

## **MEMORANDUM**

**To:** Mayor and City Council

**From:** Steve Dush, AICP

**Date:** October 15, 2012

**Subject:** RZ 12-101: Rezoning of 1000 Ashwood Parkway, tax parcel 18 349 01 034, from Office-Institution Conditional (O-Ic) to Office-Institution Conditional (O-Ic) to allow for a change of previous zoning conditions.



### **BACKGROUND**

Walton Ashwood, LLC has submitted to the City of Dunwoody a request to change previously approved conditions of zoning related to a multi-family residential property located in Dunwoody's Perimeter Center character area. This request is not made to change the zoning district designation of the parcel in question, nor is the request made to facilitate any new land use. Walton Ashwood is bordered on the north and west by multifamily developments, and by office to the east. The southern boundary is created by Meadow Lane Road, and the eastern boundary is partially formed by Ridgeview Road. The site is currently operating as a 160 unit multi-family community, and the applicant seeks to remove a self-imposed condition of zoning that requires the marketing of 32± affordable housing units through a tenant recruitment plan that focuses on residents in the immediate area. This



condition was devised in order to secure bond financing; however, the applicant no longer considers bond financing a viable option.

Direction	Zoning	Use	Current Land Use
N	RM-HD	Residential	Multi-family Residential
S	OI	Commercial	Retail
E	OI	Commercial	Office
W	RM-HD	Residential	Multi-family Residential

## ANALYSIS

Pursuant to CZ-03026, the property is zoned O-I conditional with a set of 16 conditions as submitted by the original applicant for the prior approval. The current request is to amend the conditions of the prior approval through a rezoning to allow for the Walton Ashwood to be continued to be used as it is today. Specifically, the applicant requests to remove the following condition approved on April 22, 2003:

Walton shall use the following tenant recruitment plan to fill 32± affordable housing units which will be included in its project: Walton Communities will market its affordable apartment homes to seniors and other potential residents in the area immediately surrounding our site. This will include direct marketing to the schools, fire and police stations, businesses, senior facilities, and retail establishments within a two mile radius. Walton is confident that it will be able to fill its affordable housing units from this area; however, it cannot discriminate against a qualified applicant who may not work or reside in the immediate area.

In Georgia, the state prescribes procedures for its counties and municipalities governing zoning decisions, and the local government is required to strictly follow the procedures set out in the Zoning Procedures Law, O.C.G.A. Title 36, Chapter 66.

O.C.G.A. §36-67-1 thru -6 is the State of Georgia Law that requires planning departments and the Boards, Commissions and Councils who review requests for zoning changes to review and research zoning proposals, and before passing recommendation compare the request to- and contrast the request with a set of six criteria. The Steinberg Act is accepted as the requirement associated with the State's Zoning Procedures Law. These criteria are enumerated as follows:

"...The matters with which the planning department or agency shall be required to make such investigation and recommendation shall be:

"(1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;

"(2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;



"(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

"(4) 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;

"(5) If the local government has an adopted land use plan, whether the zoning proposal is in conformity with the policy and intent of the land use plan; and

"(6) 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."

### **O-I District Analysis**

The Office-Institution zoning district limits allowable land uses to those of low-intensity with low expected turn-over, such as finance, insurance and real estate offices, as well as schools, cultural facilities and private parks. The Dunwoody zoning ordinance reads:

The purpose and intent of the city council in establishing the O-I (Office-Institution) District is as follows:

- (1) To provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and businesses and professional practitioners within the city;
- (2) To provide locations for the development of cultural, recreational, educational and health service facilities for the city.

At the time of the original rezoning, multi-family residential land use in O-I was a use permitted by right. DeKalb County has since amended the Zoning Ordinance to permit multi-family land uses through Special Land Use Permits, and the City of Dunwoody adopted that amendment upon incorporation. As such, this application does not propose to alter the land uses on the property, and is required to allow the applicant to continue to utilize the property as it is today.

### **Comprehensive Plan/Future Development Map**

The Dunwoody Comprehensive Plan is organized primarily by regions, delineated as 'character areas'. The subject parcel is located in the 'Perimeter Center Character Area,' summarized on the attached excerpt from the Comprehensive Plan. In summation, the Plan describes a future development plan heavy on office and retail uses that complement an overall livable, bicycle-oriented, regional center. The text from the City's 2030 Comprehensive Land Use Plan related to the Perimeter Center area reads as follows:

#### **Vision/Intent**

To create a "livable" regional center with first-class office, retail and high-end restaurants in a pedestrian and bicycle-oriented environment that serves as a regional example of high quality design standards. The City of Dunwoody works in partnership with the Perimeter Community Improvement Districts (PCIDs) to implement and complement the framework plan and projects identified in the Perimeter Center Livable Centers Initiative study (LCI) and its current and future updates.



By 2030, the area successfully adds public gathering space and pocket parks, continues to create transportation alternatives, mitigates congestion, and reduces remaining excessive surface parking. The area creates the conditions of possible true "live-work" environment. All future development continues to emphasize high quality design standards and building materials and incorporates the current national best practices on energy efficiency, where possible.

The City of Dunwoody recognizes the value of creating mixed-use, transit-oriented development within walking distance of public transit stations. However, the City has concerns about the impact of such development on the City's infrastructure and schools. To ensure proper controls on residential growth in the PCID, the City recommends zoning changes to require Special Land Use Permits (SLUP) for future high-density housing projects.

#### Future Development

The boundary of the Character Area designation extends slightly beyond the boundary of the PCIDs/LCI study area to include either existing commercial or to provide a transition where the Character Area abuts adjacent Suburban Character. The locator map also shows where the PCIDs/LCI boundary extends both west into Sandy Springs and into unincorporated DeKalb County, south of I-285.

The first section identifies the City's intent for the area outside the PCIDs; the subsequent section incorporates components which lie within the City of Dunwoody boundaries.

#### *Outside the Perimeter CIDs/LCI:*

Development within the Perimeter Center Character Area that abuts the Suburban Character area should demonstrate conformance with the principles of a transitional area. Unless accompanied by an exceptional buffering and usable open space provisions, density should be no greater than 4-8 units to the acre and commercial should be very low intensity (under 20,000 square feet).

### **Conditions of the Zoning Ordinance**

Chapter 27, §27-1437 identifies 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:

(1) Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan; ***The importance of the Comprehensive Plan cannot be understated as a guiding document in the zoning decisions for a jurisdiction. The Comprehensive Plan is a living document that is created from public input and sentiment; it lays out the community's vision for how to grow and develop today, and in the future. The Dunwoody Comprehensive Plan is organized primarily by regions, delineated as 'character areas.' The subject parcel is located in the 'Perimeter Center Area,' summarized on the attached excerpt from the Comprehensive Plan. The request is to remove a condition of an existing multi-family residential development, and the request is consistent with the findings of the Comprehensive Plan as a "livable" center.***



(2) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties; ***The use is not proposed to change, and surrounding uses are either of equal or higher intensities; therefore, it is suitable given the context of the area.***

(3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned; ***The property involved in this zoning action has some economic use as currently zoned. The request is due in large, by an inability, real or perceived, of the applicant to pursue viable financing alternatives.***

(4) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property; ***It is not anticipated that the proposal will have an adverse effect on the properties in question or the properties surrounding the immediate region of the proposed development action.***

(5) 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; ***Staff finds there are no such "actively changing" conditions, merely the creation and adoption of the City's Comprehensive Plan as a guide for the development of parcels such as these.***

(6) Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; ***Staff cannot identify any such historic buildings, sites, districts, or archaeological resources in the immediate vicinity.***

(7) 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. ***The proposal for the site in question will not have excessive nor burdensome effects on city streets, infrastructure or schools. The infrastructure present is suitable to handle the current vehicle traffic for the sites.***

## RECOMMENDATION

Staff recommends the application be approved, provided the following:

1. No land uses are to be enabled or restricted in any manner that alters DeKalb County previously approved land uses and all previous conditions remain intact.

Community Council recommended approval of the item at their regularly scheduled August meeting (5-0).

Planning Commission reviewed the item at the regularly scheduled September meeting. The Commission voted in favor of the item with the addition of the condition as proposed by staff (5-1). Bill Grossman was the dissenting vote.

## Attachments

- Site Location Map, Zoning Map, Future Land Use Map
- Comprehensive Plan Excerpt
- Application submittal materials



STATE OF GEORGIA  
CITY OF DUNWOODY

ORDINANCE 2012-XX-XX

**AN ORDINANCE TO AMEND THE CITY OF DUNWOODY ZONING CLASSIFICATION AND MAP FOR ZONING CONDITIONS OF LAND LOT 349, DISTRICT 18 IN CONSIDERATION OF ZONING CASE RZ-12-101**

**WHEREAS:** Walton Ashwood LLC has applied to change the previously approved conditions of zoning related to a multifamily residential property located in the Perimeter Center Character Area; and

**WHEREAS:** the applicant has requested that the City remove a self-imposed condition of zoning that requires the marketing of affordable housing units through a tenant recruitment plan that focuses on residents in the immediate area; and

**WHEREAS:** the Property is currently zoned OI-conditional, with one of the conditions sought to be removed so that the Property can be continued to be used as it is currently; and

**WHEREAS:** the condition sought to be removed is as follows: "Walton shall use the following tenant recruitment plan to fill 32± affordable housing units which will be included in its project: Walton Communities will market its affordable apartment homes to seniors and other potential residents in the area immediately surrounding our site. This will include direct marketing to the schools, fire and police stations, businesses, senior facilities, and retail establishments within a two mile radius. Walton is confident that it will be able to fill its affordable housing units from this area; however, it cannot discriminate against a qualified applicant who may not work or reside in the immediate area"; and

**WHEREAS:** Notice to the public regarding said rezoning and modification to conditions of zoning has been duly published in The Dunwoody Crier, the Official News Organ of the City of Dunwoody; and

**WHEREAS:** A duly noticed public hearing has been held by Mayor and City Council to hear public comment on the consideration of this proposed rezoning action.

**NOW THEREFORE,** The Mayor and City Council of the City of Dunwoody hereby **ORDAINS AND APPROVES** the rezoning of said property from Office-Institution conditions, (O-Ic) to Office Institution conditional (O-Ic) to remove the above stated condition from the Property, with the following further conditions:

- No land uses are to be enabled or restricted in any manner that alters DeKalb County previously approved land uses.
- All other previous conditions placed on the property shall remain intact.

The City of Dunwoody Zoning Map shall be changed to reflect said rezoning.

**SO ORDAINED AND EFFECTIVE,** this the \_\_\_\_ day of \_\_\_\_\_, 2012.

#M.7.

