

GOVERNMENT OF THE CITY OF SOUTH FULTON

TAMMI SADDLER JONES
CITY MANAGER



SHAYLA REED
DIRECTOR
COMMUNITY DEVELOPMENT &
REGULATORY AFFAIRS

MEMORANDUM

TO: City of South Fulton Mayor and Council
FROM: Planning & Zoning Division
SUBJECT: **M21-006 and CV21-006 for o Senoia Rd.**
MEETING DATE: July 14, 2021

To consider an amendment to the Zoning Conditions **M18-003 1c**, to allow no more than 322 multi-family dwellings and 2500 square feet of commercial retail space.

To consider an amendment to the zoning condition **M18-003 2a**, to reference the revised site plan received by the Community Development and Regulatory Affairs Department May 14, 2021.

To consider an amendment to the zoning condition **M18-003 3a** to amend development standards for the multifamily and retail developments.

To consider concurrent variance to reduce required parking spaces from 552 spaces to 496 spaces.

To consider concurrent variance to required landscape strip from a 20 foot minimum to a 10 foot minimum.

STAFF RECOMMENDATIONS: **APPROVAL** of the Modification request for multi-family dwelling units
APPROVAL of the Modification to the conceptual site plan
APPROVAL of Modification to development standards
APPROVAL of variance to reduce the parking requirement
APPROVAL of variance to reduce the landscape strip

cc: Corey Adams, City Clerk

APPLICATION INFORMATION

Applicant Information:	Ryan Oros Provision Holdings Inc. 4035 Greenside Ct. Dacula, GA 30019
Status of Applicant:	Developer
City Council District(s):	7
Parcel ID Number:	09F070300260310
Area of Property:	15.26
Current/Past Use of the Property:	This property is currently undeveloped.
Prior Zoning Cases/History:	<p>2004ZM-0124 petition to rezone from AG-1, C-1,C-2, and M-2 to MIX. Approved</p> <p>2004ZM-004 a modification to the conceptual site plan. Approved</p> <p>2006-ZM0042 modification to allow 302 multi-family unites instead of 350 and remove setback requirements. Approved</p> <p>2006VC-165 variance to remove the required 10 ft landscape strip. Approved</p> <p>2008ZM-0002 modification to allow three entrances. Approved</p> <p>2010ZM-008 modification to allow no more than 980 townhomes and 20 single family homes. Approved</p> <p>2010ZM-0008 to allow no more than three entrances on Spence Rd, and to also create a planted buffer between residential and nonresidential areas. Approved</p> <p>2011ZM-0004 modification to amend the site plan to relocated townhomes and multi-family units. Approved</p> <p>2015ZM-0005 modification to allow single family units instead of townhomes. Approved</p> <p>2018ZM-003 modification to removed multi-family units and allow an additional 145 townhomes. Approved.</p>
Surrounding Zoning:	<u>North:</u> C-1 (Limited Commercial) <u>South:</u> City of Fairburn <u>East:</u> MIX (Mixed Use) <u>West:</u> City of Fairburn
2035 Future Land Use Designation:	<u>Character Type:</u> Suburban II Neighborhood <u>Land Uses:</u> Residential 2 to 3 units per acre, Residential 3-5 units per acre, Open Space, Semi Public and Institutional

Zonings: R3, R-3A, R-4, R4-A, R-5, R5-A, TR, CUP, NUP, SH

Compatibility to the Fulton County 2035 Comprehensive Plan: No. The proposed modifications and variances do not align with the Comprehensive Future Land Use Designation. However, the parcel is already zoned MIX and has been zoned MIX since 2002. The site has undergone a variety of zoning modifications over the past 18 years.

Overlay District:	None
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Public Utilities:	Water service is provided to these sites by City of Atlanta. Sewer service is available to the site by Fulton County.
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Public Services:	Police and Fire services are available to the site by the City of South Fulton.
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Transportation:	Street: Oakley Industrial Blvd. Classification: Minor Arterial Road Type: City Public Transit: MARTA bus service does serve the site. The closet MARTA bus stop is on Oakley Industrial Blvd. at the Southwestern edge of the proposed development.
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MAPS:

City of South Fulton Zoning, Future Land Use, and Aerial Map:

(see attached)

Proposed Site Plan:

(see attached)

CONDITION(S) TO BE MODIFIED

2018ZM-003 removes the condition from zoning case 2006ZM-0042 which allowed no more than 203 multi-family units at a density of 2.01 units per acre in Pod 1.

- The petitioner seeks to reintroduce the condition 1c to allow no more than 322 multi-family dwelling units.
- The petitioner seeks to amend condition 2a to reference the revised site plan received by CDRA on May 16, 2021.
- The petitioner seeks to amend condition 3a to create the development standards for multi-family lots as follows:

Front to Front: 50 feet
Front to Rear: 50 feet
Rear to Rear: 45 feet

Rear to Side: 40 feet
Front to Side: 40 feet

VARIANCE CONSIDERATIONS

Staff is including the specific conditions that must be considered for a variance to be granted to assist the Zoning Board of Appeals in considering the application and its merits. According to our Code, these considerations include:

808.09 Hardship Criteria:

Primary variances shall only be granted by the Zoning Board of Appeals and concurrent variances shall only be granted by City Council upon showing that, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and such approval will not be contrary to the public interest. A variance from the terms on this Ordinance shall not be granted unless a written application is submitted demonstrating:

- a) The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its size, shape, or topography, would create an unnecessary hardship for the owner while causing no detriment to the public;
- b) That special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other land, structures, or buildings in the same district;
- c) That literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Ordinance;
- d) That the special conditions and circumstances do not result from the actions of the appellant;
- e) That granting the variance requested will not confer on the appellant any special privilege that is denied by this Zoning Ordinance to other lands, structures or buildings in the same district;
- f) That the request is limited to the extent necessary to alleviate the unnecessary hardship and not as a convenience to the appellant nor to gain any advantage or interest over similarly zoned properties; and
- g) Relief, if granted, would be in harmony with, or, could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance.

PUBLIC PARTICIPATION

Meeting was held on June 25, 2021. The report is attached.

STAFF COMMENTS

Engineering: Engineering was invited to the pre-application meeting before the application was submitted and provided comments at that time.

Environmental: Requested information, none provided.

Public Works: Requested information, none provided.

Transportation: The traffic engineer was invited to the pre-application meeting before the application was submitted and provided comments at that time.

MARTA: Requested information, none provided.

Fulton County Health Department: Requested information, none provided.

Fulton County Schools: Requested information, none provided.

Fire: The Fire Marshall was invited to the pre-application meeting before the application was submitted and provided comments at that time.

Legal: Requested information, none provided.

PLANNER'S RECOMMENDATION

The development known as Renaissance at South Park has been in development since 2002 and undergone a variety of different updates and changes over the past 18 years. The multi-family units were part of the original development plan.

While the future land use map does not allow MIX zoning in the Suburban II character area, the development is already zoned MIX. The subject site is located in a major commercial area at the intersection of Oakley Industrial Blvd, and Senoia Rd (SR 74). The multi-family and commercial developments there will act as a transitional area between the commercial corridor to the West of the site and the dense residential townhome community to the East. The commercial 2500 square feet commercial area will serve as a community gathering place and provide a much-needed community area for the adjacent residential developments.

Concerning the modification to allow the apartments staff recommends **APPROVAL**.

Given that the site plan must change in order for the proposed use of the site to be accommodated, staff also recommends **APPROVAL** of the changes to the conceptual site plan.

Concerning the modification to revise the development standards, staff recommends **APPROVAL**.

Concerning the concurrent variances:

The petitioner is asking for a variance to reduce the number of parking spaces from the required 552 spaces to 496 spaces. The code currently requires 1.4 spaces per 1-bedroom unit, 2 spaces per 2-bedroom unit, and 2.25 spaces per 3-bedroom unit. In total the petitioner is asking for a reduction of 56 spaces.

The topography of the site includes steep slopes and a stream that runs through the southeastern portion of the site. The topography leaves certain portions of the site unbuildable. A traffic study completed by the developer found that the reduction in parking will not have a not have a negative impact on the public. The site is also served by MARTA bus service which will allow some residents to use public transit and reduce the need for parking spaces. Staff recommendation is **APPROVAL** for the parking variance.

