate under different state licensing rules and regulations (Chapter 111-8-62). *Over view Photos of each facility's site and street-view photo of each PCH and ALF are shown in the pages following map.*

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Phase II

The area noted as "Phase II" on the drawings is presently under contract for an apartment development and is to been presented for review in the near future. It will provide the facility for inter-parcel access and potentially provide an alternate solution for storm water retention and water quality. However, space has been provided for these facilities in the event it does not take place in the appropriate time frame. In the area additional shopping is being developed, that will provide more activities for our residents and provide the shop keepers additional market.

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Regulation comments

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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 multifamily (attached) residences. **Provided**

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). **Provided**
2. Central kitchen and dining facility. **Provided**
3. Recreation and amenities. **Provided**
4. Building/Clubhouse for classes, meetings, concerts, storytelling, etc. **Provided**
5. Adult day care. **Provided**

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. **Provided**

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. **Provided**
2. Main floor of each unit shall include a kitchen, entertaining area, and master bedroom with full bathroom. **Provided**
3. Every door on the main floor shall provide a minimum width of thirty-four (34) inches of clear passage. **Provided**
4. Blocking shall be installed in the master bath around toilet, tub, and shower for placement or future placement of grab bars. **Provided**

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:

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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. **Provided**

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. **Provided**

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:

5. Proximity and pedestrian access to retail services and public amenities. **Shopping across northlake parkway under construction, with proposed stop light and walkways at the north-east corner of our site**

6. Transportation alternatives. **Marta bus stop is at site, van transport, and auto available.**

7. Integration into existing neighborhoods through connectivity and site design. **The proposed apartment development will provide inter site connectivity, our site has been prepared of this estension**

8. Diverse housing types. **The units are of different sizes rangeing from 400 sf to 750 sf**

9. Site and building design that encourages social interaction. **With the the apartment and shopping center developments either proposed or being constructed there is every opportunity for social interaction for our residents**.

6. Building design that meets Easy Living standards. **Building is being redigened to be completely ADA complaint and provide units that are larger than other facilities in the area.**

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:

10. Building height. **Approximately 44'**

11. Landscaping. **Every attempt is to be used to create a park/residential atomsphere**

12. Maximum lot coverage. **Providing 21% open space**

13. Setbacks from exterior property lines. **Setbacks meet city standards**

14. Site size. **1.6-1.7 acres**.6. Access to thoroughfare. **Northlake Parkway broader the east side of the site**

I. *Submittal requirements.* The following documents and information are required for submittals for rezoning, special land use permits, land

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development permits and building permits associated with proposed senior living facilities:

15. Survey and site plan (per established requirements in Article 7). **See drawings**
16. Landscape and tree plan. **See drawing A-007**
17. Number and location of residential units. **See drawing A-100**
18. Types of units. **See drawing A-100**
19. Amenities. **See drawing A-100**
20. Institutional/non-residential services. **The facility will provide chapel, library, beauty shop, etc within the building**
21. Proximity to services such as health care, shopping, recreation, and transit. **Health care at Dekalb general and Emory Spine, MARTA bus at site, shopping across street, recreation within.**

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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. SITE IS EXISTING AND PROVIDES ADEQUATE LAND FOR INTEDED FACILITY.

B. Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district. USES MATCH WITH FUTURE USE AND FUCTION WELL FOR THE USER POPULATION, FOR THE DEVELOPING AREA.

C. Adequacy of public services, public facilities, and utilities to serve the proposed use. SITE IS EXISTING ADEQUATE UTILITIES, PUBLIC SERVICES, WITH MARTA STOP, ETC.

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. SITE IS ON NORTHLAKE PARKWAY WHICH HAS CAPCITY FOR DEVELOPMENT OF THE FUTURE.

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. USE WILL PROVIDE LESS TRAFFIC THEN PRESENT USE BY AT LEAST 80%: PRESENT 150 ROOMS @ 0.47 TRIPS/ROOM OR 705 TRIPS/DAY: NEW USE 72 ROOMS .@ 0.22 TRIPS/ROOM OR 15.84 TRIPS/DAY (ASSUMING THE 22 ROOMS OF MEMORY CARE IS COUNTED) (WITH A MARTA STOP ON SITE TRIPS POTENTIALLY COULD BE LESS.) MOST TRIPS WILL OCCUR AT EARILY MORNING AND EVENING WHEN STAFF CHANGE.

F. Adequacy of ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency. THE DEVELOPMENT WILL PROVIDE NEW SIDEWALKS. THE ACCESS THAT EXISTS PROVIDES ADEQUATE IN AND OUT, WITHOUT INTERFEARING WITH TRAFFIC.

