



CIVILITY PLEDGE

The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

ALAN HALLMAN
MAYOR

MIKE RAST
ALDERMAN AT LARGE

BRETT REICHERT
COUNCILMAN AT
LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

MAYOR AND COUNCIL WORK SESSION

Join in person at 700 Doug Davis Drive, Hapeville, GA 30354 Or, visit the City's Website for live stream at
<http://hapevillega.civicclerk.com/Web/Player.aspx?id=945&key=-1&mod=-1&mk=-1&nov=0>

March 21, 2023 6:00 PM

AGENDA

1. CALL TO ORDER:

2. ROLL CALL:

Alan Hallman
Mike Rast
Brett Reichert
Mark Adams
Chloe Alexander

3. WELCOME:

4. PUBLIC HEARING:

- 4.I. Consideration and action on a request to rezone the property located at o Norman Berry Drive.

Background:

Williams Teusink, LLC submitted a rezoning request for the property located at o Norman Berry Drive on Land Lot 127 of the 14th District, City of Hapeville, Fulton County, Georgia, Parcel Identification Number 14 0127 LL1230 from U-V, Urban Village to C-2, General Commercial for the purpose of constructing a hotel.

The Planning Commission considered this item on March 14, 2023 and recommended denial. Staff supports their recommendation.

Staff Comments:

Applicant Comments:

Public Comments:

Supporting Document(s):

1. Application - o Norman Berry Drive_Redacted
2. Plans - o Norman Berry Drive
3. Council Memo for Rezoning Request o Norman Berry Drive 031723
4. Legal Adv. 03-21-2023_o Norman Berry Dr._Rezoning
5. Minutes - 03-14-2023_Summary Minutes

5. QUESTIONS ON AGENDA ITEMS:

The public is encouraged to communicate their questions, concerns, and suggestions during Public Comments. The Council does listen to your concerns and will have Staff follow-up on any questions you raise. Any and all comments should be addressed to the Governing Body, not to the general public and delivered in a civil manner in keeping with common courtesy and decorum.

6. CONSENT AGENDA:

- 6.I. Consideration and Action to approve the March 7th, Council Meeting minutes.

Supporting Document(s):

1. 03072023 Drafted Minutes
- 6.II. Consideration and Action to enter into an agreement with Bright from the Start Summer Food Service Program, nominate Ashley Moody as Delegated Principle, and acceptance from Ashley Moody of this position as Principal.

Background:

The Summer Food Service Program (SFSP) is a federally-funded, state-administered reimbursement program that offers free, healthy meals to children under the age of 18 and adults with disabilities in low-income areas. The SFSP grant allows the Recreation Department to serve breakfast and lunch free of charge to children who attend summer camp and residents in the Hapeville area. Last year we were reimbursed over \$8,500. We were able to serve over 2,200 meals during a time span of 8 weeks. This is a non-matching reimbursement grant.

The Recreation Department and the City of Hapeville grant authorization to Ashley Moody to act as the Delegated Principal for the summer of 2023. Ashley Moody accepts the appointment of Principal for the City of Hapeville with all duties and responsibilities pertinent to this appointment.

Supporting Document(s):

1. Delegation of Authority 2023

7. OLD BUSINESS:

8. NEW BUSINESS:

- 8.I. Consideration and Action to approve the Represent Yourself Scholarship 5k Event Request.

Background:

The Freemont Foundation Represent yourself 5K is a fundraising event that supports our scholarship and educational outreach programs. This is our 10th year of community service! The event will be based at Jess Lucas Park from 7 am-1 pm. Food will be served, and music will be played during the event, which hosts approximately 200 runners. The route will be marked with cones, and road closings will be needed with the approval of the Hapeville Police Department. Our route has been previously approved and will be submitted again, as this will be our 5th year hosting in Hapeville.

Supporting Document(s):

1. FW_ Online Form Submittal_ Event Request Form_Redacted
 2. Represent Yourself 5k Map
 3. Hapeville Banner 2023
- 8.II. Consideration and Action to approve the Delta Scholarship 5K run.

Background:

This will be the 11th Delta Scholarship 5K run. The Delta Care & Scholarship Fund is a 501(c)(3) organization. All proceeds from the 5K will benefit the Delta Scholarship Fund. The Delta Scholarship fund provides educational scholarships to worldwide employees of Delta Air Lines and their eligible dependents. Last year, the Delta Scholarship Fund awarded over 750 scholarships totaling \$1.95M due to the generosity of Delta employees and our community support. Our 5K course is a USATF-certified course (AJC Peachtree Road Race Official Qualifying event).

Supporting Document(s):

1. Delta Scholarship Fund 5k
2. Delta 5K - C&C Work Around

8.III. Consideration and Action on Intergovernmental Agreement with Fulton County to Conduct the Municipal General Election for November 7, 2023, and Authorize Payment of Invoice.

Background:

O.C.G.A. § 21-2-45(c) authorizes the governing authority of any municipality to contract with the county within which that municipality wholly or partially lies to conduct any or all elections. Attached is an Intergovernmental Agreement with Fulton County to conduct the Municipal General Election on November 7, 2023, and an invoice in the amount of \$38,597.08 for services.

Supporting Document(s):

1. Memorandum
2. Fulton County Election Service IGA

8.IV. Discussion on the Art Container Memorandum of Understanding (MOU).

Background:

At the March 7, 2023 Mayor and Council meeting there an item for an event by local businesses, Beer Girl and Got Seafood, to rent usage of the Arts Alley and Arts Container on April 22, 2023 for a Beer Girl and Got Seafood Crawfish Boil. Council approved the restriction of the Alley and with access to the Container. During public comment, Executive Director Hapeville Arts Alliance expressed disappointment with the council decision.

Given the comments at the March 7th meeting, council has suggested an open discussion of the Arts Container including authority and purpose of its use.

Included in the packet is the 2014 Memorandum of Understanding

Supporting Document(s):

1. Arts Alliance - City of Hapeville Container MOU

9. CITY MANAGER REPORTS:

10. PUBLIC COMMENTS:

Members of the public wishing to speak shall sign in with the City Clerk prior to the start of the meeting. Time limitations for Registered Comments are three (3) minutes per person. The total Registered Comment session shall not last more than fifteen (15) minutes unless extended by Council. Each member of the public, who fails to sign up with the City Clerk prior to the start of the meeting, wishing to address Mayor and Council shall have a total of two (2) minutes. The entire general comment session for Unregistered Comments shall not last more than ten (10) minutes unless extended by Council.

11. MAYOR AND COUNCIL COMMENTS:

12. EXECUTIVE SESSION: *When Executive Session is Required one will be called for the following issues: 1) Litigation O.C.G.A. §50-14-2; 2) Real Estate O.C.G.A. §50-14-3(b)(1); or 3) Personnel O.C.G.A. §50-14-3(b)(2).*

13. ADJOURN:

Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.

22-PC.-9-36

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
REZONING APPLICATION**

Name of Applicant Williams Teusink, LLC

Mailing Address 312 Sycamore Street, Decatur, GA 30030

Telephone (404) 373-9590 Mobile# [REDACTED]

Email kwilliams@williamsteusink.com

Property Owner (s) Fort Wayne Capital, LLC

Mailing Address 2253 Grady Ridge Trail, Duluth, GA 30097

Telephone (678) 468-4254 Mobile#

Address/Location of Property: 0 Norman Berry Drive, Hapeville, GA

Parcel ID #: 14 0127 LL1230

Square Foot of Property 78,896 Acres 1.811

Present Zoning Classification UV Proposed Zoning Classification C-2

Present Land Use Surface Parking Lot

Proposed Land Use Hotel

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

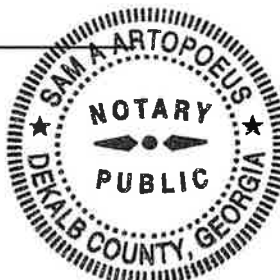
[Signature]
Applicant's signature

Date:

Sworn to and subscribed before me

This 13 day of September, 2022

[Signature]
Notary Public 1/21/23



**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
REZONING APPLICATION**

LETTER OF INTENT

In detail, provide a summary of the proposed project in the space provided below. Include the proposed use of each existing or proposed building, and the proposed land use.

Fort Wayne Capital, LLC purchased Tax Parcel ID Number 14 0127 LL 1230 which is currently a paved parking lot.

Fort Wayne Capital, LLC desires to rezone the property to a C-2 zoning to allow for development of a new hotel.

The parcel is currently zoned as U-V, with a future land use of High Intensity Mixed Use. Situated just north of Virginia Ave and on the western border of the City of Hapeville the property is ideally suited for redevelopment as a Hotel.

What are the reasons the property cannot be used in accordance with the existing regulations?

The proposed use is not compatible with the zoning of U-V as envisioned, Fort Wayne Capital, LLC is seeking to redevelop the property in such a way that better serves the surrounding community, provides higher economic usage and provides employment opportunities.