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2012-XX-XX**

Approved by:

Approved as to Form and Content

\_\_\_\_\_  
Michael G. Davis, Mayor

\_\_\_\_\_  
Acting City Attorney

Attest:

\_\_\_\_\_  
Sharon Lowery, City Clerk

SEAL

**CITY OF DUNWOODY**  
**August 9, 2012**  
**COMMUNITY COUNCIL MINUTES**

The Community Council of the City of Dunwoody held a Meeting on August 9, 2012 at 7:00 PM. The meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for the meeting were the following:

Voting Members: Clayton Coley, Chairman  
 Susan Harper, Vice Chairman  
 Stephen Barton, Community Council Member  
 Claire Botsch, Community Council Member  
 Rick Callihan, Community Council Member  
 Tony Delmichi, Community Council Member  
 Norb Leahy, Community Council Member

Also Present: Steve Dush, Community Development Director  
 Howard Koontz, City Planner  
 Becca Timms, Development Coordinator

A. CALL TO ORDER

**Susan Harper called the meeting to order.**

B. ROLL CALL

**All members were present except for Clayton Coley and Claire Botsch.**

C. MINUTES

1. Approval of Meeting Minutes from July 12, 2012 Community Council Meeting.

**Norb Leahy motioned to approve, Rick Callihan seconded.**

**The motion was voted and Passed (5 - 0)**

**Tony Delmichi inquired about the detail of meeting minutes.**

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

1. Zoning Code Rewrite Update.

**Steve Dush gave an update on the Zoning Code Rewrite.**

E. UNFINISHED BUSINESS

F. NEW BUSINESS



1. RZ 12-101: Pursuant to the City of Dunwoody Zoning Ordinance, Walton Ashwood, LLC, owner of 1000 Ashwood Parkway, seeks permission to rezone property currently zoned Office-Institution Conditional (O-Ic) to Office-Institution Conditional (O-Ic) to allow for a change of previous conditions.

**Susan Harper introduced the item.**

**Howard Koontz summarized the application.**

**Susan Harper opened public comment.**

**David Knight, principal owner of Walton Ashwood, LLC introduced and spoke in favor of the request.**

**Susan Harper closed the public comment.**

**The Council asked questions of staff and the applicant.**

**Stephen Barton motioned to approve, Rick Callihan seconded.**

**The motion was discussed.**

**The motion was voted and Passed (5 - 0)**

2. RZ 12-102: Pursuant to the City of Dunwoody Zoning Ordinance, Charles P. Stephens, owner of 1725 Mount Vernon Road, seeks permission to rezone property currently zoned Office-Institution Conditional (O-Ic) to Office-Institution Conditional (O-Ic) to allow for a change of previous conditions.

**Susan Harper introduced the item.**

**Howard Koontz summarized the application.**

**Susan Harper opened public comment.**

**Bill Grant, representative on behalf of the applicant, introduced and spoke in favor of the request.**

**Susan Harper closed the public comment.**

**The Council asked questions of staff and the applicant.**

**Rick Callihan motioned to approve, Tony Delmichi seconded.**

**The motion was voted and Passed (5 - 0)**

G. OTHER BUSINESS

H. PUBLIC COMMENT

I. COMMUNITY COUNCIL COMMENT

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J. ADJOURN

Approved by:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

**CITY OF DUNWOODY**  
**September 11, 2012**  
**PLANNING COMMISSION MINUTES**

The Planning Commission of the City of Dunwoody held a Meeting on September 11, 2012 at 7:00 PM. The meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for the meeting were the following:

Voting Members:        Bob Dallas, Chairman  
                                  Paul Player, Vice Chairman  
                                  Kirk Anders, Commission Member  
                                  Don Converse, Commission Member  
                                  Tom Dwyer, Commission Member  
                                  Bill Grossman, Commission Member

Also Present:             Steve Dush, Community Development Director  
                                  Howard Koontz, City Planner  
                                  Rebecca Keefer, Planning Coordinator

A.    CALL TO ORDER

B.    ROLL CALL

**All members were present except Renate Herod.**

C.    MINUTES

1.    Approval of Meeting Minutes from August 14, 2012 Planning Commission Meeting.

**Commission Member Don Converse motioned to approve. Commission Member Paul Player seconded.**

**The motion was voted and Passed (6 - 0)**

D.    ORGANIZATIONAL AND PROCEDURAL ITEMS

1.    Zoning Code Rewrite Update (Steve Dush).

**Steve updated the Planning Commission on the Code Rewrite and notified the group of the upcoming release of Module 2 and its associated public meeting.**

**Howard informed the Commission that the 10-9 meeting is canceled.**

E.    UNFINISHED BUSINESS

F.    NEW BUSINESS

1.    RZ 12-101: Pursuant to the City of Dunwoody Zoning Ordinance, Walton Ashwood,

LLC, owner of 1000 Ashwood Parkway, seeks permission to rezone property currently zoned Office-Institution Conditional (O-Ic) to Office-Institution Conditional (O-Ic) to allow for a change of previous conditions.

**Howard introduced the item and recommended approval of the rezoning, as conditioned in the staff memo.**

**Bob Dallas opened the Public Hearing.**

**Pete Hendrix, applicant, spoke in favor of the application.**

**David Knight spoke in favor of the application. He clarified that the complex will continue to pursue workforce housing through marketing techniques.**

**No one spoke in opposition.**

**Bob Dallas closed the Public Hearing.**

**Members of the Commission asked questions of the applicant.**

**Commission Member Tom Dwyer motioned to approve with staff conditions. Commission Member Don Converse seconded.**

**The motion was voted and Passed (5 - 1). Bill Grossman was the dissenting vote.**

2. RZ 12-102: Pursuant to the City of Dunwoody Zoning Ordinance, Charles P. Stephens, owner of 1725 Mount Vernon Road, seeks permission to rezone property currently zoned Office-Institution Conditional (O-Ic) to Office-Institution Conditional (O-Ic) to allow for a change of previous conditions.

**Howard introduced the item and recommended approval with the two conditions as presented in the staff memo.**

**Bob Dallas opened the Public Hearing.**

**Bill Grant spoke in favor of the application.**

**There was no one to speak in opposition.**

**Bob Dallas closed the Public Hearing.**

**Commission members asked questions of staff.**

**Commission Member Kirk Anders motioned to approve with staff recommendations. Commission Member Paul Player seconded.**

**The motion was voted and Passed (6 - 0)**

G. OTHER BUSINESS

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H. PUBLIC COMMENT

I. COMMISSION COMMENT

**Members of the Commission asked questions of staff.**

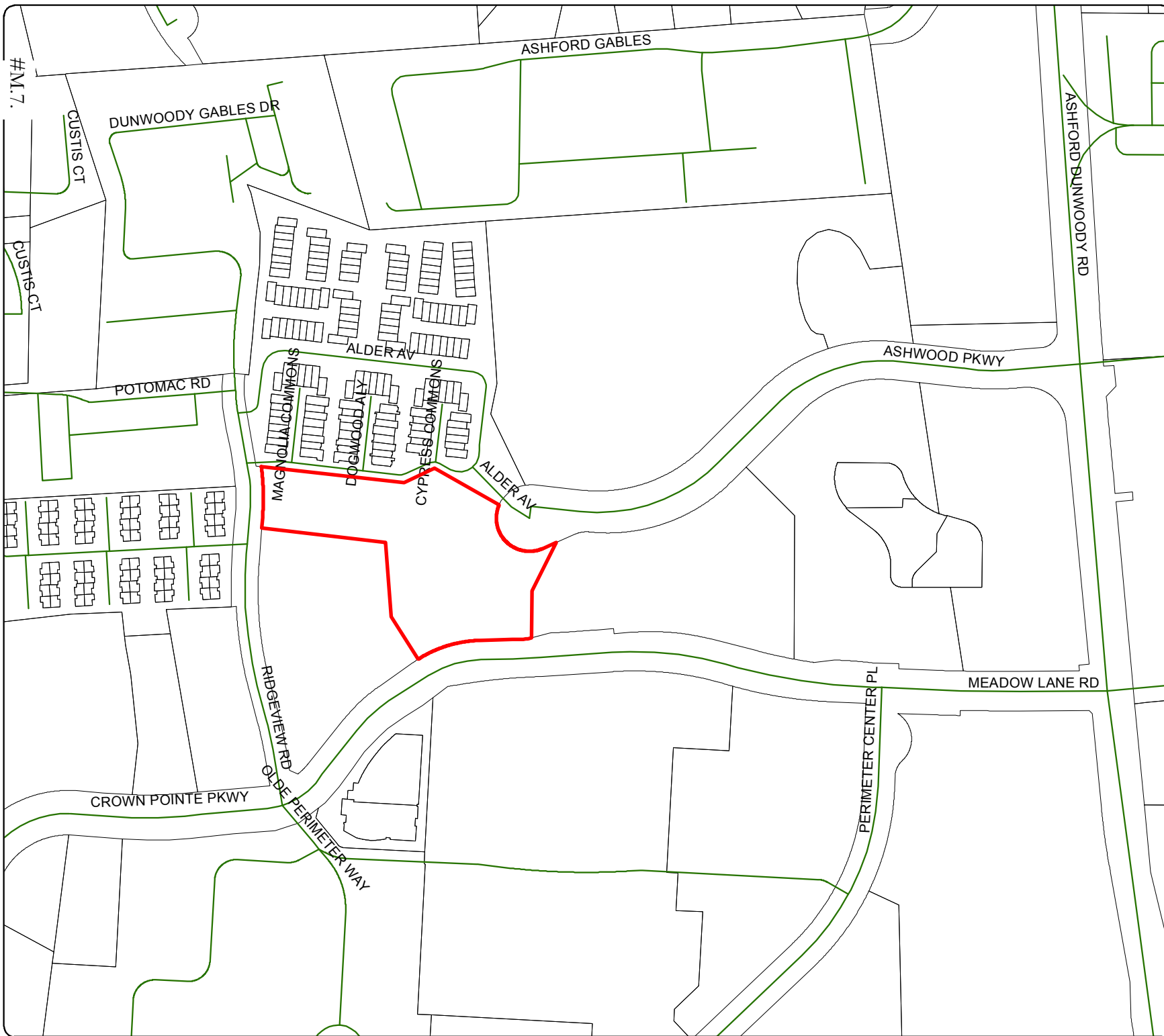
J. ADJOURN

Approved by:

\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary



**Dunwoody\***  
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**Community Development**  
41 Perimeter Center East | Dunwoody, Georgia  
Suite 250 | 30346-1902  
678-382-6800 ~ [www.dunwoodyga.gov](http://www.dunwoodyga.gov)