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. DOES NOT CREATE ANY OF THE ABOVE

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. NO IMPACT

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. NO IMPACT

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 FACILITY

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IS RESIDENTIAL IN NATURE AND WILL BE COMPATABLE WITH NEW DEVELOPMENTS PLANNED FOR THE AREA.

J. Whether or not the proposed use is consistent with the policies of the comprehensive plan. MEETS OBJECTIVES OF THE OVERLAY OF THIS AREA.

K. 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. . PLAN MEETS BUFFERS REQUIRED FOR NOW AND FUTURE DEVELOPMENTS.

L. Whether or not there is adequate provision of refuse and service areas. SERVICES ARE EXISTING FOR INTENSE DEVELOPMENT

M. Whether the length of time for which the special land use permit is granted should be limited in duration. NO LIMIT REQUIRED.

N. 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. BUILDING EXISTS AND WAS PART OF THE EXISTING AREA DEVELOPMENT

O. Whether the proposed use will adversely affect historic buildings, sites, districts, or archaeological resources. . NO IMPACT

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

Q. 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. . NO IMPACT

R. Whether the proposed use would result in a disproportionate proliferation of that or similar uses in the subject character area; . NO IMPACT

S. 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. MEETS NEEDS IN THE AREA. PROVIDES OLDER PEOPLE OPERTUNITY TO STAY IN THEIR LOCAL AREA AS MOST SENIORS PERFER TO STAY WITHIN FIVE MILES OF THEIR PRESENT HOMES.

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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.

The project conforms to the Northlake Overlay per the Comprehensive Land Use Plan as to street scape requirements, inter connectivity, pedestrian ways and access, and supports surrounding businesses and proposed developments.

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
      - **NO WETLANDS ON SITE**

   b. Floodplain
      - **NO FLOOD ZONES FOR MORE THAN A MILE AND 90 PLUS FEET BELOW**

   c. Streams/stream buffers
      - **NO STREAMS ON SITE**

   d. Slopes exceeding 25 percent over a 10-foot rise in elevation
      - **NO SLOPES OVER TWENTY FIVE PERCENT, EXCEPT EXISTING RETAINING WALLS.**

   e. Vegetation
      - **VEGETATION CONSISTS OF MINIMAL GRASS AND TREES IN SPARSE, LOCATIONS MOST OF EXISTING AREA IS COVERED BY PAVING OR BUILDINGS. THE PARKING AREAS WILL BE SIGNIFICANTLY REDUCED, AND RETURNED TO PLANTINGS AND YARDS TO CREATE A MORE RESIDENTIAL "FEEL".**

   f. Wildlife Species (including fish)
      - **NO SIGNIFICANTLY WILDLIFE ON SITE, WITH NEW LANDSCAPING PERHAPS SOME WILDLIFE WILL RETURN.**

   g. Archeological/Historical Sites
      - **EXISTING SITE HAS BEEN IN PLACE FOR FOURTY PLUS YEARS AND ARTIFACTS HAVE BEEN UNCOVERED.**

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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. NOT APPILICAL

   b. Protection of water quality ADD NEW WATER QUALITY SYSTEM

   c. Minimization of negative impacts on existing infrastructure NEW DEVELOPMENT WILL NOT NEED TO HAVE IMACT ON EXISTING INFRASTRUCTURE AS ALL SERVICE EXIST, AND MAY REQUIRE LESS THAN WHAT EXISTS.

   d. Minimization on archeological/historically significant areas NONE IN AREA

   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. IN MOST CASES WILLL ACTUALLY BE EQUAL OR REDUCED

   f. Creation and preservation of green space and open space WILL INCREASE GREEN SPACE BY ABOUT 15%

   g. Protection of citizens from the negative impacts of noise and lighting NOISE WILL BE REDUCED AND LIGHTING WILL BE TO "OVERLAY" REQUIREMENTS

   h. Protection of parks and recreational green space NO PARKS IN GENERAL AREA

   i. Minimization of impacts to wildlife habitats PERHAPS BY INCREASING GREEN SPACE WE WILL DRAW WILD BACK INTO THE AREA

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Physical diagrams and drawings

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SITE PLAN CHECKLIST

1. Key and/or legend and site location map with North arrow (ALL DRAWINGS)
2. Boundary survey of subject property which includes dimensions along property lines that match the metes and bounds of the property's written legal description and clearly indicates the point of beginning