As currently configured the existing parking lot is not ideally suited to the planned future land use of High Intensity Mixed Use

Will the proposed zoning change create an isolated zoning district that is unrelated to adjacent and nearby districts? Yes _____ No ☒

If so, why should this property be placed in a different zoning district than all adjoining property?

All adjoining property is also zoned C-2, excluding the shopping district to the south which is currently zoned U-V.

How would the proposed zoning change impact on public facilities and services?

The proposed zoning would result in development to water and sewer services, facilities such as police, fire and schools would see not substantial change, the proposed rezoning is intended to develop a hotel for short term stays.

What environmental impacts would the proposed project have?

Site Development would take place with this project as a new construction in the future, these improvements would be compliant with the most current version of Georgia's Stormwater Manual, additionally proposed landscaping with the hotel would improve on current open space surrounding the property.

Describe the effect the proposed zoning request will have on the adjacent properties and how it will impact the character of the neighborhood.

Proposed zoning will have a minimal impact on neighboring properties, the only property currently abutting this parcel shares a curb cut along Norma Berry. The construction of the hotel will have the property joining eight neighboring properties with the same zoning district. It would be one of 11 hotels within a half mile radius, right by the interstate.

Are there any proffered conditions you would like to apply to and be made part of this application for rezoning? Yes _____ No No

Please list any written proffered conditions below.

Any development and site plans or other demonstrative materials presented as proffered conditions shall be referenced below and attached to this application as follows: (Please include a date or other identifiable information of each piece of material attached)

Site Plan, Tax Parcel Map, Survey, Vesting Deed, Aerial Shot of Property Authorization for Representation

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
REZONING APPLICATION**

AUTHORIZATION OF PROPERTY OWNER

I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:

0 Norman Berry Drive, Hapeville, GA 30354

Tax Parcel Id No. 14 0127 LL1230

City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF A REZONING FOR THE PROPERTY.

Name of Applicant Williams Teusink, LLC

Address of Applicant 312 Sycamore Street, Decatur, GA 30030

Telephone of Applicant (404) 373-9590

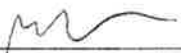


Signature of Owner

Fort Wayne Capital, LLC

Print Name of Owner

Personally Appeared Before Me this 7th day of September, 2022



Notary Public



**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
REZONING APPLICATION**

Date

9/13/2022

AUTHORIZATION OF ATTORNEY

**THIS SERVES TO CERTIFY THAT AS AN ATTORNEY-AT-LAW, I HAVE BEEN
AUTHORIZED BY THE OWNER(S) TO FILE THE ATTACHED APPLICATION
FOR REZONING OF THE PROPERTY LOCATED AT:**

Tax Parcel ID No. 14 0127 LL1230

City of Hapeville, County of Fulton, State of Georgia

Name of Attorney

Kyle Williams

Bar No.

763910

Address

312 Sycamore Street

Telephone

4043739590

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
REZONING APPLICATION**

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS & GIFTS

Application filed on September 13, 2022 for action by the City Council on the following requested rezoning:

U-V to C2

Address to be rezoned: 0 Norman Berry Drive, Tax Parcel Id No. 14 0127 LL1230

All individuals, business entities or other organizations having a property or other interest in said property that is subject of this application are as follows:

Williams Teusink, LLC

Fort Wayne Capital, LLC

The undersigned below, making application for Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on this form as provided.

Have you as applicant or anyone associated with this application or property, within the two (2) years immediately preceding the filing of this application, made campaign contributions aggregating \$250 or more to a member of the Hapeville City Council? Yes ☒ No ☐

If YES, please complete the following section (attach additional sheets if necessary):

Name and Official Position of Government Official	Contributions (List all which aggregate to \$250 or more)	Date of Contribution (Within last 2 years)

I do hereby certify the information provided herein is both complete and accurate to the best of my knowledge.

[Signature]
Signature of Applicant

R. KYLE WICKAMY
Type or Print Name and Title

Signature of Applicant's Representative

Type or Print Name and Title

[Signature] 9/13/2022
Signature of Notary Public Date

(Affix Raised Seal Here)



Deed Book 55231 Pg 560
Filed and Recorded Aug-03-2015 08:28am
2015-0235122
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

STATE OF GEORGIA

COUNTY OF COBB

Upon recording, please return to:
H. Dennis Panter, Esq.
H. Dennis Panter & Associates, LLC
1827 Powers Ferry Road
Building 10, Suite 200
Atlanta, GA 30339

QUITCLAIM DEED

THIS INDENTURE, Made as of the 1st day of May, in the year two thousand fifteen, between HAPEVILLE CAPITAL, LLC a Georgia limited liability company, as party of the first part, and FORT WAYNE CAPITAL, LLC a Georgia limited partnership, as party of the second part.

WITNESSETH:

That said party of the first part for and in consideration of the sum of ONE (\$1.00) DOLLAR AND OTHER VALUABLE CONSIDERATIONS, cash in hand paid, the receipt of which is hereby acknowledged, has bargained, sold and does by these presents bargain, sell, remise, release and forever quit-claim to the said party of the second part, its successors and assigns, all the right, title, interest, claim or demand which the said party of the first part has or may have had in and to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF
("Property")

With all the rights, members and appurtenances to the said described Property in anywise appertaining or belonging.

TO HAVE AND TO HOLD the said described Property unto the party of the second part, its successors and assigns, so that neither the said party of the first part nor its successors or assigns, nor any other person or persons claiming under it shall at any time, claim or demand any right, title or interest to the Property or appurtenances.

IN WITNESS WHEREOF, the said party of the first part has signed and sealed this Deed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

HAPEVILLE CAPITAL, LLC
A GEORGIA LIMITED LIABILITY COMPANY

[Signature]
Witness

BY: [Signature]
Jay Patel

Raynard Clay
Notary Public

ITS: Manager

My commission expires:

2/27/2016



Exhibit "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 127 of the 14th District of Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at an iron pin found at the intersection of the northerly right-of-way of Virginia Avenue with the easterly right-of-way line of Norman Berry Drive and thence North 25 degrees 47 minutes 16 seconds West a distance of 37.77 to an iron pin on the easterly line of the 50' right-of-way of Norman Berry Drive; thence North 00 degrees 45 minutes 11 seconds East along said right-of-way line a distance of 316.81 feet to THE TRUE POINT OF BEGINNING; FROM SAID TRUE POINT OF BEGINNING, running thence North 00 degrees 45 minutes 11 seconds East along said easterly right-of-way of Norman Berry Drive a distance of 183.07 feet to a point; thence leaving said easterly right-of-way of Norman Berry Drive and following the right-of-way of the Virginia Avenue exit ramp from I-85 to following courses and distances: North 27 degrees 37 minutes 48 seconds East a distance of 58.32 feet to a point; thence along the arc of a 250' radius curve to the right an arc distance of 121.52 feet (said arc being subtended by a chord bearing North 75 degrees 05 minutes 40 seconds East and having a chord distance of 120.33') to a point; thence along the arc of an 85.20' radius curve to the right an arc distance of 135.64 feet (said arc being subtended by a chord bearing South 49 degrees 16 minutes 08 seconds East and having a chord distance of 121.76') to a point; thence South 00 degrees 13 minutes 16 seconds West a distance of 189.19 to an iron pin set; thence leaving said exit ramp and running North 89 degrees 14 minutes 49 seconds West along the center line of a 31' Joint Access Easement a distance of 237.56 feet to the POINT OF BEGINNING; being as more fully shown by ALTA/ACSM Survey for Diplomat Development Company, LLC, by Charles S. Crisp, GA RLS No. 2936, dated September 18, 2007 (the "Survey").

TOGETHER WITH the rights, easements, privileges and obligations appurtenant to the above-described land created and established under that certain Declaration of Reciprocal Easement by Diplomat PR Hotels, LLC, dated December 19, 2007, filed December 26, 2007, and recorded in Deed Book 46143, page 689, Records of Fulton County, Georgia.

ALTA/ACSM LAND TITLE
SURVEY MADE FOR:
JEFFERES LANDCORE, LLC
A DELAWARE LIMITED PARTNERSHIP
HAPEVILLE CAPITAL, LLC
FIRST AMERICAN TITLE INSURANCE COMPANY
PROPERTY LOCATED IN:
LAND LOT 127 # 14TH DISTRICT
CITY OF HAPEVILLE
FULTON COUNTY, GEORGIA
SCALE: 1" = 30' # 12-02-2013

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE
USE OF THAT NAME APPEARING IN THE TITLE
BLOCK AND IS CERTIFIED TO NO OTHER PARTY.