The petitioner is also asking for a variance to reduce the required landscape strip along Oakley Industrial Blvd. from the required 10 feet to 20 feet. The proximity of the stream to Oakley Industrial Blvd. creates a pinch point, that would not allow a building or parking lot without a reduction of the landscape strip. Instead, the developer is proposing linear landscape islands between the road and the proposed development to create a canopy of greenspace. The

landscape island should create a partial visual screen between the roadway and the proposed development. Staff recommendation for the landscape strip variance is **APPROVAL**.

PREPARED BY:

Marissa Jackson, Planner

REVIEWED BY:

Nathan Mai-Lombardo, Planning and Zoning Administrator

Shayla Reed, Director

MAYOR & COUNCIL ACTION

TBD

GOVERNMENT OF THE CITY OF SOUTH FULTON

TAMMI SADDLER JONES
CITY MANAGER



SHAYLA REED
DIRECTOR
COMMUNITY DEVELOPMENT
& REGULATORY AFFAIRS

TO: Stephen Rothman
Wilson Brock & Irby, LLC
Overlook I, Suite 700
2849 Paces Ferry Road
Atlanta, GA 30339

FROM: Shayla Reed *Shayla Reed*
Director, Community Development and Regulatory Affairs

DATE: June 10, 2021

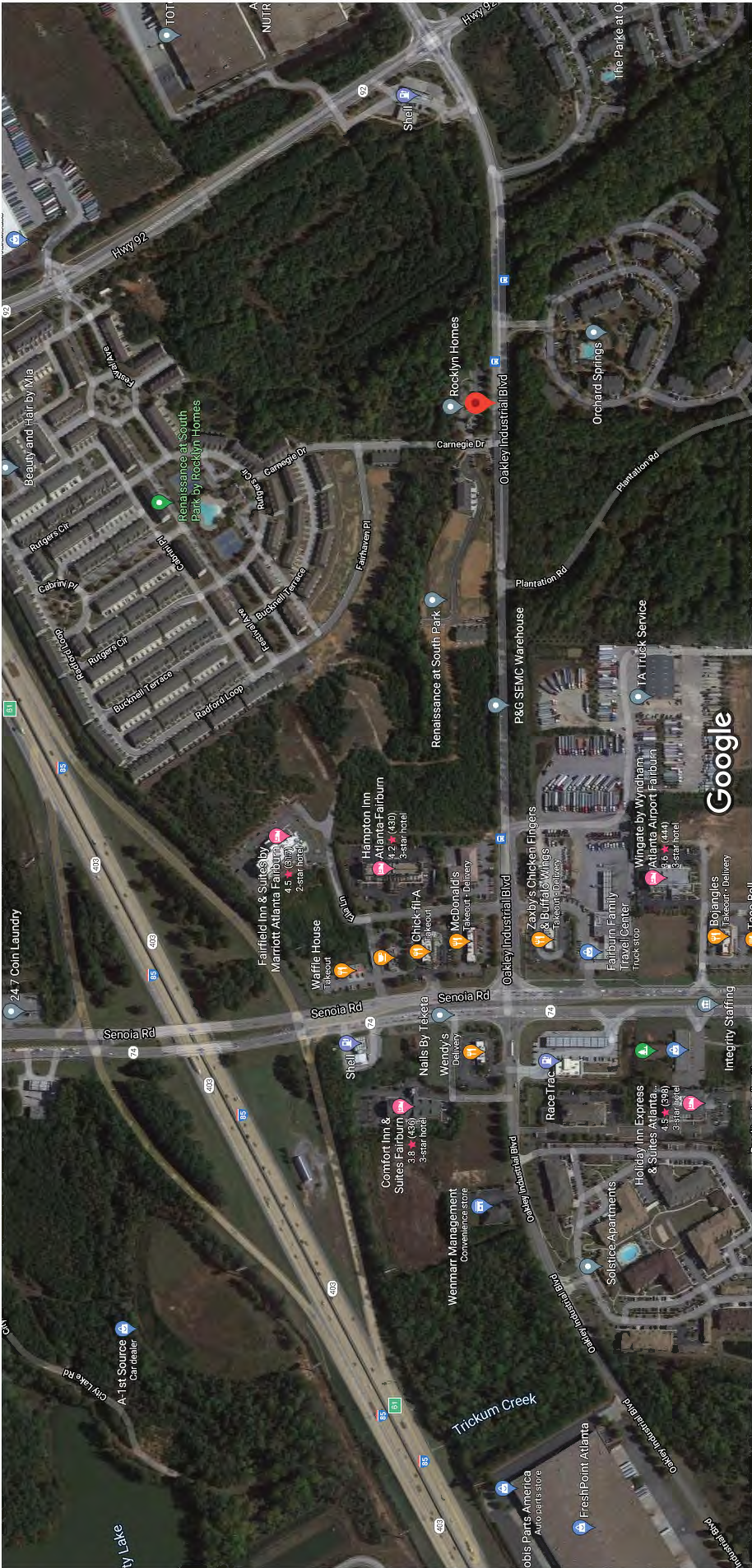
SUBJECT: **VA21-003** Administrative Variance Request – 25 ft Impervious Surface Setback/Location: 0 Senoia Road (09Fo70300260310)

Staff has reviewed your Administrative (Level One) Minor Variance request to reduce the 25 ft Impervious Surface Setback at 0 Senoia Road (09Fo70300260310).

Section 14-7006 (a)(1) identifies a Variance Hardship criterion as the following:

For public and private properties that have unusual shape or topography of the property at the time of the adoption of this chapter and there is no opportunity for development under any design configuration in accordance with the land use designation assigned to the subject property.

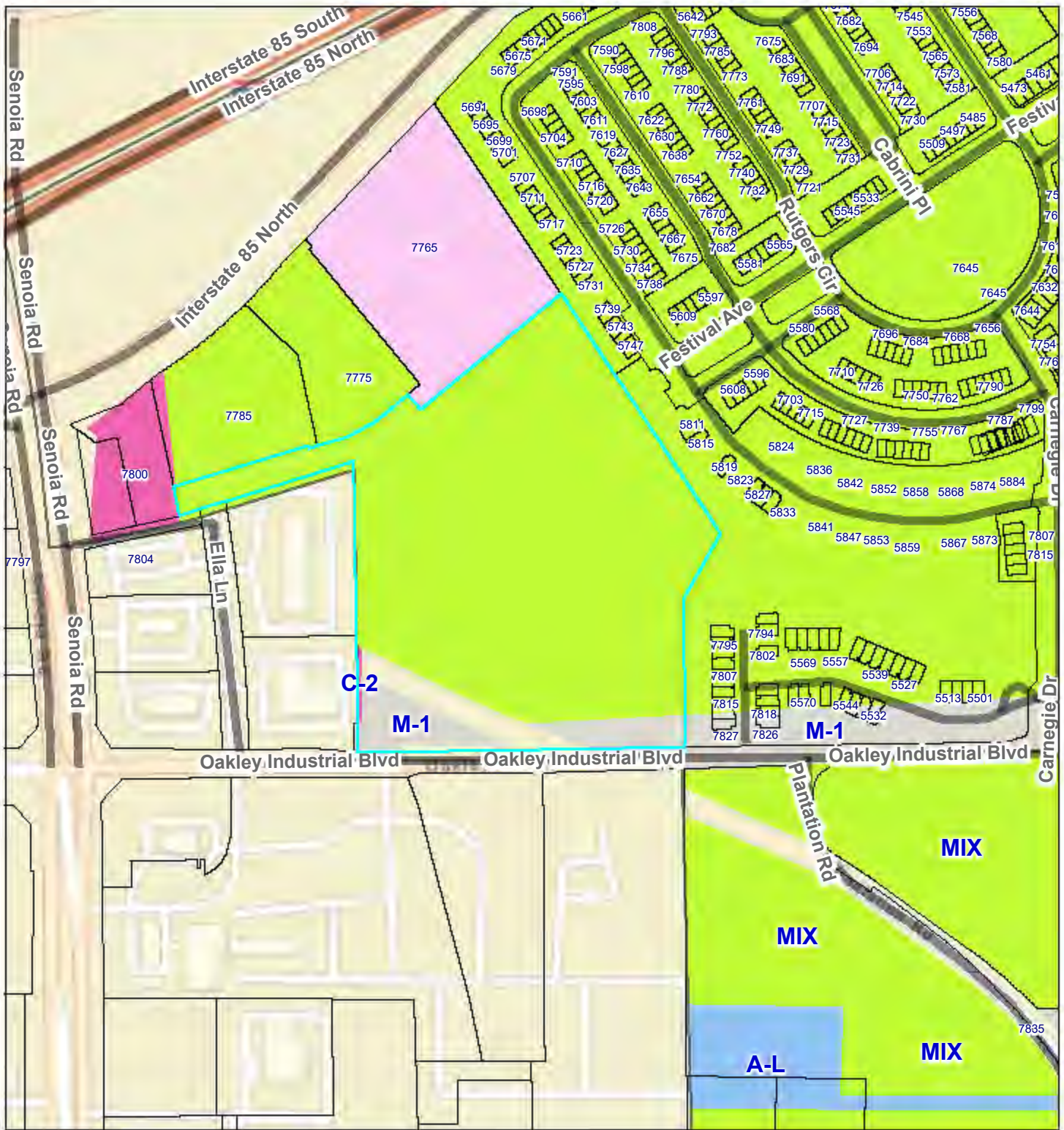
After reviewing your request, it has been determined that details presented in your May 25, 2021 application identifies a hardship and therefore your request to minimize the identified Impervious Surface to 15 ft has been approved.