   (SEE SURVEY A-005)
3. Acreage of subject property (SEE SURVEY A-005)
4. Location of land lot lines and identification of land lots (SEE SURVEY A-005)
5. Existing, proposed new dedicated and future reserved rights-of-way of all streets, roads, and railroads adjacent to and on the subject property (SEE SURVEY A-006) (SEE SURVEY A-005)
6. Proposed streets on the subject site (SEE SURVEY A-005)
7. Posted speed limits on all adjoining roads
8. Current zoning of the subject site and adjoining property (SEE SURVEY A-006)
9. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvements on the subject property (SEE SURVEY A-005)
10. Existing buildings with square footages and heights (stories), wells, driveways, fences, cell towers, and any other structures or improvement or adjacent properties within 400 feet of the subject site based on the City's aerial photography or an acceptable substitute as approved by the Director (SEE SURVEY A-000 & A-006)
11. Location of proposed buildings (except single family residential lots) with total square footage (SEE A-000)
12. Layout and minimum lot size of proposed single family residential lots N/A
13. Topography (surveyed or City) on subject site and adjacent property within 200 feet as required to assess runoff effects (SEE A-000, A-006 & A-011)
14. Location of overhead and underground electrical and pipeline transmission/conveyance lines (SEE SURVEY A-005)
15. Required and/or proposed setbacks (SEE SURVEY A-006)
16. 100 year flood plain horizontal limits and flood zone designations as shown on survey or FEMA FIRM maps N/A
17. Required landscape strips, undisturbed buffers, and any other natural areas as required or proposed (SEE A-006)
18. Required and proposed parking spaces; Loading and unloading facilities (SEE SURVEY A-000)
19. Lakes, streams, and waters on the state and associated buffers N/A
20. Proposed stormwater management facilities (SEE SURVEY A-006)
21. Community wastewater facilities including preliminary areas reserved for septic drain fields and points of access

    (SEE SURVEY A-011)
22. Availability of water system and sanitary sewer system (SEE SURVEY A-011)
23. Tree lines, woodlands and open fields on subject site N/A
24. Entrance site distance profile assuming the driver's eye at a height of 3.5 feet (EXISTING CONDITION, NO CHANGE)
25. Wetlands shown on the County's GIS maps or survey. N/A
26. Mail kiosk location. N/A TO BUILDING

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 210 of the 18th District of Dekalb County, Georgia, and being 3.184 acres with improvements located thereon as shown a plat of survey made of Hotel. Northlake Parkway, prepared for Farhad Amrasi, prepared by Michael G. High of Michael G. High Land Surveying, Georgia Registered Land Surveyor, dated November 28, 2006, which said of survey is Incorporated herein and by reference more to being more particularly described as **follows:**

TO FIND THE TRUE POINT OF BEGINNING, commence at a concrete marker found at the Intersection of the Northern right-of-way line of Lavista Road with the Western right-of-way line of Northlake Parkway (80' R/W); thence proceeding along the Western right-of-way line of Northlake Parkway North 00 degrees 57 minutes 05 seconds West 367.35 feet to a brass rod found, said brass rod being the TRUE POINT OF BEGINING; thence leaving said right-of-way line North 89 dogmas 46 minutes 36 seconds West 472.43 feet to a ¾" open top pipe found, thence proceeding South 74 degrees 02 minutes 49 seconds West 48.40 feet to a point: thence proceeding North 31 degrees 33 minutes 42 seconds West 12.51 feet to a point; thence proceeding North 05 degrees 13 minutes 10 seconds East 272,18 feet to a ½" rebar found: thence proceeding North 89 degrees 78 minutes 33 seconds East 496.01 feet to **a ½"** open top pipe found on the Western right-of-way line of Northlake Parkway, thence proceeding along the Western right-of-way line of Northlake Parkway South 00 decrees 67 minutes 05 seconds East 274.78 feet to a brass rod found, said brass rod being the TRUE POINT OF BEGINNING.