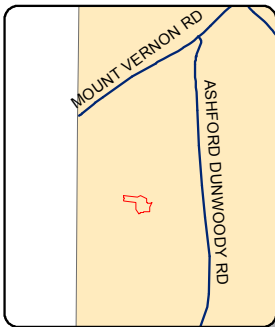
**1000 Ashwood Parkway**

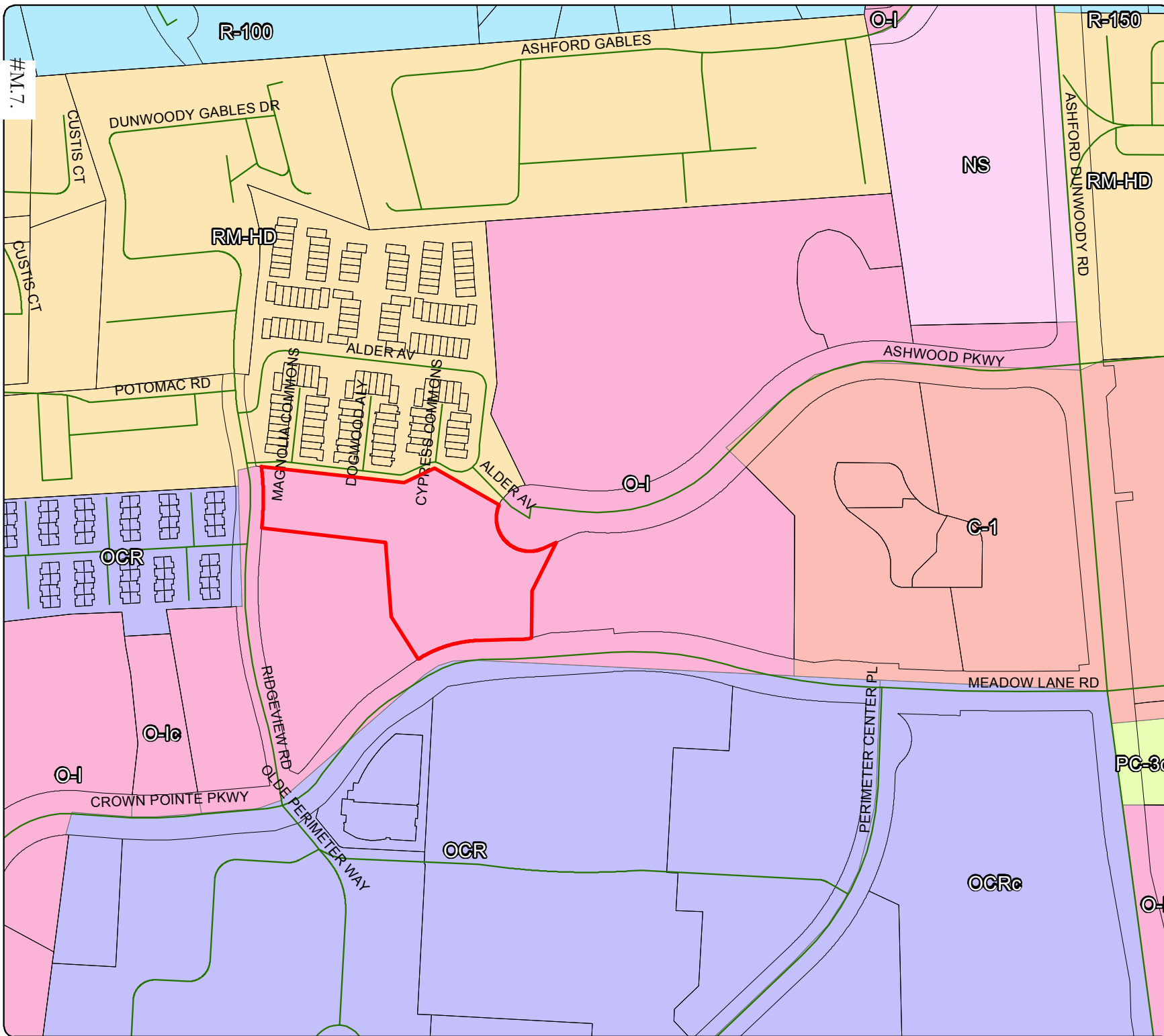
RZ 12-101

August 2012

- LEGEND
- Street Centerlines
  - Tax Parcels

Scale: 1" = 300'  
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**1000 Ashwood Parkway**  
 RZ 12-101  
 August 2012

**LEGEND**

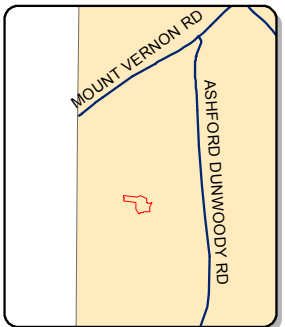
- Street Centerlines
- Tax Parcels

**City Zoning**

**DISTRICT**

- General Commercial
- Industrial
- Local Commercial
- Multi Family Residential
- Multi-Family Residential
- Neighborhood Shopping
- Office-Commercial-Residential
- Office-Distribution
- Office-Institution
- Office-Institution-Transitional
- Pedestrian Community
- Residential Community Development
- Single Family Cluster Residential
- Single Family Residential

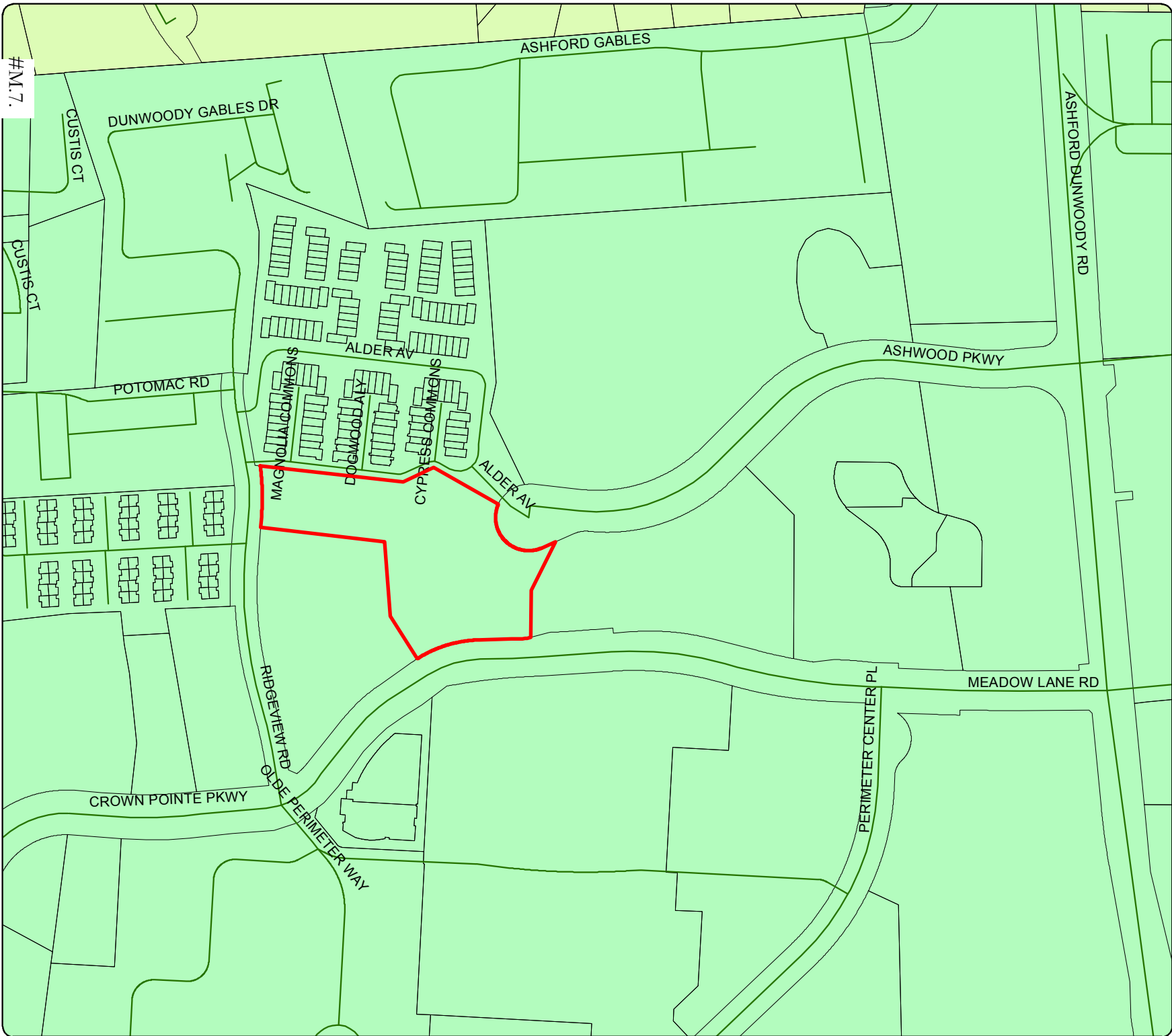
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Disclaimer: All data is provided as is, with all faults, without warranty of any kind, either expressed or implied. This map is the property of the City of Dunwoody, Georgia and its assigns. All rights reserved.



#M.7.



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**1000 Ashwood Parkway**  
RZ 12-101  
August 2012

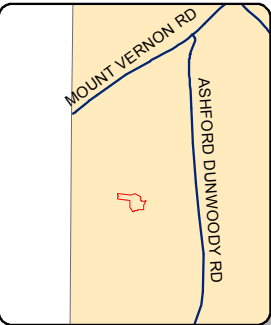
**Legend**

- Street Centerlines
- Tax Parcels
- Future Land Use

**Name**

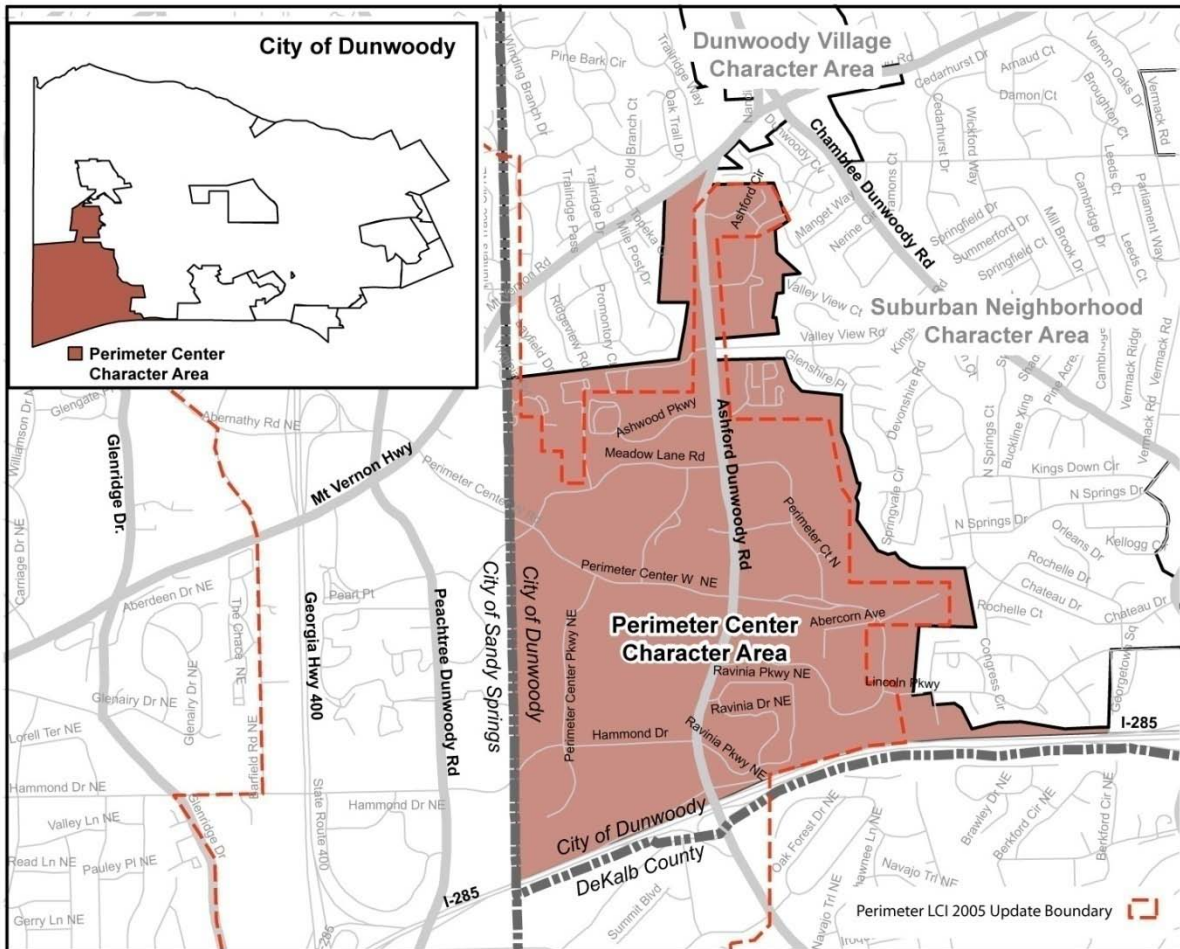
- Community Facility/Water Treatment
- Dunwoody Village
- Georgetown-Shallowford Road
- Institutional/Campus
- Jett Ferry Gateway
- Multi-Family/Mixed-Use
- Office
- Perimeter Center
- Residential
- Tilly Mill Gateway
- Winters Chapel Redevelopment Area

Scale: 1" = 300'  
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## Perimeter Center



## Vision/Intent

To create a “livable” regional center with first-class office, retail and high-end restaurants in a pedestrian and bicycle-oriented environment that serves as a regional example of high quality design standards. The City of Dunwoody works in partnership with the Perimeter Community Improvement Districts (PCIDs) to implement and compliment the framework plan and projects identified in the Perimeter Center Livable Centers Initiative study (LCI) and its current and future updates.

