

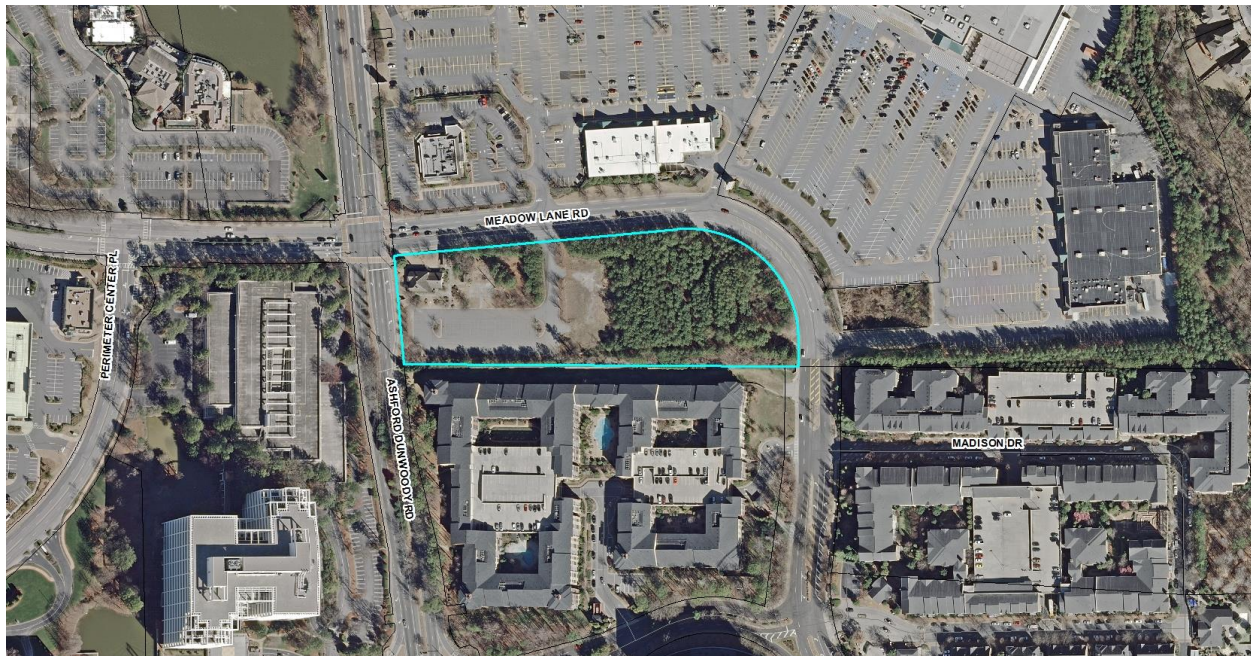
MEMORANDUM

To: Mayor and City Council

From: Steve Foote, AICP

Date: June 9, 2014 & June 24, 2014

Subject: **RZ 14-062:** Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks permission to rezone property currently zoned Pedestrian Community Conditional (PC-3c) and Local Commercial (C-1) to Commercial-Residential Mixed-Use (CR-1) to allow for a change of previous conditions. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.



BACKGROUND

The site is located on the eastern side of Ashford Dunwoody Road, at its intersection with Asbury Square and Meadow Lane Road. The property is currently zoned PC-3c (Pedestrian Community conditional District) and C-1 (Local-Commercial District).

Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC seeks permission on behalf of Hotel Development Partners, LLC to rezone the property currently zoned Pedestrian Community Conditional (PC-3c) and Local-Commercial (C-1) to Commercial Residential Mixed-Use (CR-1). The property consists of approximately 5.2 acres of land, located at 4681 Ashford Dunwoody Road, Dunwoody, Georgia 30338.

In 2005, the subject property was rezoned by DeKalb County to PC-3c for a 346,485 square foot mixed-use development consisting of 257 units of multi-family residential, 32,865 square feet of retail floor area, and 43,588 square feet of cultural arts facility floor area—all located in a single use building. The approval was conditioned to the following:

1. Approval shall be in substantial compliance with the revised Zoning/Site Plan, Site Access Plan, Public Parks/Plaza Plan, and Building Elevation Plan stamped revised on March 11, 2005 by the Planning Department.
2. Drainage improvement shall be subject to the approval of the Development Department.
3. Access and circulation shall be subject to the approval of the Development Department.

During that time, the purpose and intent of the PC district was to encourage pedestrian-oriented development that is comprehensively planned so as to include residential, commercial, office, institutional, and civic uses, while also preserving the natural and artificial environment. However, following the City's Zoning Code Rewrite in October 2013, the Pedestrian Community district was deemed expired and obsolete.

In order to rezone the property in accordance with the current zoning map amendment procedures, the applicant proposes to change the zoning to Commercial-Residential Mixed-Use (CR-1). The primary purposes of the CR-1 district are as follows:

- To provide convenient local retail shopping and service areas within a mixed-use (commercial-residential) setting;
- To provide for the development of new commercial-residential mixed-use districts; and
- To promote development patterns that accommodate residential, employment and entertainment within a walkable, mixed-use environment

The proposed site plan modifies the current approvals for the site by removing the multi-family component in its entirety and proposing a development consisting of a four (4)-story, 128-room hotel of approximately 80,000 sq. ft., a one (1)-story retail/restaurant space of up to 8,000 square feet, and a one (1)-story retail/restaurant space of up to 6,000 square feet, while maintaining the location of the Spruill Arts Center. This application is being processed concurrently with a request for a Special Land Use Permit for a change in the maximum allowable building height in CR-1 from three-stories to four-stories. Additionally, the site plan identifies a parking lot landscaping deficiency that must be processed before the Zoning Board of Appeals.

Direction	Zoning	Use	Current Land Use
N	C-1	Commercial	Retail
S	O-I	Residential	Multi-Family Residential
E	C-1 & O-I	Commercial & Residential	Retail & Multi-Family Residential
W	OCRC	Commercial	Office

ANALYSIS

Comprehensive Plan Analysis

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. The intent of this area is 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.

In accordance with this vision, the applicant plans to make the site pedestrian-friendly by orienting users close to Ashford Dunwoody Road, creating an internal network of sidewalks and crosswalks, and by providing streetscape treatments in accordance with the Perimeter Community Improvement District's (PCID) Public Space Standards.

The proposed conditions align with the following goals of the Perimeter Center Character Area:

- Reduce surface parking and promote livable centers in the immediate areas surrounding MARTA station
- Encourage hotel and convention development near MARTA in order to foster commerce along the mass transportation route
- Create bicycle, pedestrian and potential golf cart options to connect with the rest of the City of Dunwoody
- Promote/establish new connectivity

Site Plan Analysis

The site -zoned PC-3c and C-1- comprises a 2,380 square foot cultural arts facility, garden area with two outbuildings, and surface parking on an approximately 5.2 acre lot. The property is generally flat, but slopes downward toward the eastern property line, which is encompassed by mature tree cover. The property fronts on Ashford Dunwoody Road and Meadow Lane Road, the latter of which is a private street.

According to the site plan dated May 30, 2014, the applicant proposes to construct a four (4)-story, 128-room hotel on the eastern-half of the lot as well as a one (1)-story retail/restaurant space of up to 8,000 square feet and a one (1)-story retail/restaurant space of up to 6,000 square feet on either side of the Spruill Center for the Arts. For a development of this proportion, the total number of required parking spaces is 269. The project, however, will exceed this requirement by 11 spaces—seen in the 215 surface parking spaces and 65 parking spaces located underneath the hotel. Furthermore, due to the change in grade as the property runs east along Meadow Lane Road, the hotel will be a maximum of 48 feet high on the west end and 60 feet high on the east end.

While there are existing curb-cuts along Meadow Lane Road, to promote access management and alleviate any impending congestion, the proposed design calls for two deceleration lanes with 50-foot tapers. The 100-foot deceleration lane starts after the art facility as visitors approach the first curb-cut for restaurant and retail parking, and the 150-foot deceleration lane is more for hotel traffic, as the curb-cut orients users directly in front of the building. Other curb cuts will be removed.

Regarding these two driveways, staff recommends that the westernmost driveway be limited to a right in and right out design. This is due to considerations related to the

proximity to Ashford Dunwoody Road and the blocking of the driveway by westbound vehicles waiting at the traffic light. The resulting conflicts between the westbound queue and the increased left turns into and out of the site present a safety concern. Because it is more removed from Ashford Dunwoody Road and it serves the principal hotel use, staff recommends that the eastern hotel entrance be a full intersection with a traffic light. The traffic light is recommended because of the limited visibility due to the curve of the road. The signal will also provide a safe pedestrian crossing at a location where pedestrian crossings are likely to occur.

Conditions of the Zoning Ordinance

Chapter 27, §27-335 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 by the planning department, Boards, Commissions, and Councils. These criteria are enumerated and analyzed as follows:

1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;
Dunwoody operates under the auspices of the Comprehensive Plan in effect as of June 2010. The importance of the Comprehensive Plan cannot be understated as a guiding document in the zoning decisions for a jurisdiction because it is a living document that is created from public input and sentiment, laying 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,' which is indicated to be approved for uses such as first-class office, retail, and high-end restaurants in a pedestrian and bicycle-oriented environment, consistent with the applicant's request.
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 proposed use on the site is suitable when compared and contrasted with adjoining properties. For instance, there are numerous restaurant and retail establishments north of the subject property as well as large multi-family residential complexes to the south and east.
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 through the operational activities of Spruill Center for the Arts. However, by changing the condition of the current zoning to allow for more retail and restaurant space, there will be a greater opportunity for economic vitality in the area.
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 those surrounding the immediate region of the proposed development because the proposal is directly aligned with the adjacent properties' allowable land uses along Ashford Dunwoody Road.

5. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;
The conditions of the PCID area call for a “livable” regional center with a mix of uses in a pedestrian and bicycle-oriented environment. The request is consistent with this goal. Additionally, the character and quality of the proposed development is better aligned with the recommendations of the Comprehensive Plan than the previous entitlement—the proposal offers a well thought-out pedestrian circulation plan in and around the project site and makes use of best practice commercial center design principles by pulling buildings up to the street.
6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources; and
In the northwest corner of the property, stands the Spruill Center for the Arts—an historic farmhouse, rich in Dunwoody history, which currently operates as a cultural arts facility and museum. The proposed site plan intends to keep the Spruill Home and additional outparcel buildings intact while anchoring retail and restaurant development around it. The intention of which will not only help increase the number of visitors to various art classes and exhibitions hosted by the facility, but will also bring in more revenue for the entire site.
7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
The existing street and utility infrastructure is expected to be adequate to service the proposed hotel, retail and restaurant uses on the site. Additionally, there will be no school-aged children generated as a consequence of this development.

RECOMMENDATION

Community Council

At their regular April meeting, the Community Council heard the applicant's request to rezone the property from PC-3c and C-1 to CR-1. After much discussion with the applicant and staff related to the nature of the project and the proposed use of the subject property specifically, a motion was made to recommend approval of the request. The motion was voted and passed (4 – 0). Tony Delmichi abstained.

Planning Commission

The Planning Commission reviewed the applicant's request at their regular May meeting. Discussion resulted in a motion to approve with conditions proposed from staff. The motion was voted and passed (7 – 0).

Staff Recommendation

Since the June 9, 2014 City Council meeting staff met with the developer and discussed Meadow Lane and the installation of a traffic light. Conditions #4 and 5 have been amended to better address this situation. These changes have been incorporated into the proposed Ordinance for 2nd Reading.

Based on the above analysis and findings, staff has determined that the requested amendments to the official zoning map meet the requirements of Chapter 27, §27-335. Therefore, staff recommends the application be **approved** with the following condition(s):

1. Development shall substantially comply with the Site Plan dated May 30, 2014, as prepared by McFarland-Dyer & Associates.
2. Developer will provide landscaping and other improvements along its property frontage along Ashford Dunwoody Road per 2007 Perimeter CID Public Standards.
3. Developer will provide street furniture along its property frontage along Meadow Lane Road per PCID Standards.
4. Restrict the westernmost curb-cut to right-in and right-out access only and move the full-access driveway to the easternmost curb-cut. The hotel driveway shall be constructed as a right-in and right-out driveway until such time that a traffic light is installed. The existing easternmost curb cut shall be removed.
5. Developer to pay to the City of Dunwoody a fee representing no less than fifty (50) percent of a traffic light at the eastern most driveway as determined by the Public Works Director. Said payment shall be paid prior to the issuance of a Certificate of Occupancy for any portion of the Spruill development. Should the dedication or transfer of ownership of Meadow Lane to the City of Dunwoody take place prior to the issuance of a Certificate of Occupancy for the site, then the developer shall install at their cost, the traffic light prior to the Certificate of Occupancy.

Attachments

- Rezoning Ordinance
- Exhibits A & B
- Location Map, Zoning Districts Map, Future Land Use Map
- Comprehensive Plan excerpt
- Previously approved site plan and conditions
- Application packet
- DeKalb County Minutes and Site Plan
- Planning Commission Meeting Minutes
- Community Council Meeting Minutes

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2014-XX-XX

AN ORDINANCE TO AMEND THE CITY OF DUNWOODY ZONING CLASSIFICATION AND MAP FOR ZONING CONDITIONS OF LAND LOT 350, District 18 IN CONSIDERATION OF ZONING CASE RZ-14-062 (4681 Ashford Dunwoody Road)

WHEREAS: HDP Acquisitions, LLC, c/o Hotel Development Partners, LLC seeks permission to rezone and change zoning conditions on property located on the Eastern Side of Ashford Dunwoody Road, at its intersection with Asbury Square and Meadow Lane Road; and

WHEREAS: the Property, consisting of 5.2 acres of land, is currently zoned Pedestrian Community Conditional District (PC-3c) and C-1 Local Commercial District, conditioned to 257 units of multi-family residential, 32,865 square feet of retail floor area and 43,588 square feet of cultural arts facility floor area and the applicant seeks permission to amend the site plan to rezone the Property to Commercial-Residential Mixed Use (CR-1) to allow for the construction of a 4-story 128-room hotel of approximately 80,000 square feet, a 1-story retail/restaurant space of up to 8,000 square feet, and a 1-story retail/restaurant space of up to 6,000 square feet, while maintaining the location of the Spruill Arts Center and removing the multi-family residential component; and

WHEREAS, this development will increase pedestrian accessibility to the Perimeter area, foster commerce along the mass transportation route, and promote new connectivity through a network of sidewalks and crosswalks that are proposed to be installed; 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 public hearing was held by the Mayor and City Council of the City of Dunwoody as required by the Zoning Procedures Act.

NOW THEREFORE, The Mayor and City Council of the City of Dunwoody hereby **ORDAINES AND APPROVES** the rezoning of this said property from Pedestrian-Community-Conditional (PC-3c) and Local Commercial (C-1) districts to Commercial-Residential Mixed-Use (CR-1). The rezoning of this property shall consist of the following Exhibits. ~~-with the following conditions:-~~

Exhibit A: Includes plans produced by MDA (McFarland-Dyer & Associates), dated May 30, 2014 (two sheets), Zoning Comparison Table, and the Spruill Arts Center materials description.

Exhibit B: Site Topo/Grading Elevations for Spruill Center Development by Richard Rauh & Associates, dated May 8, 2014 and consisting of four sheets.

Development of the site shall be substantially consistent with the above Exhibits, Zoning Ordinance, and the following conditions:

**STATE OF GEORGIA
CITY OF DUNWOODY**

ORDINANCE 2014-XX-XX

1. Development shall substantially conform ~~comply~~ with the above Exhibits, copies of which are ~~Site Plan dated May 30, 2014, as prepared by McFarland-Dyer & Associates~~ attached hereto and incorporated herein by reference.
2. Developer will provide landscaping and other improvements along its property frontage along Ashford Dunwoody Road per 2007 Perimeter CID Public Standards.
3. Developer will provide street furniture along its property frontage along Meadow Lane Road per PCID Standards.
4. Restrict the westernmost curb-cut to right-in and right-out access only and move the full-access driveway to the easternmost curb-cut. The hotel driveway shall be constructed as a right-in and right-out driveway until such time that a traffic light is installed. The existing easternmost curb cut shall be removed.
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The City of Dunwoody Zoning Map shall be changed to reflect said rezoning.

SO ORDAINED AND EFFECTIVE, this the ____ day of _____, 2014.

Approved by:

Approved as to Form and Content

Michael G. Davis, Mayor

City Attorney

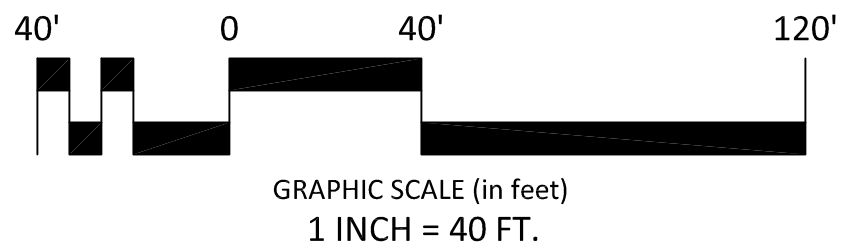
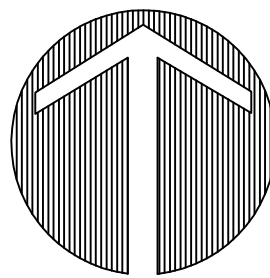
Attest:

Sharon Lowery, City Clerk

SEAL

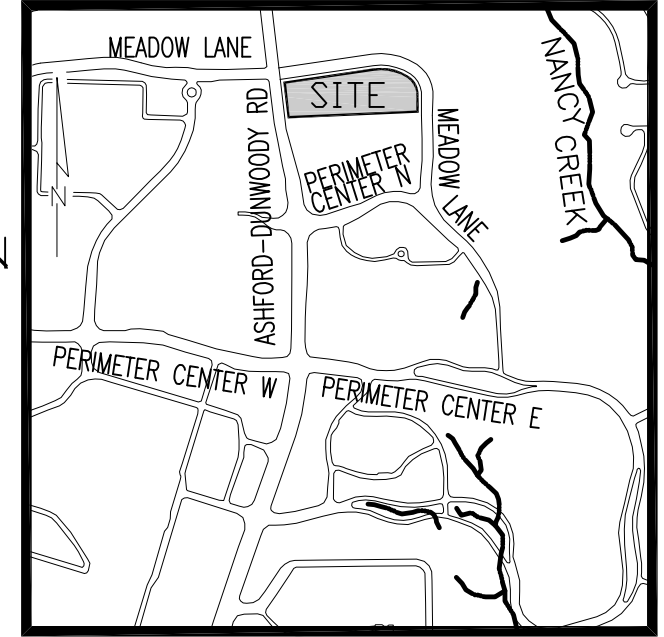
SPRUILL CENTER
REZONING PLAN

MEADOW LANE ROAD, DUNWOODY, GEORGIA
MAY 30, 2014-REV.