Imagery ©2021 Maxar Technologies, U.S. Geological Survey, USDA Farm Service Agency, Map data ©2021

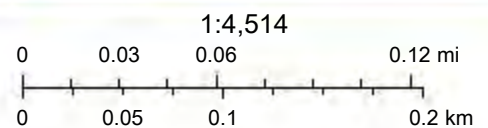
200 ft

COSF ArcGIS Web Map



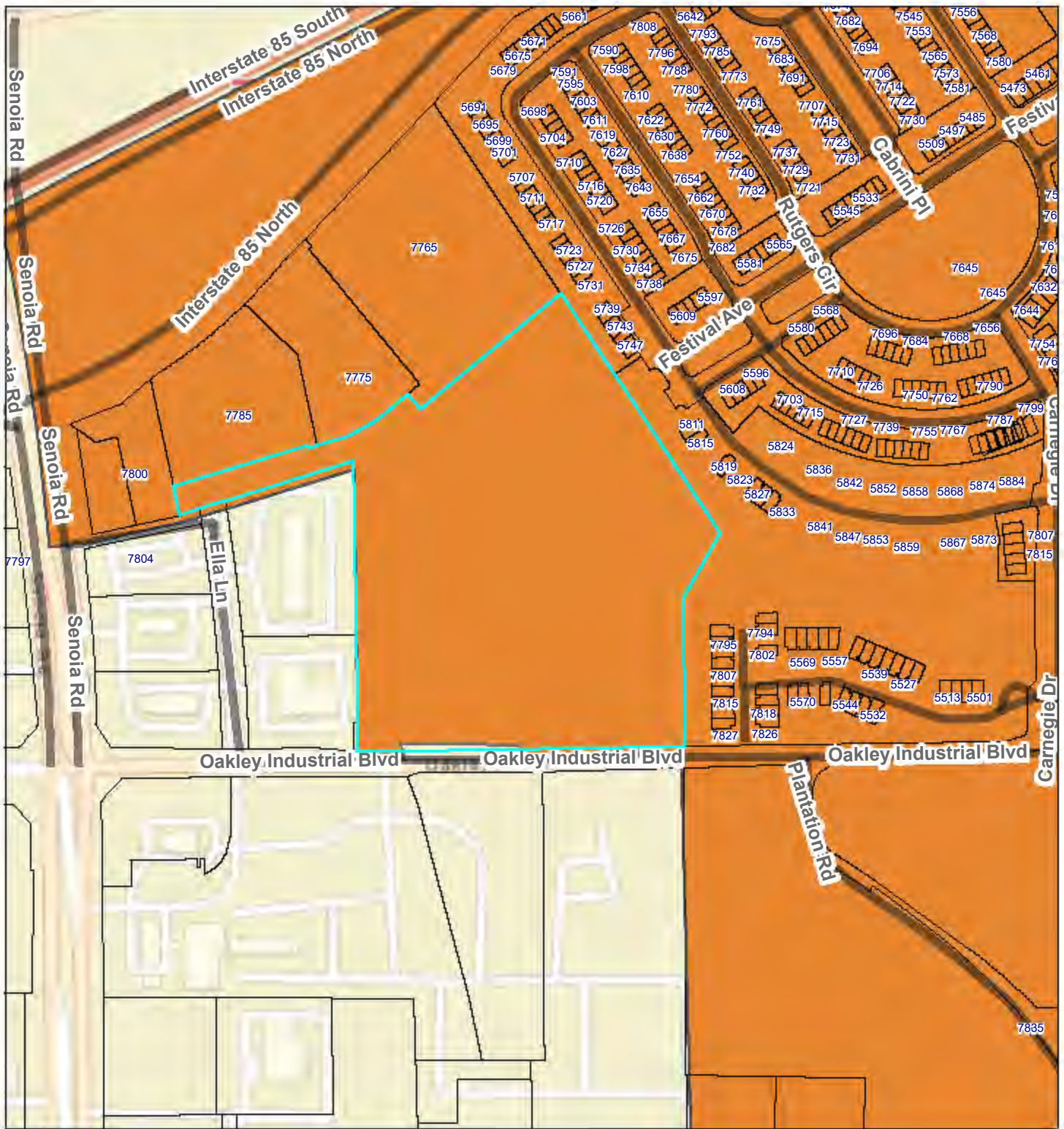
6/7/2021, 8:48:45 AM

- | | |
|------------------------------|----------------------------------|
| Address Points | A-L (Apartment Limited Dwelling) |
| Street Centerlines | C-1 (Limited Commercial) |
| City Limits | C-2 (General Commercial) |
| Tax Parcels from County | M-1 (Light Industrial) |
| Current Zoning | MIX (Mixed Use) |
| A (Medium Density Apartment) | |



Esri, HERE, Garmin, INCREMENT P, NGA, USGS

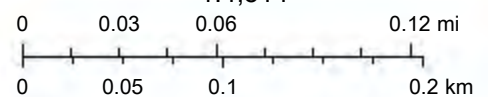
COSF ArcGIS Web Map



6/7/2021, 8:49:21 AM

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- Address Points
- Street Centerlines
- City Limits
- Tax Parcels from County
- 2035 Future Land Use
- Suburban II Neighborhood



Esri, HERE, Garmin, INCREMENT P, NGA, USGS



GREYSTAR

SOUTH FULTON MULTIFAMILY

FAIRBURN, GA

RENDERING • 06-21-2021

GRY2021-04

DYNAMIK
DESIGN

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Clubhouse View 1: Main Corner



Clubhouse View 2: Package Lockers Corner



Clubhouse View 3: Fitness Corner



PUBLIC PARTICIPATION PLAN REPORT FORM E

Applicant: Provision Holdings Inc Petition No. MZ1-006
CV 21-006
Date: June 25, 2021

1. The following parties were notified of the requested modification:

All property owners within a quarter mile of the property
and all others as directed by staff

2. The following meetings were held regarding this petition:
(Include the date, time and meeting location.)

June 24, 2021 at 6 PM via a Zoom meeting

3. The following issues and concerns were expressed:

Concern to ensure no vehicular access between proposed
apartments and subdivision to the north and adequate landscaping

4. The applicant's response to issues and concerns was as follows:

agreed to landscaping and showed site plan with no
vehicular access

5. Applicants are required to attach copies of sign-in sheets from meetings as well as meeting announcements, i.e., notices, flyers, letters, and any other documentation which supports the opportunity for public input.

Only person who attended was Mr. Roberts

Attach additional sheets as needed.

NOTIFICATION OF APPLICATION FOR ZONING MODIFICATION
AND CONCURRENT VARIANCES FILED WITH THE CITY OF SOUTH FULTON
FOR PROPERTY FRONTING ON OAKLEY INDUSTRIAL BOULEVARD
ALSO KNOWN AS 0 SENIOA ROAD
PARCEL ID NUMBER 09F070300260310

THE ZONING MODIFICATION APPLICATION IS IDENTIFIED AS M21-006
CONCURRENT VARIANCE APPLICATION IS IDENTIFIED AS CV21-006
SCHEDULED FOR CITY COUNCIL ON JULY 14, 2021

WE INVITE YOU TO PARTICIPATE IN A MEETING HOSTED BY THE APPLICANT
ON JUNE 24 2021 AT 6 PM VIA ZOOM.