REVISED 12-19-2013
REVISED 05-06-2014

TO DIPLOMAT PR HOTELS, LLC, GRADY RIDGE INVESTMENTS, LLC & FIRST AMERICAN TITLE
INSURANCE COMPANY:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE
MADE IN ACCORDANCE WITH THE 2011 MINIMUM STANDARD DETAIL REQUIREMENTS FOR
ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS,
AND INCLUDES ITEMS 17, 18 & 19 OF THE 2011 STANDARD DETAIL REQUIREMENTS FOR ALTA AND NSPS,
THEREOF. THE FIELD WORK WAS COMPLETED ON 11-23-2013.

DATE OF PLAT ON MAP: 12-02-2013


JONATHAN B. PRINCE, R.L.S.#3244

12-19-2013

DATE



EXHIBIT "A"

ALL THAT TRACT OR PARCELS OF LAND lying and being in Land Lot 127 of the 14th District of Fulton County
Georgia, and being more particularly described as follows:
(a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p) (q) (r) (s) (t) (u) (v) (w) (x) (y) (z) (aa) (ab) (ac) (ad) (ae) (af) (ag) (ah) (ai) (aj) (ak) (al) (am) (an) (ao) (ap) (aq) (ar) (as) (at) (au) (av) (aw) (ax) (ay) (az) (ba) (bb) (bc) (bd) (be) (bf) (bg) (bh) (bi) (bj) (bk) (bl) (bm) (bn) (bo) (bp) (bq) (br) (bs) (bt) (bu) (bv) (bw) (bx) (by) (bz) (ca) (cb) (cc) (cd) (ce) (cf) (cg) (ch) (ci) (cj) (ck) (cl) (cm) (cn) (co) (cp) (cq) (cr) (cs) (ct) (cu) (cv) (cw) (cx) (cy) (cz) (da) (db) (dc) (dd) (de) (df) (dg) (dh) (di) (dj) (dk) (dl) (dm) (dn) (do) (dp) (dq) (dr) (ds) (dt) (du) (dv) (dw) (dx) (dy) (dz) (ea) (eb) (ec) (ed) (ee) (ef) (eg) (eh) (ei) (ej) (ek) (el) (em) (en) (eo) (ep) (eq) (er) (es) (et) (eu) (ev) (ew) (ex) (ey) (ez) (fa) (fb) (fc) (fd) (fe) (ff) (fg) (fh) (fi) (fj) (fk) (fl) (fm) (fn) (fo) (fp) (fq) (fr) (fs) (ft) (fu) (fv) (fw) (fx) (fy) (fz) (ga) (gb) (gc) (gd) (ge) (gf) (gg) (gh) (gi) (gj) (gk) (gl) (gm) (gn) (go) (gp) (gq) (gr) (gs) (gt) (gu) (gv) (gw) (gx) (gy) (gz) (ha) (hb) (hc) (hd) (he) (hf) (hg) (hh) (hi) (hj) (hk) (hl) (hm) (hn) (ho) (hp) (hq) (hr) (hs) (ht) (hu) (hv) (hw) (hx) (hy) (hz) (ia) (ib) (ic) (id) (ie) (if) (ig) (ih) (ii) (ij) (ik) (il) (im) (in) (io) (ip) (iq) (ir) (is) (it) (iu) (iv) (iw) (ix) (iy) (iz) (ja) (jb) (jc) (jd) (je) (jf) (jg) (jh) (ji) (jj) (jk) (jl) (jm) (jn) (jo) (jp) (jq) (jr) (js) (jt) (ju) (jv) (jw) (jx) (jy) (jz) (ka) (kb) (kc) (kd) (ke) (kf) (kg) (kh) (ki) (kj) (kk) (kl) (km) (kn) (ko) (kp) (kq) (kr) (ks) (kt) (ku) (kv) (kw) (kx) (ky) (kz) (la) (lb) (lc) (ld) (le) (lf) (lg) (lh) (li) (lj) (lk) (ll) (lm) (ln) (lo) (lp) (lq) (lr) (ls) (lt) (lu) (lv) (lw) (lx) (ly) (lz) (ma) (mb) (mc) (md) (me) (mf) (mg) (mh) (mi) (mj) (mk) (ml) (mm) (mn) (mo) (mp) (mq) (mr) (ms) (mt) (mu) (mv) (mw) (mx) (my) (mz) (na) (nb) (nc) (nd) (ne) (nf) (ng) (nh) (ni) (nj) (nk) (nl) (nm) (nn) (no) (np) (nq) (nr) (ns) (nt) (nu) (nv) (nw) (nx) (ny) (nz) (oa) (ob) (oc) (od) (oe) (of) (og) (oh) (oi) (oj) (ok) (ol) (om) (on) (oo) (op) (oq) (or) (os) (ot) (ou) (ov) (ow) (ox) (oy) (oz) (pa) (pb) (pc) (pd) (pe) (pf) (pg) (ph) (pi) (pj) (pk) (pl) (pm) (pn) (po) (pp) (pq) (pr) (ps) (pt) (pu) (pv) (pw) (px) (py) (pz) (qa) (qb) (qc) (qd) (qe) (qf) (qg) (qh) (qi) (qj) (qk) (ql) (qm) (qn) (qo) (qp) (qq) (qr) (qs) (qt) (qu) (qv) (qw) (qx) (qy) (qz) (ra) (rb) (rc) (rd) (re) (rf) (rg) (rh) (ri) (rj) (rk) (rl) (rm) (rn) (ro) (rp) (rq) (rr) (rs) (rt) (ru) (rv) (rw) (rx) (ry) (rz) (sa) (sb) (sc) (sd) (se) (sf) (sg) (sh) (si) (sj) (sk) (sl) (sm) (sn) (so) (sp) (sq) (sr) (ss) (st) (su) (sv) (sw) (sx) (sy) (sz) (ta) (tb) (tc) (td) (te) (tf) (tg) (th) (ti) (tj) (tk) (tl) (tm) (tn) (to) (tp) (tq) (tr) (ts) (tt) (tu) (tv) (tw) (tx) (ty) (tz) (ua) (ub) (uc) (ud) (ue) (uf) (ug) (uh) (ui) (uj) (uk) (ul) (um) (un) (uo) (up) (uq) (ur) (us) (ut) (uu) (uv) (uw) (ux) (uy) (uz) (va) (vb) (vc) (vd) (ve) (vf) (vg) (vh) (vi) (vj) (vk) (vl) (vm) (vn) (vo) (vp) (vq) (vr) (vs) (vt) (vu) (vv) (vw) (vx) (vy) (vz) (wa) (wb) (wc) (wd) (we) (wf) (wg) (wh) (wi) (wj) (wk) (wl) (wm) (wn) (wo) (wp) (wq) (wr) (ws) (wt) (wu) (wv) (ww) (wx) (wy) (wz) (xa) (xb) (xc) (xd) (xe) (xf) (xg) (xh) (xi) (xj) (xk) (xl) (xm) (xn) (xo) (xp) (xq) (xr) (xs) (xt) (xu) (xv) (xw) (xx) (xy) (xz) (ya) (yb) (yc) (yd) (ye) (yf) (yg) (yh) (yi) (yj) (yk) (yl) (ym) (yn) (yo) (yp) (yq) (yr) (ys) (yt) (yu) (yv) (yw) (yx) (yz) (za) (zb) (zc) (zd) (ze) (zf) (zg) (zh) (zi) (zj) (zk) (zl) (zm) (zn) (zo) (zp) (zq) (zr) (zs) (zt) (zu) (zv) (zw) (zx) (zy) (zz)

TOGETHER WITH the rights, easements, privileges and obligations appurtenant to the above-
described land created and established under that certain Declaration of Reciprocal Easements by
Diplomat PR Hotels, LLC, dated December 14, 2007, filed December 26, 2007, and recorded in
Deed Book 45241, page 689, Records of Fulton County, Georgia.

NOTE:

WITH REGARD TO TAKE A, ITEM 18, SOURCE INFORMATION FROM PLANS AND MARKINGS WILL BE
CONFIRMED WITH OBSERVED EVIDENCE OF UTILITIES TO DEVELOP A VIEW OF THOSE UNDERGROUND
UTILITIES. HOWEVER, LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND UTILITIES
CANNOT BE ACCURATELY DETERMINED AND REASONABLE DOUBT AS TO THE LOCATION OF ANY
DETAILED INFORMATION IS REQUIRED, THE CLIENT IS ADVISED THAT EXCAVATION MAY BE NECESSARY.

PREPARED BY:
J.B. PRINCE, R.L.S.#3244, INC.
LAND SURVEYORS
110 NORTH AVENUE STREET
STAMFORD, GA 30059
PHONE: 678-336-1414

SCHEDULE A

File No. 71311-2227

Effective Date: October 14, 2013 at 5:00 p.m.