PARKING	
Required Parking Spaces	
Hotel 128 keys / 1.25 per guestroom	160
Retail/Restaurant 6,000 gsf / (6.67 per 1000 per sf)	40
Retail/Restaurant 8,000 gsf / (6.67 per 1000 per sf)	54
Spruill Center 360 gsf Assembly Area (40 per 1000 sf)	15
Total Required Parking	269
Surface Parking (Standard 8'-6" x 18'-0", Compact 8'-0" x 15'-6")	211
Proposed Parking Deck (Under Hotel)	58
Total Parking Provided	269

- GENERAL NOTES:
1. SITE AREA : 5.212 ACRES
TRACT 1: 4.942 ACRES, TRACT 2: 0.270 ACRES
 2. LOCATION : ASHFORD-DUNWOODY ROAD & MEADOW LANE
PARCEL: LANDLOT 350, DISTRICT 18th DeKALB COUNTY
 4. LAST EXISTING USE : SPRUILL ARTS CENTER, PARKING LOT & UNDEVELOPED LAND
 5. PROPOSED USE: MIXED USE COMPLEX AND PARKING LOT
 6. APPLICANT : HDP - ACQUISITIONS, LLC.
c/o HOTEL DEVELOPMENT PARTNERS, LLC
3414 PEACHTREE ROAD NE, SUITE 1075
ATLANTA, GEORGIA 30326
STEVE SMITH, 770-330-3233
 - CONTACT PERSON: MCFARLAND - DYER & ASSOCIATES, INC.
4174 SILVER PEAK PARKWAY
SUWANEE, GEORGIA 30024
JEFF DYER (770) 932-6550 ,
JDyer@gomda.net
 7. BOUNDARY & SITE INFORMATION PREPARED BY ARMSTRONG LAND SURVEYING, INC DATED 010/23/2007. TOPOGRAPHY FROM FIELD RUN SURVEY.
 8. ALL CONSTRUCTION SHALL CONFORM TO THE CITY OF DUNWOODY DEVELOPMENT REGULATIONS. ALL CONSTRUCTION SHALL ALSO COMPLY WITH ALL APPLICABLE COUNTY, STATE AND FEDERAL CODES, STANDARDS AND REGULATIONS.
 9. FIRM MAP NUMBER 13089C0012J, EFFECTIVE MAY 16, 2013, INDICATES THAT THIS TRACT DOES NOT LIE IN AN AREA DESIGNATED AS HAVING FLOOD HAZARD. THE SUBJECT SITE IS LOCATED IN A FLOOD ZONE "X" AREA DETERMINED TO BE OUTSIDE OF THE 500 YEAR FLOOD PLAIN.
 10. COVERAGE: 80% MAXIMUM, PROPOSED COVERAGE: 73%
 11. STORM WATER MANAGEMENT SHALL BE PROVIDED ON SITE IN SUB-SURFACE FACILITIES.
 12. THERE ARE NO LAKES, STREAMS, WETLANDS OR WATERS OF STATE OR THEIR ASSOCIATED BUFFERS ON THIS SITE.
 13. PROPOSED ZONING: CR-1
13.1. STREET, FRONT AND SIDE: 0 FEET
13.2. SIDE INTERIOR: 20 FEET
13.3. REAR: 30 FEET
13.4. BUILDING HEIGHT: 3 STORIES, 45 FEET (SUBJECT TO SLUP)



VICINITY MAP
NOT TO SCALE

SYMBOL LEGEND

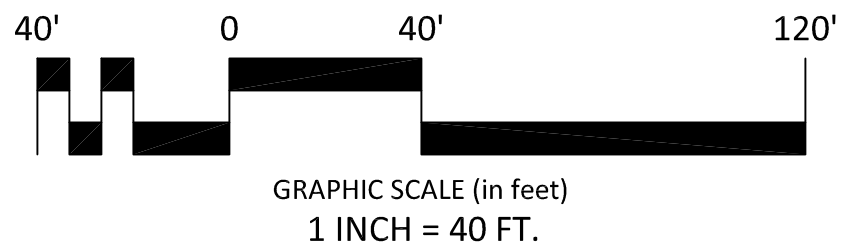
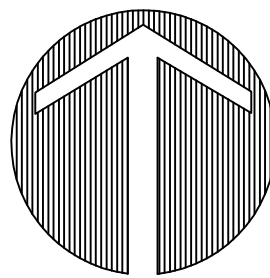
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No. - Number
Rad - Radius
Arc - Arc Length
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Msd. - Measured
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(Record) Actual
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5/8" Rebar w/Cap Set or to be Set
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Monument Box w/Iron Pin
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Curb Inlet Basin w/ Grate
Square Catch Basin
Curb Inlet Basin w/out Grate
Sanitary Manhole
Sanitary Manhole
Fire Hydrant
Water Valve
Electric Transformer
Electric Manhole
Telephone Manhole
Handicap Space
Sign
Wall
Light Pole
Fence
Concrete Area
No Parking Area
Building Area

LEGEND

- STREET LIGHT POLE
STREET TREE
SHADE TREE
UNDERSTORY TREE
LOW SHRUBBERY
SHRUBBERY
GROUND COVER
SOD / GRASS

SPRUILL CENTER
REZONING - PRELIMINARY GRADING PLAN

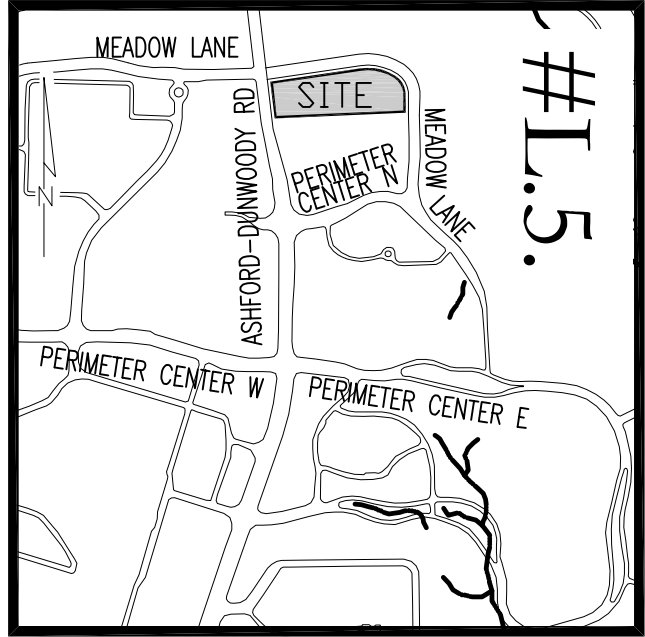
MEADOW LANE ROAD, DUNWOODY, GEORGIA
MAY 30, 2014-REV.



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- (X) - Schedule B-Section II Item
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● - Sanitary Manhole
● - Fire Hydrant
● - Water Valve
⊗ - Electric Transformer
● - Electric Manhole
● - Telephone Manhole
□ - Handicap Space
□ - Sign
□ - Wall
☼ - Light Pole
X - Fence
□ - Concrete Area
□ - No Parking Area
■ - Building Area

LEGEND

- STREET LIGHT POLE
- STREET TREE
- SHADE TREE
- UNDERSTORY TREE
- LOW SHRUBBERY
- SHRUBBERY
- GROUND COVER
- SOD / GRASS



MCFARLAND-DYER & ASSOCIATES
4174 SILVER PEAK PARKWAY, SUWANEE, GEORGIA 30024
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WWW.GOMDA.NET

Spruill Art Center Property Zoning Dunwoody GA

RZ 14-062 & SLUP 14-062

Zoning Comparison	Current Zoning	Requested Zoning
Gross Buildable Square Feet		
Current Entitlement - Total SF	346,485 SF	
Proposed		120,000-130,000 SF
Hotel - Approximate SF - Hotel Rooms is the critical number		85,000 - 95,000 SF
Parking under Hotel		21,000 SF
Retail/Restaurant		14,000 SF
Spruill Historical Center - no changes to building	2,380 SF	2,380 SF
Breakdown of Areas		
Apartments	257 Units	None
Culture Arts Floor Area	43,588 SF	None
Spruill Historical Center - no changes to building	2,380 SF	2,380 SF
Hotel	N/A	128 Keys
Retail/Restaurant	32,865 SF	14,000 sf
Parking	674 Spaces	269 Spaces
PCID improvement along Ashford Dunwoody	None	Included
PCID improvement along Meadow Lane	None	Included

Spruill Art Center Property Zoning Dunwoody GA

RZ 14-062 & SLUP 14-062

The following materials are intended to be part of the elevations for the development
The final decision regarding the elevations and roof will be made by the Architect once selected

Hotel

Elevations

The design of the hotel is to have a residential feel. Design concepts currently being considered include the Courtyard at Vinings or the Staybridge Suites in Dunwoody
Materials found on each of the designs include:

- Stacked Stone
- Stucco or Hardy Plank siding
- Commercial Grade windows that have a residential design
- Brick

Roof

The roof will be a flat roof with a mansard. The mansard shall have 30 year asphalt shingles and be sized to match the building elevations. As an alternative we may go with a residential design of a pitched gable roof.

Retail

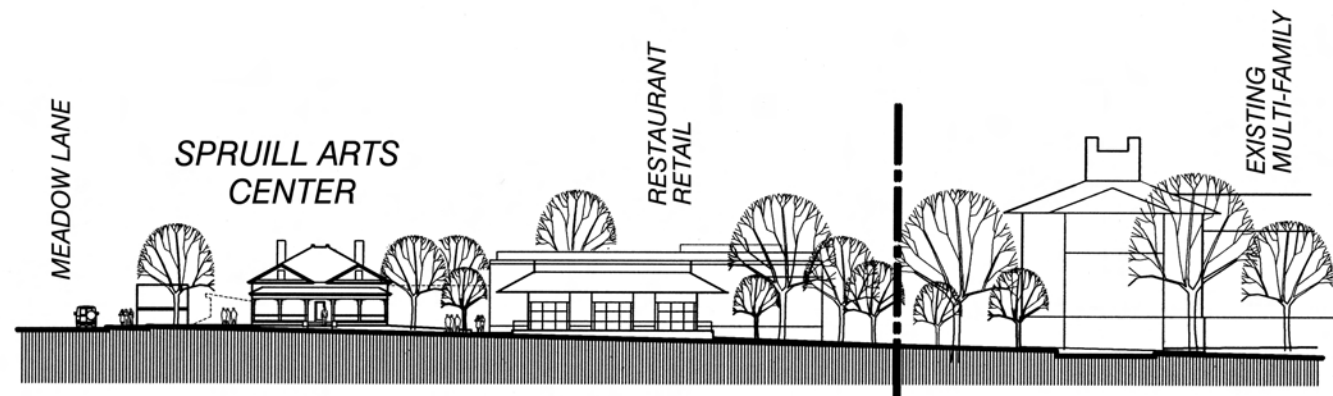
Elevations

The intentions are to blend the retail buildings with the Spruill Center house. This will be accomplished with the Spruill Center Staff and the Architect. Our current thoughts are to include in the design the following elements

- Commercial Grade Glass Storefront
- Stacked Stone
- Stucco or Hardy Plank siding
- Brick

Roof

A majority of the roof will be a flat roof behind a parapet wall or mansard roof (30 year asphalt shingles) .
The elevations shown include a mansard roof that will have asphalt shingles.

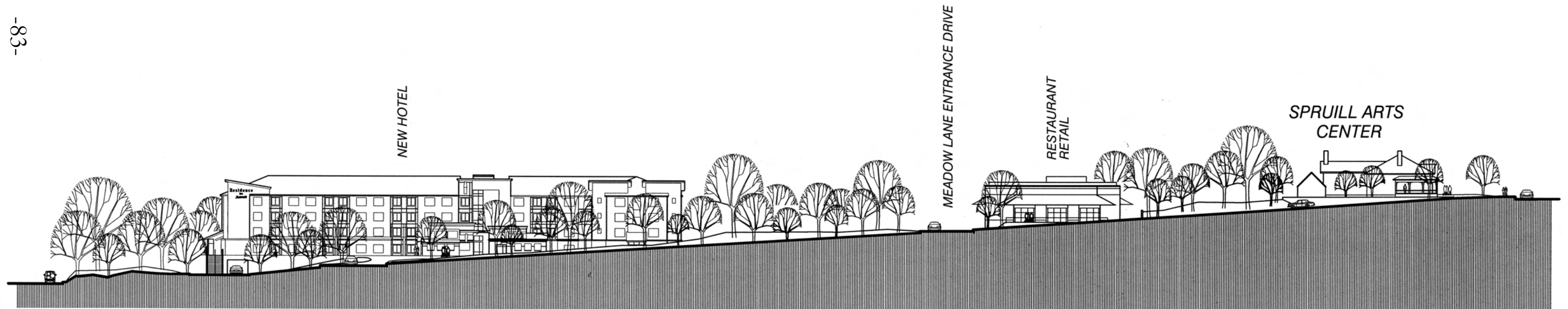


SITE ELEVATION FROM ASHFORD DUNWOODY ROAD

SPRUILL CENTER DEVELOPMENT Meadow Lane Road, Dunwoody GA

HDP - ACQUISITIONS, LLC c/o HOTEL DEVELOPMENT PARTNERS LLC
RICHARD RAUH & ASSOCIATES / ARCHITECTURE Atlanta GA

May 8, 2014



SITE ELEVATION FROM MEADOW LANE ROAD

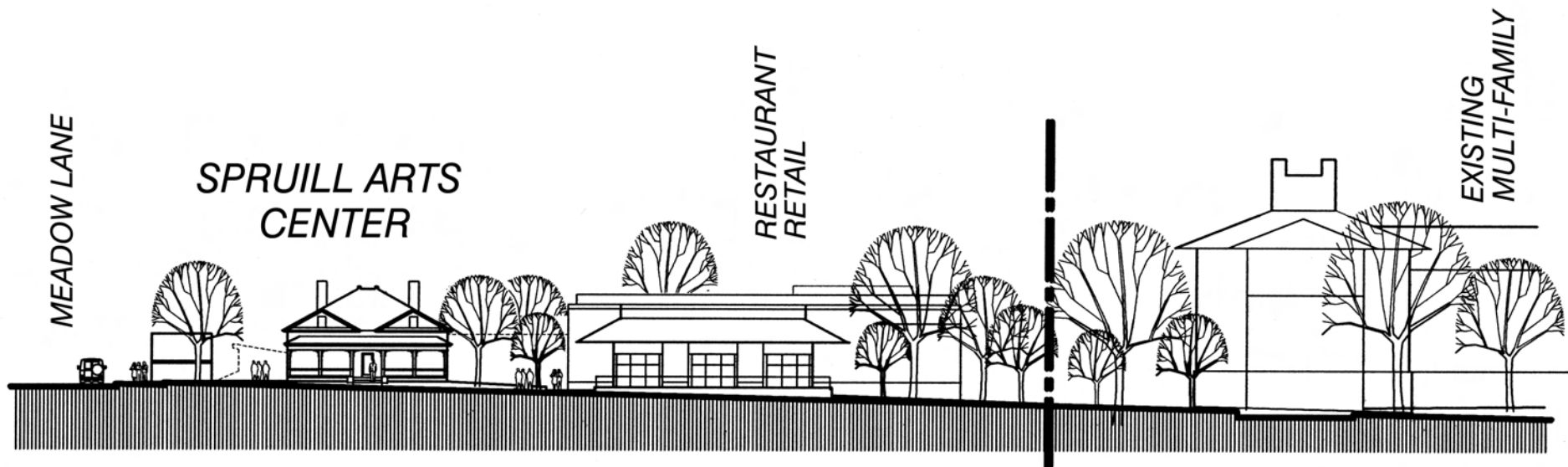
SPRUILL CENTER DEVELOPMENT

Meadow Lane Road, Dunwoody GA

HDP - ACQUISITIONS, LLC c/o HOTEL DEVELOPMENT PARTNERS LLC
 RICHARD RAUH & ASSOCIATES / ARCHITECTURE Atlanta GA

May 8, 2014

-84-



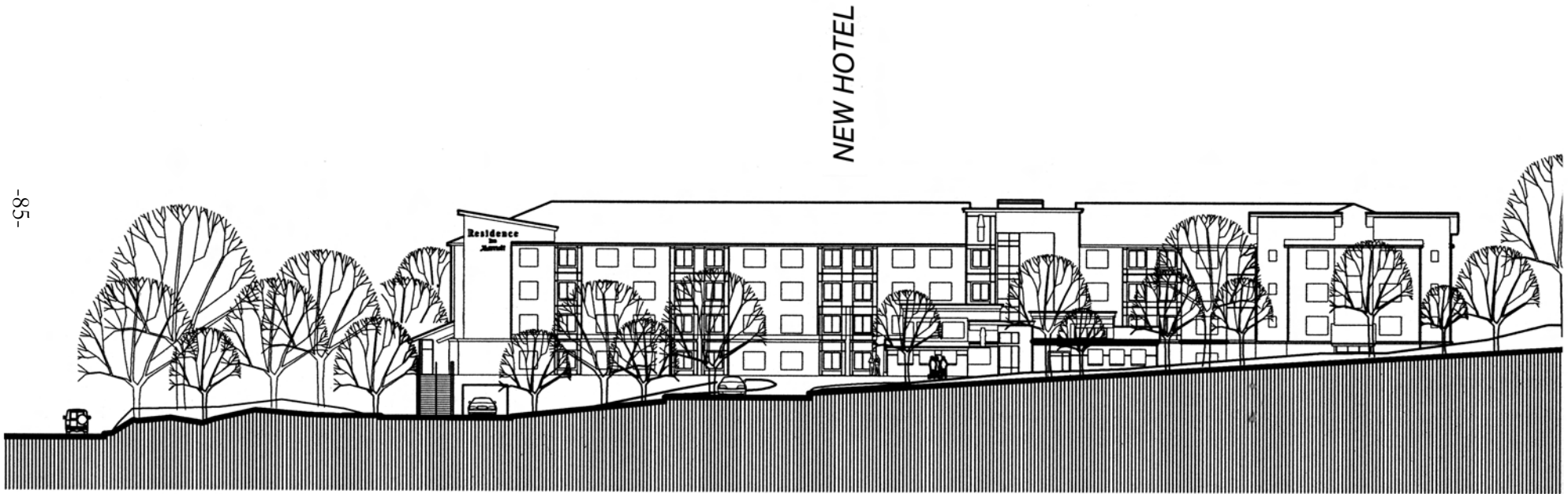
SITE ELEVATION FROM ASHFORD DUNWOODY ROAD