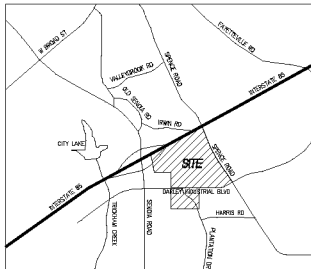
AT THIS MEETING, WE WILL PRESENT THE SCOPE OF THE PROPOSAL.
WE INVITE YOU TO ATTEND AND GIVE YOUR THOUGHTS AND INPUT

June 24, 2021 @ 6 PM

ZOOM MEETING ID NUMBER: 516 195 7402

PASSCODE: 7AJULY

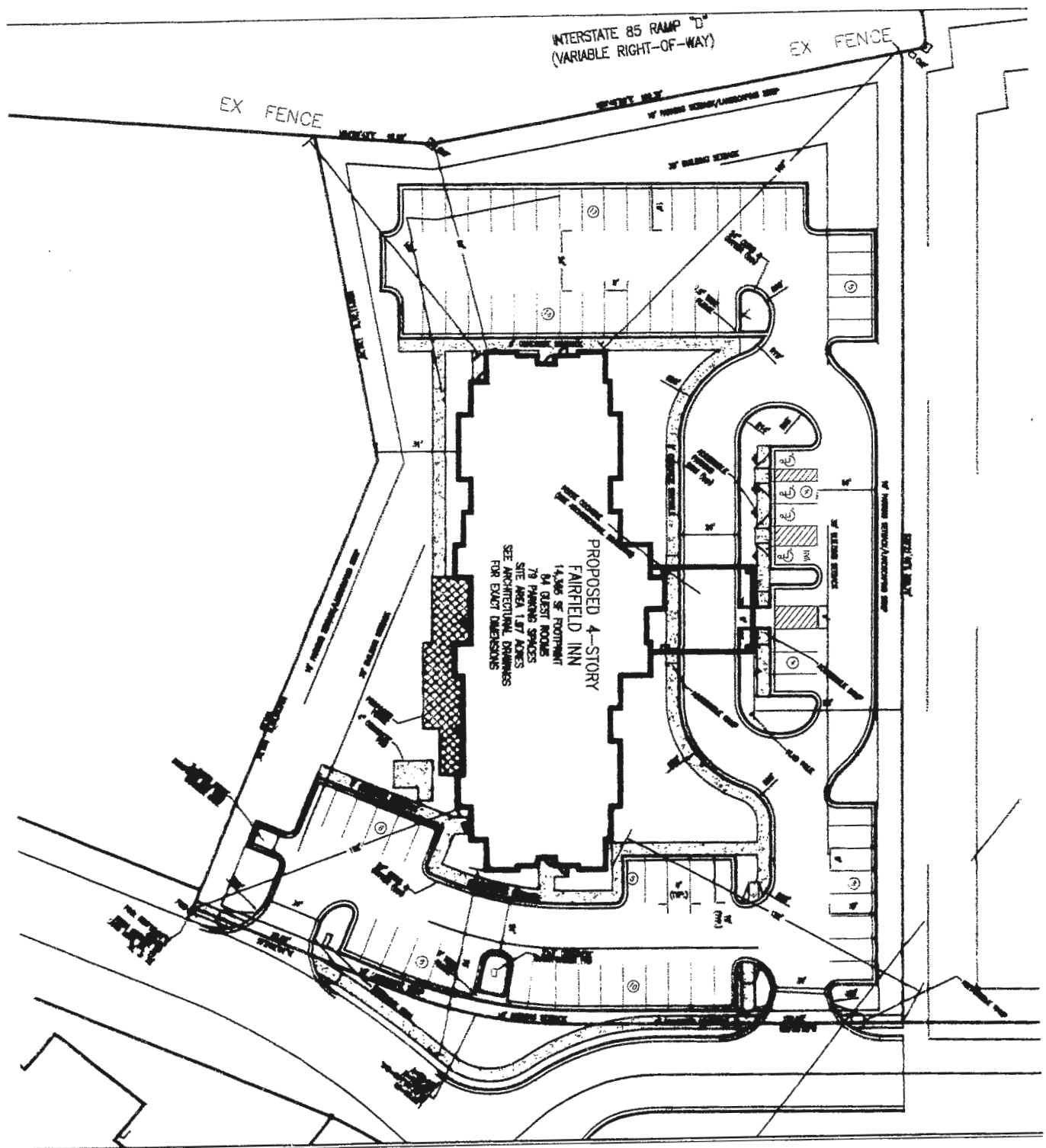
IF YOU WISH TO SPEAK WITH THE APPLICANT BY PHONE, PLEASE CALL STEVE
ROTHMAN AT 770 803 3731



The Board of Commissioners approved the following modification on December 2, 2015. Condition 2.a. for petition 2002Z -0124 SFC shall be revised to read as follows:

2. To the owner's agreement to abide by the following:
 - a. To the revised site plan received by the Department of Environment and Community Development on October 31, 2006, as amended on January 26, 2101 to allow 20 single family lots instead of townhouses and December 29, 2010 to allow convenience store use of Pod 6 and October 28, 2011 to relocate townhouses and multi-family units, and on October 27, 2015 to allow a hotel. Said site plan is not conceptual; the developer must strictly adhere to the site plan as submitted. Any changes to the site plan must be approved by the Director of Environment and Community Development and must meet or exceed the requirements of the Zoning Resolution and these conditions. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

Proposed Site Plan submitted October 27, 2015



2008ZM-0002 SFC
2006ZM-0042 SFC, 2006ZM-0165 SFC
2010ZM-0002 SFC
2010ZM-0008 SFC
2011ZM-0004 SFC

PETITION No.2002Z -0124 SFC
2003VC-0229 SFC

RECOMMENDED CONDITIONS – WITH APPROVED MODS AND VARIANCES

If this petition is approved by the Board of Commissioners, it should be approved MIX (Mixed Use) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a maximum density of 1,927.94 gross square feet per acre zoned or a total of 290,000 square feet, whichever is less.
 - b. No more than 1,000 980 townhouses and 20 single family lots, at a maximum density of 6.65 dwelling units per acre based on the total acreage zoned, whichever is less.
 - c. No more than 350 302 multi-family dwellings, at a maximum density of 2.33 2.01 dwelling units per acre based on the total acreage zoned, whichever is less.
 - d. The minimum heated floor area per dwelling unit shall be as follows: multi-family units shall be a minimum of 600 square feet for 1-bedroom units; 800 square feet for 2-bedroom units; 900 square feet for 3-bedroom units; and townhouse units shall be a minimum of 1,100 square feet and single family lots shall be a minimum of 1,200 square feet.
 - e. To provided a minimum lot size of 3,150 square feet for the single family lots approved in condition 1.b.
2. To the owner's agreement to abide by the following:
 - a. To the revised site plan received by the Department of Environment and Community Development on July 30, 2003 October 31, 2006, as amended on January 26, 2101 to allow 20 single family lots instead of townhouses and December 29, 2010 to allow convenience store use of Pod 6 and

October 28, 2011 to relocate townhouses and multi-family units. Said site plan is not conceptual; the developer must strictly adhere to the site plan as submitted. Any changes to the site plan must be approved by the Director of Environment and Community Development and must meet or exceed the requirements of the Zoning Resolution and these conditions. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

- b. To comply with the Subdivision Regulations 2003, Fulton County, Georgia.
 - c. All recreational and common areas which may be held in common shall be accessible via dedicated roadways, easements, sidewalks, trails, etc. and shall be maintained by a mandatory homeowners association, whose proposed documents of incorporation shall be submitted to the Director of the Department of Environment and Community Development for review and approval prior to the recording of the first final plat.
3. To the owner's agreement to the following site development considerations:
- a. Development Standards as follows:

Perimeter Building Setbacks

Front: 30 feet

Side corner: 30 feet

Side: 15 feet

Rear: 20 feet

Parking Setback: 10 feet adjacent to public right-of-way or property line

Proposed Interior Setbacks

Townhouses

Front to Front: 50 feet

Front to Rear: 50 feet

Rear to Rear: 35 feet

Rear to Side: 15 feet

Front to Side: 25 feet

Side to Side: 14 feet

Multi-Family

Front to Front: 50 feet

Front to Rear: 50 feet

Rear to Rear: 45 feet

Rear to Side: 40 feet

Front to Side: 40 feet

2008ZM-0002 SFC

2006ZM-0042 SFC, 2006Z -0165 SFC

2010ZM-0002 SFC

2010ZM-0008 SFC

2011ZM-0004 SFC

Side to Side: 25 feet

Single Family

Minimum Lot Width at building line: 35 feet

Front Yard setback: 15 feet

Side Corner setback: 5 feet

Side Yard setback: 0 feet (10-foot minimum building separation)

Rear Yard setback: 15 feet

- b. No more than 2 exit/entrances on Spence Road (SR 92). Curb cut locations and alignments are subject to the approval of the Fulton County Traffic Engineer.
- c. No more than 2 exit/entrances on the north side and one on the south side of Oakley Industrial Boulevard. Curb cut locations and alignments are subject to the approval of the Fulton County Traffic Engineer.
- d. No more than 2 exit/entrances on Plantation Road. Curb cut locations and alignments are subject to the approval of the Fulton County Traffic Engineer.
- e. Inter-parcel access must be provided between land uses within the development or as may be approved by the Fulton County Traffic Engineer.
- f. To reduce the residential building separations as follows: front to rear - 50 feet; rear to rear - 40 feet; side to side - 25 feet. (2003VC-0029 SFC, Part 1)
- g. To reduce the 25-foot buffer and 10-foot improvement setback adjacent to the outparcel in Pod 3. (2003VC-0029 SFC, Part 2)
- h. Delete the 10-foot landscape strip adjacent to the property zoned A-L (Apartment Limited) pursuant to 2006Z -0106 SFC. (2006VC-0165 SFC)
- i. Provide a minimum 10-foot wide landscape strip planted to buffer standards between the future residential use of Pod 2 and the non-residential use of Pod 6. The location of the landscape strip shall be flexible but must visually screen all non-residential buildings, parking and accessory structures located in Pod 6 from the future residents of Pod 2.

- 4. To the owner's agreement to abide by the following requirements, dedication and improvements:

- a. Reserve for Fulton County along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance permit, sufficient land as necessary to provide for compliance with the Comprehensive Plan. All building setback lines shall be measured from the dedication but at no time shall a building be allowed inside the area of reservation. All required landscape strips and buffers shall straddle the reservation line so that the reservation line bisects the required landscape strip or buffer. At a minimum, 10 feet of the required landscape strip or buffer shall be located outside the area of reservation. All required tree plantings per Article 4.23 shall be placed within the portion of the landscape strip or buffer that lies outside the area of reservation.

Spence Road (SR 92) - As may be required by the Georgia Department of Transportation.

- b. Dedicate at no cost to Fulton County along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Fulton County such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

30 feet from centerline of Oakley Industrial Boulevard;

30 feet from centerline of Plantation Road;

30 feet from centerline of Spence Road (SR 92).

- c. Provide a deceleration lane for each project entrance or as may be required by the Fulton County Traffic Engineer.
- d. Provide a left turn lane for each project entrance or as may be required by the Fulton County Traffic Engineer.
- e. Provide the following intersection improvements at Oakley Industrial Boulevard and Spence Road (SR 92) in coordination with the South Fulton Community Improvement District intersection improvement project:

Signalize the intersection;

Construct a northbound left-turn lane and a southbound right-turn lane along Spence Road (SR 92);

Construct a southbound left-turn lane and a northbound right-turn lane along Spence Road;

Construct a westbound left-turn lane and an eastbound right-turn lane along Oakley Industrial Boulevard;

Construct an eastbound left-turn lane and a westbound right-turn lane along Oakley Industrial Boulevard

- f. Provide the following intersection improvements at Oakley Industrial Boulevard and Plantation Road:

Construct a southbound left-turn lane and a southbound right-turn lane along Oakley Industrial Boulevard;

Construct an eastbound right-turn lane along Plantation Road.

- g. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development to the Fulton County Traffic Engineer at the concept review phase.
- i. Plantation Road must be paved from Oakley Industrial Boulevard to Harris Road.

5. To the owner's agreement to abide by the following:

- a. To contact the Director of Public Works, prior to the application for a Land Disturbance Permit with the Department of Environment and Community Development, to meet with the Fulton County Traffic Engineer. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
- b. Prior to the application for a Land Disturbance Permit with the Department of Environment and Community Development, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Fulton County Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.
- c. Prior to the application for a Land Disturbance Permit (LDP) with the Department of Environment and Community Development, the developer/engineer shall contact the Public Works Department, Water Service Division and arrange to meet with the Fulton County Drainage Engineer on-site.

- d. The engineer/developer is required to submit along with the application for a Land Disturbance Permit (LDP) signed documentation verifying the storm water concept plan approval.
- e. Provide at the LDP approval documentation (such as cross-section, profile, etc.) describing all existing natural streams, creeks, or draws geometry, within the proposed development boundary and provide the appropriate bank erosion protection for the conveyance system after development.
- f. The developer/engineer is responsible to demonstrate to the County by engineering analysis at the Land Disturbance Permit application that the proposed development surface water runoff conditions: are controlled at the minimum predevelopment level so that downstream conveyance systems will not be impacted, do not aggravate existing flooding or drainage problems, and do not create new flooding or drainage problems off-site.
- g. Prior to the application for a Land Disturbance Permit, the developer/engineer shall submit to the Department of Public Works, Surface Water Management Section, a project Storm Water Concept Plan. This concept plan shall include a preliminary drawing describing the proposed location of the project surface water quality and quantity facilities/Best Management Practices (BMP's), the existing downstream off-site drainage conveyance system that the proposed development runoff will impact, and the discharge path(s) from the facilities'/BMP's outlet(s) through the offsite drainage system to the appropriate receiving waters. As part of the concept plan, a preliminary capacity analysis shall be performed on the identified offsite drainage system to identify the capacity of all points of constraint (pipes, culverts, etc.), the point in the stream channel where 25 year storm peak flow is the greatest percentage of the channel capacity, and the impact of post developed flows on these points. The critical capacity points shall be selected based upon the engineers' professional judgment and limited field survey data.
- h. The developer/engineer is responsible to conceptually describe to the County at the Storm Water Concept Plan approval phase post development structural Best Management Practices (BMP's) to be utilized to reduce surface water pollution impact associated with the proposed development. The detailed engineering analysis and specifications of BMP's shall be included as a part of the LDP storm water submittal.
- i. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, the discharge from any storm water management facility shall mimic pre-development sheet flow conditions and shall as a minimum utilize a level spreader as described in

"Fulton County Storm Water Management Storm Drainage Design and Criteria Manual, December 2000".

- j. At the Concept review stage provide information on the Structural Best Management Practices (BMP's) that will be used to remove pollutants, such as organic matter, oil and grease from parking lot surface water runoff leaving the site. An assessment of the use of adsorptive filter catch basin inserts shall be provided, and selected BMP's shall be described and located on the storm water concept plan.
6. Per the Georgia Regional Transportation Authority (GRTA) Development of Regional Impact Review (DRI), to the owner's agreement to abide by the following:
- a. Provide a minimum of 200,000 square feet of commercial space.
 - b. Site Access - Pod 1 shall have a maximum of two site access drives. One of the drives shall align with the shared drive at Pod 3 and Pod 4. Pod 4 shall have a maximum of one site access drive on Oakley Industrial Boulevard. Drive shall be shared with Pod 3. Pod 5 shall not have a site access drive on Oakley Industrial Boulevard. Pod 6 shall not have a site access drive on Oakley Industrial Boulevard except by way of a shared drive with Pod 2.
 - c. Road Connectivity - Provide a vehicular connection between Pod 1 and Pod 2 as shown on Site Plan. Provide a vehicular connection between Pod 1 and Senoia Road by way of a system of private drives as shown on the site plan.
 - d. Parking Facilities - Provide a minimum of twenty-five commuter rideshare spaces in Pod 1.
 - e. Pedestrian facilities - Provide sidewalks along both sides of all internal roads within the development. Provide sidewalks along Oakley Industrial Boulevard, Plantation Road, and Spence Road for the entire site frontage. Provide sidewalks on both sides of site access drives.
 - f. The following improvements are required on and adjacent to *non-state* routes:
 - Oakley Industrial Boulevard @ Spence Road
 - Signalize the intersection.
 - Provide a northbound left-turn lane.
 - Provide a southbound left-turn lane.