Schedule B of the policy or policies to be issued will contain exceptions to the following
terms unless the same are changed or to the satisfaction of the Company:

1. Direct, force, encumbrances, adverse claims or other matters, if any, created, first
appearing in the public records or attaching subsequent to the effective date
hereof but prior to the date the proposed insured acquires for value of insured the
estate or interest in mortgage debtors covered by this commitment.
2. Rights or claims of parties in possession.
3. Possible unfiled mechanics' and materialmen's liens.
4. Unrecorded easements, if any, on, above or below the surface, and any
discrepancies or conflicts in boundary lines or shortages in area or measurement, which
a correct survey or an inspection of the premises would disclose.
5. General or special taxes and assessments required to be paid in the year 2014 and
subsequent years, which are due and payable.
6. Continuance of easement rights and easements contained in that certain Right of Way
Deed from the City of Atlanta to the State Highway Department of Georgia dated
April 18, 1960, and recorded in Deed Book 3561, page 71, Records of Fulton
County, Georgia.
7. Reservations of Airspace Rights contained in that certain Quitclaim Deed from the
Department of Transportation to Diplomat MBI Hotels, LLC dated July 22, 2000,
dated July 23, 2002, and recorded in Deed Book 32783, page 391, aforesaid records.
8. Easement in favor of Georgia Power Company recorded in the following records
of Fulton County, Georgia:
 - a. from Diplomat Companies, filed May 17, 2005, and recorded in Deed
Book 40225, page 104;
 - b. from Diplomat MBI Hotels, LLC, filed December 11, 2006, and recorded in
Deed Book 44073, page 51; and
 - c. from Diplomat Companies, filed January 2, 2009, and recorded in Deed
Book 44180, page 503.
9. Declaration of Reciprocal Easements by Diplomat PR Hotels, LLC, dated
December 19, 2007, filed December 26, 2007, and recorded in Deed Book 46143,
page 689, aforesaid records.
10. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Alex Caples,
LLC, as Tenant, and Bank of the West, as Lender, dated December 19, 2007, filed
January 31, 2008, and recorded in Deed Book 46242, page 50, aforesaid records.
11. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Virginia
Lambert, Inc., d/b/a Landmark Diner, as Tenant, and Bank of the West, as
Lender, dated December 19, 2007, filed January 31, 2008, and recorded in Deed
Book 46242, page 57, aforesaid records.
12. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Dean Trish
Nygren and Chuck Via Uhl, as Tenant, and Bank of the West, as Lender, dated
December 19, 2007, filed January 31, 2008, and recorded in Deed Book 46242,
page 64, aforesaid records.
13. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Midland
Investments, LLC, d/b/a Quince Sub, as Tenant, and Bank of the West, as Lender,
dated December 19, 2007, filed January 31, 2008, and recorded in Deed Book
46242, page 71, aforesaid records.
14. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, MGM Group,
Inc., d/b/a Nugget's Emerald Motel and Seaglass, as Tenant, and Bank of the
West, as Lender, dated December 19, 2007, filed January 31, 2008, and recorded
in Deed Book 46242, page 78, aforesaid records.
15. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Fabian LLC,
d/b/a Mode Spa and Salon, as Tenant, and Bank of the West, as Lender, dated
December 12, 2007, filed January 31, 2008, and recorded in Deed Book 46242,
page 85, aforesaid records.
16. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Lender, Agia LLC d/b/a
Jeffrey's, as Tenant, and Bank of the West, as Lender, dated December 6, 2007,
filed January 31, 2008, and recorded in Deed Book 46242, page 87, aforesaid
records.
17. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, Irish Road
Pub Enterprises, Inc., as Tenant, and Bank of the West, as Lender, dated
December 6, 2007, filed January 31, 2008, and recorded in Deed Book 46242,
page 99, aforesaid records.
18. Subordination, Non-Disbursement and Assignment Agreement and Escrowed
Certificate by and between Diplomat PR Hotels, LLC, as Landlord, VGP
Development, LLC d/b/a Mandala Chinese Restaurant, as Tenant, and Bank of
the West, as Lender, dated December 12, 2007, filed January 31, 2008, and
recorded in Deed Book 46242, page 106, aforesaid records.
19. The policy of title insurance to be issued in connection with this commitment will
afford protection as to the location of the boundary lines of the subject property,
but will not ensure the engineering calculations in computing the exact amount of
acreage contained therein.

SCHEDULE B

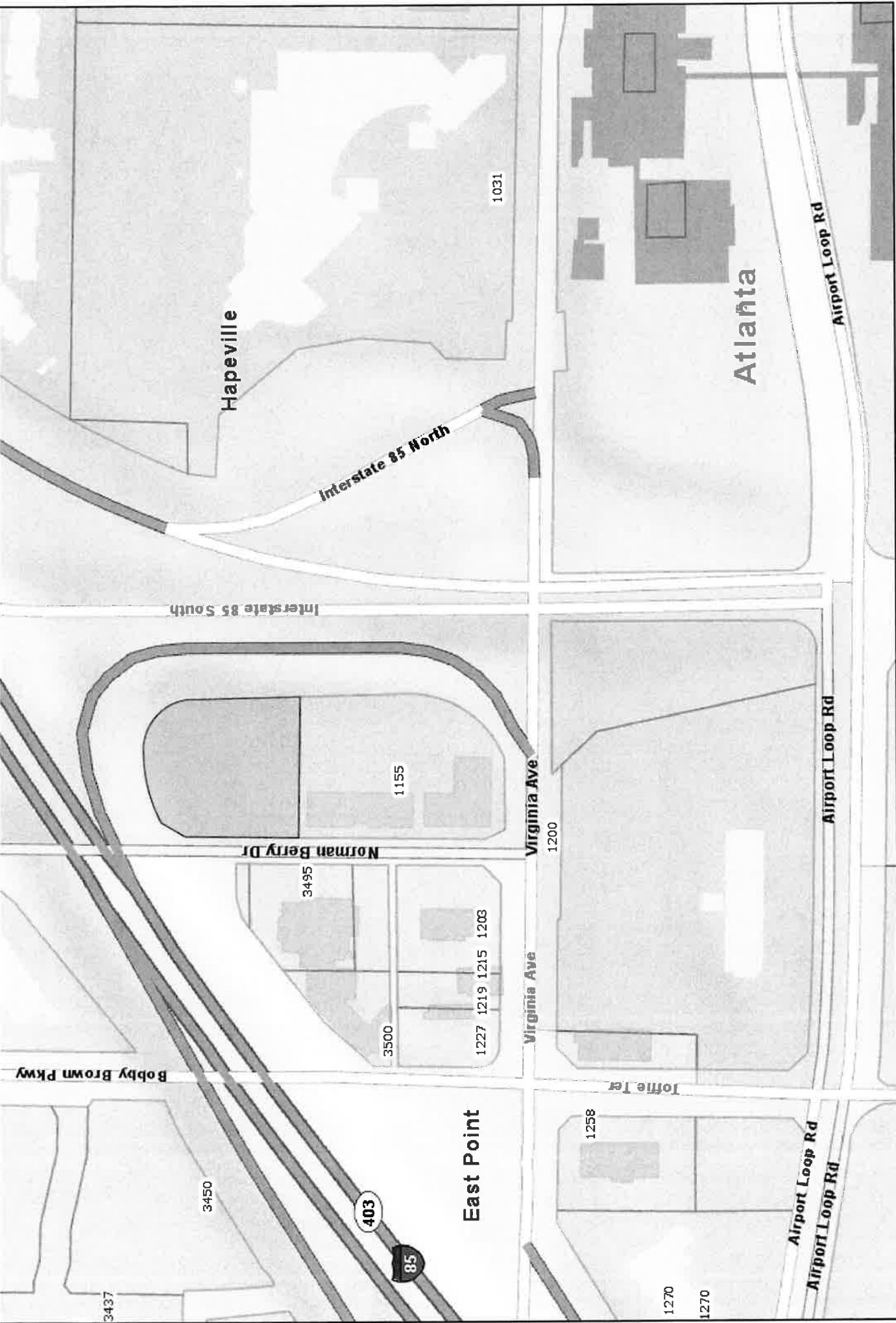
EXCEPTIONS

EXCEPTIONS 1,2,3,4,5,7,10,11,12,13,14,15,16,17,18 & 19 DO NOT AFFECT THE SURVEY.

EXCEPTION 6 IS SHOWN BY THE RIGHT-OF-WAY OF INTERSTATE 85 AND THE EXIT RAMP OF
INTERSTATE 85.

EXCEPTION 8 IS A BLANKET EASEMENT TO GEORGIA POWER COMPANY AND CANNOT BE DEPICTED
GRAPHICALLY.