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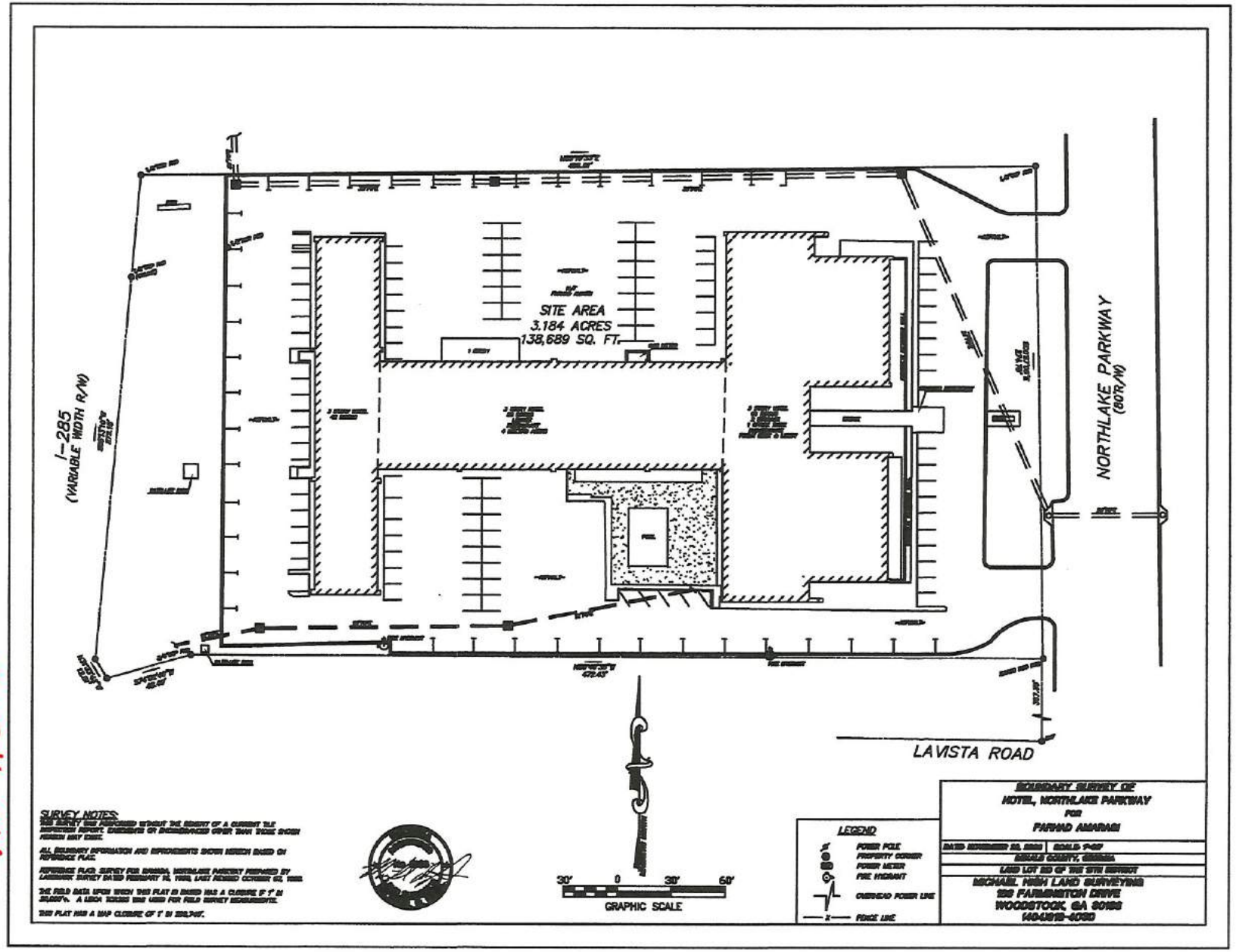
LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 210 OF THE 18TH DISTRICT OF DEKALB COUNTY, GEORGIA, AND BEING 3.184 ACRES WITH IMPROVEMENTS LOCATED THEREON AS SHOWN A PLAT OF SURVEY MADE OF HOTEL, NORTHLAKE PARKWAY, PREPARED FOR FARHAD AMRASI, PREPARED BY MICHAEL G. HIGH OF MICHAEL G. HIGH LAND SURVEYING, GEORGIA REGISTERED LAND SURVEYOR, DATED NOVEMBER 28, 2006, WHICH SAID OF SURVEY IS INCORPORATED HEREIN AND BY REFERENCE MORE TO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE AT A CONCRETE MARKER FOUND AT THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY LINE OF LAVISTA ROAD WITH THE WESTERN RIGHT-OF-WAY LINE OF NORTHLAKE PARKWAY (80' R/W). THENCE PROCEEDING ALONG THE WESTERN RIGHT-OF-WAY LINE OF NORTHLAKE PARKWAY NORTH 00 DEGREES 57 MINUTES 05 SECONDS WEST 367.35 FEET TO A BRASS ROD FOUND, SAID BRASS ROD BEING THE TRUE POINT OF BEGRINING; THENCE LEAVING SAID RIGHT-OF-WAY LINE NORTH 89 DOGMAS 46 MINUTES 36 SECONDS WEST 472.43 FEET TO A ½" OPEN TOP PIPE FOUND, THENCE PROCEEDING SOUTH 74 DEGREES 02 MINUTES 49 SECONDS WEST 48.40 FEET TO A POINT: THENCE PROCEEDING NORTH 31 DEGREES 33 MINUTES 42 SECONDS WEST 12.51 FEET TO A POINT; THENCE PROCEEDING NORTH 05 DEGREES 13 MINUTES 10 SECONDS EAST 272.18 FEET TO A ½" REBAR FOUND: THENCE PROCEEDING NORTH 89 DEGREES 78 MINUTES 33 SECONDS EAST 498.01 FEET TO A ½" OPEN TOP PIPE FOUND ON THE WESTERN RIGHT-OF-WAY LINE OF NORTH PARKWAY. THENCE PROCEEDING ALONG THE WESTERN RIGHT-OF-WAY LINE OF NORTH PARKWAY SOUTH 00 DEGREES 67 MINUTES 06 SECONDS EAST 274.79 FEET TO A BRASS ROD FOUND, SAID BRASS ROD BEING THE TRUE POINT OF BEGINNING.