Oakley Industrial Boulevard @ Plantation Road

Construct a southbound left-turn lane along Oakley Industrial Boulevard.

Construct a westbound right-turn lane along Plantation Road.

7. Proposed Conditions Related to Altering Site Plan after GRTA Notice of Decision:
The on-site development will be constructed materially (substantially) in accordance with the site development plan dated June, 2003 and received by GRTA on June 10, 2003, prepared by PBS&J titled "South Park" and the analyses prepared by PBS & J, dated May 23, 2003 and received by GRTA on May 27, 2003. Changes to the Site Plan will not be considered material or substantial so long as the following conditions are included as part of any changes:
- a. All of the "Conditions to GRTA Notice of Decision" set forth in Attachment A (Recommended Condition 6.) are satisfied.
 - b. All of the "Roadway Improvements as Conditions to GRTA Notice of Decision" set forth in Attachment A (Recommended Condition 6.) are satisfied.

GOVERNMENT OF THE CITY OF SOUTH FULTON

ODIE DONALD II
CITY MANAGER



SHAYLA REED
INTERIM DIRECTOR
COMMUNITY DEVELOPMENT SERVICES

MEMORANDUM

TO: Tim Jenkins
Rocklyn Homes Inc.
6085 Lake Forrest Dr, Suite 200
Atlanta, GA 30328

FROM: Planning & Zoning Division

SUBJECT: **M18-003 for Renaissance at South Park subdivision**

DATE: August 30, 2018

Dear Tim Jenkins:

This letter is to certify action taken by the City of South Fulton Mayor and Council on August 28, 2018, whereby Mayor and Council voted to approve your request to modify *Case No. Z02-124* as follows:

1b. No more than 980 1,125 townhouses and 20 single-family lots, at a maximum density of 6.65 dwelling units per acre based on the total acreage zoned, whichever is less.

1c. No longer applicable; delete.

1d. The minimum heated floor area per dwelling unit shall be as follows: multifamily units shall be a minimum of 600 square feet for 1-bedroom units; 800 square feet for 2-bedroom units; 900 square feet for 3-bedroom units; townhouse units shall be a minimum of 1,100 square feet and single-family lots shall be a minimum of 1,200 square feet.

1e. No longer applicable; delete.

2a. To the revised site plan received by the Department of Environment and Community Development Services Department dated April 23, 2018 on October 31, 2006, as amended on January 26, 2010 to allow 20 single-family lots instead of townhouses and December 29, 2010 to allow convenience store use of Pod 6 and October 28, 2011 to relocate townhouses and multifamily units, and on October 27, 2015 to allow a hotel. Said site plan is not conceptual; the developer must strictly adhere to the site plan as submitted. Any changes to the site plan must be approved by the Director of Environment and Community Development Services and must meet or exceed the requirements of the Zoning Resolution and these conditions. Unless otherwise noted

herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

3a. *No longer applicable; delete minimum lot width and setback regulations for single-family lots.*

Any zoning decision of Mayor and Council may be appealed to the Superior Court of Fulton County within thirty (30) days of the action.

Should you have any questions, please feel free to contact our Office.

Sincerely,



Shayla Reed
Interim Director



APPLICATION FOR ADMINISTRATIVE OR ZONING MODIFICATIONS

The undersigned, having an interest in the property herein described respectfully request:

SECTION I

MODIFICATION #: _____

(To be assigned by the City of South Fulton)

- ☐ A. **ADMINISTRATIVE MODIFICATION:** A modification of a condition(s) of zoning or Use Permit that does not require a public hearing. A decision will be made by the Director of Community Development & Regulatory Affairs.
- ☒ B. **ZONING MODIFICATION:** A modification of a condition(s) of zoning or Use Permit where public interest has been determined. This requires a public hearing by the City of South Fulton Councilmembers.

If "A" was denied, list previous case number: #M _____

- 1) Planner who determined the type of Modification you should file: Nathan Mai-Lombardo
- 2) Identify the specific condition(s) being modified as provided by the Planner. State the condition number(s) and letter(s) (e.g. 2-b, 2-e). 1(a); 2(a); 3(a)
- 3) Petition number of the Zoning or Use Permit to which this application applies 2-2002-124
Current zoning district MIX
- 4) Attach a copy of Legal Description [must be metes and bounds] or complete the following information if the property is within a recorded subdivision.

SUBDIVISION NAME: _____ UNIT/PHASE: _____

LOT NUMBER: _____ BLOCK DESIGNATION: _____ LAND LOT(S): _____

DISTRICT/SECTION: ____/____ RECORDED IN PLAT BOOK: _____ PAGE: _____

ROAD NAME: _____

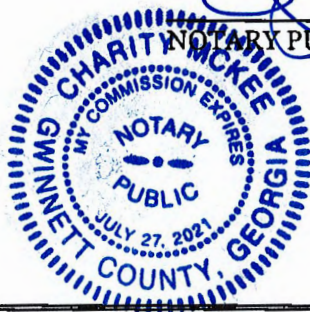
M21-006
CV21-006

NOTICE: Sections III or IV below **MUST** be signed and notarized when application is submitted. If Section III is signed and notarized, applicant need only complete Section IV as "Applicant", notarization of Section IV is not necessary.

SECTION III: Owner states under oath that he/she is the owner of property described in the attached legal description, which is made part of this application for a Modification.

Rocklyn Homes, Inc.
TYPE OR PRINT OWNER'S NAME
3505 Kroger Blvd. Suite 275
ADDRESS
Duluth, GA 30096
CITY & STATE ZIP CODE
404 474 6723
OWNER OF PROPERTY (SIGNATURE)
TJENKINS@RocklynHomes.com
PHONE NUMBER
EMAIL ADDRESS

Sworn to and subscribed before me this
11 day of May 2021



NOTARY PUBLIC

SECTION IV: Applicant, if different from the Owner, states under oath that:

- 1) Applicant is the executor or attorney-in-fact under a Power-of-Attorney for the Owner. Attach copy of Power-of-Attorney and type name of Owner as indicated in Section III; or
- 2) Applicant has an option to purchase said property conditioned upon the property being granted a modification. Attach copy of contract and type name of Owner as indicated in Section III; or
- 3) Applicant has an estate for years which permits the applicant to apply for a modification. Attach a copy of lease and type name of Owner as indicated in Section III.

Provision Holdings, LLC
APPLICANT (SIGNATURE)
TYPE/PRINT NAME OF APPLICANT
4035 Greenside Court
ADDRESS
Dacula, GA 30019
CITY & STATE ZIP CODE
678 983 4657
PHONE NUMBER
rora@provisionholdings.com
EMAIL ADDRESS

Sworn to and subscribed before me this

____ day of _____ 20____

NOTARY PUBLIC

Indicate which of the above is applicable: 1 _____ 2 _____ or 3 _____

SECTION V: Attorney or Agent, if different from the applicant and/or owner

Wilson Brock & Irby LLC, c/o Stephen Rothman
SIGNATURE OF ATTORNEY/AGENT
AGENT

CHECK ONE: [] ATTORNEY [☒]

2849 Paces Ferry Rd SE, Suite 700
ADDRESS
Atlanta, GA 30339

CITY & STATE ZIP CODE
404-853-5050
PHONE NUMBER



DISCLOSURE REPORT FORM C

Office use only:

REZONING PETITION #: _____ ZONING BOARD OF APPEALS MEETING DATE: _____

- Within the two (2) years immediately preceding the filing of this zoning petition have you, as the applicant, owner and/or opponent for the rezoning petition, or an attorney or agent of the applicant or opponent for the rezoning petition, made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to a member of the Zoning Board of Appeals.

CIRCLE ONE:

YES

NO

If the answer is YES, proceed to sections 1 through 4.

If the answer is NO, complete only section 4.

1. **CIRCLE ONE:** Party to Petition In Opposition to Petition

If party to petition, complete sections 2, 3, and 4 below.

If in opposition, proceed to sections 3 and 4 below.