By 2030, the area successfully adds public gathering space and pocket parks, continues to create transportation alternatives, mitigates congestion, and reduces remaining excessive surface parking. The area creates the conditions of possible true “live-work” environment. All future development continues to emphasize high quality design standards and building



materials and incorporates the current national best practices on energy efficiency, where possible.

The City of Dunwoody recognizes the value of creating mixed-use, transit-oriented development within walking distance of public transit stations. However, the City has concerns about the impact of such development on the City's infrastructure and schools. To ensure proper controls on residential growth in the PCID, the City recommends zoning changes to require Special Land Use Permits (SLUP) for future high-density housing projects.

### Future Development

The boundary of the Character Area designation extends slightly beyond the boundary of the PCIDs/LCI study area to include either existing commercial or to provide a transition where the Character Area abuts adjacent Suburban Character. The locator map also shows where the PCIDs/LCI boundary extends both west into Sandy Springs and into unincorporated DeKalb County, south of I-285.

The first section identifies the City's intent for the area outside the PCIDs; the subsequent section incorporates components which lie within the City of Dunwoody boundaries.

#### *Outside the Perimeter CIDs/LCI:*

Development within the Perimeter Center Character Area that abuts the Suburban Character area should demonstrate conformance with the principles of a transitional area. Unless accompanied by an exceptional buffering and usable open space provisions, density should be no greater than 4-8 units to the acre and commercial should be very low intensity (under 20,000 square feet).



1999 parking lot conditions in the Perimeter Center area



2009 conditions above (outparcel development); the City envisions continuing the trend of converting existing surface parking to better uses, ideally including pocket park and green space

*Within the Perimeter CIDs/LCI study area:* In 2000, the Perimeter CIDs engaged in a Livable Cities Initiative study to craft a vision and strategy for the Fulton and DeKalb Perimeter Community Improvement Districts. This process resulted in a future land use plan that divided the CIDs into defined, development sub-areas -- **Transitional, High-Density, and Transit Village** -- indicated below. Where located within the Dunwoody City limits, new development should conform to the intent of these areas, as described below. In 2005, the Perimeter CIDs went through a process to update a LCI and document potential growth strategies for each area. The City will partner with the PCIDs for a future update and amend this Comprehensive Plan, if appropriate.



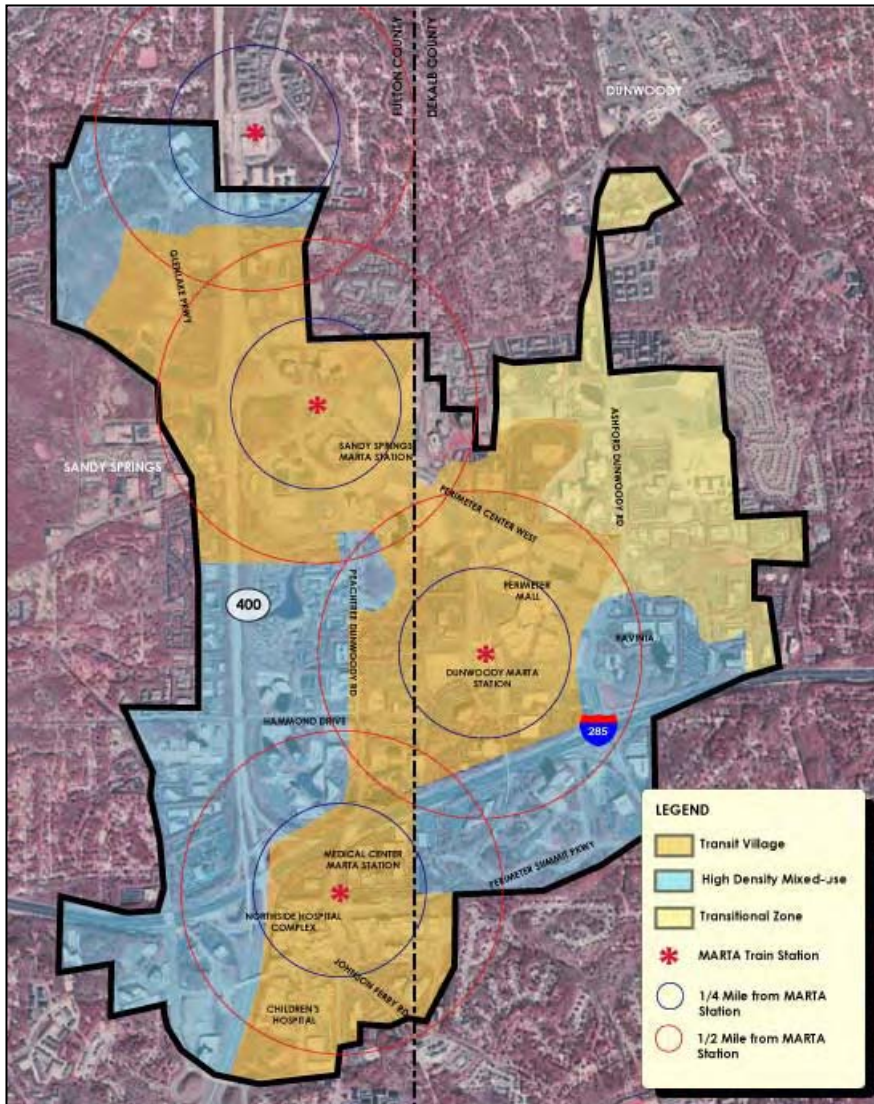


FIGURE 4: Perimeter Center LCI Framework Plan: development types

**A Community Improvement District (CID)** is an authorized self-taxing district dedicated to infrastructure improvements within its boundaries. The PCIDs are governed by two boards – one each for Fulton and DeKalb. The PCIDs spent or leveraged public funds to invest \$55 million in Dunwoody alone; over \$7 million from ARC's LCI program was directed to the PCIDs. This makes it one of the most, if not the most, successful CIDs in the region. The PCIDs' mission focuses exclusively on transportation improvements:

*To work continuously to develop efficient transportation services, with an emphasis on access, mobility, diversification and modernization.*



Zoned when the area was under unincorporated DeKalb County jurisdiction, several of the parcels located within the City's character area remain undeveloped. As actual market values adjust in the post-recession climate, the City anticipates opportunities to establish development regulations to provide appropriate recreation and open space amenities for the public, especially where open space potential is identified within the Perimeter LCI "Transit Village" and "Transitional" section described further below.

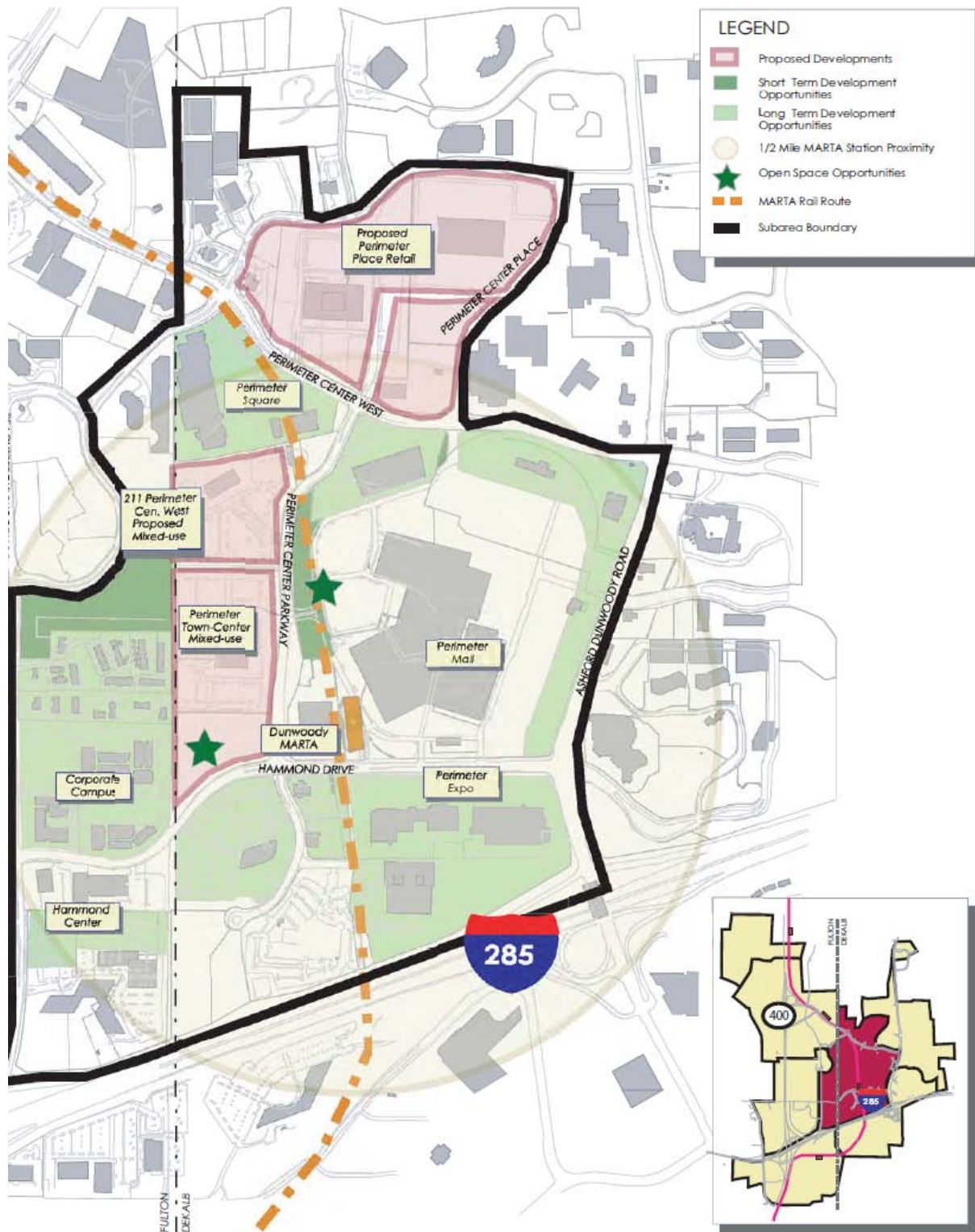


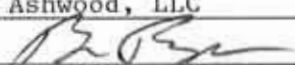
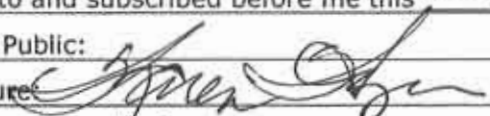
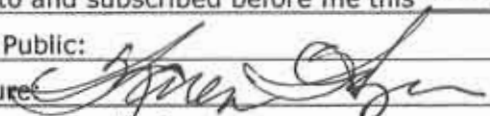
FIGURE 5: Development Opportunities