SLUP-16-006
SLUP-16-007

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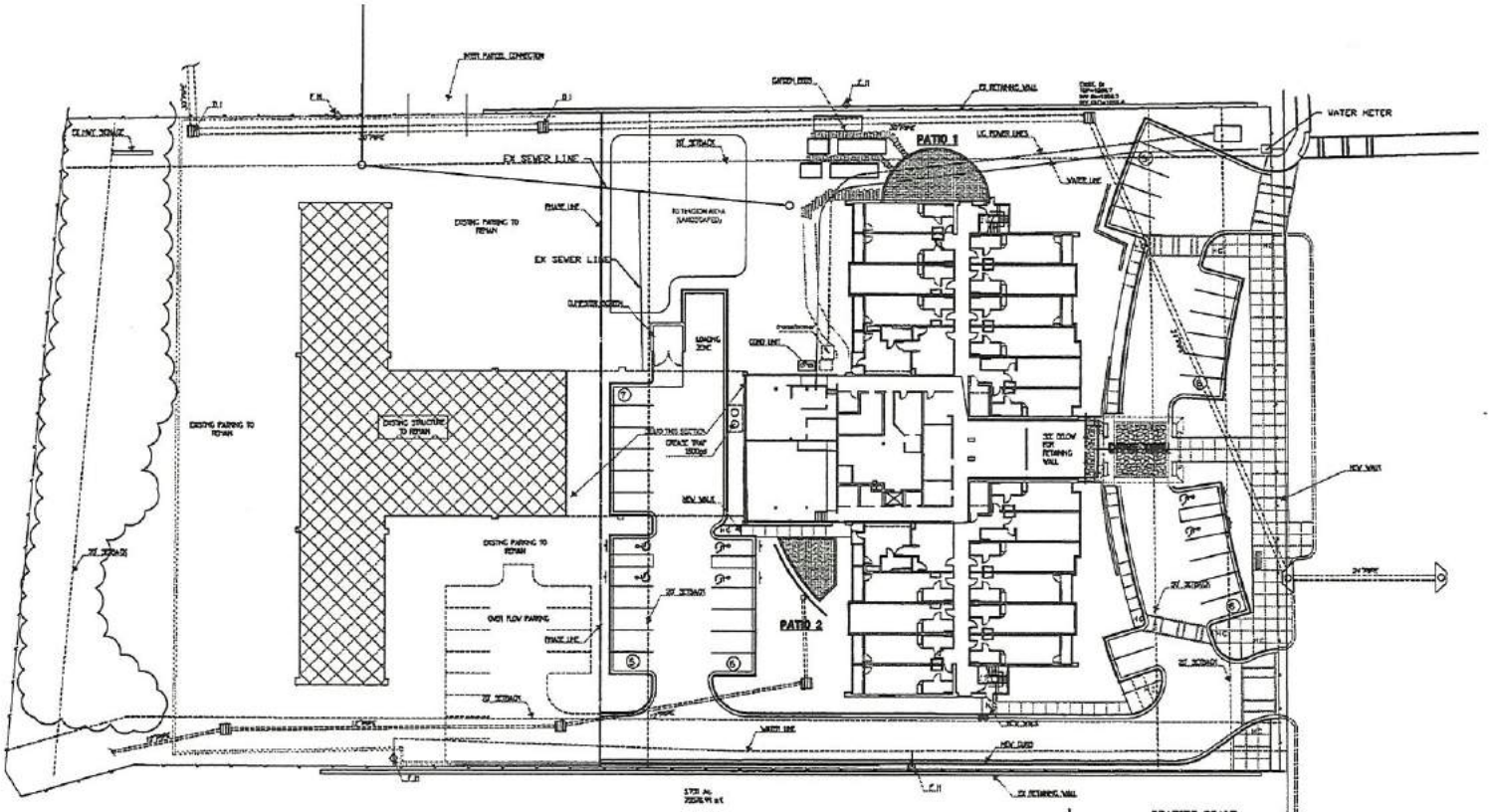