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

3. CAMPAIGN CONTRIBUTIONS:

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

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

Name (print) Stephen Rothman

Signature: [Signature] Date: May 13 2021



DISCLOSURE REPORT FORM C

Office use only:

REZONING PETITION #: _____ CITY COUNCIL MEETING DATE: _____

- Within the (2) years immediately preceding the filing of this zoning petition have you, as the applicant, owner and/or opponent for the rezoning petition, or an attorney or agent of the applicant or opponent for the rezoning petition, made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to a member of the City Council.

CIRCLE ONE: YES NO

If the answer is YES, proceed to sections 1 through 4.
If the answer is NO, complete only section 4.

1. CIRCLE ONE: Party to Petition In Opposition to Petition

If party to petition, complete sections 2, 3, and 4 below.
If in opposition, proceed to sections 3 and 4 below.

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

3. CAMPAIGN CONTRIBUTIONS:

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

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

Name (print) Rocklyn Homes

Signature: [Signature] Date: 5-11-2021



PUBLIC PARTICIPATION PLAN FORM D

Applicant: _____

1. The following individuals (property owners within a quarter mile of the property), homeowner's associations, political jurisdictions, other public agencies, etc., will be notified in accordance with the requirements of Article 28.4.7 of the Fulton County Zoning Resolution:

Those individuals, associations, political jurisdictions and other public
agencies required by staff and the City of South Fulton Zoning Ordinance
will be notified.

2. The individuals and others listed in 1. above will be notified of the requested modification using the following method(s): (e.g., letters, meeting notices, telephone calls, e-mails, etc.)

Letters, emails, zoom meetings, telephone calls, and meeting notices will
be used to notify those listed in 1 above.

3. Individuals and others listed in 1. above will be allowed to participate in the following manner: (At least one meeting at a convenient time and location is required.)

At least one meeting at a convenient time and place will occur. Applicant
intends to host zoom meetings to ameliorate concerns over COVID19.

Attach additional sheets as needed.

PRE-APPLICATION REVIEW FORM

Office use only:

I hereby certify that I have completed a preliminary review of the site plan for this project and determined that it meets the minimum standards specified by Article 28.5.2 of the Fulton County Zoning Resolution.

Staff signature: Marissa Jackson
Planning Division
Community Development & Regulatory Affairs

Date: May 14, 2021

Staff printed name: MARISSA JACKSON

The undersigned acknowledges that the site plan is submitted in accordance with Article 28.5.2 of the Fulton County Zoning Resolution and failure to comply shall render my application incomplete which may result in delay in the process of this application.

Applicant signature: Rocklyn Homes

Date: 5-11-2021

Applicant printed name: Rocklyn Homes

All that tract or parcel of land lying and being in Land Lots 26, 27, 32 and 33 of the 9F District, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point being the southwestern most point of Tract A per Plat Book 377, Page 14, said point being a ½" rebar and cap found on the northerly Right of Way of Oakley Industrial Boulevard (Variable R/W) and having coordinates of Northing: 1,288,926.46, Easting: 2,172,223.31 on the Georgia State Plane Coordinate System, NAD 83, Georgia West, from point thus established and leaving said Right of Way and running thence North 00° 36' 22" West a distance of 645.68 feet to a 1/2" rebar with cap found; thence South 73° 04' 53" West a distance of 296.86 feet to a 1/2" rebar found; thence South 73° 12' 34" West a distance of 109.82 feet to an iron pin set; thence North 11° 39' 17" West a distance of 63.52 feet to an iron pin set; thence North 72° 59' 44" East a distance of 318.98 feet to a 1/2" rebar with cap found; thence South 18° 45' 01" East a distance of 7.54 feet to a 1/2" rebar and cap found; thence North 73° 13' 19" East a distance of 88.25 feet to an iron pin set; thence North 61° 49' 31" East a distance of 69.95 feet to an iron pin set; thence North 50° 32' 13" East a distance of 112.08 feet to a 1/2" rebar with cap found; thence South 39° 36' 53" East a distance of 49.96 feet to a 1/2" rebar found; thence North 50° 32' 28" East a distance of 404.87 feet to an iron pin set; thence South 33° 35' 33" East a distance of 644.48 feet to an iron pin set; thence South 30° 26' 02" West a distance of 165.27 feet to an iron pin set; thence South 00° 37' 01" East a distance of 337.02 feet to an iron pin set on the aforementioned Right of Way of Oakley Industrial Boulevard; thence running along said Right of Way South 89° 23' 01" West a distance of 752.33 feet to a 1/2" rebar found; and the TRUE POINT OF BEGINNING. Said tract contains 15.258 Acres (664,631 Square Feet).

WILSON BROCK & IRBY, L.L.C.

ATTORNEYS AT LAW

OVERLOOK I, SUITE 700
2849 PACES FERRY ROAD
ATLANTA, GEORGIA 30339
WWW.WBILEGAL.COM

STEPHEN ROTHMAN

SROTHMAN@WBILEGAL.COM
DIRECT DIAL: (770) 803-3731

TELEPHONE
(404) 853-5050

FACSIMILE
(404) 853-1812

May 13, 2021

VIA HAND DELIVERY

Mayor William Edwards
City Council, City of South Fulton
c/o Department Of Community Development
And Regulatory Affairs
5440 Fulton Industrial Blvd.
Atlanta, Georgia 30336

RE: Letter of Intent – Oakley Industrial Blvd. Zoning Modification and Concurrent Variances

Dear Mayor Edwards and City Council:

This firm represents Provision Holdings, Inc., the applicant, (“Provision”) and contract purchaser of 15 26 acres of land, more or less, as more particularly described in the enclosed legal description and site plan (“Property”). Provision seeks a zoning modification with concurrent variances to amend conditions of zoning applicable to the Property to allow a development that is in keeping with, and more suited for, the built environment and the implementation of the vision and plans for the surrounding area.

Zoning Modification

The Property is currently zoned to the MIX Zoning Category, which generally allows multifamily residential uses. The subject MIX zoning contemplates a large unified development over more than 136 acres of land. The Property is a small part of that larger development, roughly 15 acres within POD 1.

POD 1 of the original MIX zoning was intended to be commercial uses with an anchor tenant. Over the course of the past two decades, no anchor tenant has found this parcel desirable, most likely because of its lack of frontage on a major arterial route. The commercial component for POD 1 is not economically feasible.

After the original MIX zoning was approved by Fulton County under Z2002-124 and some phases developed, the conditions of zoning attached to the MIX zoning on this land was amended several times over the ensuing 18 years as specific PODS were developed. The latest modification affecting the Property is memorialized in action taken by the City of South Fulton Mayor and Council on August 28, 2018 in case number M18-003, which reflects that conditions

May 13, 2021

Page 2

of zoning were proposed and accepted to exclude multifamily units and include a hotel. As you know, following the modification to allow a hotel on this site, multiple hoteliers either renovated, built or acquired nearby parcels and hoteliers no longer seek this land as economically desirable for a first-rate hotel.

Provision wishes to modify conditions of zoning 1(c), 2(a) and 3(a) to 2002Z-0124, as most recently modified by M18-003, so as to allow the construction of a maximum of 322 multifamily units and 2500 square feet of commercial space on the 15.26 acres shown on the enclosed site plan located in POD 1. Accordingly, this modification request is submitted to the Mayor and Council for your review and Provision respectfully requests your approval.

Specifically, Provision seeks a modification so that condition 1(c) is modified to state “no more than 322 multifamily units in POD 1.” Additionally, Provision seeks a modification so that condition 2(a) is modified to add a first sentence which states “To the site plan received by the Department Of Community Development And Regulatory Affairs to allow a maximum of 322 multifamily units and 2500 square feet of commercial space on the 15.26 acres of land located in Pod 1 of the project and designated thereon.” Condition 3(a) is proposed to be modified to state “Building setbacks and distances between buildings shall be provided as shown on the site plan prepared by Thomas & Hutton Entitled “South Fulton Apartments” dated 5/12/2021” and submitted to the City of South Fulton, Georgia on May 14, 2021.”

Finally, the zoning modification is sought because the development as shown on the existing conditions of zoning cannot accomplish the goals and purposes of the zoning ordinance and land use planning principles. The existing zoning condition envisions a hotel on the subject property, but such a use is not economically feasible and a multifamily residential community is a more compatible transitional use between the townhome community to the north and the highway commercial to the south and west of the subject property. The provision of residents in the area who will use the pedestrian amenities and frequent smaller retail establishments that serve their needs offers a balance of uses that promotes the character of the surrounding properties.