SPRUILL CENTER DEVELOPMENT

Meadow Lane Road, Dunwoody GA

HDP - ACQUISITIONS, LLC c/o HOTEL DEVELOPMENT PARTNERS LLC
RICHARD RAUH & ASSOCIATES / ARCHITECTURE Atlanta GA

May 8, 2014



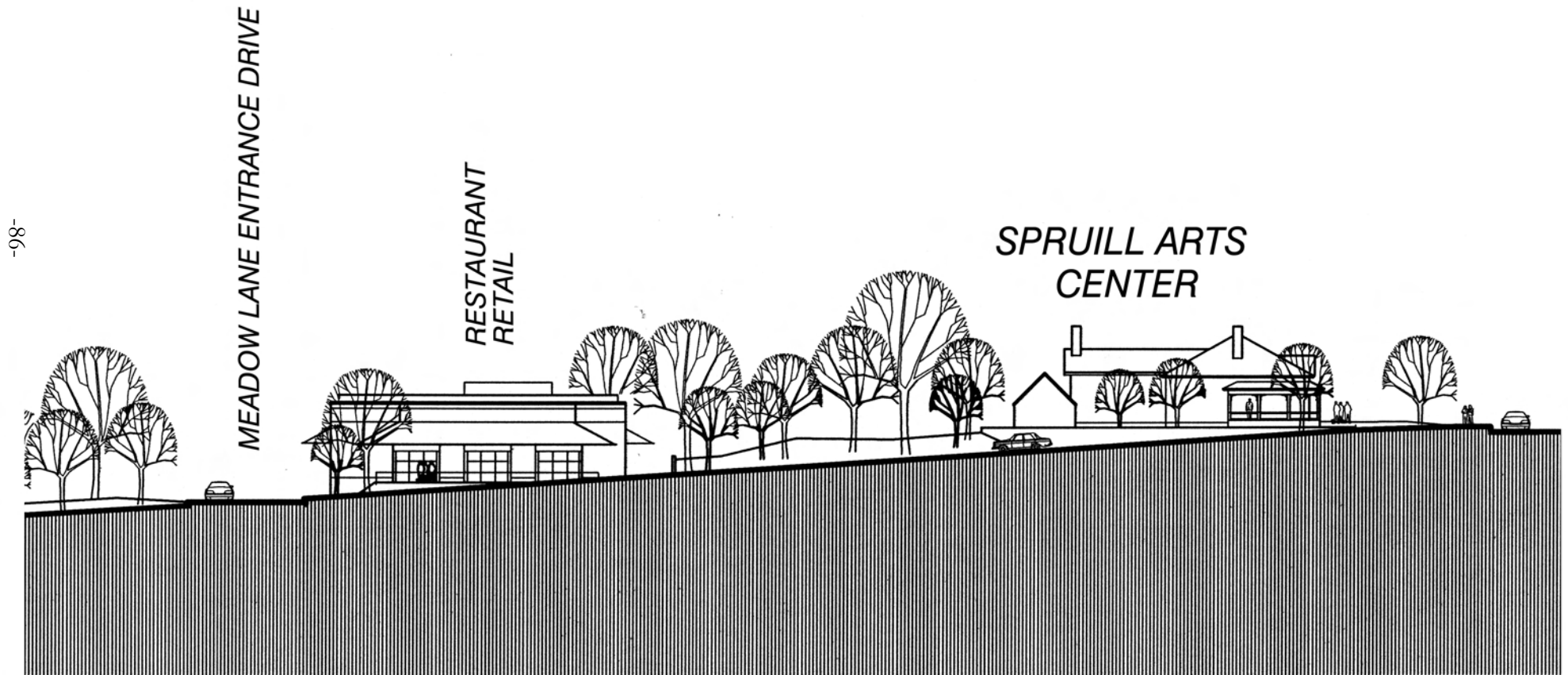
SITE ELEVATION FROM MEADOW LANE ROAD

SPRUILL CENTER DEVELOPMENT

Meadow Lane Road, Dunwoody GA

HDP - ACQUISITIONS, LLC c/o HOTEL DEVELOPMENT PARTNERS LLC
 RICHARD RAUH & ASSOCIATES / ARCHITECTURE Atlanta GA

May 8, 2014



SITE ELEVATION FROM MEADOW LANE ROAD


**4681 Ashford
 Dunwoody Road**

Location Map

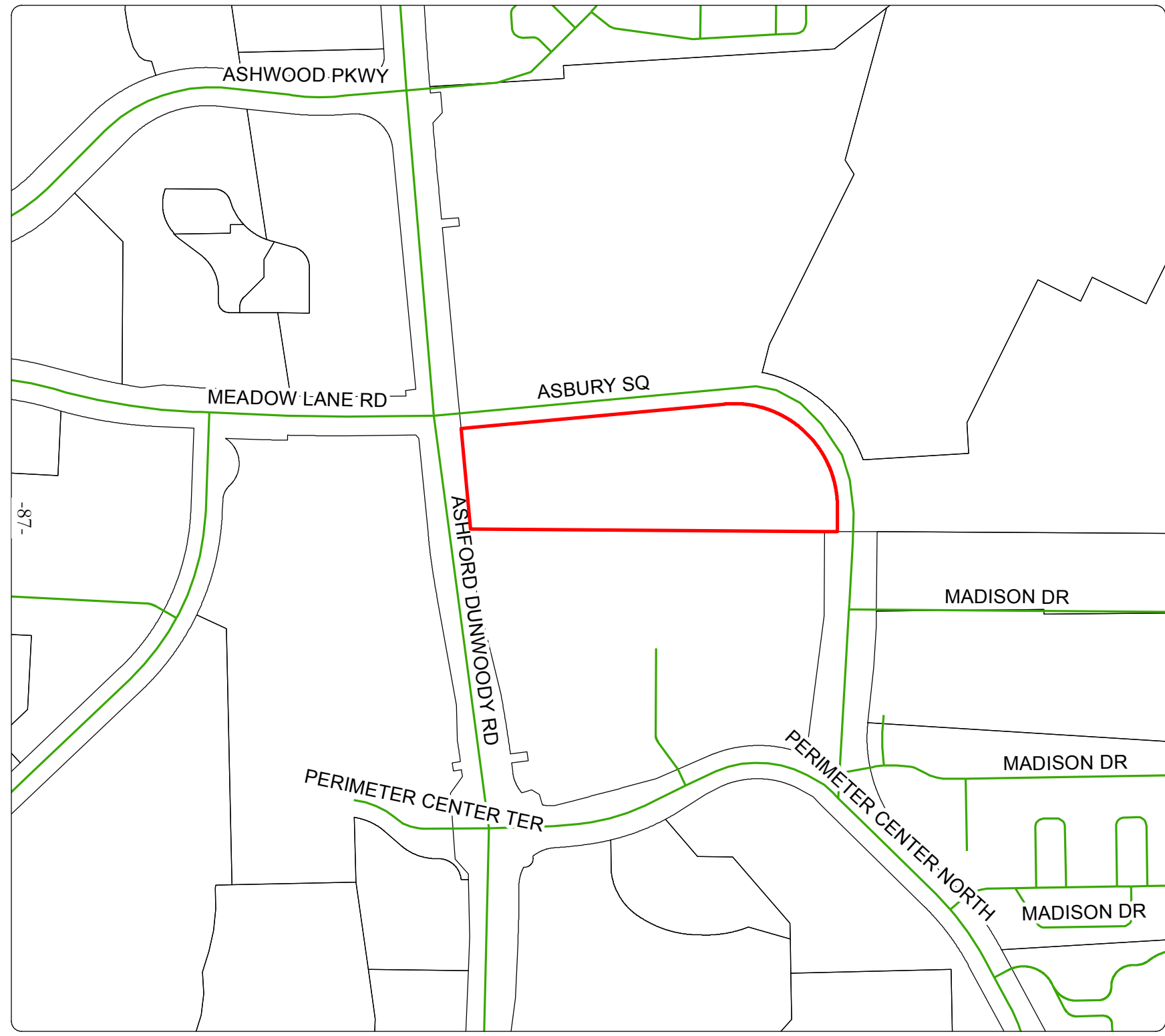
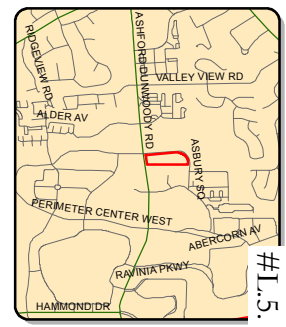
March 2014

Legend

- Street Centerlines
- Parcels



Scale: 1"=300'
(1:3600)



**4681 Ashford
 Dunwoody Road**

Zoning Districts

March 2014

Legend

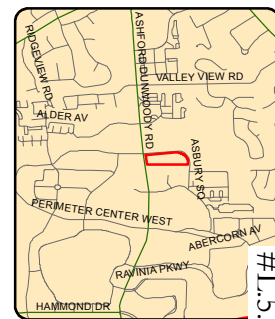
- Street Centerlines
- Parcels

City Zoning

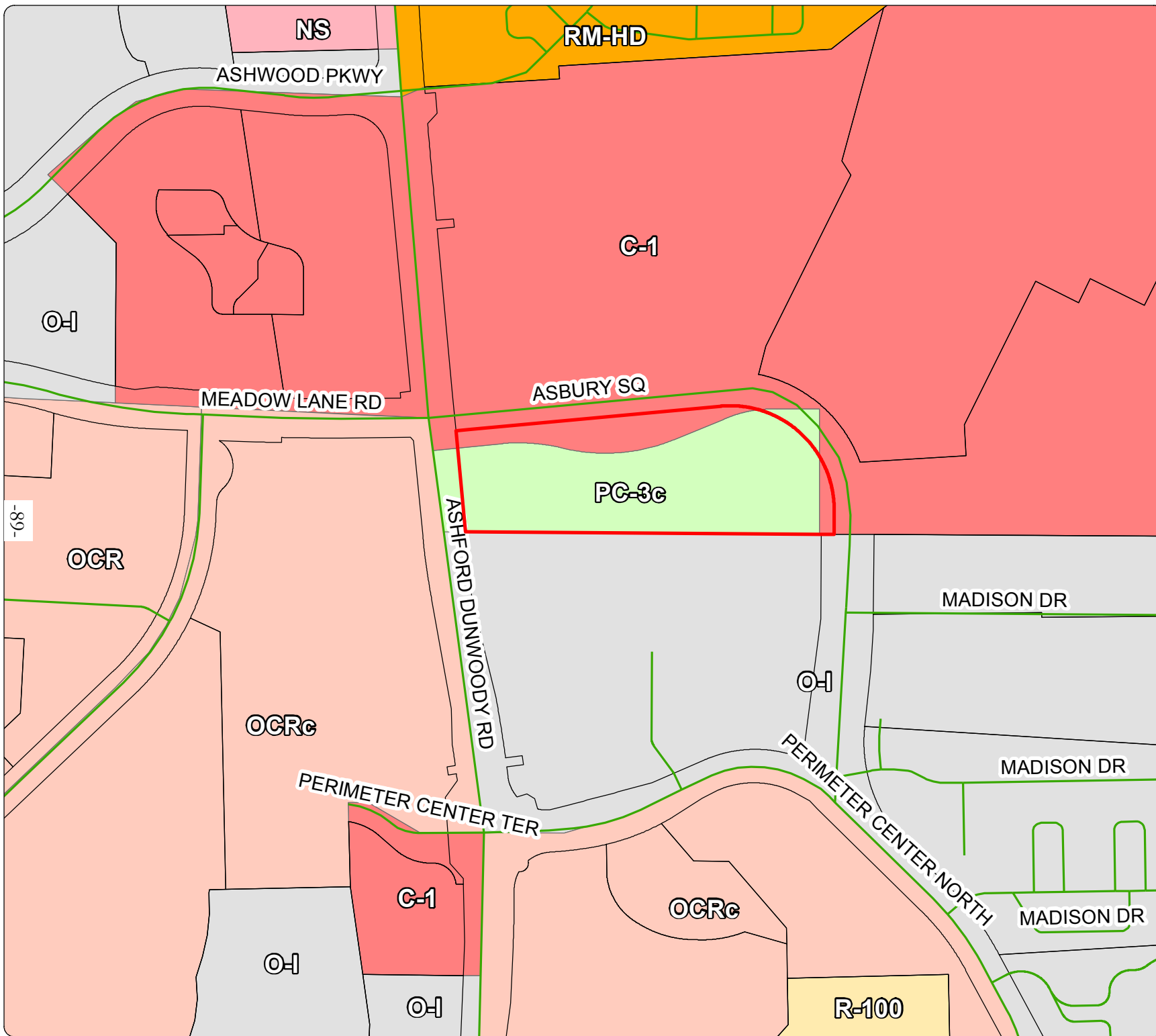
DISTRICT

- 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
- Planned Development
- Residential Community Development
- Single Family Cluster Residential
- Single Family Residential

Scale: 1"=300'
 (1:3600)



#1.5.



**4681 Ashford
Dunwoody Road**

Future Land Use

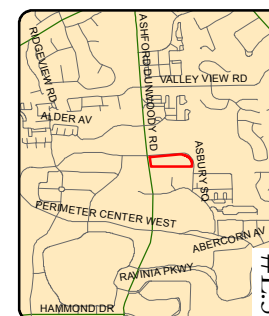
March 2014

Legend

- Street Centerlines
- ▭ 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'
(1:3600)



#1.5.

ASHWOOD PKWY

MEADOW LANE RD

ASBURY SQ

ASHFORD DUNWOODY RD

MADISON DR

MADISON DR

MADISON DR

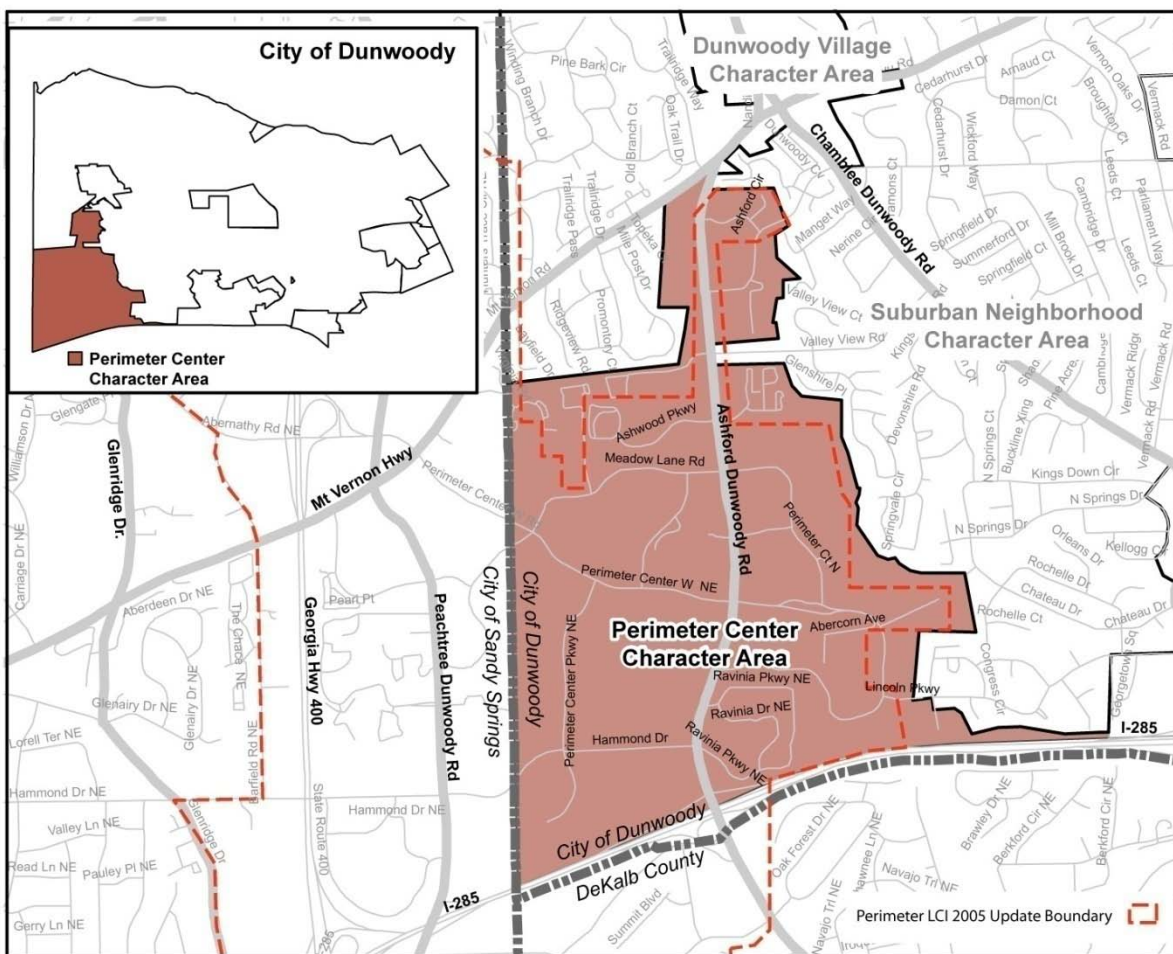
PERIMETER CENTER TER

PERIMETER CENTER NORTH

-91-



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.