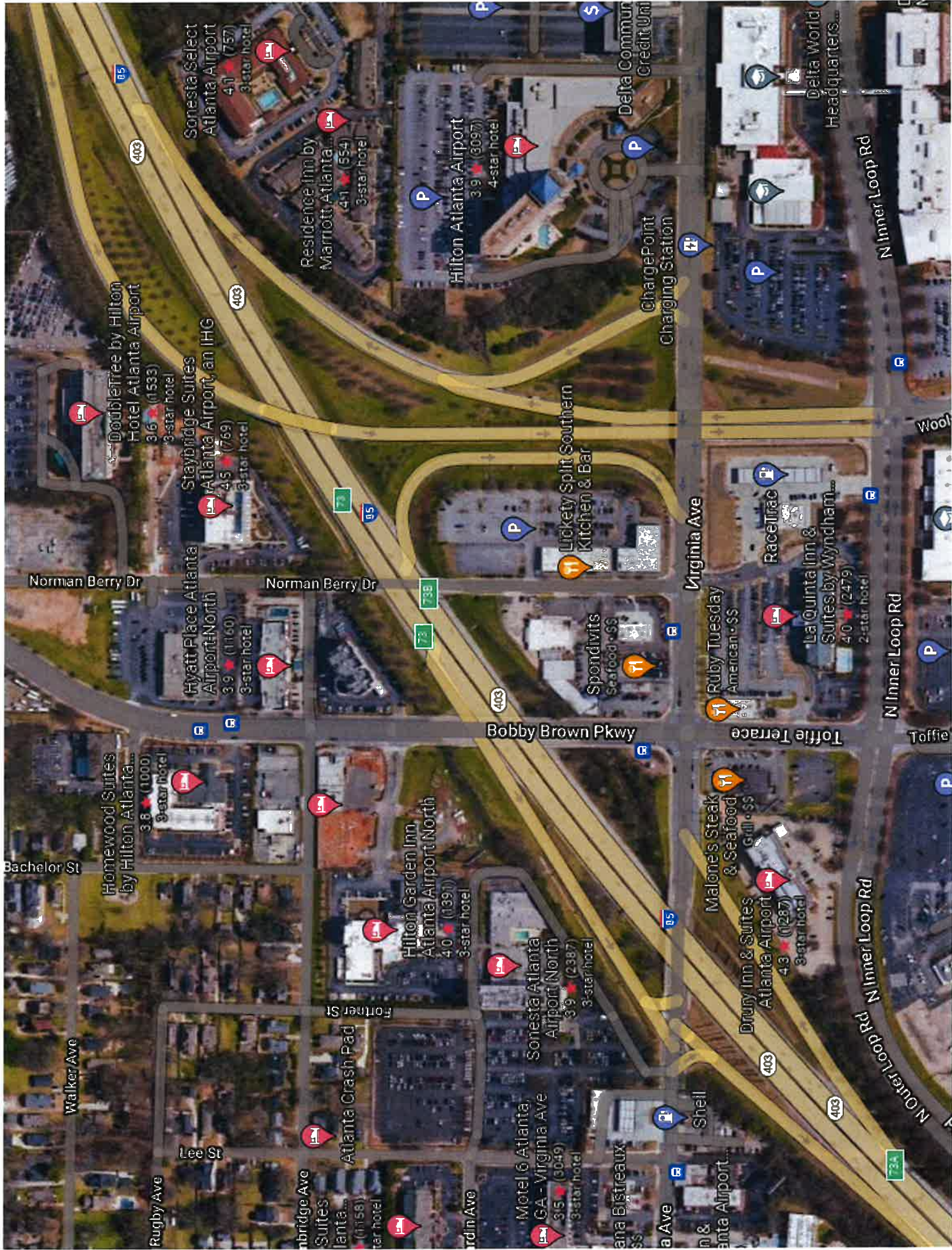
EXCEPTION 9 IS SHOWN BY THE 31' JOINT ACCESS EASEMENT, 20' SANITARY SEWER EASEMENT ALONG
ALL SANITARY SEWER LINES AND THE 10' UNDERGROUND UTILITY EASEMENT.



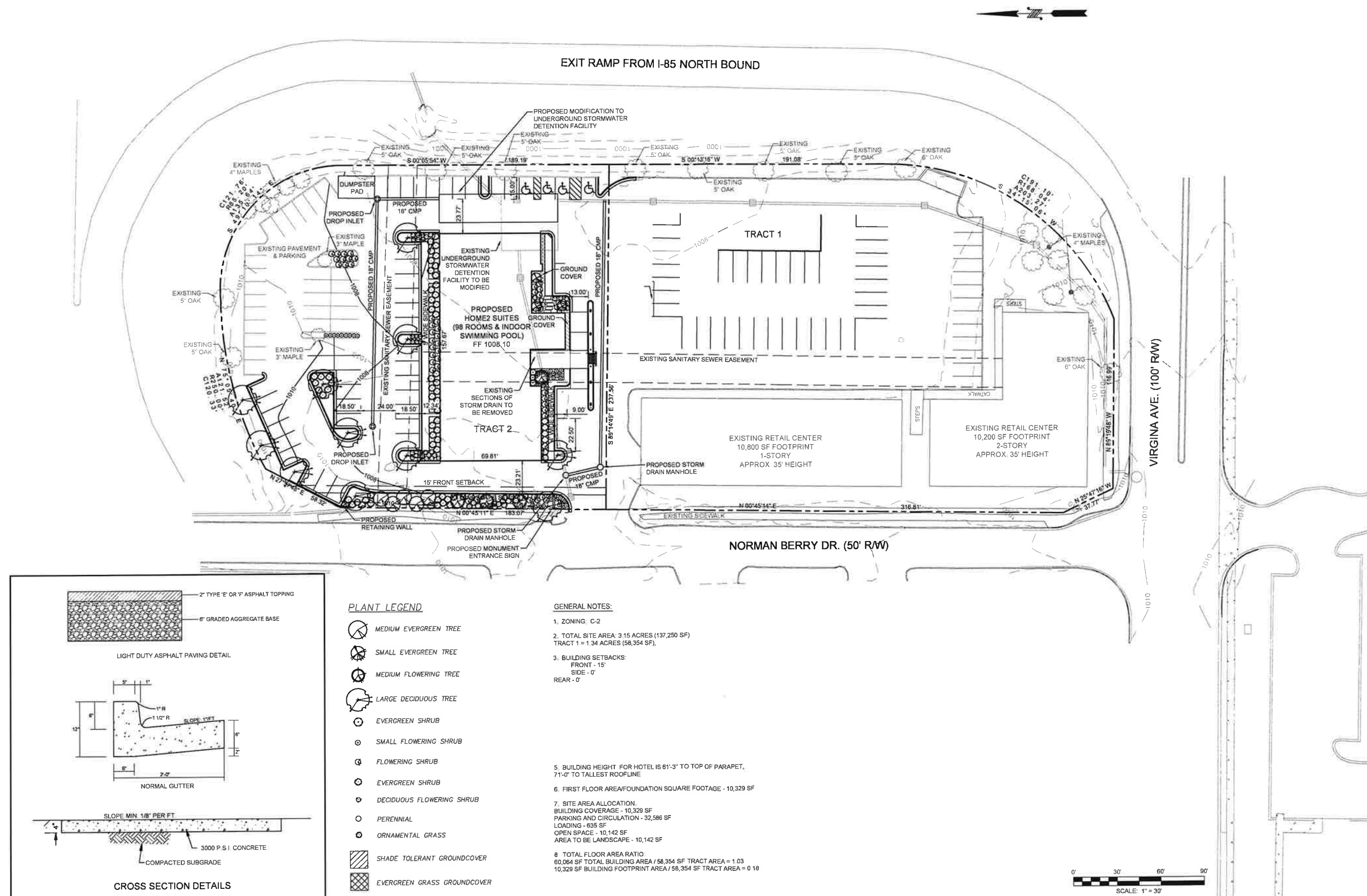
Fulton County GIS

Fulton County provides the data on this map for your personal use "as is". The data are not guaranteed to be accurate, correct, or complete. The feature locations depicted in these maps are approximate and are not necessarily accurate to surveying or engineering standards. Fulton County assumes no responsibility for losses resulting from the use of these data, even if Fulton County is

Date: 9/9/2022
Map Size: 8.5x11 (LETTER)



<https://www.google.com/maps/dir/@33.6600346,-84.4286852,856m/data=!3m1!1e3!4m2!4m1!3e0>





PLANNER'S REPORT

DATE: March 16, 2023
TO: Mayor & Council, City of Hapeville
FROM: Lynn Patterson
RE: Rezoning Application for 0 Norman Berry Drive, Tax Parcel ID 14 0127 LL1230

BACKGROUND

The City of Hapeville received a rezoning application regarding Tax Parcel ID 14 0127 LL1230 to be rezoned from U-V, Urban Village to C-2, General Commercial.

This report begins with a summary of activities on the property since 2009 when the property was first rezoned from C-2, to U-V-c.

The subject property is Parcel ID 14 0127 LL 1230 and is comprised of 1.35 acres.