For these reasons, Provision respectfully requests that the zoning modification be approved so that the Property can be developed in an economically feasible way that meets planning principles and the goals of the City’s Zoning Ordinance.

Concurrent Variances

Provision seeks 2 concurrent variances: (1) to vary Section 602.2 to reduce minimum required parking from 552 parking spaces to 496 spaces; and (2) to vary Section 405(a)(1) to reduce required landscape strip width from a 20 foot minimum to a 10 foot minimum. Each request meets all of the criteria necessary for approval of the variance and therefore Provision respectfully requests that such variances be approved. Each criterion will be addressed in turn.

May 13, 2021

Page 3

- A. The application of the particular provision of the Zoning Ordinance to a particular piece of property, due to extraordinary and exceptional conditions pertaining to that property because of its shape, size or topography, would create an unnecessary hardship for the owner while causing no detriment to the public.

The strict enforcement of the parking requirement would create an unnecessary hardship due to the Property's topography, shape and size which, if a variance is granted, would cause no detriment to the public. The Property is an awkward shaped parcel with ten (10) sides, those sides intersecting at sharp angles and rounded curves, creating an irregular shape. In addition, the Property's topography contains steep slopes and extreme topography and a stream running through the middle of it, which results in less land to accommodate buildings or parking spaces for the types of uses desired in this MIX development. Additionally, accommodations for stormwater management facilities, passive parks and recreation reduces the buildable area within the awkwardly-shaped parcel.

These conditions create a hardship in providing the minimum required functional area for the mix of uses and its parking because the Property is burdened by "pinch points" due to the steep slopes, topography, stream and an irregular area within which to place geometrically regular parking spaces and associated access.

The hardship is unnecessary to serve the purposes of the Zoning Ordinance. Section 5-1006 declares the purposes of the Zoning Ordinance to be, among other things, to provide for adequate open space, recreation areas, and to lessen congestion in the streets, to facilitate the adequate provision of transportation and to promote desirable living conditions. The strict enforcement of the parking requirements would contradict these goals, in these particular circumstances, because to do would reduce the amount of amenity areas, open space and land disturbance of environmentally sensitive areas. In addition, the reduced amount of parking results in fewer vehicles serving the site, which results in less traffic congestion. It is not necessary to strictly enforce the parking requirement in this case in order to meet the purposes of the Zoning Ordinance.

The approval of the variance would not cause detriment to the public. As a practical matter, overflow parking (which is not likely to occur due to actual parking demands as concluded by the traffic engineer) would have to occur outside of the gated boundary of the community. The distance between the proposed residential community and the nearest areas to park in a manner affecting the public is simply too far to be a practical parking alternative.

Likewise as to the landscape strip reduction, all of the same site features create pinch points which require that a distance requirement be reduced to allow the desired MIX proposal. The portion of the Property between the stream and the public road, where the landscape strip is required, is very narrow and will not accommodate a building and parking. In order to reduce impact on the environmentally sensitive areas, Provisions requests a slight reduction in the landscape strip.

May 13, 2021

Page 4

The full provision of the 20 foot width of the landscape strip is not necessary to serve the purpose of the Zoning Ordinance because Provision proposes to locate linear landscaped islands within the parking lot itself, thereby dispersing canopy and greenspace throughout the parking lot instead of in small locations in various spots. The parking lot itself will have landscaping to soften the visual impact from the right-of-way, thereby adding to the landscaped design along Oakley Industrial Boulevard.

- B. Special conditions and circumstances exist which are peculiar to the land, structure, and buildings involved and which are not applicable to other land, structures, or buildings within the same district.

There exist special conditions and circumstances which are peculiar to this land and buildings alone and which do not apply to any other land, structures or buildings within the same district. The Property is the only one that has the unique awkward shape.

- C. The literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of the rights commonly enjoyed by other properties within the same district under the terms of the Zoning Ordinance.

The strict and literal enforcement of the minimum parking requirement would deprive the applicant of rights commonly enjoyed by other properties within the MIX district because that district specially allows (and encourages) accessory amenity areas and open spaces. Due to the steep slopes, shape and size of the lot, these commonly enjoyed rights are denied to Provisions if the minimum parking requirement must be met within the gated community. Likewise, the imposition of the full 20 foot wide landscape strip deprives the landowner of placing a single building with accessory parking (that otherwise meets and exceeds parking lot landscaping standards) along the road frontage, which is a right commonly enjoyed by other properties.

- D. The special conditions and circumstances do not result from the actions of the appellant.

The special conditions and circumstances do not result from the actions of Provisions. The size, shape and topography of the land all result from natural causes.

- E. Granting the variance will not confer upon the appellant any special privilege that is denied by this Zoning Ordinance to other lands, structures, or buildings in the same district.

Approval of these variance requests will not confer upon the Provision any special privilege denied to others by the zoning ordinance because this request meets all of the criteria for such approval. Given the unique circumstances of the awkward shape of the lot, the uses desired by the current zoning, and the location of the Property in relationship to its surrounding uses, and the stream onsite, nothing special is being granted that would be denied to others in this highly unique circumstance. Other lands without such burdens enjoy the right to have a building along the street frontage and providing adequate accessory parking without invading

May 13, 2021

Page 5

environmentally sensitive areas; Provision would not be receiving a special privilege obtaining the same.

- F. The request is limited to the extent necessary to alleviate the unnecessary hardship and not as a convenience to the appellant or gain an advantage or interest over similarly zoned property.

The request to reduce minimum required parking from 552 to 496 is limited to only that which is necessary and is not sought merely as a convenience but rather as a necessity to adequately provide accessory aspects of the site, such as open space, setbacks, buffers, interparcel connection and amenity space, which serve the public interest and are customarily enjoyed by others in the same district. No advantage or interest over similarly zoned property is achieved with the approval requested. Indeed, the parking requested is more than adequate to serve the uses being proposed.

As to the landscape strip, the site plan shows that there is no additional area between the “pinch point” of the stream buffer and landscape strip that is not being used for parking or the building. No advantage or convenience over another similarly zoned property is gained by approving this application.

- G. Relief, if granted, would be in harmony with, or could be made to be in harmony with, the general purpose and intent of the Zoning Ordinance.

Section 5-1006 declares the purposes of the Zoning Ordinance to be, among other things, to provide for adequate open space, recreation areas, and to lessen congestion in the streets, to facilitate the adequate provision of transportation and to promote desirable living conditions. Relief, if granted, would allow these goals to be met. If denied, these goals would be frustrated. Relief would allow the provision of amenity areas, open space, adequate buffers, interparcel connection providing alternate routes of traffic to the public to avoid busy intersections and the protection of environmentally sensitive areas. If relief is denied, Provisions would be forced to use the open areas, amenity space and interparcel connection for parking spaces Relief, if granted, would serve and implement the purposes of the Zoning Ordinance as articulated in Section 5-1006 of the City Code.

As to the landscape strip, though the strip is narrower, the applicant will be landscaping the parking lot with linear islands, as opposed to the small blocks located in various spots in the parking lot. This will provide for a more continuous and dispersed canopy along the frontage of the Property that exceeds the value of an additional 10 feet of landscaping along the street.

Notice of Constitutional Objections

As you know, Georgia law requires the applicant to give the governing authority fair notice if it believes that the current zoning of the property, and the continued enforcement of the current zoning in the future, would deprive it and/or the owner of constitutional rights. Accordingly, this is to place the governing authority of the City of South Fulton on notice that

May 13, 2021

Page 6

the continued enforcement of the current zoning on the Property, or the continued enforcement of any zoning regulation that prevents the Property from being developed and used as proposed herein would violate the owner's and applicant's rights guaranteed by Article I, Section I, Paragraph I; Article I, Section I, Paragraph II; and Article I, Section III, Paragraph I of the Georgia Constitution and the 5th and 14th amendments to the US Constitution. However, given that the proposal is consistent with, and implements, the goals and purposes of the Zoning Ordinance, the MIX zoning district and land use planning principles, we respectfully urge that this application be approved.

Sincerely,

WILSON BROCK & IRBY, L.L.C.

A handwritten signature in black ink, appearing to read "SH ROTHMAN", followed by a horizontal line.

Stephen Rothman

Enclosures