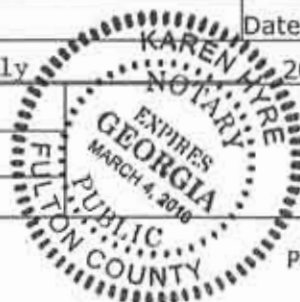




City of Dunwoody  
41 Perimeter Center East  
Dunwoody, GA 30346  
Phone: (678) 382-6800  
Fax: (770) 396-4828

## Rezoning Application

Applicant	Name: Walton Ashwood, LLC	
	Address: 2181 Newmarket Parkway, Marietta, Georgia 30067	
	Phone: (678) 303-4122	Fax: (678) 303-4134 Email: dknight@waltoncommunities.com
Property Owner	Owner's Name: Walton Ashwood, LLC	
	Owner's Address: 2181 Newmarket Parkway, Marietta, Georgia 30067	
	Phone: (678) 303-4122	Fax: (678) 303-4134 Email: dknight@waltoncommunities.com
Property Information	Property Address: 1000 Ashwood Parkway	
	Parcel ID: 18 349 01 034	
	Dunwoody, Georgia 30338	
	Current Zoning Classification: O-I Conditional	
Questionnaire	Requested Zoning Classification: O-I Conditions1	
	1. Is the zoning proposal in conformity with the policy and intent of the comprehensive plan? Yes. It conforms with the policy and intent of the Perimeter Center Character Area designation applicable under the Comprehensive Plan.	
	2. Will the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby properties? Yes. It complies with the mix of uses and developments of adjacent and nearby properties.	
	3. Will the affected property of the zoning proposal have a reasonable economic use as currently zoned? The property has a reasonable economic use as currently zoned but not as currently conditioned.	
	4. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? No. The continued use of the Property as multi-family has not and will not adversely affect the existing use or usability of adjacent or nearby property.	
	5. Are other existing or changing conditions affecting the existing use or usability of the development of the property which give supporting grounds for either approval or disapproval of the zoning proposal? Yes. The Property was developed in 2008 for its multi-family use and has been continuously used and operated as same since that date.	
	6. Will the zoning proposal adversely affect historic buildings, sites, districts, or archaeological resources? No. The Property as developed and used has not and will not adversely affect historic buildings, districts or archaeological resources.	
	7. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools? No. The Property as developed and used has not and will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.	
Affidavit	To the best of my knowledge, this zoning application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance.	
	Applicant's Name: Walton Ashwood, LLC	Date: 7/9/12
Notary	Applicant's Signature: By: 	Date: 7/9/12
	Sworn to and subscribed before me this 9th Day of July 2012	
	Notary Public: 	
	Signature: 	
	My Commission Expires:	


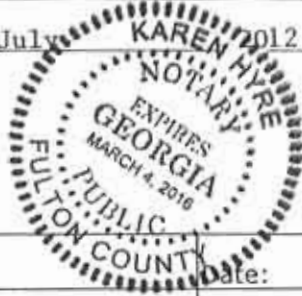




City of Dunwoody  
 41 Perimeter Center East  
 Dunwoody, GA 30346  
 Phone: (678) 382-6800  
 Fax: (770) 396-4828

## Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this Zoning Map Petition application form is correct and complete. If additional materials are determined to be necessary, they understand that they are responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinances.

Property Owner (If Applicable)	Signature: By: <u>Walton Ashwood, LLC</u> <u>Ben D. Teague-Member</u>		Date: <u>7/9/12</u>
	Address: <u>2181 Newmarket Parkway</u>		City, State: <u>Marietta, Georgia</u> Zip: <u>30067</u>
	Phone: <u>(678) 303-4122</u>		
	Sworn to and subscribed before me this <u>9th</u> day of <u>July</u> , 20 <u>12</u>		
	Notary Public: 		
Property Owner (If Applicable)	Signature:		Date:
	Address:		City, State: Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		
Property Owner (If Applicable)	Signature:		Date:
	Address:		City, State: Zip:
	Phone:		
	Sworn to and subscribed before me this _____ day of _____, 20____		
	Notary Public:		

## LETTER OF INTENT

The property contains approximately 3.5960 acres and is bounded by Ashwood Parkway on the east, Meadow Lane on the south and Woodview Drive on the west and has been developed as a multi-family community commonly known as Walton Ashwood (the "Property"). The Property is currently zoned O-I Conditional.

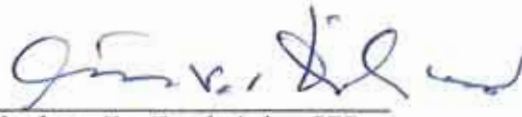
The Applicant, which is also the Owner of the Property, requests a rezoning to O-I Conditional for the sole purpose of removing the following Condition: "Walton shall use the following tenant recruitment plan to fill the 32± affordable housing units which will be included in its project: Walton Communities will market its affordable apartment homes to seniors and other potential residents in the area immediately surrounding our site. This will include direct marketing to the schools, fire and police stations, businesses, senior facilities and retail establishments within a two mile radius. Walton is confident that it will be able to fill its affordable housing units from this area; however, it cannot discriminate against a qualified applicant who may not work or reside in this immediate area." In 2008 Applicant developed the Property as a 160 unit multi-family community and has used and operated the Property the same way since its opening. At the time that Applicant originally developed the Property it intended to pursue and secure Bond Financing and for that reason the Applicant proffered the above referenced Condition regarding affordable housing units. As a result of the recession, Bond Financing is not longer a viable financing alternative and, accordingly, this Rezoning Application has been filed to eliminate this Condition thus enabling the Applicant to pursue and secure Conventional Financing for this Property. It is to be noted that the Property falls within the Comprehensive Plan's Perimeter Center Character Area which suggests and encourages a mix of uses with an emphasis on pedestrian engagement. The Property as developed and used complies with the policy and intent of the Comprehensive Plan and is therefore entirely appropriate. The appropriateness of this Rezoning Application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" which is attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this Rezoning Application be approved as submitted in order that the Applicant be able secure the Conventional Financing referenced and thus enjoy the use of the Property.

APPLICANT:

Walton Ashwood, LLC

By:   
Ben D. Teague  
Its: Member

  
Nathan V. Hendricks III  
Attorney for the Applicant

6085 Lake Forrest Drive  
Suite 200  
Atlanta, Georgia 30328  
(404) 255-5161

## Exhibit "A"

APPROPRIATENESS OF APPLICATION  
AND  
CONSTITUTIONAL ASSERTIONS

The portions of the Zoning Resolution of the City of Dunwoody as applied to the subject Property which classify or may classify the Property so as to prohibit its use as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

A denial of this Application would constitute an arbitrary and capricious act by the Dunwoody City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

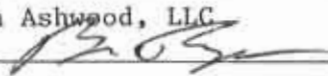
A refusal by the Dunwoody City Council to rezone the Property as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II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



City of Dunwoody  
 41 Perimeter Center East  
 Dunwoody, GA 30346  
 Phone: (678) 382-6800  
 Fax: (770) 396-4828

## Campaign Disclosure Statement

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission? ☐ YES ☒ NO

<b>Applicant / Owner</b>	Walton Ashwood, LLC	
	Signature: By: 	Ben D. Teague-Member
	Address: 2181 Newmarket Parkway, Marietta, Georgia 30067	
	Date: July 9, 2012	

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

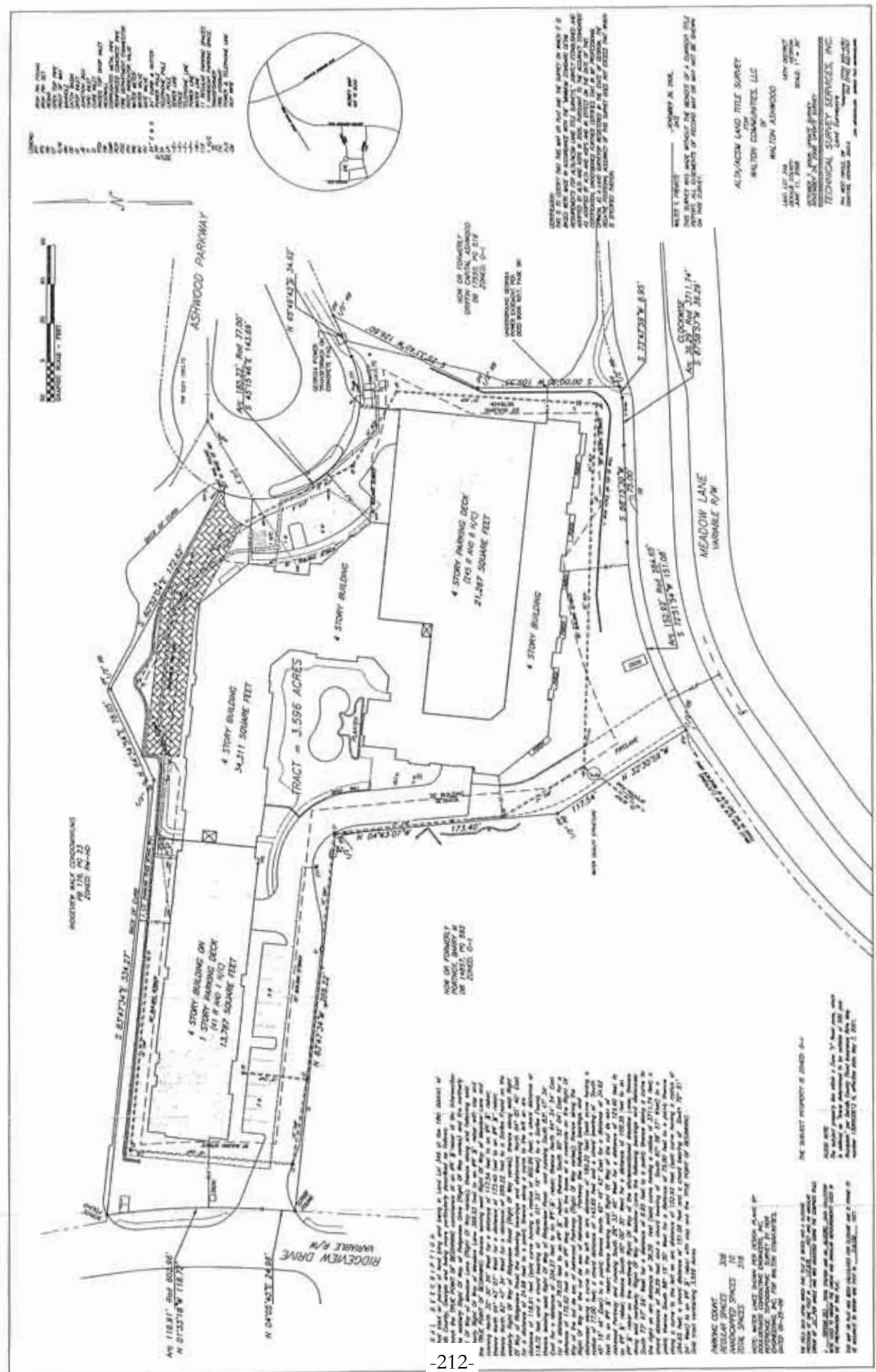


## LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 349 of the 18th District of DeKalb County, Georgia and being more particularly described as follows:

To reach the TRUE POINT OF BEGINNING commence at an IPF ½" rebar at the intersection of the easterly Right Of Way of Ridgeview Drive (Right Of Way varies) and the northerly Right Of Way of Meadow Lane (Right Of Way varies); thence along and following said northerly Right Of Way of Meadow Lane 389.03 feet to an IPF ½" rebar with cap and the TRUE POINT OF BEGINNING; thence leaving said Right Of Way of Meadow Lane and running North 32° 30' 59" West for a distance of 117.54 feet to an IPF ½" rebar; thence North 04° 43' 07" West for a distance of 173.40 feet to an IPF ½" rebar; thence North 83° 47' 34" West for a distance of 289.22 feet to a Scribe Found on the easterly Right Of Way of Ridgeview Road (Right Of Way varies); thence along said Right Of Way of Ridgeview Road the following bearings and distances: North 04° 05' 40" East for a distance of 24.98 feet to a point; thence along a curve to the left an arc distance of 118.91 feet (said curve having a radius of 602.96 feet; a chord distance of 118.72 feet and a chord bearing of North 01° 33' 18" West) to a Scribe Found; thence leaving said Right Of Way of Ridgeview Road and running South 83° 47' 34" East for a distance of 334.27 feet to an IPF ½" rebar; thence North 64° 34' 54" East for a distance of 78.05 feet to an IPF ½" rebar; thence South 60° 52' 04" East for a distance of 172.62 feet to an IPF Mag Nail in the base of a manhole on the Right Of Way of the cul de sac of Ashwood Parkway (Right Of Way varies); thence along the Right Of Way of the cul de sac of Ashwood Parkway the following bearings and distances: along a curve to the left an arc distance of 185.22 feet (said curve having a radius of 77.00 feet; a chord distance of 143.69 feet and a chord bearing of South 45° 15' 46" East) to a point; thence North 65° 49' 42" East for a distance of 34.62 feet to an IPF ½" rebar; thence leaving said Right Of Way of the cul de sac of Ashwood Parkway and running South 26° 33' 40" West for a distance of 126.60 feet to an IPF ½" rebar; thence South 00° 00' 30" West for a distance of 109.35 feet to an IPF ½" rebar on the northerly Right Of Way of the aforementioned Meadow Lane; thence along said northerly "Right Of Way of Meadow Lane the following bearings and distances: South 73° 47' 59" West for a distance of 8.95 feet to a point; thence along a curve to the right an arc distance of 36.29 feet (said curve having a radius of 3711.74 feet; a chord distance of 36.29 feet and a chord bearing of South 87° 58' 57" West) to a point; thence South 88° 15' 30" West for a distance of 75.00 feet to a point; thence along a curve to the left an arc distance of 152.92 feet (said curve having a radius of 284.65 feet; a chord distance of 151.08 feet and a chord bearing of South 72° 51' 54" West) to an IPF ½" rebar with cap and the TRUE POINT OF BEGINNING. Said tract containing 3.596 Acres.





## Ethics, from page 1

that's \$50,000 that's been spent," said Webb.

The board, which had only met once before in 2009 to elect their chairman, convened to begin the process of investigating a formal complaint filed by the mayor and council against fellow councilor, Adrian Bonser. The complaint alleges that Bonser leaked information at council's executive session last February about the purchase of land in the Georgetown area.

Assistant City Attorney Bill Riley advised board members to pursue independent counsel to protect the integrity of the board and to guide them through the process.

Steven Blaske, board chairman, agreed that the board

should have counsel.

"We want to do this efficiently and we want to do it well, but we also want to do it legally and right and so we need to listen to someone who is experienced in this area," said Blaske.

Riley said that it was his job to recommend an attorney for the board and he recommended Richard Carothers, an assistant attorney of multiple small cities in Gwinnett County.

"We use Mr. Carothers on a number of different kinds of issues when there is a need for attorneys to represent two different entities within the same sovereign," said Riley. "We represent the city of Dunwoody as a whole but there needs to be separate representation for the Board of

Ethics in Dunwoody."

Riley also said that Carothers works with Dunwoody as a hearing officer.

Webb asked if Carothers had ever before acted as counsel for Dunwoody.

Riley said that he did not think Carothers had ever represented the city previously, but was not sure if Carothers had ever sat as a hearing officer for the city.

Cecil McLendon, Dunwoody assistant attorney, also said that he wasn't sure if Carothers had sat as a hearing officer.

"I do not believe he's represented the city or any of the boards in a capacity like this," said McLendon.

Riley said that Carothers has

been vetted by city manager, Warren Huttmacher, in terms of his expertise as a city attorney or as an attorney for the board.

"Having been said, this is my independent analysis," said Riley. "This is my job."

Blaske said that the board members could vet Carothers themselves if the city council were to contract with him.

"When we first meet him, we can discuss any issues we have and if we, for some reason, found that he would be inappropriate, we could seek other counsel," said Blaske.

Council was expected to vote on whether or not to approve the attorney contract at their meeting on Monday night.

The board was missing two

members at the meeting, but had enough for a quorum. The three members present were Webb, Blaske and John Francis. Not present were Wade Wright and Wade McGuffey.

In other matters Monday night, the council was to authorize the city manager to purchase the first three parcels of the former Emory Shallowford hospital property to make was for Project Renaissance, the 35-acre site that was the subject of the alleged leaks.

Council was also to approve John Wieland Homes and Neighborhoods as the developer.

Police Chief Billy Grogan brought to the council for discussion a five-year staffing plan for his department.

## Brookhaven, from page 1

Murphy Candler, Pleasantdale, Henderson, Medlock, Gresham and Wade Walker are taking on more of the ground maintenance, turf replacement and restroom maintenance and this is taking place countywide.

On the other side of the road from the ball fields, Friends of Murphy Candler Park organizes volunteers to clear the underbrush, repair fences, clear downed trees and maintain the trail around the lake built by Boy Scouts. Keeping up the 100-acre

park, according to Friends founder, Karen Whitehead, is a daunting and discouraging task.

"I don't know if the county lacks the means or the will," said Whitehead, who is also on the DeKalb Parks Citizens Advisory Committee. "It has been difficult for me to listen about the money they don't have and watch them spend money elsewhere. People who live around here see the park as a manifestation of what's happened to their tax money. It's going else-



Dunwoody Mayor Mike Davis (l) and Councilman Terry Nall spoke to an informational meeting on Brookhaven at the Byrmyck pool. Residents of four neighborhoods attended. The vast majority seemed inclined to vote for cityhood. Crier photo: Rebecca Chase Williams

where." Whitehead said she and other representatives met with county officials, with a formal presentation of the problems, from broken and unsafe playground equipment that is more than 20 years old, to the poison ivy, fallen trees and serious erosion around the lake.

"We got lip service and were led to believe something would

happen, but it didn't," said Whitehead who adds that the county cuts the grass only after she calls to complain.

While county operating budgets have been hit hard by the recession, the \$96 million from the 2005 Parks Bond have been spent in recent years to develop state-of-the-art facilities, many in places previously underserved by the county.

The DeKalb CEO's publication "One DeKalb: 2011-2012 Report to Stakeholders" features many of the bond expenditures: \$5.7 million for the Redan Recreation Center, \$6.3 million

for the Exchange Recreation Center, \$3.2 million spent to develop Mason Mill Park (where the CEO wants to build a Soap Box Derby Race track), \$1.3 million to improve Flat Shoals Park and \$1.2 million to build a new YMCA at Wade Walker Park. The \$1.5 million for Murphy Candler softball and the \$11 million money promised for Brook Run Park in Dunwoody (where only \$4 million has been spent and is a subject of litigation) are the only parks north of I-85 to receive county bond money.

Park activists like Whitehead said nobody resents that other parts of the county get needed facilities.

"But when they build 'Taj Mahals' and it appears to be at the expense of other parts of the county, that's not good."

The Carl Vinson Institute's feasibility study for a proposed city of Brookhaven reported that DeKalb County spent \$480,140 last year to maintain the eight parks, two recreation centers, three pools, tennis center and numerous playgrounds and other park amenities in the Brookhaven footprint.

Because the citizen's committee that funded the study wanted to estimate the cost of a much improved park system, the city of Roswell, with its award-winning parks, was used as a comparison. Using those figures, the study estimated it would cost \$137.6 million to support a first-class park system, which is included in the estimated expenditures for the new city.

Next week:  
Road to  
Brookhaven:  
Pools, play-  
grounds and rec  
centers



Fees for softball at Murphy Candler have skyrocketed. Crier photo: Rebecca Chase Williams

## NOTICE OF COMMUNITY MEETING

Walton Ashwood, LLC (the "Applicant") will be filing an Application for Rezoning requesting removal of the current condition of zoning suggested by the Applicant which required the owner to commit to the creation of 32 units of workforce housing within the apartment development. The Applicant is requesting that this self-imposed condition of zoning be deleted from the conditions of zoning.

Pursuant to the city of Dunwoody's rezoning requirements, there will be a Community Meeting to discuss in detail this Rezoning Request. The Community Meeting is scheduled as follows:

PLACE: Walton Ashwood Apartments  
LOCATION: 1600 Ashwood Parkway, Dunwoody, GA 30338  
DATE: Wednesday, July 5, 2012 from 6:00 p.m. to 7:30 p.m.  
APPLICANT: Walton Ashwood, LLC  
Contact: Ben Teague, Area Vice President  
(678)292-1252

## Public Meeting

The City of Dunwoody, in partnership with the Environmental Protection Agency (EPA), announces a public meeting on June 22, 2012, from 12-1:30 p.m. in the Mayor and Council Chambers at City Hall to present recommendations for sustainable practices to be incorporated in the Zoning Code Rewrite.

This meeting is a result of a technical assistance grant the City received earlier this year for the Building Blocks for Sustainable Communities Program, Green Building Toolkit. A consultant team led by Code Studio and YR&G is currently working with EPA to assess and make recommendations to the Zoning Code that will be based on sustainable sites, water efficiency, and energy conservation.

This opportunity capitalizes on the rewrite process to advance the incentives and regulations related to sustainable practices to further the City's sustainability mission. The presentation is the culmination of assessments made through the EPA Green Building Toolkit, consultant review of existing code, and technical staff input.

The public is invited and encouraged to attend to contribute to the process to ensure a sustainable future for the City of Dunwoody. The meeting will be streamed and a video posted for members of the public who are unable to attend at the scheduled time.