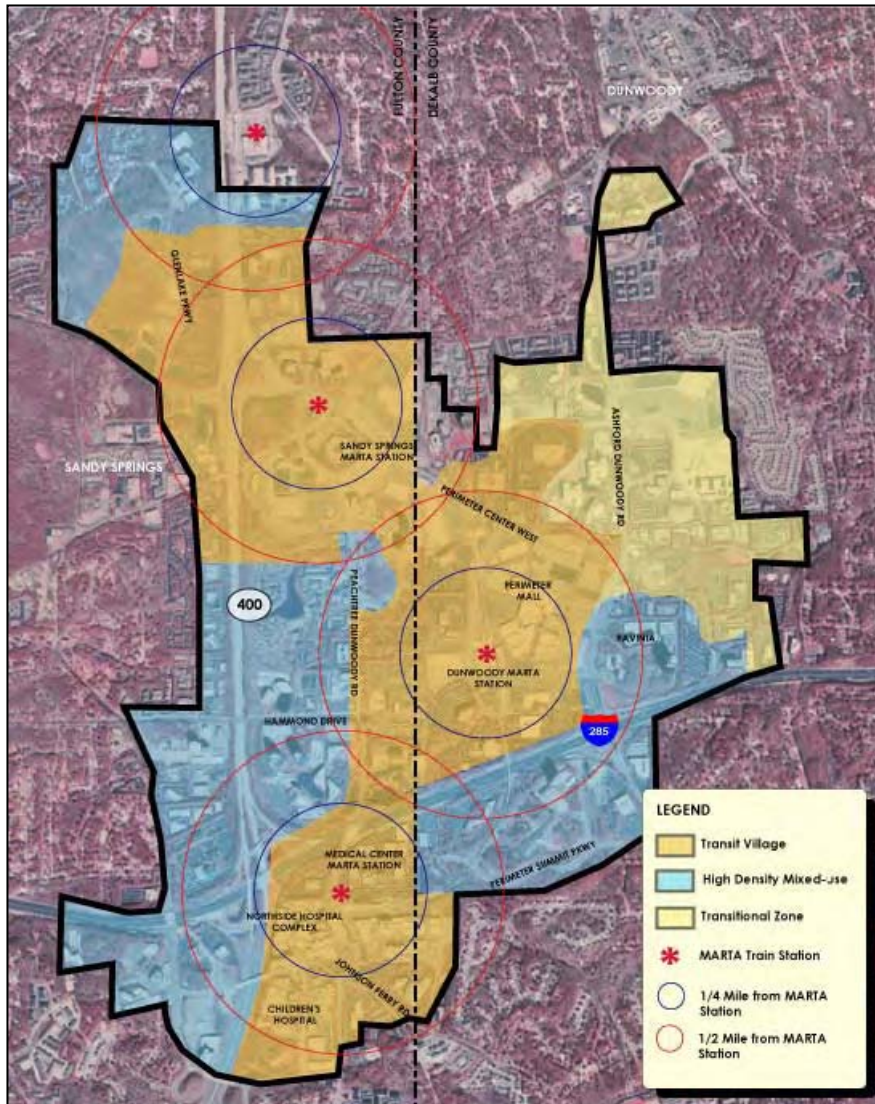


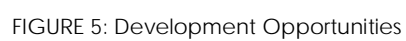
FIGURE 4: Perimeter Center LCI Framework Plan: development types

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.





Perimeter Center - Transit Village:

Transit Village Sub-Area:

Defined by a half-mile radius around the existing MARTA Stations, the Transit Village area will develop as an urban district promoting a mix of residential, commercial and institutional uses. This decision is based on the location of major transit infrastructure which provides opportunities for alternative transportation.

The desire is to generate a "Town Center" near Perimeter Mall to reinforce business development and a sense of identity for the area emerged. The plan argues the vision for the Perimeter Mall "Transit Village" can serve as the "prototype spearheading development at other MARTA Stations."

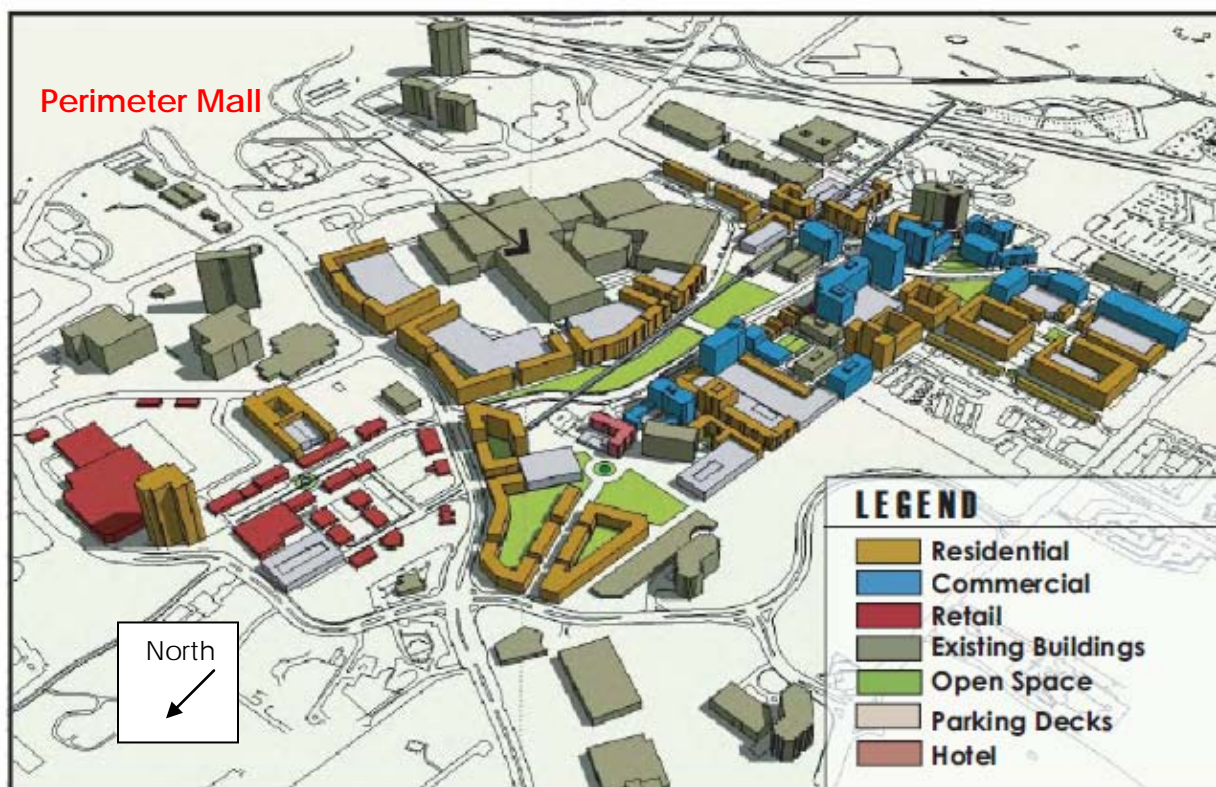


FIGURE 6: Plan-view Perimeter Center Parkway Build-Out with Linear Park and Green Space



High-Density Mixed-Use sub-area:

This development sub-area currently has a concentration of commercial uses, mostly due to accessibility from I-285. The Ravinia complex on the north side of I-285 includes an upscale hotel (Crown Plaza) and two high-rise office towers. The parcels north of Ravinia are a part of the Perimeter Center East commercial properties, owned by Equity Office Properties. These buildings vary from low-density offices built in the 1970s (such as 77 Perimeter Center West) to high-rise buildings (including the former Philips regional headquarters) fronting I-285. The City envisions continuing commercial development along with encouraging compatible uses to balance office expansion.

Notable, the interchange at Ashford Dunwoody Road is one of the major transportation bottleneck locations in the Perimeter area. Current road patterns require all of the traffic on Ravinia Drive and Perimeter Center East to converge on to Ashford Dunwoody Road. Given the commercial nature of the developments on both these roads, morning and afternoon rush hour



times create huge congestion issues south of Perimeter Center West. Similar issues are created south of I-285 at Ashford Dunwoody Road, where vehicular traffic from offices at Perimeter Summit and Lake Hearn backs up during peak hours. The recent interchange improvements at Ashford Dunwoody Road are aimed at reducing congestion on Ashford Dunwoody Road, on both sides of I-285.

Additionally, the PCIDs completed the Perimeter Center Parkway Bridge (flyover) in 2007. This bridge provides much needed vehicular, pedestrian and bicycle accessibility connecting the Dunwoody MARTA Station to Perimeter Summit. The parkway improvements were achieved through a collaborative partnership between the Atlanta Regional Commission's Livable Centers Initiative, Georgia's Fast Forward bond program and DeKalb County.

The City also envisions realizing the goal of **expanding the open space** from the trails behind the Ravinia Towers to additional areas in the future. A public plaza would also be appropriate at Perimeter Summit, to serve the large number of residents and employees that will be using the complex. Public art such as sculptures or fountains could enhance these open spaces. This would anticipate a conversion of excess parking into usable pocket parks. A pocket park is defined as a small area – 2,500 sq. ft. to 1 acre – of open space for active or passive recreation within a development.

In 2009, the PCIDs broke ground on the nearly \$18 million half-diamond interchange at Hammond Drive and GA 400.

Construction will include building entrance and exit ramps from Hammond Drive to GA 400 and replace the four-lane Hammond overpass with a nine-lane, higher bridge to meet current and future traffic volumes. This will provide alternative access to the area. The project had been planned for more than 15 years.

Perimeter Center Transitional Sub-Area:

Geared specifically towards protecting the single-family communities that become vulnerable to density pressures given high land prices, this sub-area actively discourages incompatible infill and loss of neighborhood character. The City of Dunwoody intends to establish a "buffer zone" where transitional regulations can be put in place to offer contextual sensitivity. The plan envisions low and medium density office and some residential. The City of Dunwoody considers up to 8 units maximum to the acre "low density" and up to 12 units to the acre "medium density."

Two areas of potential open space, as indicated on the development opportunities map below, are identified. They include surface parking that could be converted into more appropriate uses, including usable open space amenities.

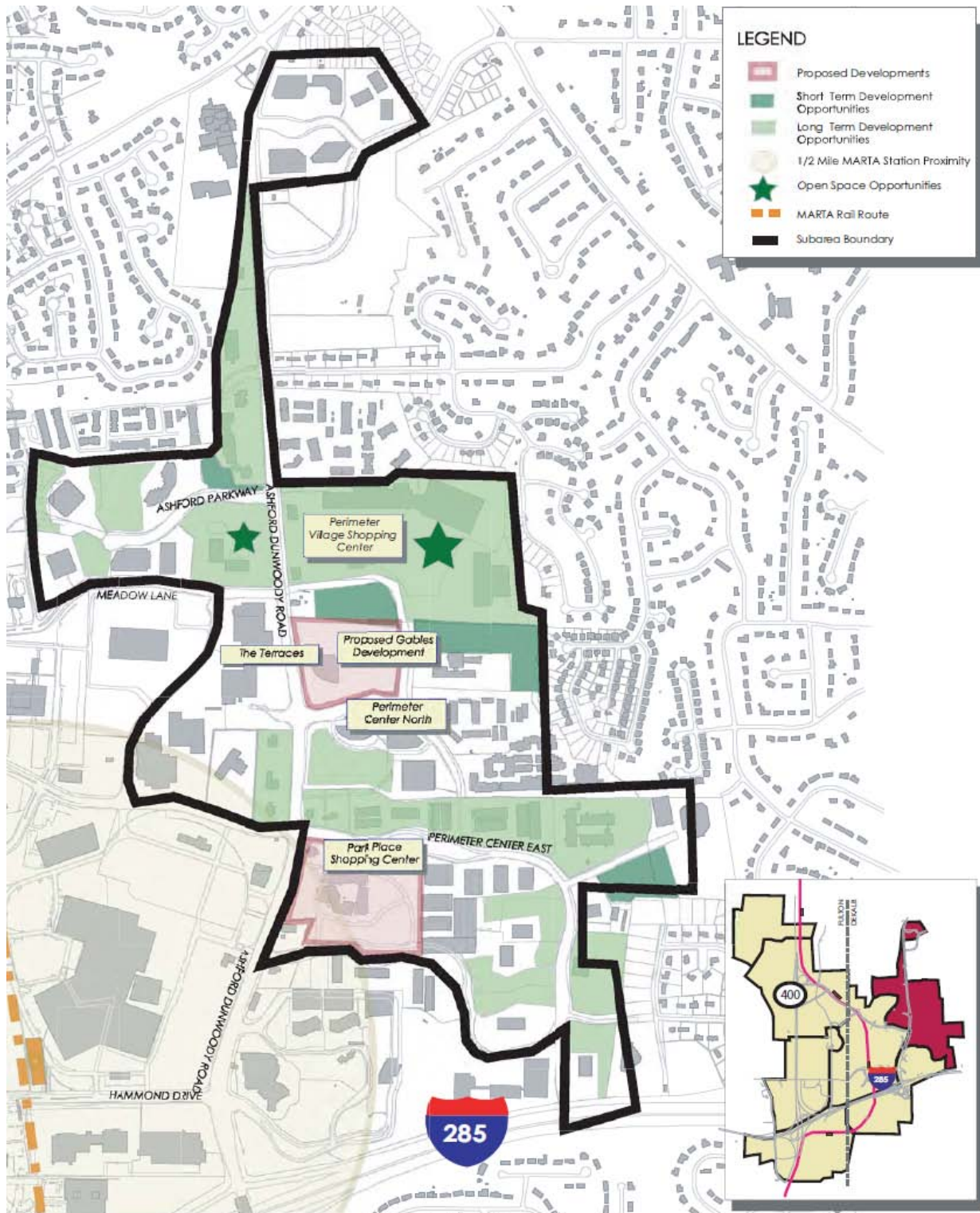


FIGURE 8: Development Opportunities, Transitional Zone (p 49, LCI Update 2005)



Perimeter Center Character Area Goals

- Land Use
 - New residential development will include amenities and provide public functional green space
 - New residential development will address school capacity issues and applicants will work with Board of Education and City for better resolution of school issues
 - Reduce surface parking and promote livable centers in the immediate areas surrounding MARTA station
 - Encourage hotel and convention development near MARTA in order to foster commerce along the mass transportation route
 - Achieve a lifelong-community for residents who can age in place with safe access to medical, recreational and other necessary services
- Transportation and Circulation
 - Create bicycle, pedestrian and potential golf cart options to connect with the rest of the City of Dunwoody
 - Work with the Perimeter Transportation Management Association (TMA) to actively reduce automobile dependency and emerge as a leader in alternative transportation for the region
 - Promote/establish new connectivity
- Intergovernmental Coordination
 - Work to strengthen Board of Education relationship for creative solutions to school capacity
 - Work with the PCIDs' boards to implement vision
 - Coordinate with the City of Sandy Springs for LCI Updates and implementation
 - Coordinate with the Atlanta Regional Commission (ARC) for implementation of future LCI study updates
 - Coordinate with MARTA regarding Bus Rapid Transit (BRT) (or other regional service) and urban design surrounding all transit stations

Amendment Application



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

The requirements of this application apply to comprehensive plan land use map amendments, zoning map amendments, zoning ordinance text amendments and major amendments to one or more conditions attached to previously approved zoning map amendments. If an applicant needs to further relax the dimensional standards of the Zoning/Land Development Ordinances for a specific property for the purpose of construction, s/he can request a variance to the text of the Zoning Ordinance. Such a request might seek to modify the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading or other regulations, but these applications will not occur concurrently, and the approval of one does not indemnify the approval of the other. The City Council, following recommendation by the Planning Commission, shall determine whether the proposed amendment meets the applicable requirements.

No application for an amendment to the land use plan or amendment to the official zoning map or a major amendment/modification to a condition of zoning shall be filed and/or accepted for filing until such time as the applicant has conducted neighbor communications. The purpose of neighbor communication summary requirements is to help educate applicants for development approvals and neighbors about one another's interests, to attempt to resolve issues in a manner that respects those interests and to identify unresolved issues. If there is no residential zoning within 500 feet of the property under consideration, the applicant is exempt from neighbor communication summary requirements. The following information is required to be submitted with an application for amendments:

1. Efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified);
2. How information about the proposal was shared with neighbors (mailings, work-shops or meetings, open houses, flyers, door-to-door handouts, etc.);
3. Who was involved in the discussions;
4. Suggestions and concerns raised by neighbors; and
5. What specific changes to the proposal were considered and/or made as a result of the communications.

To initiate a request for an amendment within the City of Dunwoody, an applicant must also attend a pre-application conference (Conceptual Review) with key City personnel. Those meetings are scheduled as-needed, but the deadline for having such a meeting is set to ensure the appropriate time for staff review and communication prior to the special land use application deadline. Those meeting deadlines may be modified based on the scope of the project and proportionate review time. The purpose of the Conceptual Review Process is to establish an expectation on the part of both staff and the applicant for the amendment process. At the meeting(s), the applicant should display any preliminary site plans and/or other illustrative documents as necessary. The applicant will then detail an overview of their proposed application and their reasoning for why the application is necessary. Staff can then inform the applicant of the City's process to effect the change proposed and offer a preliminary analysis of the feasibility of the proposal, including ways upon which the proposal may need improvements or revisions.

Following the Conceptual Review Process, applicants can submit their application and required supplemental materials (detailed in the following checklist) to the Community Development Department, located at 41 Perimeter Center East, Dunwoody, GA 30346.