2009 Property Rezoning

The property was originally one tract, zoned C-2-c General Commercial with conditions until January 6, 2009 when it was rezoned to U-V-c, Urban Village with conditions. At that time the property was owned by RC Patel, Diplomat Hospitality IV LLC.

2013 Preliminary and Final Plat, Rezoning, and Conditional Use Permit

On September 10, 2013, RC Patel, Diplomat Hospitality IV sought **preliminary plat and final plat approval** to subdivide the property into 2 tracts. Tract 1 comprised of 1.35 acres located on the northern portion of the property and Tract 2 comprised of 1.811 acres located on the southern portion of the property. The Planning Commission approved the preliminary plat request subject to the applicant requesting the applicant CORRECT the zoning shown on the parcel from C-2 to the CORRECT zoning classification (2009) of U-V-c. Conditions of the plat approval included:

1. Must show the building setback lines and easement on the plat.
2. The title must indicate "Final Plat" and the subdivision must be identified by the street address.
3. Must show a location sketch map showing the site in relation to the area.
4. Must show the required certification that the applicant is the landowner or legally authorized representative and dedicate street, rights of way, and any sites for public use.
5. Must show the required certification of approval by the Secretary of the Planning Commission.
6. Must receive final approval by the City Engineer.
7. Comply with any stricter parking requirement of the Ordinance or any conditions of zoning that may be assigned by the Mayor and Council.

At the same meeting, a **rezoning request** was then heard by the Planning Commission submitted by RC Patel to rezone the property from U-V-c to U-V Urban Village for the purpose of constructing a hotel with a parking deck. The property proposed the construction of a 142-room hotel and parking deck having a minimum of 150 spaces. The original zoning conditions were interpreted as a limitation of the development to a Homewood Suites Hotel and an allowance of a reduction in parking to 163 spaces. Mr. Patel sought to remove these conditions and did not propose any conditions for the property. The Planning Commission approved the recommendation for the rezoning and included a recommendation for a traffic study at the intersection of Norman Berry Drive and Virginia Ave.

A **conditional use application for a hotel and parking deck** was then brought forward from RC Patel. The proposed development presented to the Planning Commission was the construction of a 142-room hotel with a minimum of 150 spaces. **The Planning Commission recommended to Council approval of the Conditional Use permit with the following conditions:**

1. A minimum length of stay shall be established.
2. A maximum of 110 percent of the parking requirement for tract 1 and any additional parking necessary for tract 2 shall be provided unless otherwise approved by the City of Hapeville.
3. Applicant must submit an architectural rendering.
4. Applicant must submit a site and guest amenities package.
5. Completion of a traffic study at the intersection of Norman Berry Drive and Virginia Avenue

The City Council held a public hearing on October 1, 2013. **The rezoning request from UV-c to U-V was approved. The conditional use permit for a hotel and parking deck was approved subject to the following conditions:**

1. A minimum length of stay shall be established.
2. A reduction of parking spaces for Tract 2 to 90 spaces and a 110 percent of the parking requirement for Tract 1 and 1 per 2 rooms for Tract 2.
3. Applicant must submit an architectural rendering.
4. Applicant must submit a site and guest amenities package.
5. Completion of a traffic study at the intersection of Norman Berry Drive and Virginia Avenue

The applicant did not meet the conditions outlined in the approval nor was there development initiated on Tract 1 for the hotel and parking deck within a period of 12 months and the applicant did not request an extension of the conditional use permit.

2016 Conditional Use Permit for Parking Lot

In 2016, Roger Fisher, on behalf of Hapeville Capital submitted a conditional use permit for a parking lot. **The City Council approved the conditional use subject to the following conditions:**

1. The parking lot shall comply with all pavement standards of the Ordinance, including Sec. 93-23-5. Surfacing and maintenance, subsection (a) which requires hard surfaced pavement and shall be drained, lighted and maintained by the owner in accordance with the specifications of the City. The use of gravel as a finish top course shall not be permitted.
2. Landscaping in compliance with Sec. 93-23-18. Landscape requirements for vehicular use areas shall be installed along the frontage of Norman Berry Drive adjacent to the parking lot to screen vehicles. The original site plan that placed the buildings on the adjoining lot, Tract 2, with parking to the rear served to eliminate the view of the parking lot from the right-of-way. Such landscaping will reduce glare and the visual impact of the proposed parking lot.
3. The conditional use shall expire within 18 months of issuance of a Certificate of Occupancy.
4. No shuttle operation shall be associated with the parking lot.
5. Use of the lot shall be limited to the hours during which alcohol may be served in the city of Hapeville.
6. The provision of Sec. 93-23-5. Surfacing and maintenance which states "Parking areas that are in excess of the parking requirements of this chapter may consist of pervious materials provided the total number of parking spaces does not exceed 110 percent of the requirement" is being overridden as the parking on the property would exceed that 110 percent limit as accessory parking. The spaces that are not accessory to the buildings on the premises would be considered in approval of a "parking lot" in which spaces are presumably available to the public. NOTE: This is a new condition

After multiple meetings with City Staff, the conditional use permit was brought before Council on November 15, 2016. Staff shared that the applicant would not comply with the Planning Commission conditions as they would be too costly. **The City Council denied the conditional use permit.**

2017 Conditional Use Permit for a Commercial Parking Lot and Requests for Extension

On September 12, 2017, Hapeville Capital again requested a conditional use permit for a commercial parking lot. The applicant indicated to the City Planner he was still seeking to develop a hotel on this site. **The Planning Commission issued a recommendation for approval by the City Council with the following conditions:**

1. The parking lot shall adhere to all landscape requirements as outlined in the Planners Report
2. The parking lot shall be maintained.
3. The conditional use shall expire within 12 months of approval by Mayor & Council.
4. No shuttle operation shall be associated with the parking lot.
5. No overnight parking shall be allowed on the lot, consistent with the hours of alcohol is allowed to be serviced in the City.
6. Signs should be placed on the site indicating the above parking restrictions.
7. Staff work with business owners in the area to allow customers who are unable to drive to leave their vehicle overnight.

On September 19, 2017, the City Council issued an approval for 12 months for a commercial parking lot at the site with the Planning Commission recommended conditions.

On August 14, 2018, the applicant requested an extension of another 12 months for the commercial parking lot. **The Planning Commission recommended approval of the extension. On August 21, 2018, the City Council approved a 12 month extension.**

2022 Conditional Use Permit for a Commercial Parking Lot

On January 11, 2022, Sonial Patel and Jay Patel requested a Conditional Use Permit for a commercial parking lot on the site. **Planning Commission recommended approval with the following conditions.**

- The parking lot shall adhere to all landscape requirements per Sec 93-28-18, the U-V, Urban Village Sec 93-11.2 Sec. 93-11.2-7. - Area, placement, and buffering requirements., Sec. 93-11.2-9. - Sidewalk requirements, Sec. 93-11.2-10. - Parking and curb cut requirements, and Sec. 93-2-5. - Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings and fences, and any other applicable City Codes.
- A survey and landscape plan meeting the requirements above must be provided. The survey and landscape plan must clearly show the dimensioned parking spaces (handicapped, full-size, and compact).
- The parking lot shall be resurfaced, striped and maintained.
- Proper on-site water retention and drainage for the site must be detailed and provided.
- A fence meeting City Code must surround the lot.
- Street trees, 30' on center must be provided.
- Lighting for the parking lot.
- Security cameras for the parking lot.
- The exterior perimeter landscape area must have a horizontal dimension of no less than 5 feet with an average of 10 feet along Norman Berry drive. Vegetative screening in this landscape area must be maintained at a minimum height of three feet.
- Interior and exterior tree plantings are to be provided in accordance with chapter 93, article 29. Trees must be planted in interior portions of parking lots so that no parking space is more than 50 feet from

a parking lot tree. These trees must be placed in landscaped beds protected from the adjacent vehicles.

- This is a commercial parking lot and not an airport parking lot serving the adjacent retail. Therefore, no shuttles shall operate nor will there be any parking for more than 24 hours permitted. Signs shall be provided on the site indicating the above parking restrictions.

On January 18, 2022, the City Council approved the Conditional Use Permit application subject to the Planning Commission's recommendations.

Despite repeated requests from Staff for the site plan and landscape plan, the conditions were not met. There was no request by the applicant for an extension of the conditional use permit.

2022 Billboard Permit

In October 2022, the City received a billboard application from Brian Gaylor on behalf of the applicant for installation of a billboard on the subject property. Staff approved the billboard request for compliance with the City's Sign Ordinance.