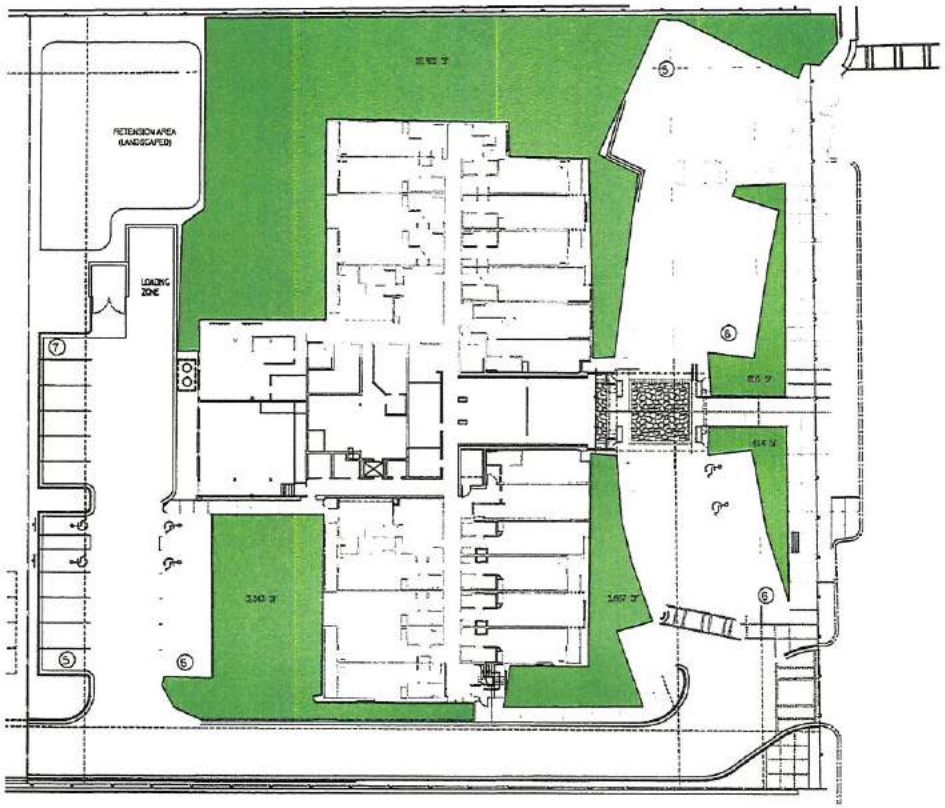
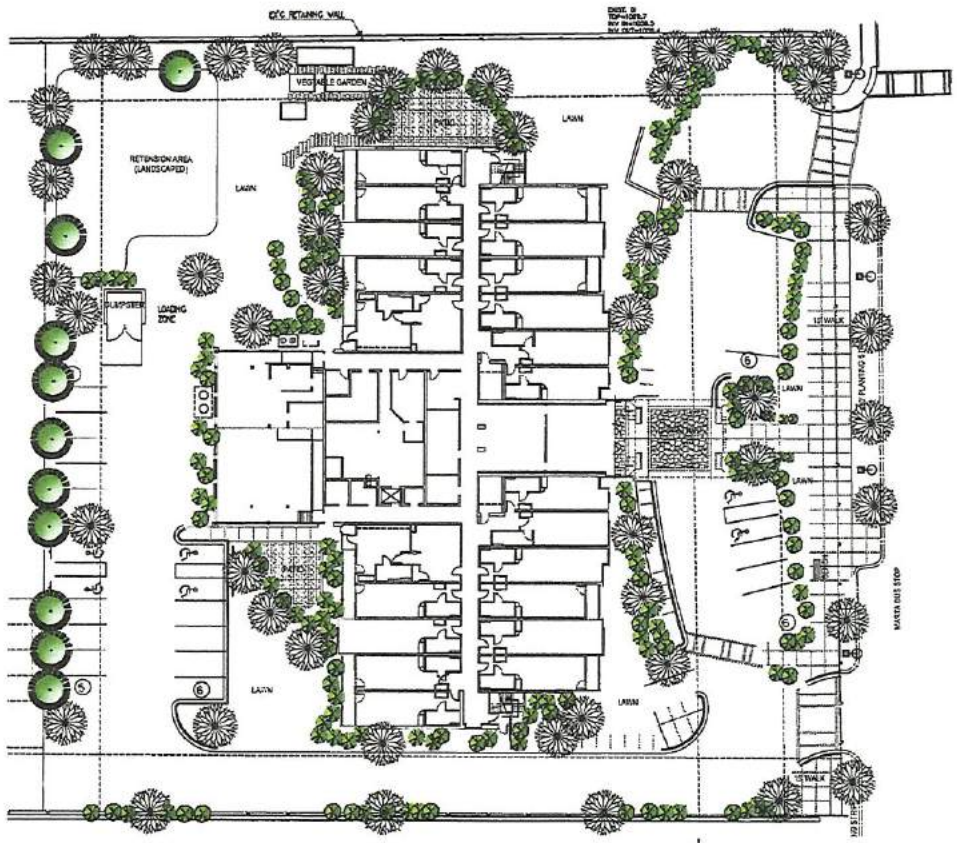