Rezoning Application Checklist



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

- ☐ Neighbor Communications Summary Report (or site plan indicating no residential zoning within 500 feet of the property).
- ☐ Completed application with all applicable information.
- ☐ Electronic version of the entirety of your application submittal, saved as a single PDF
- ☐ Signed and notarized affidavits of all owners. Use application and attached sheet, as necessary.
- ☐ Signed and notarized affidavits of all applicants. Use application and attached sheet, as necessary.
- ☐ Complete and detailed site plan of the proposed use prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia, showing the following, as relevant:
 - a. All buildings and structures proposed to be constructed and their location on the property;
 - b. Height of proposed building(s);
 - c. Proposed use of each portion of each building;
 - d. All driveways, parking areas, and loading areas;
 - e. Location of all trash and garbage disposal facilities;
 - f. Setback and buffer zones required in the district in which such use is proposed to be located;
 - g. Landscaping plan for parking areas.
- ☐ Please respond to the following criteria based on the nature of your request, as required by state law and City of Dunwoody Zoning Ordinance (use additional pages where necessary):
- ☐ **Comprehensive Plan Land Use Map Amendments**
 - a. Whether the proposed land use change will permit uses that are suitable in view of the use and development of adjacent and nearby property;
 - b. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby property;
 - c. Whether the proposed land use change will result in uses that 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;
 - e. Whether there are environmental impacts or consequences resulting from the proposed change;
 - f. Whether there are impacts on properties in an adjoining governmental jurisdiction in cases of proposed changes near city boundary lines;
 - g. Whether there are other existing or changing conditions affecting the use and development of the affected land areas that support either approval or denial of the proposed land use change; and

- h. Whether there are impacts on historic buildings, sites, districts or archaeological resources resulting from the proposed change.

☐ **Zoning Map Amendments**

- 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 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;
- e. Whether there are other existing or changing conditions affecting the use and development of the property that provide 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; and
- g. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The following items may be required:

- ☐ Environmental Site Analysis Form
- ☐ Traffic Impact Study
- ☐ Development of Regional Impact Review
- ☐ Environmental Impact Report
- ☐ Overall Development Plan (Planned Developments)

AMENDMENT APPLICATION



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

* Applicant Information:

Company Name:	HDP Acquisitions, LLC, c/o Hotel Development Partners, LLC		
Contact Name:	Robert D. Griest		
Address:	1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309		
Phone:	(404) 815-3500	Fax:	(404) 815-3509
Email:	rgriest@sgrlaw.com		
Pre-application conference date (required):	3/3/14		

* Owner Information: ☐ Check here if same as applicant

Owner's Name:	Spruill Center for the Arts, Inc.		
Owner's Address:	5339 Chamblee Dunwoody Rd., Ste. B, Atlanta, GA 30338		
Phone:	770-394-3447 ext. 223	Fax:	770-394-6179
Email:	rkinsey@spruillarts.org		

* Property Information:

Property Address:	4681 Ashford Dunwoody Road, NW, Dunwoody, GA 30346	Parcel ID:	18-350-01-015
Current Zoning Classification:	PC-3c		
Requested Zoning Classification:	CR-1		

* Applicant Affidavit:

I hereby certify that to the best of my knowledge, this amendment 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. I certify that I, the applicant (if different), am authorized to act on the owner's behalf, pursuant to this application and associated actions.

Applicant's Name:	Steven C. Smith, Hotel Development Partners, LLC		
Applicant's Signature:		Date:	March 14, 2014

* Notary:

Sworn to and subscribed before me this	14	Day of	March	, 20	14
Notary Public:	Katherine E. Fowler				
Signature:					
My Commission Expires:	02-14-17				

KATHERINE E FOWLER
NOTARY PUBLIC
FULTON COUNTY
STATE OF GEORGIA
MY COMMISSION EXPIRES 02-14-2017

Additional Property Owner(s) Notarized Certification



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

I hereby certify that to the best of my knowledge, this amendment 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. I certify that the applicant(s) (if different) are authorized to act on my behalf, pursuant to this application and associated actions.

* Property Owner (If Applicable):

Signature: <u>Robert Kinsey</u>	Date: <u>MARCH 18, 2014</u>
Address: <u>4681 Ashford Dunwoody Road, NE, Dunwoody, GA 30338</u>	
Phone: <u>770-394-3447 ext. 223</u>	Fax: <u>770-394-6179</u> Email: <u>rkinsey@spruillarts.org</u>
Sworn to and subscribed before me this <u>18</u> Day of <u>MARCH</u> , 20 <u>14</u>	
Notary Public: <u>Katherine E. Fowler</u>	KATHERINE E FOWLER NOTARY PUBLIC FULTON COUNTY STATE OF GEORGIA MY COMMISSION EXPIRES 02-14-2017

* Property Owner (If Applicable):

Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

* Property Owner (If Applicable):

Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

Additional Applicant Notarized Certification



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

I hereby certify that to the best of my knowledge, this 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. I certify that I, the applicant (if different), am authorized to act on the owner's behalf, pursuant to this application and associated actions.

* Applicant:

Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

* Applicant:

Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

* Applicant:

Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

Campaign Disclosure Ordinance



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

Campaign Disclosure Ordinance

Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting an amendment.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

*38069 Code, 36-67A-3

CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
 - 1) The name and official position of the local government official to whom the campaign contribution was made; and
 - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
 - 1) The name and official position of the local government official to whom the campaign contribution was made; and
 - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.

Campaign Disclosure Statement



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

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

* Applicant / Owner: HDP Acquisitions, LLC

Signature: [Signature] Date: MARCH 14, 2014

Address: PC-3c

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

Date	Government Official	Official Position	Description	Amount

Campaign Disclosure Statement



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

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

* Applicant / Owner: Hotel Development Partners, LLC

Signature: [Signature] Date: March 14, 2014

Address: 3414 Peachtree Road, Suite 1075, Atlanta, GA 30326

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

Date	Government Official	Official Position	Description	Amount

Campaign Disclosure Statement



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

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

* **Applicant / Owner:** Robert Kinsey, Spruill Center for the Arts, Inc.

Signature: Robert Kinsey Date: MARCH 18, 2014
Address: 3414 Peachtree Road, Suite 1075, Atlanta, GA 30326

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

Date	Government Official	Official Position	Description	Amount

Campaign Disclosure Statement



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

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

* **Applicant / Owner:** Robert D. Griest, Esq., Smith, Gambrell & Russell, LLP

Signature: [Signature] Date: 03/18/2014

Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

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

Date	Government Official	Official Position	Description	Amount

Campaign Disclosure Statement




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

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

* **Applicant / Owner:** Dennis J. Webb, Jr., Esq., Smith, Gambrell & Russell, LLP

Signature:  Date: 3/18/14
Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

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

Date	Government Official	Official Position	Description	Amount

NEIGHBOR COMMUNICATIONS SUMMARY REPORT

The Gables Metropolitan apartment complex is the only residential use within 500 feet of the Subject Property. However, the Applicant has voluntarily met with the Dunwoody Homeowners Association (“DHA”) and anticipates meeting with the DHA again after the Applications are filed. The Applicant is willing to meet with any other individuals or groups who are interested in the proposed development.

(1) Efforts to notify neighbors about the proposal (how and when notification occurred, and who was notified).

Notice of the Applications to (1) rezone the Subject Property and (2) obtain a Special Land Use Permit for additional height was mailed to Gables Metropolitan on March 14, 2014. (See copy of Notice attached hereto). Because Gables Metropolitan is an apartment complex, the notice was mailed to its ownership, Metropolitan III, LLC.

(2) How information about the proposal was shared with neighbors (mailings, workshops or meeting, open houses, flyers, door-to-door handouts, etc.).

In addition to the mailing described above, the Applicant voluntarily met with the DHA on March 5, 2014 to discuss the proposed development.

(3) Who was involved in the discussions.

The meeting included members of the DHA’s Zoning and Development Committee.

(4) Suggestions and concerns raised by neighbors.

Throughout the planning process, the main entrance (curb cut) to the hotel has been moved farther away from the intersection at Ashford Dunwoody Road. The members of the DHA felt that this was a positive improvement to the site plan.

(5) What specific changes to the proposal were considered and/or made as a result of the communications.

See above.

NOTICE

An application to rezone property located at 4681 Ashford Dunwoody Road, NW, Dunwoody, Georgia from PC-3c and C-1 to CR-1 and a Special Land Use Permit for additional height is being filed with the City of Dunwoody by HDP Acquisitions, LLC.

Should you have any questions regarding this development, please contact Robert D. Griest at (404) 815-3734.

Postcard mailed

3/14/14 SEA

Shawna E. Avila, Paralegal
Smith, Gambrell & Russell, LLP
Promenade II, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
(404) 815-3558 or savila@sgrlaw.com

Metropolitan III, LLC
1801 Peachtree St. NE Ste. 225
Atlanta, GA 30309-1884

STATEMENT OF INTENT

and

Other Material Required by
The City of Dunwoody Zoning Ordinance
for the
Rezoning Application

of
HDP Acquisitions, LLC
c/o Hotel Development Partners, LLC

for

± 5.2 Acres of Land
located in
Land Lot 350, 18th District, DeKalb County
Address: 4681 Ashford Dunwoody Road, NE

PC-3/C-1 to CR-1

Submitted for Applicant by:

Dennis J. Webb, Jr.
Robert D. Griest
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

I. INTRODUCTION

This Application seeks to rezone ± 5.2 acres of land located in the southeast quadrant of the intersection of Ashford Dunwoody Road NE and Meadow Lane Road NE (hereinafter the “Subject Property”) from PC-3 (Pedestrian Community) (conditional) and C-1 (Local Commercial) to CR-1 (Commercial-Residential Mixed-Use) for a hotel and two retail/restaurant buildings. The Applicant has simultaneously submitted a request for a Special Land Use Permit (“SLUP”) pursuant to § 27-351 et seq. of the City of Dunwoody Zoning Ordinance to build a four (4)-story hotel, which is in excess of the maximum three (3) stories or 45 feet generally allowed in the CR-1 zoning district. Except for the hotel structure, all other proposed buildings will comply with the relevant height requirements.

The Subject Property is adjacent to and due north of the Gables Metropolitan apartment complex and directly south of the Perimeter Village shopping center. It is the site of the Spruill Center for the Arts Gallery, which is a 19th century historic farm house that displays art exhibits. It is currently zoned PC-3 and C-1 for a large mixed-use building containing 238 apartments, retail space and a cultural arts facility. The City of Dunwoody 2030 Comprehensive Plan designates the Subject Property as “Perimeter Center – Transitional”, which does not allow the residential density contemplated in the currently approved, PC-3-based site plan.

The Applicant submits this document as a Statement of Intent with regard to this Application, a preservation of the Applicant’s constitutional rights, and a Written Justification for the Application as required by the City of Dunwoody Zoning Ordinance, § 27-1 et seq. This document is also intended to address and substantiate the requisite responses to the state “Steinberg Act”, O.C.G.A. § 36-67-1 et seq. A site plan has been filed with the original Application, along with the other required materials.

II. HISTORY

This 5.2 acre tract was originally zoned R-100 and R-150 (Single Family Residential). In 1992, the DeKalb County Board of Commissioners rezoned the property to O-I (Office-Institutional) based on a site plan and other conditions (CZ-92065). The proposed development was never accomplished.

In 2005, DeKalb County approved a request to rezone the Subject Property from O-I (Office-Institutional) and C-1 (Local Commercial) to PC-3 (Pedestrian Community) to allow for a 325,638 square foot mixed-use development consisting of 238 apartment units, 30,000 square feet of retail floor area, and 50,000 square feet for a cultural arts facility (CZ-04-134). The rezoning application was approved “site plan specific” and subject to two (2) conditions.

III. IMPACT ANALYSIS

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.

Yes. The City of Dunwoody Comprehensive Land Use Plan (the “Plan”) designates the Subject Property as “Perimeter Center – Transitional”. As a whole, the intent of the Perimeter Center Character Area is to “create a ‘livable’ regional center with first-class office, retail and high-end restaurants in a pedestrian and bicycle-oriented environment [].” The Perimeter Center area was created, in part, as a reaction to the strain that high-density residential complexes have put on the City’s schools and infrastructure. As such, the Plan’s goals for the area include paying close attention to the potentially negative effects of residential developments, promotion of pedestrian, bicycle, and mass-transit systems, and the encouragement of hotel and convention developments near MARTA connections to foster commerce.

The Perimeter Center Character Area is further divided into three sub-areas: Transitional, High-Density, and Transit Village. The Subject Property is within the Transitional sub-area. The

Transitional sub-area is meant for “low and medium density office and some residential.” “Low density” means a maximum of eight (8) units per acre and “medium density” means up to twelve (12) units per acre.

The current zoning and conditioned site plan are inconsistent with the City’s Plan. Specifically, the site plan upon which the 2005 rezone was conditioned is for the development of 238 units in a multi-family housing complex. At only 5.2 acres, the 2005 site plan allows a density of 45.77 residential units per acre, in addition to substantial retail space and a cultural arts facility. Clearly, the current zoning is not in line with the Plan and development in accordance with the conditioned site plan would be a major deviation from the underlying goals of the City.

On the other hand, the proposed rezoning and use will help further the goals of the Plan. In terms of the Perimeter Center Character Area as a whole, the proposed development will advance the City’s desire for hotel development near MARTA, as well as the vision of establishing additional high-end retail and restaurants in the area. Finally, and with respect to the Transitional sub-area, the proposed use is substantially more desirable than the excessive residential development currently allowed, and will effectively prevent the potential negative effects of another high-density apartment complex.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

Yes. The Subject Property is located on Ashford Dunwoody Road and Meadow Lane Road. One block west across Ashford Dunwoody Road is Perimeter Place, a large shopping center with retail, restaurants and office uses. Directly north and across Meadow Lane Road is Perimeter Village, which also has a wide range of retail stores and restaurants. To the south of the Subject Property is Gables Metropolitan, a large apartment complex

First, it must be recognized that there are no possible uses that would be consistent with the actual Spruill Home as it is a historic farm house built in 1840s. However, because it currently operates as a cultural center and art museum, the addition of a hotel will be a particularly fitting use as some of its out-of-town guests will likely visit the Spruill Home. The retail and restaurant uses will also bring potential visitors.

Second, the proposed development is consistent with and will complement the larger area surrounding the Subject Property. In terms of the hotel, guests will be able to walk to the many dining establishments as well as the surrounding retail shopping centers and Perimeter Mall. This eliminates the need for out-of-town visitors to rent cars during their stay and will cut down on congestion in the area. With regard to the retail/restaurant buildings, the close proximity to the existing residential complexes will further encourage pedestrian and bicycle transportation.

In sum, the proposed development will naturally complement the surrounding residential, retail, and office uses. The requested zoning district is therefore entirely consistent with and suitable in light of the current and future development plans and patterns. The intended final appearance of this development will include appropriate attention to scale, buffering, setbacks, and landscaping so that it will blend harmoniously with its surroundings.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

No. In light of the extensive number of multi-family housing options in the immediate vicinity of the Subject Property, development of this site for residential uses is not feasible.

The Zoning Ordinance of the City of Dunwoody lacks adequate standards for the City Council to exercise its power to zone and rezone. In essence, the standards are not sufficient to contain the discretion of the City Council and to provide the Courts with a reasonable basis for judicial review. Because the stated standards (individually and collectively) are too vague and

uncertain to provide reasonable guidance to the City Council, the Zoning Ordinance violates the Fifth and Fourteenth Amendments of the Constitution of the United States in matters of zoning. The Zoning Resolution also violates Article I, Section III, Paragraph 1; and Article I, Paragraphs 1 and 2 of the Constitution of the State of Georgia, 1983.

The Dunwoody City Council is granted the power to zone pursuant to Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983. It is a power which must be fairly exercised. Based on this element of fairness, the Zoning Ordinance of the City of Dunwoody, Georgia violates Article IX, Section II, Paragraph 4 of the Constitution of the State of Georgia, 1983.

The Zoning Ordinance presently in effect is contrary to the best interest of the health and welfare of the citizens of Dunwoody, Georgia, and constitutes an arbitrary and capricious act. As a result, the Zoning Ordinance is in violation of Article I, Section I, Paragraphs 1 and 2 of the Constitution of the State of Georgia 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983. Furthermore, the Zoning Ordinance violates the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

In addition, the Zoning Ordinance presently in effect is unconstitutional in that it renders this property unusable and destroys its marketability. Therefore, the Zoning Ordinance constitutes a taking of property without just and adequate compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitutional and in violation of Article I, Section I, Paragraph 1 and Article I, Section III, Paragraph 1(a) of the Constitution of Georgia.

The failure to rezone the Subject Property as requested would constitute the taking of property without due process and without the payment of adequate compensation in violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983, and the Fifth and Fourteenth Amendments of the Constitution of the United States.

Failure to grant the application for rezoning or to zone the property to any other classification including other intervening classifications, would be contrary to the best interest of the health and welfare of the citizens of Dunwoody, Georgia, and would further constitute an arbitrary and capricious act. As such, failure to grant the application would constitute a violation of Article I, Section I, Paragraph 1 of the Constitution of the State of Georgia, 1983; Article I, Section III, Paragraph 1 of the Constitution of the State of Georgia; and Article I, Section II, Paragraph 3 of the Constitution of the State of Georgia, 1983, together with the due process clause and equal protection clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America.

Any limitation on the time for presentation of the issues before the City Council who has the power to zone and rezone is a violation of the guarantees of free speech under Article I, Section I, Paragraph 5 of the Constitution of the State of Georgia, 1983 and the First Amendment of the Constitution of the United States of America. Further, said limitations are in violation of the right to petition and assemble, in violation of Article I, Section I, Paragraph IX of the Constitution of Georgia, 1983 and the First Amendment of the Constitution of the United States of America as well as the due process clauses of the Constitution of Georgia, 1983 and the Constitution of the United States of America.

The Zoning Ordinance of the City of Dunwoody is unlawful, null and void in that its adoption and map adoption/maintenance did not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, et seq.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

No. This proposal contemplates additional hotel, restaurant and retail space in an area already designed for such uses. The hotel will provide lodging for business travelers visiting nearby offices, and will provide customers to the existing retail and restaurants via pedestrian connections. The retail/restaurant buildings will provide additional options to the nearby office buildings and multi-family residential developments within walking distance. Finally, appropriate conditions will be imposed to eliminate any potential negative impacts from the proposed development.

E. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal.