2022 Rezoning Request

The City received an incomplete and incorrect application in September 2022 from Sam Artopoeus (Williams Teusink, LLC) on behalf of Fort Wayne Capital LLC requesting the rezoning of a 1.811 acre parcel. The application regarding the proposed parcel for consideration including incorrect parcel data, a survey for an adjacent property, and a 2015 site plan for an extended stay hotel. Fort Wayne Capital LLC did not own the 1.811 acre property. This 1.811 acre parcel was sold to MNG II LP ET AL by Hapeville Capital in 2018. The application included a quit claim deed dated May 1, 2015 between Hapeville Capital LLC and Fort Wayne Capital LLC for the proposed property. According to the County Tax Assessor's website, this property had been sold by Diplomat Hospitality IV to Hapeville Capital on May 1, 2015.

Note: Diplomat Hospitality IV was dissolved in 2012.

Staff spoke with Sam Artopoeus representing Williams Teusink outlining the deficient and incorrect application data as well as how the proposed site plan (2015) for an extended stay hotel would not be allowed per Code Sec 93-2-23 limited the maximum number of certificates of occupancy to four (4) which had already been issued. Staff also requested additional detail on the impetus behind the zoning change and Mr. Artopoeus referenced a desire to have less stringent parking requirements and a hotel. Staff responded that the parking requirements for C-2 and U-V were the same. Staff also informed Mr. Artopoeus that a conditional use permit request could be submitted for the proposed hotel under U-V. If a hotel (non -extended stay) was desired, there was clear rationale for a rezoning when this use could potentially be accommodated under a conditional use permit. After a lengthy conference call with Staff (Adrienne Senter and Lynn Patterson), Mr. Artopoeus requested a delay in review until the application materials could be located and submitted.

On February 7, 2023, the City received a correct property survey from Sam Artopoeus of Williams Teusink, LLC, for the rezoning application clarifying the rezoning application was for the 1.351 acres (58,858 SF) parcel located at 0 Norman Berry Drive (Parcel ID 14 0127 LL1230).

An additional conversation was held with Mr. Artopoeus in February advising him of missing information regarding site plan/proposed use. Mr. Artopoeus advised Staff that the proposed use was undecided.

Mr. Artopoeus was advised some indication for the proposed use (site plan, description, parcel sales marketing materials, etc.) should be provided to help inform City staff, the Planning Commission and the Mayor & Council with their evaluation of the rezoning case. In an email dated February 7, 2023, Mr. Artopoeus declined to provide the requested information, while also acknowledging that Fort Wayne Capital LLC had been advised that additional information was needed. However, Mr. Artopoeus advised that Fort Wayne Capital would not provide a new site plan or any additional information to assist in the review of the application based on a proposed use.

The present land use is vacant. As outlined above in the property history, the property had most recently been approved as a commercial parking lot in January 2022 upon completion of all Council requirements. These requirements have not been met within the 12 months allotted in the City Code therefore the property has not been permitted as a commercial parking lot.

At the Planning Commission meeting on March 14, 2023, Mr. Artopoeus stated that Fort Wayne Capital LLC purchased the property in 2015 and “at that time the property was zoned C-2.” This is a false statement. The property, per above, was zoned U-V-c in 2009 and later rezoned to U-V in 2013 by RC Patel. Mr. Artopoeus also stated initially that the applicant wishes to build a hotel* as per the submitted site plan, however, later in the meeting Mr. Artopoeus stated that the applicant did not wish to declare a use and would like to develop the property as “they see fit” under the C-2 zoning regulations. Mr. Artopoeus repeatedly referenced there was no specific plan but rather they wanted to keep options open under C-2.

The Planning Commission recommended denial of the rezoning request.

The parcel immediately adjacent to the south (1155 Virginia Avenue) is zoned U-V. The parcel to the east is located in the City of East Point, not Hapeville. The parcels located across I-85 to the north and to the east (not adjacent to the parcel) are zoned C-2. The permitted uses and other site requirements for both zoning districts are provided below.

The City of Hapeville Future Land Use Map adopted in 2017 identifies the property as High Intensity Mixed Use, consistent with the surrounding parcels (Figure 2). High Intensity Mixed Use, per the City’s 2017 Comprehensive Plan Update is mixed use zoning district that references massing such as desired building heights, including the potential for high density mixed use development.

*the submitted site plan showed an extended stay hotel.

REVIEW OF APPLICATION

The proposed rezoning is to accommodate either a hotel or an unknown use to be located at 0 Norman Berry Drive, Parcel ID 14 0127 LL1230. If the proposal is for a hotel, a hotel is allowable with an approved conditional use permit – similar to the one that had been granted on the property in 2013 but never fulfilled by the owner. If the proposed use is not specific as represented in the Planning Commission meeting on 3/14/23, then the application is insufficient as a site plan is required for review of the application.

(1) The existing land use pattern;

The existing land use pattern is vacant / parking lot but surrounded by commercial and retail uses. On January 2022, the City Council had conditionally approved a commercial parking lot provided the applicant met all of the stated requirements. The applicant did not submit the requirements of the Conditional Use Permit approval with conditions within 12 months and did not request an extension. Therefore, the use is considered vacant property at this time.

(2) The possible creation of an isolated district unrelated to adjacent and nearby districts;

The parcel immediately adjacent to the property/sharing a property line is zoned U-V. Parcels across Interstate 85 are zoned C-2. A parcel across Norman Berry is located in the City of East Point, outside of the jurisdiction of Hapeville. U-V is a mixed-use designation intended to support neighborhood scale development. C-2 is a commercial only designation. U-V and C-2 zoning have different site development requirements such as sidewalks and building setbacks (see Code above).

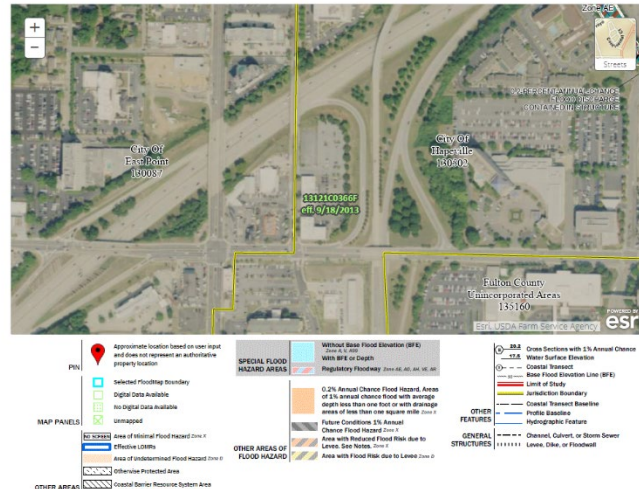
(3) The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets;

If the future use is a hotel, then the details of the hotel should be provided (the applicant's representative indicated this was not an extended stay hotel but did not provide updated information on a proposed hotel). If the proposed use is unspecified, per the comments made to Planning Commission on 3/14/23, staff cannot determine whether there would be a significant increase or overtaxing on schools or other utilities.

(4) The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures;

There is a main sanitary sewer transmission line that runs east/west on the site. Any relocations or modifications to the lateral sanitary sewer line running north/south would be the responsibility of the property owner.

The proposed project is not located in any Flood Zone Area according to FEMA Flood Map 9/18/2013.



(6) Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;

If the proposed use is a hotel, there may not be a deterrent to the value or improvement of development of adjacent property, however, without an updated site plan showing the intended conditions of development, staff cannot determine the impact. If the proposed use is unspecified, per the comments made to Planning Commission on 3/14/23, staff cannot determine whether the proposed zoning map amendment would be a deterrent to the improvement of development of adjacent properties.

(7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;

If the proposed use is a hotel (not extended stay as presented to the Planning Commission on 3/14/23), then a conditional use permit, similar to the one approved in 2013, could be applied for under the U-V zoning district regulations, and a rezoning is unnecessary. If the proposed use is unspecified, per the comments made to Planning Commission on 3/14/23, staff cannot determine if there are substantial reasons why the property cannot be used in accordance with existing regulations.

(8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area; *As the site development requirements are different for C-2 than U-V and this parcel immediately adjoins a U-V parcel, there could be inconsistencies from parcel to the next. If the proposed use is a hotel, then the elevations, similar to those requested in the 2013 Conditional Use Permit approval, would assist in the determination of this review. If the proposed use is unspecified, per the comments made to Planning Commission on 3/14/23, staff cannot determine the aesthetic impact of the future use of the property as it relates to the surrounding area.*

(9) The extent to which the proposed zoning map amendment is consistent with the land use plan;

If the proposed use is a hotel, then a conditional use permit may be obtained under the existing zoning designation which would be consistent with the future land use plan (high intensity mixed use). If the proposed use is unspecified, per the comments made to Planning Commission on 3/14/23, staff cannot determine whether the proposed zoning map amendment is consistent with the high intensity mixed use designation on the Future Land Use Map for the Comprehensive Plan.