WATER METER
PATIO 1
PATIO 2
EX SEWER LINE
EX SEWER LINE
EX RETAINING WALL
EX RETAINING WALL
DRIVE THRU
HCV VALVE
HCV VALVE
WATER LINE
WATER LINE
DRIVE THRU
DRIVE THRU
DRIVE THRU



PERMINATE OPEN SPACE

LOT SIZE	75,075 SF
GREEN SPACE	16,451 SF
REQUIRED @ 20%	15,135 SF
ACTUAL PERCENTAGE	21.7%



CONCEPTUAL LANDSCAPE PLAN

LOCATION MAP

BROADLEAF TREES
CONIFER TREES
SHRUBS & UNDERPLANTINGS
STREET LIGHT

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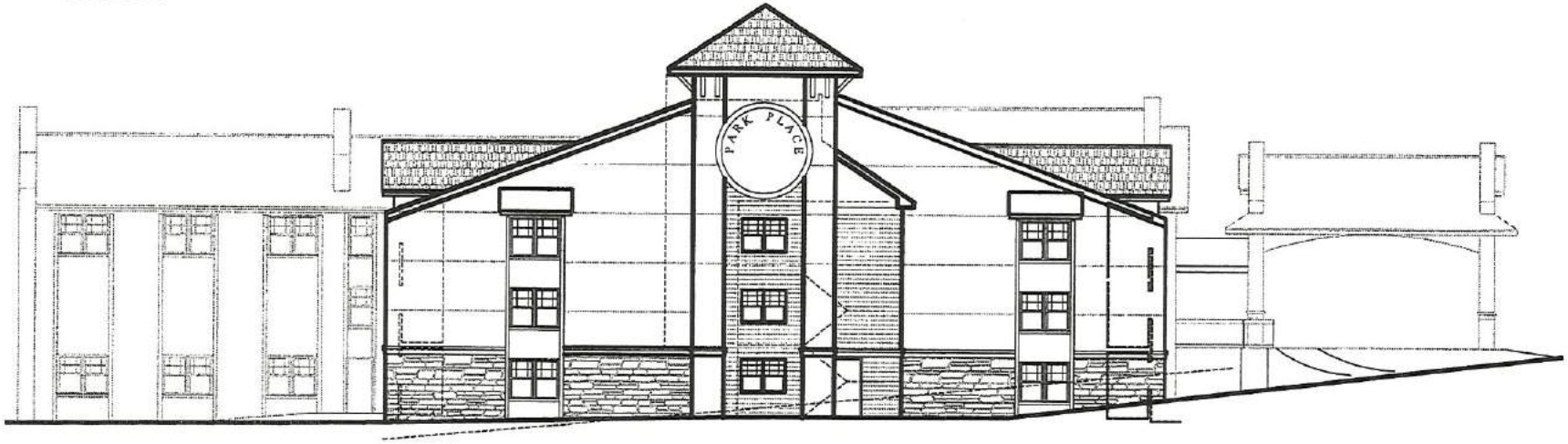
STATE OF GEORGIA
REGISTERED ARCHITECT

TRA Design Group, Inc.
A-007

EAST ELEVATION



SOUTH ELEVATION
NORTH ELEVATION

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TA Design Group, Inc.
Chamblee, GA 30366
tadg.com
404-653-2474