#### NOTICE OF COMMUNITY MEETING

Walton Ashwood, LLC (the "Applicant") will be filing an Application for Rezoning requesting removal of the current condition of zoning suggested by the Applicant which required the owner to commit to the creation of 32 units of workforce housing within the apartment development. The Applicant is requesting that this self-imposed condition of zoning be deleted from the conditions of zoning.

Pursuant to the city of Dunwoody's rezoning requirements, there will be a Community Meeting to discuss in detail this Rezoning Request. The Community Meeting is scheduled as follows:

PLACE: Walton Ashwood Apartments  
LOCATION: 1000 Ashwood Parkway, Dunwoody, GA 30338  
DATE: Wednesday, July 5, 2012 from 6:00 p.m. to 7:30 p.m.

APPLICANT: Walton Ashwood, LLC  
Contact: Ben Teague  
Area Vice President  
(678)202-1252



WALTON COMMUNITIES  
*APARTMENT HOMES*

**CORRECTION TO LETTER OF JUNE 5, 2012**

June 11, 2012

Dear Property Owner:

Walton Ashwood, LLC encourages your attendance and input at a Community Meeting to be held at Walton Ashwood Apartments located at 1000 Ashwood Parkway, Dunwoody, Georgia 30338 on Wednesday, July 5, 2012 from 6:00 p.m. to 7:30 p.m. The purpose of this meeting will to deliberate the following:

Walton Ashwood, LLC as the Owner of the Walton Ashwood Apartments will be filing an Application for Rezoning requesting removal of the current condition of zoning suggested by the Applicant which required the Owner to commit to the creation of 32 units of workforce housing within the apartment development. Walton Ashwood, LLC is requesting that the Property be rezoned from O-I Conditional to O-I Conditional deleting the referenced self-imposed condition for 32 units of workforce housing. Walton Ashwood Apartments are located at the above referenced address and are designated as Tax Parcel ID Number 1834901034.

You are receiving this letter because the latest City information indicates you are an owner of property that exists within 500 feet of the above subject Property.

Should you have any questions or comments, please contact the undersigned at (678) 202-1252.

Sincerely

WALTON ASHWOOD, LLC

Ben Teague  
Area Vice President

## SIGN-IN-SHEET

Community Meeting  
 Thursday, July 5, 2012 6:00 p.m. to 7:30 p.m.  
 Walton Ashwood Apartments  
 1000 Ashwoody Parkway, Dunwoody, Georgia 30338

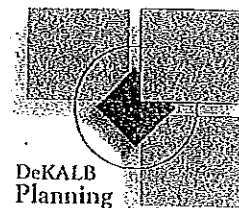
NAME	ADDRESS	TELEPHONE NUMBER/E-MAIL
RENE HENDRICKS	6025 LAKE FOREST DR. ATLANTA, GA 30328	(404) 255-5761
BEN TEARLE	2181 NEWMARKET PKWY MARIETTA, GA 30067	(678) 303-0433
Deanna Drafts	4660 Magnolia Commons Atlanta, GA 30338	404.983.0658
STEVE & NANCY VEEER	4716 Cypress Greens Atlanta, GA 30338	607-227-9138
Jade Padgett	4646 Magnolia Commons Dunwoody GA 30338	404-797-0945
RUEDIGER NEUBAUER	4676 MAGNOLIA COMMONS DUNWOODY, GA 30338	619-606-3690



# DeKalb County Planning Department

Chief Executive Officer  
Vernon Jones

Director  
Sabrina Freeney



October 4, 2005

Barbara Sanders, Chief Deputy Clerk

Finance Department

DeKalb County

Decatur, GA, 30030

REC'D OCT 11 2005

Re: CZ-03026, Walton Communities: Clarification of List of Conditions

Dear Ms. Sanders:

The application of Walton Communities to rezone property located at 900 Ashwood Parkway, case number CZ-03026, was approved with conditions by the Board of Commissioners on April 22, 2003. The list of conditions for the case is identified as "Attachment B." Although sixteen (16) conditions were identified as listed in Attachment B, the attached conditions were not numerically formatted in ascending order. Consequently, the specific number of conditions may be unclear.

This memorandum and attachment (see Attachment C) serve to clarify and identify the sixteen conditions in the original Attachment B. The attached list has bracketed and numbered each of the sixteen conditions. The identification and enumeration of sixteen conditions is confirmed by the Planning Department, and reviewed by the applicant and his attorney.

If you have any additional question, please let me know.

Sincerely,

*Sabrina Freeney*  
Sabrina Freeney  
Director of Planning

cc:

Kevin Hunter

Kathy Zickert

David Loeffel ✓

Attachment

330 West Ponce de Leon Avenue – Suite 500 – Decatur, Georgia – 30030  
[voice] 404.371.2155 – [fax 1] 404.371.9632 – [fax 2] 404.371.2813  
Web Address <http://www.co.dekalb.ga.us/planning>  
Email Address: [planning@co.dekalb.ga.us](mailto:planning@co.dekalb.ga.us)

## Attachment C

1. [Walton's project shall contain a maximum of 160 multifamily units.] No more than 10% of these units shall have three bedrooms.

2.

Walton's project will be built subject to the following standards:

- A. [Residential and all other buildings shall consist of cementitious siding or masonry stucco with accents of stacked stone and/or brick.] No vinyl siding shall be utilized, and there shall be no exposed concrete block.
- B. Neither HVAC, elevator or similar equipment mounted on any rooftop shall be visible from street level.
- C. [Primary vehicular access to the project shall be from Ashwood Parkway, with secondary access from Ridgeview Road.] No vehicular curb cut shall be allowed on Meadow Lane Road except for emergency vehicle access if required by Dekalb County.
- D. [The project may be gated and fenced.] However, no wooden or chain-link fence may be used on boundary lines along Meadow Lane Road or Ridgeview Road.
- E. [Identification signage on Ashford-Dunwoody Road shall be limited to the two existing monument structures at Ashford-Dunwoody and Ashwood Parkway and Ashford-Dunwoody and Meadow Lane.] Any entrance signage also shall be of monument design.
- F. [Landscaping for the project shall be consistent with the landscape plan used in the adjacent restaurant park, both in terms of species and design.] This landscaping shall be in place prior to the issuance of a Certificate of Occupancy



for the final building on the Subject Property, and shall be replaced and maintained by the property owner as needed.

- G. <sup>(14)</sup> [Sidewalks shall be replaced (or, if not already in existence, installed) along the project boundaries along Meadow Lane Road and Ridgeview Road prior to the issuance of a Certificate of Occupancy for the final building on the Subject Property.] <sup>(15)</sup> Walton also will insure that pedestrian gates will be placed throughout its community to encourage and enable residents to walk to nearby shops and offices in Perimeter Center.

Walton shall request that these commitments also be made conditions of zoning approval.

3. <sup>(16)</sup> [Walton shall use the following tenant recruitment plan to fill the 32 +/- affordable housing units which will be included\* in its project: Walton Communities will market its affordable apartment homes to seniors and other potential residents in the area immediately surrounding our site. This will include direct marketing to the schools, fire and police stations, businesses, senior facilities and retail establishments within a two-mile radius. Walton is confident that it will be able to fill its affordable housing units from this area; however, it cannot discriminate against a qualified applicant who may not work or reside in this immediate area.]

4.

In exchange for Walton's commitments as outlined herein, DHA agrees not to oppose Application CZ03026 before the DeKalb County Board of Commissioners, unless such participation otherwise is waived by Walton.

2005 10:11 FAX 404 815 3509

SMITH, GAMBRELL &amp; RUSSELL

0001

## SMITH, GAMBRELL &amp; RUSSELL, LLP

## WASHINGTON, D.C. OFFICE

SUITE 800  
1850 H STREET, N.W.  
WASHINGTON, D.C. 20006  
TELEPHONE  
(202) 283-4300  
FACSIMILE  
(202) 283-4329

ATTORNEYS AT LAW  
SUITE 3100, PROMENADE II  
1200 PEACHTREE STREET, N.E.

ATLANTA, GEORGIA 30309-3592

TELEPHONE (404) 815-3500  
FACSIMILE (404) 815-3509  
WEBSITE WWW.SGRLAW.COM

ESTABLISHED 1893

## FLORIDA OFFICE

SUITE 2000, BANK OF AMERICA TOWER  
50 NORTH LAURA STREET  
JACKSONVILLE, FL 32202  
TELEPHONE  
(904) 598-8100  
FACSIMILE  
(904) 598-6300

TELECOPY COVER SHEET

DATE: September 21, 2005

678-303-4110

Send To:	At (Firm/Company):	Telecopy:	Phone:
Diana Miller	Walton Communities, LLC	(678) 303-4133	678-303-4100

From: Shawna E. Avila      Telecopy: (404) 685-6858      Phone: (404) 815-3558      Client/Matter: 043993.001      Number of Pages: 5

OPERATOR: \_\_\_\_\_ TIME COMPLETED: \_\_\_\_\_  
PLEASE CALL (404) 815-3500 IF YOU HAVE ANY PROBLEMS

## MESSAGE:

Per your request to Kathy Zickert yesterday, I have attached the Minutes and conditions of the Board of Commissioners dated April 22, 2003 in regard to CZ-03026. If you need anything further, please feel free to contact me.

*Shawna Avila*

*savila@sgrlaw.com*

*Save as: Ashwood Zoning Minutes  
under Accounting \ Walton Documents*

## CONFIDENTIALITY NOTE:

The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the address

REV. 10/02

DEKALB COUNTY

ITEM NO. H22

HEARING TYPE  
PUBLIC HEARING

BOARD OF COMMISSIONERS

ZONING AGENDA / MINUTES

MEETING DATE: April 22, 2003

ACTION TYPE  
ORDINANCESUBJECT: Rezone - Walton Communities  
COMMISSION DISTRICTS: 1 & 6

DEPARTMENT: PLANNING

PUBLIC HEARING: ☒ YES ☐ NOATTACHMENT: ☒ YES ☐ No

INFORMATION Ray White/Bob Maxey

CONTACT:

PAGES: 25

PHONE NUMBER: 404.371.2155

Deferred from 3/26/03 for a public hearing.

PURPOSE:

CZ-03026

Application of Walton Communities to rezone property located on the southwest terminus of Ashwood Parkway, on the east side of Ridgeview Road, 552 feet north of Meadow Lane Road, and on the northwest side of Meadow Lane Road, 387 feet northeast of Ridgeview Road, from OI (conditional) to OI (conditional). The property has frontage of 100 feet on Ashwood Parkway, 171 feet of Meadow Lane Road, and 160 feet on Ridgeview Road and contains 3.59 acres. The application is conditioned on development of the property for 160 multifamily dwelling units based on a conceptual plan.