Yes. The Subject Property is located in an area of Dunwoody that has become overwhelmed with multi-family residential developments, which have put excessive stress on the City's infrastructure, especially its schools. Ironically, the Subject Property is currently zoned and conditioned to exacerbate that very problem by allowing another high-density apartment complex. In light of this reality, the proposed use is considerably more desirable and will add new retail and restaurants to serve the existing residential population within walking distance.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.

No. The ownership of the Spruill Home is seeking the approval of this Application in order to provide necessary funding to continue operating its exhibits and programs. Accordingly,

the proposed development will ensure that the house is maintained for future generations to enjoy. Further, the hotel and retail/restaurant buildings will likely bring new visitors to the Home. The existing Home and accessory structures will not be adversely affected by this proposal. Applicant knows of no other historic building, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from this rezoning request.

G. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

No. Utilities are available to serve the site. There should be no impact whatsoever from this use upon school enrollment. Additionally, the proposed development will not overly burden existing transportation facilities. According to the ITE Trip Generation Manual, the hotel (ITE category 310) will generate 1,046 trips on a weekday based on its 128 rooms. The hotel will generate 67 trips during the A.M. peak hour and 78 trips during the P.M. peak hour.

Applicant is not yet certain whether the two additional buildings will be retail (814) or restaurant (931) uses. The table below shows the various potential trip generation:

	Weekday Total Trips	A.M. Peak Trips	P.M. Peak Trips
8,000 sq. ft. - Retail	512	30	56
8,000 sq. ft. - Restaurant	720	45	72
6,000 sq. ft. – Retail	384	23	42
6,000 sq. ft. – Restaurant	540	33	54

Assuming *arguendo* that the development ultimately includes the most traffic-intense uses, the total weekday trip generation for the hotel and two restaurants should be 2,306 trips, with 145 A.M. peak trips and 204 P.M. peak trips. Further, these numbers should not be read in a vacuum. The site could be developed today with 238 apartment units, 30,000 square feet of retail

space, and 50,000 square feet for a cultural arts facility, all of which collectively would generate significantly more traffic than the proposed development.

The Subject Property is located on Ashford Dunwoody Road, an urban minor arterial road, as well as Meadow Lane Road, a partially-private road. The proposed development will not require a curb cut on Ashford Dunwoody Road; rather, visitors will access the site via two existing curb cuts on Meadow Lane Road. The curb cut closest to Ashford Dunwoody Road will serve as the primary entrance/exit for the Spruill Home and the two retail/restaurant buildings. Visitors will be able to enter the site traveling from either direction on Meadow Lane Road, and will be able to exit in either direction as well (directly to Ashford Dunwoody Road or around the Subject Property to Perimeter Center North). The second curb cut, which is right-in, right-out, is located further down Meadow Lane Road and will serve as the primary entrance/exit for the hotel. Thus, the majority of the traffic exiting the hotel parking lot will be forced to take a right turn and travel east and then south to connect with Perimeter Center North. This will limit the proposed development's burden on the Ashford Dunwoody Road/Meadow Lane Road intersection. Because of the multiple routes of ingress and egress to high-capacity streets, the proposed development will not be an excessive burden on the existing infrastructure.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this rezoning Application be approved. The Applicant also invites and welcomes any comments from Staff or other officials of the City so that such recommendations or input may be incorporated as conditions of approval of this Application.

This 18th day of March, 2014,

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309
404-815-3500

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "D. Webb, Jr.", written over a horizontal line.

Dennis J. Webb, Jr.
Robert D. Griest
Attorneys For Applicant

EXHIBIT "F"

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, made and entered into this 23RD day of OCTOBER, 1997, by and between COUSINS/NEW MARKET DEVELOPMENT COMPANY, INC., a Georgia corporation (hereinafter referred to as "Cousins") and NORTH ARTS CENTER, INC., a NON-PROFIT GEORGIA CORP. (hereinafter referred to as "Arts Center") (the words "Cousins" and "Arts Center" to include their respective legal representatives, successors and assigns where the context requires or permits).

W I T N E S S E T H:

WHEREAS, Cousins is the owner of that certain real property comprising an eighty (80) foot wide strip of land lying and being in DeKalb County, Georgia, and being more particularly described on Exhibit "A" attached hereto and by reference made a part hereof (the "Easement Area"); and

WHEREAS, Arts Center is the owner of that certain real property lying and being in DeKalb County, Georgia and being more particularly described on Exhibit "B" attached hereto and by reference made a part hereof (the "Arts Center Tract"), the easterly and northerly boundary lines of which Arts Center Tract are contiguous with the westerly and southerly line of the Easement Area; and

WHEREAS, Cousins desires to grant and convey to Arts Center certain easements and rights with respect to the Easement Area, and Arts Center desires to grant and convey to Cousins certain easements and rights with respect to the Arts Center Tract; and

WHEREAS, Cousins and Arts Center desire to make provision for the construction and installation of a road within the Easement Area;

NOW, THEREFORE, for and in consideration of the premises, the sum of Ten Dollars (\$10.00) cash in hand paid by each of the parties hereto to the other at and before the sealing and delivery of these presents, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby expressly acknowledged, Cousins and Arts Center hereby agree as follows:

1. Grant of Easement by Cousins. Cousins does hereby grant and convey unto Arts Center, its successors and assigns, a nonexclusive, perpetual (subject to termination as provided in Paragraph 4 hereof) easement in, to, over, under, upon, across and through the Easement Area for the purposes of vehicular access, ingress and egress in, to, through, over and across the road to be constructed and installed within the Easement Area in accordance with the terms of this Easement Agreement; provided, however, that Arts Center shall have access from the Arts Center

Tract directly to such road only at such curb cuts as shall be established as hereinafter provided in this Easement Agreement. Cousins agrees that Cousins will forever warrant and defend the right and title to, and privileges under, the easements conveyed by Cousins to Arts Center hereunder, against the claims of all persons owning, holding or claiming by, through or under Cousins. Arts Center does hereby quit-claim and release any and all rights and easements in and to the Easement Area which may have been granted to Arts Center prior to the date hereof.

2. Grant of Easement by Arts Center. Arts Center does hereby grant and convey unto Cousins, its successors and assigns, as an appurtenance to the Easement Area, a nonexclusive, perpetual easement over and across such portion of the Arts Center Tract immediately adjacent to the Easement Area as required for the construction and maintenance of slopes for the support of the road improvements within the Easement Area. Arts Center agrees that Arts Center will forever warrant and defend the right and title to, and privileges under, the easements conveyed by Arts Center to Cousins hereunder, against the claims of all persons owning, holding or claiming by, through or under Arts Center.

3. Construction of Road within Easement Area. Cousins and Arts Center hereby agree that the road to be constructed within the Easement Area shall be a paved road (i) which will be constructed in the location, with the number of lanes and at the elevations shown on the plan entitled Preliminary Grading Plan prepared for Cousins by Haines, Gipson & Associates, Inc. dated August 18, 1993 (the "Road Plan"), (ii) which will accommodate both automobile and truck traffic, and (iii) which will be constructed in accordance with the minimum standards of DeKalb County, Georgia, for dedicated roads having the applicable road classification assigned by such governmental authority to the road to be constructed in the Easement Area, subject to waivers or variances from such standards granted by the applicable governmental authority. Cousins shall be responsible for the costs of planning, designing, engineering, constructing and installing such road improvements. Upon commencement of the construction and installation of such road improvements within the Easement Area, Cousins shall thereafter cause the diligent prosecution of such construction and installation of such road improvements within the Easement Area and, in the absence of unusually adverse weather conditions, any shortage of necessary materials, strikes, riots, war, acts of God or other causes beyond the reasonable control of Cousins, Cousins shall cause such construction and installation to be completed no later than one (1) year after the date hereof.

4. Dedication of Road; Maintenance. Arts Center acknowledges that Cousins desires that the Easement Area be dedicated to and accepted by DeKalb County, Georgia, as a public right-of-way and that, accordingly, Arts Center shall be entitled to access from the Arts Center Tract directly to the road within

the Easement Area only at no more than four (4) locations, each of which locations shall be approved by DeKalb County. Prior to the acceptance by DeKalb County of such dedication, Cousins shall be responsible for maintaining and repairing the paved surface area and curbing for such road within the Easement Area in good condition and state of repair. Notwithstanding anything contained to the contrary in any other provision of this Easement Agreement, the easement granted to Arts Center pursuant to Paragraph 1 hereof and the rights of Arts Center pursuant to Paragraph 5 hereof shall terminate and be of no further force or effect upon the acceptance by DeKalb County, Georgia, of such dedication of the road improvements within the Easement Area.

5. Failure to Perform Obligations. In the event Cousins shall fail to complete the construction and installation of such road improvements when required to do so under Paragraph 3 hereof, or shall fail to maintain and repair the road improvements in good condition and state of repair prior to the acceptance of dedication thereof as provided in Paragraph 4 hereof, and if any such failure shall not be cured within sixty (60) days after receipt by Cousins of written notice of such failure, Arts Center shall have the right, at its option, to perform and/or complete any such obligation, and all costs and expenses incurred by Arts Center in connection with the performance and/or completion of such obligation shall be paid by Cousins to Arts Center from time to time on demand.

6. Binding Effect. Cousins and Arts Center do hereby declare and agree that the covenants and agreements of the respective parties hereunder and the easements granted herein shall run with and be appurtenant to the title to the real property benefitted thereby and shall be a burden upon and shall run with and bind title to the real property encumbered thereby.

7. Notices. Wherever any notice or other communication is required or permitted hereunder, such notice or other communication shall be in writing and shall be delivered by overnight courier, hand, or sent by U.S. registered or certified mail, return receipt requested, postage prepaid, to the addresses set out below or at such other addresses as are specified by written notice delivered in accordance herewith:

Cousins:

Cousins/New Market Development
Company, Inc.
2500 Windy Ridge Parkway
Suite 1600
Marietta, Georgia 30067
Attention: Mr. Mark C. Toro

with a copy to: Mr. John W. Griffin
 Troutman Sanders
 600 Peachtree Street, N.E.
 Suite 5200
 Atlanta, Georgia 30308-2216

Arts Center: North Arts Center, Inc.
 c/o Jerry G. Penson
 Taylor & Mathis
 115 Perimeter Center Place
 Suite 200
 Atlanta, Georgia 30346

with a copy to: Ms. Barbara S. Rudisill
 Sutherland, Asbill & Brennan
 Suite 2300
 999 Peachtree Street, N.E.
 Atlanta, Georgia 30309-3996

Any notice or other communication mailed as hereinabove provided shall be deemed effectively given or received on the date of delivery, if delivered by hand or by overnight courier, or otherwise on the third (3rd) business day following the postmark date of such notice or other communication.

8. Severability. This Easement Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules, and regulations. If any provision of this Easement Agreement, or the application thereof to any person or circumstance, shall, for any reason and to any extent be invalid or unenforceable, the remainder of this Easement Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

9. Successors and Assigns. This Easement Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors, successors-in-title and assigns.

10. Counterparts. This Easement Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which shall constitute one and the same agreement.

11. Additional Documents and Acts. In connection with this Easement Agreement, as well as all transactions contemplated by this Easement Agreement, each party hereto agrees to execute and deliver such additional documents and instruments and to perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Easement Agreement, and all such transactions.

12. Interpretation. This Easement Agreement and the rights and obligations of the respective parties hereunder shall be governed by and interpreted and enforced in accordance with the laws of the State of Georgia.

13. Amendment. This Easement Agreement may not be amended, altered or modified except by instrument in writing and signed by the parties hereto.

14. Headings. Titles of paragraphs are inserted herein only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Easement Agreement.

15. Time of Essence. Time is of the essence of this Easement Agreement.

IN WITNESS WHEREOF, Cousins and Arts Center have hereunder caused this Easement Agreement to be executed and sealed as of the day, month and year first above written.

"COUSINS":

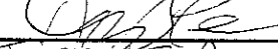
Signed, sealed and
delivered in the
presence of:

COUSINS/NEW MARKET DEVELOPMENT
COMPANY, INC., a Georgia
corporation

Witness

By: _____
Name: _____
Title: _____

Notary Public

Attest: 
Name: JERRY G. PEARSON
Title: Director

My Commission Expires:

(NOTARIAL SEAL)

(CORPORATE SEAL)

[signatures continued on next page]

[signatures continued from previous page]

Signed, sealed and
delivered in the
presence of:

Lee Ann Connell
Witness

Sam T. Bau
Notary Public

My Commission Expires:

Notary Public, Fulton County, Georgia
My Commission Expires Feb. 8, 1994

sfr CGUSIXS\ARTS\EASEMENT.4

"ARTS CENTER":

NORTH ARTS CENTER, INC.

a NON-PROFIT GEORGIA CORPORATION

By: C. William Blair
Name: C. William Blair
Title: PRESIDENT

Attest: [Signature]
Name: Terry G. Benson
Title: Director

(CORPORATE SEAL)

EXHIBITS TO EASEMENT AGREEMENT

Exhibit "A" Description of Easement Area, i.e. Asbury Circle
Extension

Exhibit "B" Description of Arts Center Tract

EXHIBIT A

ASBURY CIRCLE EXTENSION

Being all that certain tract or parcel of land, lying and being in Land Lot 350, 18th District, Dekalb County, Georgia, and being more particularly described as follows:

COMMENCING at the intersection of the common land lot lines of Land Lots 350 and 363, where said intersection crosses the eastern right-of-way line of Ashford Dunwoody Rd. (100' R/W); thence, proceed along said eastern right-of-way line, S 03 degrees 28 minutes 24 seconds E for a distance of 640.05' to a point; thence, proceed along a curve to the left, said curve having a chord bearing of S 03 degrees 59 minutes 16 seconds E, a radius of 9,519.30', an arc length of 169.93', and a chord distance of 169.93' to a point; thence, proceed along a curve to the left, said curve having a chord bearing of S 04 degrees 54 minutes 49 seconds E, a radius of 9,519.30', an arc length of 138.73', and a chord distance of 138.73' to a point; thence, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 172.35' to a point; thence, leaving said right-of-way line, proceed N 84 degrees 40 minutes 08 seconds E for a distance of 40.00' to a point; thence, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 20.00' to a point; thence, proceed N 84 degrees 40 minutes 08 seconds W for a distance of 40.00' to a point on the eastern right-of-way line of Ashford Dunwoody Rd. (100' R/W); thence, along said right-of-way line, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 391.77' to a point at the intersection of the eastern right-of-way line of Ashford Dunwoody Rd. and the northern right-of-way line of Asbury Circle Extension (80' R/W) to a point and the **TRUE POINT OF BEGINNING**;

THENCE, along said northern right-of-way line of Asbury Circle Extension, proceed N 84 degrees 37 minutes 33 seconds E for a distance of 114.78' to a point;

THENCE, proceed N 83 degrees 54 minutes 42 seconds E for a distance of 520.80' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of S 73 degrees 11 minutes 52 seconds E, a radius of 325.00', an arc length of 202.86', and a chord distance of 199.58' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of S 51 degrees 10 minutes 58 seconds E, a radius of 325.00', an arc length of 46.90', and a chord distance of 46.86' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of S 23 degrees 21 minutes 23 seconds E, a radius of 325.00', an arc length of 268.77', and a chord distance of 261.18' to a point;

THENCE, proceed S 00 degrees 20 minutes 07 seconds W for a distance of 59.66' to a point;

THENCE, proceed N 89 degrees 39 minutes 57 seconds W for a distance of 80.00' to a point;

THENCE, proceed N 00 degrees 20 minutes 07 seconds E for a distance of 59.66' to a point;

THENCE, proceed along a curve to the left, said curve having a chord bearing of N 12 degrees 42 minutes 17 seconds W, a radius of 245.00', an arc length of 111.52', and a chord distance of 110.56' to a point;

THENCE, proceed along a curve to the left, said curve having a chord bearing of N 57 degrees 45 minutes 41 seconds W, a radius of 245.00', an arc length of 273.81', and a chord distance of 259.78' to a point;

THENCE, proceed along a curve to the left, said curve having a chord bearing of S 89 degrees 57 minutes 06 seconds W, a radius of 245.00', an arc length of 2.31', and chord distance of 2.31' to a point;

THENCE, proceed S 83 degrees 53 minutes 14 seconds W for a distance of 517.05' to a point;

THENCE, proceed S 84 degrees 43 minutes 52 seconds W for a distance of 115.84' to a point;

THENCE, proceed N 05 degrees 19 minutes 52 seconds W for a distance of 80.00' to a point and the **TRUE POINT OF BEGINNING**.

The above described tract of land contains 2.108 acres of land, more or less, and is shown on, and described according to that certain Exchange Plat prepared for Cousins/New Market Development Company, Inc., and North Arts Center, Inc., by **Planners and Engineers Collaborative, Robert L. White, Georgia Registered Land Surveyor No. 2080**, dated July 26, 1993, and being last revised on September 15, 1993, which Exchange Plat is incorporated herein by this reference and made a part of this description.