Zoning Ordinance

Frank Auman, Mayor

Honey Van de Kreke
District 1, Post 1

Matt Robbins
District 2, Post 1

Michelle Penkava
District 3, Post 1

Bill Rosenfeld
District 1, Post 2

Noelle Monferdini
District 2, Post 2

Anne Lerner
District 3, Post 2

MEMO

To: City Council

From: Community Development Director

Date: November 4, 2016

Re: Proposed Text Amendments to Article 7 of the City of Tucker Zoning Ordinance

The most important part of our zoning and land use process is having a robust and meaningful public engagement program. It is critical for staff, for our boards and for our elected officials that we are creating an avenue for hearing from the public in an open forum. We collectively as a City need to input from citizens, businesses and adjoining properties in advance of the more formal review that occurs with Commissions and Councils. We also want to take advantage of existing community organizations such as the Proactive Planning, Land Use and Zoning Committee of the Tucker Civic Association that has a long-established role with informing the community and shaping projects for the betterment of Tucker.

Staff is proposing a change to the current review process that will meet the goals stated above by codifying a neighborhood meeting that must be held **before** the application is submitted. The Tucker Civic Association will facilitate these neighborhood meetings and there will be a requirement of the developer sending notices to all impacted properties within 500 feet of the project. This open neighborhood meeting can be attended by any citizen, board member, elected official or staff with special seating allocated to those that live or work closest to the proposed project. In this setting, the developer can have an open dialogue with the community and hear best how to improve a project's design before submittal of plans. The Tucker Civic Association, as well as the developer, would relay their findings and recommendation that arose from the neighborhood meeting to the Planning Commission at their meeting.

By requiring a neighborhood meeting we will be moving the Community Council's involvement to the pre-application stage and the committee members would become integral members of the Tucker Civic Association's review committee. This approach would **not** add any time to the review process. To accomplish this change, we would need to remove the language from the zoning code relating to Community Council. We believe that this approach will empower Community Council members to work with the Tucker Civic Association at a point in the process when they can legally influence proposed developments in ways which are beneficial to Tucker. We would also expect that committee members would give input at all Planning Commission and City Council meetings. An important takeaway from the ARC training was a need for more inclusiveness in our planning process, staff believes that these changes will go a long way to fulfilling this goal.

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
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7.2.2. Applications. 7
7.2.3. Reserved. 9
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7.3.2. Consistency with comprehensive plan character areas. 10
7.3.3. Staff analysis, findings of fact, and recommendations. 11
7.3.4. Standards and factors governing review of proposed amendments to the comprehensive plan map. 11
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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, and 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*.~~ Reserved.

~~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~~five-hundred~~-fifty~~ (~~250~~500) 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 prior to said public hearing.

2. Signs shall be posted on the subject property at least fifteen (15) 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.

E. After the public meeting is opened, staff shall make a presentation of the item, after which the chair of the meeting may ask questions of the staff or other city representative providing the report or recommendations.

After presentation by staff, the applicant or those in support of the item shall receive a time period, up to the entire allotment of ten (10) minutes to present their case. If a large number of people wish to speak, it may be advisable to designate a spokesperson to make the presentation. Any member of the Council/Commission/Board, upon recognition by the Chair, may ask questions of the person. The period of questions shall not be deducted from the ten (10) minutes period. The city shall not be obligated to provide the full ten (10) minute period if it is not elected to use that much time.

Next, the Chair shall call for a show of hands of those persons who wish to appear in opposition. Opposition shall be granted a time period of ten (10) minutes at the public hearing to present data, evidence and opinions. If a large number of people wish to speak, it may be advisable to designate a spokesperson to make the presentation. The city shall not be obligated to provide the full ten (10) minute period to the opponents if they elect not to use that much time. Any member of the Council/Commission/Board, upon recognition by the Chair, may ask questions of any person giving public comment. The period of questions shall not be deducted from the ten (10) minute period.

After completion of the procedure, the Chair will indicate that the public hearing is closed.

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.~~Neighborhood Meeting

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~~An applicant or authorized representative must attend and participate in a neighborhood presentation meeting to discuss the proposed application prior to submitting their application with the City of Tucker.

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.~~ This meeting is to begin the discussion about the proposal and is not a forum for final decisions or for accepting comment concerning public support or opposition. No minutes of the meeting are required to be taken or provided at future meetings or hearings

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.~~ The applicant or authorized agent shall mail letters to all owners of property within five-hundred (500) feet of the boundaries adjoining the subject property, as such property owners are listed on the records of DeKalb County tax commissioner.

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~~Neighborhood Meeting.

Special land use permit applications shall be ~~reviewed by the community council~~required to hold a neighborhood meeting prior to submitting their application, 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.