**SUBJECT PROPERTY:**

Parcel ID#: 18-349-01-034

Property Address: 900 Ashwood Parkway

**RECOMMENDATION(S):****PLANNING DEPARTMENT:**

Approval with conditions. This site was originally rezoned to OI in 1980 with conditions which limited its use to an office building. In 1996 the property was rezoned again based on a new site plan for a hotel use. The adjacent part of the parcel is developed with a hotel. The purpose of the present rezoning case is to change part of the parcel for high density apartment use under the OI zoning category. Under the previous code this would have been an alteration of conditions. Since that process is no longer available, the rezoning process is utilized. The land use plan is OMX under which higher density mixed uses, such as apartments are permitted. The site will have access onto Ashwood Parkway and Ridgeview Drive. The use is considered appropriate, given the location and the land use plan. Staff recommendation is for approval with the following conditions:

1. Access to be approved by Public Works
2. Conceptual site plan for apartment development

**PLANNING COMMISSION:**

Deferral to Board of Commissioners

**COMMUNITY COUNCIL:**

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FOR USE BY COMMISSION OFFICE/CLERK ONLY

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ACTION: H22

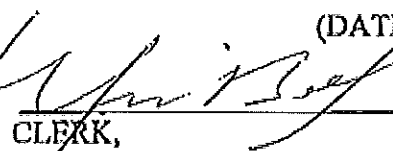
MOTION was made by Commissioner Boyer, seconded by Commissioner Yates, and passed 7-0-0-0, to approve the rezoning application of Walton Communities, with conditions submitted by staff and the applicant. Commissioner Boyer submitted a 2-page list of conditions.

APR 22 2003

ADOPTED: \_\_\_\_\_

CERTIFIED: APR 22 2003

(DATE)  
  
 \_\_\_\_\_  
 PRESIDING OFFICER  
 DEKALB COUNTY BOARD OF COMMISSIONERS

(DATE)  
  
 \_\_\_\_\_  
 CLERK,  
 DEKALB COUNTY BOARD  
 OF COMMISSIONERS

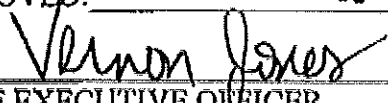
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FOR USE BY CHIEF EXECUTIVE OFFICER ONLY

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APPROVED: MAY 05 2003

VETOED: \_\_\_\_\_

  
 \_\_\_\_\_  
 CHIEF EXECUTIVE OFFICER  
 DEKALB COUNTY

\_\_\_\_\_  
 CHIEF EXECUTIVE OFFICER  
 DEKALB COUNTY

VETO STATEMENT ATTACHED: \_\_\_\_\_

MINUTES:

Kathy Zickert, 1230 Peachtree Street, Atlanta, Georgia, spoke in support of the application.

No one spoke in opposition of the application.

	FOR	AGAINST	ABSTAIN	ABSENT
DISTRICT 1 - ELAINE BOYER	<u>X</u>	_____	_____	_____
DISTRICT 2 - GALE WALLDORFF	<u>X</u>	_____	_____	_____
DISTRICT 3 - LARRY JOHNSON	<u>X</u>	_____	_____	_____
DISTRICT 4 - BURRELL ELLIS	<u>X</u>	_____	_____	_____
DISTRICT 5 - HANK JOHNSON	<u>X</u>	_____	_____	_____
DISTRICT 6 - JUDY YATES	<u>X</u>	_____	_____	_____
DISTRICT 7 - LOU WALKER	<u>X</u>	_____	_____	_____

1.

Walton's project shall contain a maximum of 160 multifamily units. No more than 10% of these units shall have three bedrooms.

2.

Walton's project will be built subject to the following standards:

- A. Residential and all other buildings shall consist of cementitious siding or masonry stucco with accents of stacked stone and/or brick. No vinyl siding shall be utilized, and there shall be no exposed concrete block.
- B. Neither HVAC, elevator or similar equipment mounted on any rooftop shall be visible from street level.
- C. Primary vehicular access to the project shall be from Ashwood Parkway, with secondary access from Ridgeview Road. No vehicular curb cut shall be allowed on Meadow Lane Road except for emergency vehicle access if required by Dekalb County.
- D. The project may be gated and fenced. However, no wooden or chain-link fence may be used on boundary lines along Meadow Lane Road or Ridgeview Road.
- E. Identification signage on Ashford-Dunwoody Road shall be limited to the two existing monument structures at Ashford-Dunwoody and Ashwood Parkway and Ashford-Dunwoody and Meadow Lane. Any entrance signage also shall be of monument design.
- F. Landscaping for the project shall be consistent with the landscape plan used in the adjacent restaurant park, both in terms of species and design. This landscaping shall be in place prior to the issuance of a Certificate of Occupancy

for the final building on the Subject Property, and shall be replaced and maintained by the property owner as needed.

- G. Sidewalks shall be replaced (or, if not already in existence, installed) along the project boundaries along Meadow Lane Road and Ridgeview Road prior to the issuance of a Certificate of Occupancy for the final building on the Subject Property. Walton also will insure that pedestrian gates will be placed throughout its community to encourage and enable residents to walk to nearby shops and offices in Perimeter Center.

Walton shall request that these commitments also be made conditions of zoning approval.

3.

Walton shall use the following tenant recruitment plan to fill the 32 +/- affordable housing units which will be included in its project: Walton Communities will market its affordable apartment homes to seniors and other potential residents in the area immediately surrounding our site. This will include direct marketing to the schools, fire and police stations, businesses, senior facilities and retail establishments within a two-mile radius. Walton is confident that it will be able to fill its affordable housing units from this area; however, it cannot discriminate against a qualified applicant who may not work or reside in this immediate area.

4.

In exchange for Walton's commitments as outlined herein, DHA agrees not to oppose Application CZ03026 before the Dekalb County Board of Commissioners, unless such participation otherwise is waived by Walton.

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CZ-03026

## FINAL CONDITIONS FOR: CZ-03026

**REQUESTED BY APPLICANT:**

The application is conditioned on development of the property for 160 multifamily dwelling units based on a conceptual plan.

\*There is no limit on the number of high rise units per acre in OI.

**PLANNING DEPARTMENT:**

Approval with conditions. This site was originally rezoned to OI in 1980 with conditions which limited its use to an office building. In 1996 the property was rezoned again based on a new site plan for a hotel use. The adjacent part of the parcel is developed with a hotel. The purpose of the present rezoning case is to change part of the parcel for high density apartment use under the OI zoning category. Under the previous code this would have been an alteration of conditions. Since that process is no longer available, the rezoning process is utilized. The land use plan is OMX under which higher density mixed uses, such as apartments are permitted. The site will have access onto Ashwood Parkway and Ridgeview Drive. The use is considered appropriate, given the location and the land use plan. Staff recommendation is for approval with the following conditions:

1. Access to be approved by Public Works
2. Conceptual site plan for apartment development

**PLANNING COMMISSION:**

Deferral to Board of Commissioners

**BOARD OF COMMISSIONERS:**

Approved OI with staff conditions plus 16 applicant conditions (4/22/03). Applicant conditions denoted as Attachment B.

I the undersigned, Barbara H. Sanders  
Deputy Clerk of the Board of Commissioners, DeKalb  
County, Georgia, DO HEREBY CERTIFY that the  
foregoing is a true and correct copy of an ordinance  
adopted by said Board, meeting lawfully assembled on  
the 22 day of April, 2003.  
And same appears in Minutes of said Board this 28th  
day of May, 2003.  
Attest: Barbara H. Sanders  
Deputy Clerk of Commissioners  
DeKalb County, GA.

*Promenade II, Suite 3100  
1230 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3592  
Tel: 404 815-3500  
Fax: 404 815-3509  
www.sgrlaw.com*

SMITH, GAMBRELL & RUSSELL, LLP  
*Attorneys at Law*

*Kathryn M. Zickert  
404-815-3704  
Direct Fax: 404-685-7004  
kmzickert@sgrlaw.com*

December 28, 2006

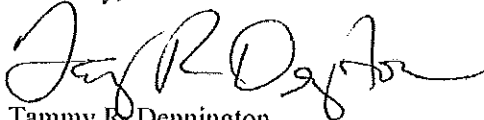
Mr. W. David Knight  
Walton Communities LLC  
2181 Newmarket Parkway  
Marietta, Georgia 30067

Re: Walton Communities Inc. v. DeKalb County, Georgia  
Civil Action No. 06CV8194-7  
Superior Court of DeKalb County  
SGR File No. 043993.002

Dear Mr. Knight:

Enclosed please find your copy of the **Final Consent Order** in connection with the above-referenced matter.

Sincerely,



Tammy R. Dennington  
Assistant to Kathryn M. Zickert  
/trd

Enclosure





<b>FINAL ORDER</b>	
(CASE DISPOSITION)	
INIT. <i>PCR</i>	DATE <i>12-20-06</i>

IN THE SUPERIOR COURT OF DEKALB COUNTY  
STATE OF GEORGIA

WALTON COMMUNITIES, INC.,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
vs.	)	06CV8194-7
	)	
DEKALB COUNTY, GEORGIA,	)	
	)	
Defendant.	)	
	)	

ORIGINAL

FILED  
2006 DEC 20 PM 3:49  
CLERK OF SUPERIOR COURT  
DEKALB COUNTY GA

**FINAL CONSENT ORDER**

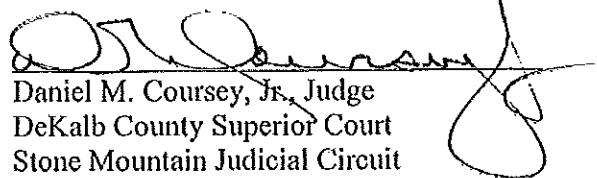
Walton Communities purchased 3.59 acres of land located in District 18, Land Lots 349 and 350 as more particularly described in Exhibit A, incorporated herein by reference. Prior to its purchase, Walton sought and received approval from DeKalb County to rezone the Subject property to O-I (Conditional) to allow the development of a 5-story, 160 unit apartment community. Walton volunteered, in exchange for this approval, to commit to create at least 32 units of workforce housing within the project. "Workforce housing" is defined as a housing unit for households making 80% or less than the median annual income as defined by HUD in the Atlanta MSA and as adjusted for family size. That commitment was made an express condition of zoning approval and continues to apply to the property. After zoning, Walton paid \$1,730,000 to purchase the property. Walton has completed its first set of construction plans to submit to the County for permitting.

Given its commitment and reliance as outlined, Walton Communities shall be treated, with respect to the above-referenced project, as a developer entitled to avail itself of the rights set

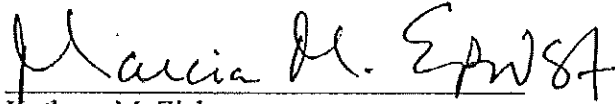
forth under §27-49(a), (b) and (c) of the Zoning Ordinance of DeKalb County as amended

June 13, 2006.

SO ORDERED this 20th day of December, 2006.

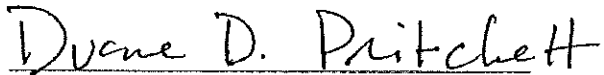
  
Daniel M. Coursey, Jr., Judge  
DeKalb County Superior Court  
Stone Mountain Judicial Circuit

cc:  
Jointly Prepared and Presented by:



Kathryn M. Zickert  
Georgia Bar No. 785040  
Marcia M. Ernst  
Georgia Bar No. 249958  
Joseph L. Cooley  
Georgia Bar No. 142445  
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(404) 815-3500

Attorneys for Walton Communities, Inc.



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Georgia Bar No. 588330 by *MME*  
Chief Assistant County Attorney *w/ Express*  
Fifth Floor *permission*  
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Decatur, Georgia 30030  
(404) 371-3011

Attorney for DeKalb County, Georgia