EXHIBIT "B"

ARTS CENTER TRACT

Being all that certain tract or parcel of land, lying and being in Land Lot 350, 18th District, Dekalb County, Georgia, and being more particularly described as follows:

COMMENCING at the intersection of the common land lot lines of Land Lots 350 and 363, where said intersection crosses the eastern right-of-way line of Ashford Dunwoody Rd. (100' R/W); thence, proceed along said eastern right-of-way line, S 03 degrees 28 minutes 24 seconds E for a distance of 640.05' to a point; thence, proceed along a curve to the left, said curve having a chord bearing of S 03 degrees 59 minutes 16 seconds E, a radius of 9,519.30', an arc length of 169.93', and a chord distance of 169.93' to a point; thence, proceed along a curve to the left, said curve having a chord bearing of S 04 degrees 54 minutes 49 seconds E, a radius of 9,519.30', an arc length of 138.73', and a chord distance of 138.73' to a point; thence, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 172.35' to a point; thence, leaving said right-of-way line, proceed N 84 degrees 40 minutes 08 seconds E for a distance of 40.00' to a point; thence, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 20.00' to a point; thence, proceed N 84 degrees 40 minutes 08 seconds W for a distance of 40.00' to a point on the eastern right-of-way line of Ashford Dunwoody Rd. (100' R/W); thence, along said right-of-way line, proceed S 05 degrees 19 minutes 52 seconds E for a distance of 471.77' to a point at the intersection of the eastern right-of-way line of Ashford Dunwoody Rd. and the northern right-of-way line of Asbury Circle Extension (80' R/W) to a point and the **TRUE POINT OF BEGINNING**;

THENCE, leaving said right-of-way line, proceed N 84 degrees 43 minutes 52 seconds E for a distance of 115.84' to a point;

THENCE, proceed N 83 degrees 53 minutes 14 seconds E for a distance of 517.05' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of N 89 degrees 57 minutes 08 seconds E, a radius of 245.00', an arc length of 2.31', and a chord distance of 2.31' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of S 57 degrees 45 minutes 41 seconds E, a radius of 245.00', an arc length of 273.81', and a chord distance of 259.78' to a point;

THENCE, proceed along a curve to the right, said curve having a chord bearing of S 12 degrees 42 minutes 17 seconds E, a radius of 245.00', an arc length of 111.52', and a chord distance of 110.56' to a point;

THENCE, proceed S 00 degrees 20 minutes 07 seconds W for a distance of 59.66' to a point;

THENCE, proceed N 89 degrees 39 minutes 57 seconds W for a distance of 24.95' to a point;

THENCE, proceed N 89 degrees 39 minutes 57 seconds W for a distance of 828.57' to a point on the eastern right-of-way line of Ashford Dunwoody Rd. (100' R/W);

THENCE, proceed along said right-of-way line, N 05 degrees 19 minutes 52 seconds W for a distance of 236.44' to a point and the **TRUE POINT OF BEGINNING**.

#L.5.

The above described tract of land contains 5.263 acres of land, more or less, and is shown on, and described according to that certain Exchange Plat prepared for Cousins/New Market Development Company, Inc., and North Arts Center, Inc., by **Planners and Engineers Collaborative, Robert L. White, Georgia Registered Land Surveyor No. 2080**, dated July 26, 1993, and being last revised on September 15, 1993, which Exchange Plat is incorporated herein by this reference and made a part of this description.

DEKALB COUNTY

ITEM NO. _____

BOARD OF COMMISSIONERS**ZONING AGENDA / MINUTES****MEETING DATE:** March 22, 2005HEARING TYPE
PUBLIC HEARINGACTION TYPE
ORDINANCE**SUBJECT: Rezone** – Cityville**COMMISSION DISTRICTS:** 1 & 6**DEPARTMENT:** Planning**PUBLIC HEARING:** YES ☒ NO**ATTACHMENT:** ☒ YES ☐ No**INFORMATION CONTACT:** Shari Strickland/John A. Bell**PAGES:** 26**PHONE NUMBER:** (404) 371-2155

Deferred from 2/28/05 for decision only.

PURPOSE:
CZ-04-134

Application of Cityville at the Perimeter to rezone property located on the east side of Ashford Dunwoody Road approximately 555 feet north of Perimeter Center North from OI (cond.) and C-1 to PC-3. The property has approximately 206.54 feet of frontage along Ashford Dunwoody Road and approximately 1,018.13 feet along Meadow Lane Road (a private street) and contains approximately 5.2 acres.

Subject Property: 18-134**RECOMMENDATION(S):****PLANNING DEPARTMENT:**

APPROVAL. Based on the revised site plan and information, it appears that the proposed zoning amendment and mixed-use development meets the criteria of the zoning ordinance for approval of the site to the PC-3 District. The revised plan and information submitted by the project applicant provides for detailed information (attached) addressing the requirements of the zoning ordinance, and criteria as contained in Section 27-649 of the Pedestrian Community (PC) District Regulations of the DeKalb County Zoning Ordinance (with specific reference to those requirements in the PC-3 District). The plan provides a satisfactory written statements explaining how the 346,485 square foot proposed PC District mixed-use development meets the standards of this chapter, including the criteria relating to lot and yard area, density, design requirements, street requirements, off street parking and open space. The revised plan address plazas/public parks/open space, multi-modal access, environmental and landscaping requirements, and the overall site layout and building elevations plan appears appropriate. Finally, the revised site plan provides for historic preservation of the unique wood frame building structural design that is the current cultural arts facilities, and incorporates it into the overall design of the project. Approval should be in substantial compliance with the submitted plans, elevations, and information as revised. Therefore, it is the recommendation of the Planning Department that the application be "approved, subject to the following conditions:

1. Approval shall be in substantial compliance with the revised Zoning/Site Plan, Site Access Plan, Public Parks/Plaza Plan, and Building Elevation Plan stamped revised on March 11, 2005 by the Planning Department;
2. Drainage improvement shall be subject to the approval of the Development Department.
3. Access and circulation shall be subject to the approval of the Development Department.

PLANNING COMMISSION:

Defer to the Board of Commissioners.

COMMUNITY COUNCIL:


Approval.

**FOR USE BY COM
MISSION OFFICE/CLERK ONLY**

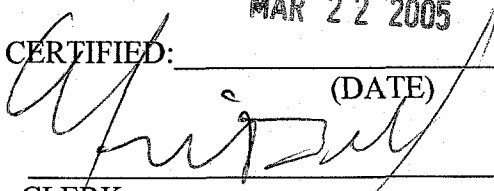
ACTION: H2

MOTION was made by Commissioner Boyer, seconded by Commissioner Gannon, and passed 7-0-0-0, to approve per staff's recommendation, the rezoning application of Cityville.

ADOPTED: MAR 22 2005
(DATE)

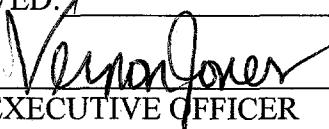

PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS

CERTIFIED: MAR 22 2005
(DATE)


CLERK,
DEKALB COUNTY BOARD
OF COMMISSIONERS

FOR USE BY CHIEF EXECUTIVE OFFICER ONLY

APPROVED: MAR 31 2005


CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

VETOED: _____

CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

VETO STATEMENT ATTACHED: _____

MINUTES:

No one spoke for or against the application; decision only.

	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 - KATHIE GANNON	<u>X</u>	_____	_____	_____
DISTRICT 7 - CONNIE STOKES	<u>X</u>	_____	_____	_____

REVISED
3/11/05

EXISTING LOT INFORMATION
4681 ASHFORD DUNWOODY ROAD
AT THE INTERSECTION OF ASHFORD DUNWOODY RD AND MEADOW LANE
TOTAL ACRES: 5.211
TOTAL SQUARE FOOTAGE: 228,861 SF
EXISTING FARMHOUSE: APPROX. 2400 SF
2 LOC CABINS: APPROX. 100 SF EACH

BUILDING INFORMATION
TOTAL BUILDING SF 348,485 SF
DENSITY
RESIDENTIAL 257 UNITS (AVERAGE 860 SF/UNIT)
RESIDENTIAL DENSITY 49.38 UNITS/ACRE
RETAIL 35,889 SF
RETAIL DENSITY 0.14
SPRUELL ART CENTER 43,588 SF
SPRUELL DENSITY 0.19
STRUCTURED DEVELOPMENT FOOTPRINT 83,003 SF
BUILDING FOOTPRINT 40,300 SF
ADDITIONAL STRUCTURED PARKING FOOTPRINT

PARKING CALCULATIONS
PARKING SPACES
TOTAL NUMBERS 874 PARKING SPACES
PARKING LEVEL B3 163 PARKING SPACES
PARKING LEVEL B2 174 PARKING SPACES
PARKING LEVEL B1 106 PARKING SPACES
PARKING SURFACE 128 PARKING SPACES
RETAIL 110 PARKING SPACES
REQUIRED PER PG ZONING 170 REQUIRED PER PG ZONING
SPRUELL ART CENTER 123 PARKING SPACES
ADDITIONAL SPACES REQUIRED TO BE SHARED WITH RETAIL AND GUEST RESIDENTIAL SPACES
RESIDENTIAL 433 PARKING SPACES
11 SPACES PER UNIT
14 SPACES FOR STORAGE
TYPICAL PARKING SPACE SIZE 9'-0" X 18'-0"

CONSULTANT



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**SPRUELL CENTER FOR THE ARTS
MIXED-USE DEVELOPMENT**
4681 ASHFORD-DUNWOODY DUNWOODY GA 30338

PROJECT NO.: 2004-01

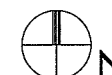
ORIGINAL SHEET ISSUE:
22 NOVEMBER 2004

REVISIONS:
02/23/2005 - ZONING RESOLVE
03/11/2005 - ZONING RESOLVE

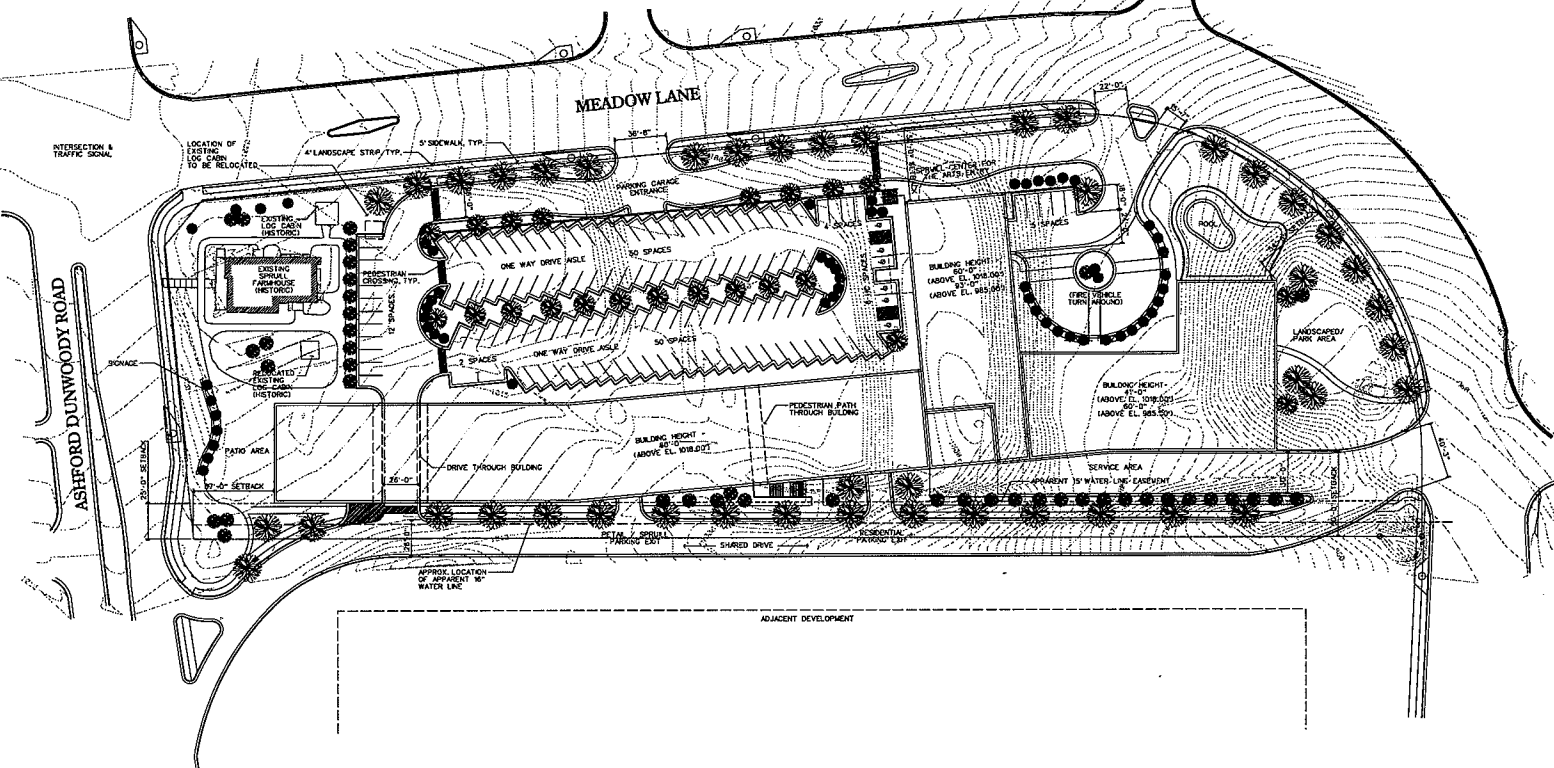
SHEET TITLE:
ZONING SITE PLAN

Z-1

NOT FOR CONSTRUCTION



-143-



ZONING SITE PLAN

SCALE: 1/40" = 1'-0"



CONSULTANT:



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**SPRUILL CENTER FOR THE ARTS
MIXED-USE DEVELOPMENT**
4681 ASHFORD-DUNWOODY DUNWOODY GA 30338

PROJECT NO.: 2004.01

ORIGINAL SHEET ISSUE:
24 JANUARY 2005

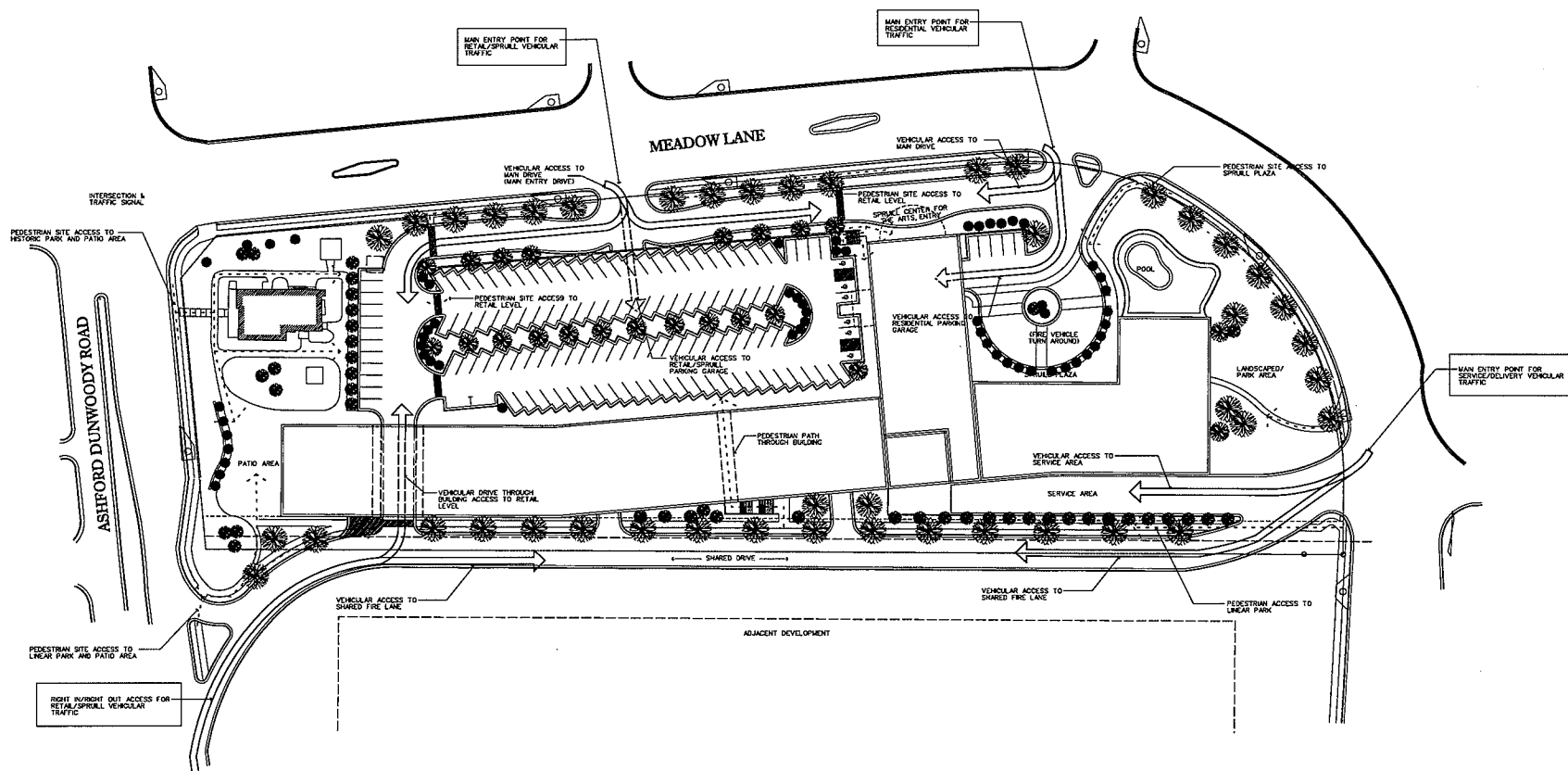
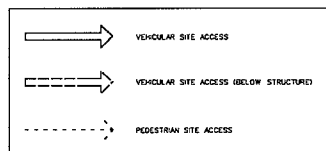
REVISIONS:

03/11/2005 ZOHND RESOLVE

SHEET TITLE:
SITE ACCESS PLAN

Z-2

REVISED
3/11/05



SITE ACCESS PLAN

SCALE: 1/40" = 1'-0"



NOT FOR CONSTRUCTION



CONSULTANT



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SPRUILL CENTER FOR THE ARTS
MIXED-USE DEVELOPMENT
4681 ASHFORD-DUNWOODY DUNWOODY GA 30338

PROJECT NO.: 2004.01

ORIGINAL SHEET ISSUED
24 JANUARY 2005

REVISIONS:

03/11/2005 ZONING DEGREE

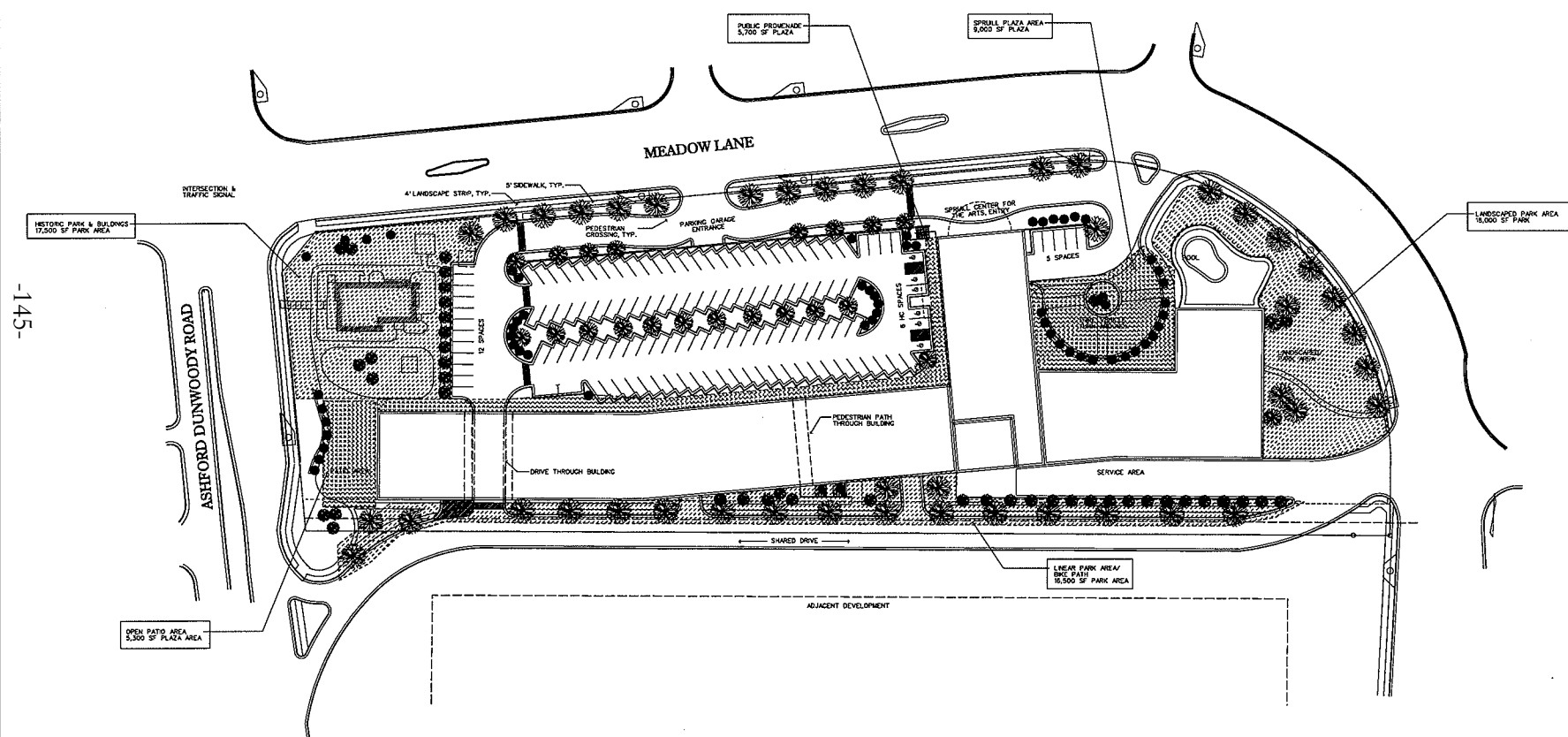
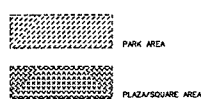
SHEET TITLE:
PUBLIC PARKS/PLAZA PLAN

Z-3

REVISED
3/11/05

PC-3 ZONING OPEN SPACE REQUIREMENTS	
MINIMUM OPEN SPACE REQUIRED (2001)	45,400 SF
MINIMUM PARK OR SQUARE SPACE REQUIRED (50)	13,300 SF
MINIMUM COMMON OPEN SPACE REQUIRED (180)	36,310 SF
MIXED USE COMPONENT PLAZA/SQUARE REQUIREMENT	20,000 SF

DEVELOPMENT OPEN SPACE TOTALS	
TOTAL OPEN SPACE (INCL. PARKING/DRIVES)	96,971 SF
TOTAL OPEN SPACE (EXCL. PARKING/DRIVES)	86,319 SF
TOTAL COMMON OPEN SPACE	72,000 SF
PARK AREAS	52,000 SF
LANDSCAPED/PARK AREA	18,000 SF
LINEAR PARK AREA WITH BI-CYCLE PATHS	16,000 SF
HISTORIC PARK AREA (SPRUILL FARMHOUSE)	17,500 SF
PLAZA/SQUARE AREAS	30,000 SF
SPRUILL PLAZA AREA	9,000 SF
PUBLIC PROMENADE AREA	5,700 SF
PUBLIC PATIO AREA	5,300 SF



PUBLIC PARKS/PLAZA PLAN
SCALE: 1/40" = 1'-0"

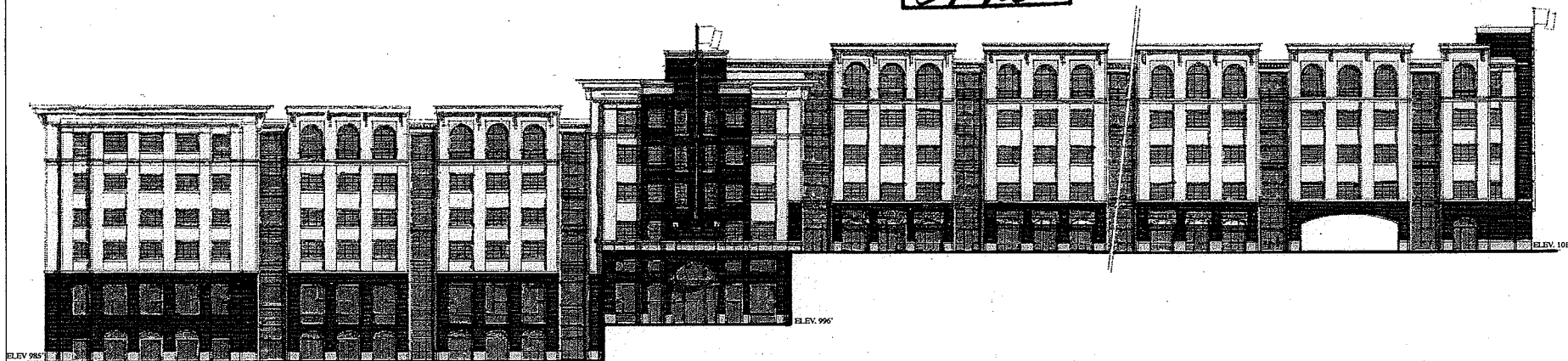


NOT FOR CONSTRUCTION

-145-

#L.5.

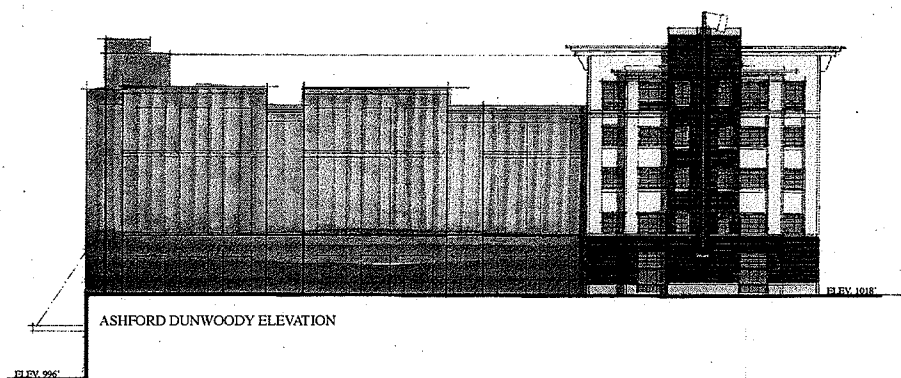
REVISED
3/11/05



MEADOW LANE ELEVATION



SPRULL PLAZA ELEVATION



ASHFORD DUNWOODY ELEVATION



CONSULTANT



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SPRULL CENTER FOR THE ARTS
MIXED-USE DEVELOPMENT
4681 ASHFORD-DUNWOODY DUNWOODY GA 30338

PROJECT NO.: 2004.01

ORIGINAL SHEET ISSUE:
24 JANUARY 2005

REVISIONS:

03/11/2005 ZONING RESOLVE

SHEET TITLE:
ELEVATIONS

ELEVATIONS

SCALE: 1/8" = 1'-0"

NOT FOR CONSTRUCTION

Z-4

CITY OF DUNWOODY
May 13, 2014
PLANNING COMMISSION MINUTES

The Planning Commission of the City of Dunwoody held a Meeting on May 13, 2014 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: Kirk Anders, Commission Member
 Bob Dallas, Commission Member
 Tom Dwyer, Commission Member
 Bill Grossman, Commission Member
 Renate Herod, Commission Member
 Paul Player, Commission Member
 Heyward Wescott, Commission Member

Also Present: Steve Foote, Community Development Director
 Rebecca Keefer, City Planner
 Christie Berkowitz, Planning Coordinator

A. CALL TO ORDER

B. ROLL CALL

All members were present.

C. MINUTES

1. Approval of Meeting Minutes from March 11, 2014 Planning Commission Meeting.

Commission Member Bob Dallas motioned to approve. Commission Member Heyward Wescott seconded.

The motion was voted and passed (7 - 0).

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

1. Nominations for Planning Commission Chairman and Vice Chairman.

Commission Member Bill Grossman nominated Bob Dallas for Chairman. Commission Member Tom Dwyer seconded.

The motion was voted and passed (7 - 0).

Commission Member Bob Dallas nominated Bill Grossman for Vice Chairman. Commission Member Renate Herod seconded.

The motion was voted and passed (7 - 0).

E. UNFINISHED BUSINESS

F. NEW BUSINESS

1. RZ 14-061: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Marian C. Adeimy, on behalf of NitNeil Partners, LLC, seeks permission to rezone property currently zoned Office-Institution Conditional (O-Ic) to Office-Distribution (OD) to allow for a change of previously approved use. The subject property is located at 1274 Crown Pointe Parkway, Dunwoody, GA 30338. The tax parcel is 18 349 01 003.

Rebecca introduced the application and recommended approval with the submitted conditions by the applicant.

Bob Dallas opened the Public Hearing.

Marian Adeimy, attorney for the developer, spoke in favor of the request. She presented notebooks of information to the Commission and highlighted the contents therein.

No one spoke in opposition.

Bob Dallas closed the Public Hearing.

Members of the Commission discussed the following information: the recommendation by staff, possibility of using the building for other uses, variances being requested, limitation of 18-wheelers, signage, building materials, landscaping, 'appropriate' use of the property, and business operations.

City staff, the attorney, and Nitesh Sapra (one of the developers) addressed their questions, comments, and concerns.

Commission Member Tom Dwyer motioned to approve with 15 conditions. Commission Member Heyward Wescott seconded.

The motion was voted and passed (4 - 3). Bob Dallas, Bill Grossman, and Paul Player dissented.

2. RZ 14-062: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks permission to rezone property currently zoned Pedestrian Community Conditional (PC-3c) and Local Commercial (C-1) to Commercial-Residential Mixed-Use (CR-1) to allow for a change of previous conditions. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Rebecca introduced the rezoning application, noting that it runs concurrently with a SLUP request. Staff recommends approval of the request with the following conditions:

1. Development shall substantially comply with the Site Plan dated May 1, 2014, as prepared by McFarland-Dyer & Associates.
2. Developer will provide landscaping and other improvements along its property frontage along Ashford Dunwoody Road per 2007 Perimeter CID Public Standards.
3. Developer will provide street furniture along its property frontage along

Meadow Lane Road per PCID Standards.

Rebecca presented the Public Works Director's comments from his review of the proposed development's site plan. The following is recommended:

1. Provide a traffic impact study in order to evaluate necessary roadway improvements.
2. Restrict the westernmost curb-cut to right-in and right-out access only.
3. Move the full-access driveway to the eastern curb-cut, and include a traffic signal there.

Staff also recommends approval of the Special Land Use Permit application with the following condition:

1. The four-story building height is approved for the proposed hotel use only, and shall not transfer to other land uses or development plans.

Bob Dallas opened the Public Hearing.

Robert Griest, attorney with Smith, Gambrell, and Russell, spoke in favor of the request.

Bob Kinsey, CEO for Spruill, spoke of support for the rezoning. He noted the various problems associated with the Center's location and believes the new development will be very beneficial all around.

No one spoke in opposition.

Bob Dallas closed the Public Hearing.

Members of the Commission spoke favorably of the request, but noted concerns with pedestrian traffic. The following topics were also discussed: possible restaurant tenant, background on the applicant, street and traffic improvements, and accessibility to the site.

Staff, the attorney, and the applicant addressed the Commission's questions and comments.

Commission Member Heyward Wescott motioned to approve with staff conditions. Commission Member Bill Grossman seconded.

The motion was voted and passed (7 - 0).

3. SLUP 14-062: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks a Special Land Use Permit for a change in the maximum allowable building height of three-stories to four-stories. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Commission Member Bill Grossman motioned to approve. Commission Member Heyward Wescott seconded.

The motion was voted and passed (7 - 0).

G. OTHER BUSINESS

Commission Member Heyward Wescott mentioned that because he felt a conflict of interest with his roles on the Planning Commission and Dunwoody Homeowners Association, he has decided to step down from the DHA Board. Other Commission Members support his decision.

Multiple Members commented on how much they enjoyed the APA National Conference, especially the ethics class.

It was noted that a meeting will occur on May 29, 2014 for Dunwoody Park, in which attendance would be beneficial for future discussion.

Lastly, Members of the Commission commented on the future use of the property at Crown Pointe Parkway.

H. PUBLIC COMMENT

I. COMMISSION COMMENT

J. ADJOURN

Approved by:

Chairman

Attest:

Secretary

CITY OF DUNWOODY
April 10, 2014
COMMUNITY COUNCIL MINUTES

The Community Council of the City of Dunwoody held a Meeting on April 10, 2014 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: Norb Leahy, Chairman
 Rick Callihan, Vice Chairman
 Tony Delmichi, Community Council Member
 Debbie Montgomery, Community Council Member
 Sam Verniero, Community Council Member

Also Present: Steve Foote, Community Development Director
 Christie Berkowitz, Planning Coordinator

A. CALL TO ORDER

B. ROLL CALL

All members were present except Claire Botsch and Clayton Coley.

C. MINUTES

1. Approval of Meeting Minutes from March 13, 2014 Community Council Meeting.

Sam Verniero motioned to approve. Rick Callihan seconded.

The motion was voted and passed (4 - 0). Tony Delmichi abstained.

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

1. Nominations for Community Council Chairman and Vice Chairman.

Tony Delmichi expressed concern in regard to Community Council Members' terms expiring and whether or not tonight's meeting would be considered unlawful.

Staff reassured the Board that the members whose terms were expired can still serve until a new member is appointed.

Rick Callihan motioned to table election of Chair and Vice Chair. Norb Leahy seconded.

The motion was voted and passed (4 - 0). Tony Delmichi abstained.

E. UNFINISHED BUSINESS

F. NEW BUSINESS

1. RZ 14-061: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Marian C. Adeimy, on behalf of NitNeil Partners, LLC, seeks permission to rezone property

currently zoned Office-Institution Conditional (O-Ic) to Office-Distribution (OD) to allow for a change of previously approved use. The subject property is located at 1274 Crown Pointe Parkway, Dunwoody, GA 30338. The tax parcel is 18 349 01 003.

Steve Foote, Community Development Director, introduced the application—noting the specifics of the request and highlighting the impending variances.

Norb Leahy opened public comment.

Marian Adeimy, representative for the applicant, spoke in favor of the request—addressing the review and approval criteria associated with rezoning decision-making. Mrs. Adeimy discussed the submitted site plan and renderings in relation to the surrounding area.

Board Members discussed with the representative possible landscaping and buffering that could be implemented, the architectural design of the building, and any intent to add additional retail space on the bottom floor. Nitesh Sapra, developer, ensured that the facility would be used solely for storage use.

The Board also inquired about the hours of operation. Mr. Sapra stated the leasing office would be open normal business hours, from 9:30 a.m. – 6:00 p.m., Monday through Friday, and 9:30 a.m. – 4:00 p.m. on Saturday. Access hours for tenants, however, would be extended to 6:00 a.m. – 10:00 or 11:00 p.m.

Spencer Frisby, President of HOA for Georgetown at Perimeter Walk Condominiums, discussed concerns with the proposal and noted the suggestions already made to the developer’s attorney in terms of changing the design plan to be more beneficial for the Condominiums’ residents.

Emily Sircy, representative for the ownership of 1040 and 1050 Crown Pointe Parkway, the adjacent office buildings, discussed the proposed curb cuts for the site. Currently, there is an easement that allows the applicant to add a single curb cut; however, they are exploring other options for ingress and egress with the developer because the proposed site plan shows a total of three.

Norb Leahy closed public comment.

Members of the Board asked questions of the applicant and staff—inquiring if the adjoining fire station had any concerns.

Rick Callihan motioned to approve the rezoning request. Debbie Montgomery seconded.

The motion was voted and passed (4 – 0). Tony Delmichi abstained.

2. RZ 14-062: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP

Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks permission to rezone property currently zoned Pedestrian Community Conditional (PC-3c) and Local Commercial (C-1) to Commercial-Residential Mixed-Use (CR-1) to allow for a change of previous conditions. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Steve Foote introduced the application.

Norb Leahy opened public comment.

Robert Griest, representative for Smith, Gambrell & Russell law group on behalf of the applicant, spoke in favor of the request. Mr. Griest noted the Spruill Center owns the property and is seeking a long-term ground lessor to help bring in revenue and help maintain the existing art facility. The applicant believes they are proposing a less intense use for the site than what is already entitled, and the design is also more compatible with the City's Comprehensive Plan. Additionally, it is understood that hotel development can foster commerce around public transportation uses and the pre-existing pedestrian access near, and eventually through, the site will make it easier for patrons to get around.

Norb Leahy closed public comment.

Board Members asked questions of staff—referencing the multi-family use, public safety concerns, sidewalk access, and Spruill Center's support of the project.

Rick Callihan motioned to approve the rezoning request. Norb Leahy seconded.

The motion was voted and passed (4 – 0). Tony Delmichi abstained.

- G. OTHER BUSINESS
- H. PUBLIC COMMENT
- I. COMMUNITY COUNCIL COMMENT
- J. ADJOURN

Approved by:

Chairman

Attest:

Secretary