(10) The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community;

If the proposed use is a hotel, then the U-V district allows for a Conditional Use Permit for hotels which would maintain the character of the zoning district. If the proposed use is unspecified and without a site plan, per the comments made to Planning Commission on 3/14/23, staff cannot determine whether the possible effects of the zoning map amendment are related to permitted uses and site development requirements. Furthermore, as mentioned above, the U-V Zoning District, to which this parcel is immediately adjacent has different site requirements and permitted uses.

(11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations;

If the proposed use is a hotel, then there is no basis for the proposed change as a hotel could be accommodated under a conditional use permit. If the proposed use is unspecified and no site plan provided, per the comments made to Planning Commission on 3/14/23, staff cannot determine whether the proposed zoning amendment would alter the purpose of the zoning district. The C-2, General Commercial zoning district, has different site requirements and permitted uses, and conditional uses than the immediate adjacent U-V Urban Village zoning district.

(12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;

A site plan for a hotel which the applicant's representative indicated a possible use but that the applicant did not wish to declare a use and would not provide a site plan for any other intended uses.

(13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;

There is no adjacent residential neighborhood impacted by the proposed rezoning.

(14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

N/A

FINDINGS

Rezoning requires a public hearing such that the governing body (Mayor & Council) and the citizenry can properly evaluate the impact of a rezoning measure on the subject property, surrounding property, and community as a whole. Transparency for the proposed use of a rezoned property is essential for

establishing a basis for evaluation of the impact of the rezoning. The applicant has provided incorrect, incomplete, inconsistent, and false information regarding the rezoning proposal throughout the process.

The applicant claimed at the Planning Commission meeting that the property was zoned C-2 at the time of acquisition by the current property owner and that the applicant was requesting a reversion to C-2. This is false. The property has not been zoned C-2 for over 14 years. In 2009, under the ownership of RC Patel/PR Hotels, the property was rezoned from C-2 to U-V-c. The same owner, RC Patel/Diplomat Hospitality IV, then rezoned the property to U-V (without conditions) in 2013 for the purposes of building a hotel and parking deck and obtained a conditional use permit approval with conditions at that time. RC Patel / Diplomat Hospitality IV sold the property to Hapeville Capital (Jay Patel) who then sold it to Fort Wayne Capital (Sonial Patel) both on May 1, 2015.

The rezoning application presented a parcel not owned by the applicant. The rezoning application included a 2015 site plan for an extended-stay hotel that was not current for Code requirements, was incorrect and incomplete. Though shown as an extended stay hotel, the applicant has since claimed that a non-extended stay hotel is not the declared use. The proposed use of a hotel does not require a rezoning but rather a conditional use permit application. This conditional use process had been utilized for the property in 2013 but never acted upon or requested for an extension. Therefore, a rezoning to C-2 is not required.

If the hotel non-extended stay) is not the declared use, then the applicant is obliged to provide a conceptual site plan detailing the proposed use under the Code. At the Planning Commission meeting, the applicant stated they did not wish to declare a use at this time but rather allow the litany of C-2 uses to be available to develop the property "as they see fit." The desire for a blanket C-2 rezoning without a declared use does not provide a basis for which the Planner, Planning Commission, or Mayor & Council can render an informed decision and convey to the public the potential impacts of such a decision.

The existing zoning, U-V, is consistent with the Future Land Use Map of High Intensity Mixed Use. The current zoning can accommodate a hotel with an approved conditional use permit. Should a different use not permitted under U-V zoning be desired, then the applicant should provide all required documentation.

As the applicant has not provided clear and sufficient evidence for the rezoning, Staff and the Planning Commission's recommendation is disapproval of the rezoning request.

ARTICLE 11.2. U-V ZONE (URBAN VILLAGE)

Sec. 93-11.2-1. Intent.

The U-V district is established in order to:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique shops, new apparel shops and banks; and
- (8) Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.

(Ord. No. 2005-11, § 3(8-5-120H), 11-15-2005)

Sec. 93-11.2-2. Definitions.

As used in this article, unless specifically stated otherwise, the following terms shall be defined as indicated, and where any definition herein conflicts with another definition in the zoning ordinance, the definition contained herein shall prevail:

Build-to line. The line generally parallel to the front lot line to which buildings shall enfront to the extent identified in this article. It is a requirement, not a permissive minimum, as is a setback, however, where a minimum and maximum build-to line exists, the building may enfront anywhere between the two lines. The line shall be measured from the back of the sidewalk clear zone along all street frontages and not from the front lot line. For the purposes of this article, the build-to line shall exist even when not enfronted by a building.

Dwelling, live-work. A one-family attached dwelling unit of at least two stories that contains a commercial component of not more than the lesser of 600 square feet in floor area or 40 percent of the dwelling's total floor area. Said commercial component shall be limited to the ground floor of the dwelling unit; shall be covered by separate lease; shall be adjacent to the supplemental area; shall be limited to the permitted business and professional offices/agencies, retail and restaurant uses contained in section 93-11.2-3; and shall be the place of employment for no more than two persons, one of whom shall be a resident thereof. For the purposes of this article, a live-work dwelling shall not be a single structure containing a multifamily dwelling unit and a commercial use arranged vertically unless both dwelling and commercial use share a common kitchen, utilities, and common deed or lease.

Enfront. To place an element such as a building along a build-to line.

Occupiable space. Covered floor area utilized for any principal permitted use except parking, storage, digital industry switchboards, power generators, and other relay equipment.

Master planned development. Any alteration of the natural environment which requires approval of a site plan, construction drawings, or issuance of a development permit in accordance with section 93-2-16.

Regionally significant development. A master plan development that:

- (1) Exceeds 60 acres in size within the city,
- (2) Lies partially within at least two other jurisdictions,

- (3) Abuts an interstate highway within or outside of the jurisdictional limits of the city,
- (4) Consists of contiguous parcels, which may be separated from each other by up to 200 feet of public streets or rail corridors, but not other parcels, and
- (5) Includes a development buildout that exceeds the minimum thresholds established by the Georgia Department of Community Affairs for developments of regional impacts in metropolitan areas.

Supplemental area. The privately held area between the back of the required sidewalk clear zone and the build-to line.

(Ord. No. 2005-11, § 3(8-5-120I), 11-15-2005; Ord. No. 2009-08, § 1, 6-16-2009)

Sec. 93-11.2-3. Permitted uses.

The following are permitted within the U-V zone:

- (1) Business and professional offices/agencies, including:
 - a. Architectural.
 - b. Dental.
 - c. Engineering.
 - d. Graphic arts.
 - e. Insurance.
 - f. Legal.
 - g. Manufacturers' representatives.
 - h. Medical clinic, medical or dental laboratory, medical or dental office, surgical center.
 - i. Real estate.
 - j. Banks and other financial institutions (not including pawnshops and check cashing businesses).
- (2) Institutional uses, including:
 - a. Art studios.
 - b. Business schools.
 - c. Colleges and universities.
 - d. Dance studios.
 - e. Libraries and other public buildings.
 - f. Professional schools (including music/dance studios).
 - g. Technical schools.
 - h. Playgrounds, parks, and buildings open on a noncommercial basis for recreation only. Uses of this nature are exempt from being within a completely enclosed building.
- (3) Retail; sales, with a maximum floor area of 6,000 square feet, including:
 - a. Antique shops.
 - b. Apparel shops (offering new merchandise).
 - c. Appliance, radio and television sales outlets and services, including incidental repairing where all repair is conducted out of customers' view and is limited to 25 percent of the business's floor area (offering new merchandise).

- d. Baking shops.
 - e. Book, card and stationary stores.
 - f. Computer sales and repairs (offering new or refurbished merchandise). These uses are subject to a finding by the city planning commission that the proposed method of establishment and operation would not adversely impact the use and enjoyment of surrounding properties nor negatively affect the character of the zone. For purposes of this subsection, refurbished shall mean merchandise intended for retail that has been tested and certified by an authorized service center of the manufacturer or otherwise restored to like-new working condition and appearance and then re-packaged and labeled as a refurbished product. Such merchandise shall appear new and be free from all defects such as major scratches, dents or other forms of cosmetic damage.
 - g. Florist shops.
 - h. Furniture stores (offering new merchandise).
 - i. Hobby shops (offering new merchandise).
 - j. Jewelry stores (offering new or used merchandise)
 - k. Opticians and optical stores.
 - l. Photography stores.
 - m. Printing shops.
- (4) Retail; drugstores, pharmacies and soda shops with a maximum floor area of 15,000 square feet.
 - (5) Retail; sales, with a maximum floor area of 20,000 square feet, including:
 - a. Department stores (offering new merchandise).
 - b. General merchandise stores (selling new merchandise).
 - c. Hardware stores.
 - d. Office supply stores.
 - (6) Retail; grocery stores with a minimum floor area of 30,000 square feet.
 - (7) Personal services, with a maximum floor area of 6,000 square feet, including:
 - a. Barbershops and beauty shops.
 - b. Data processing facilities.
 - c. Laundry and dry cleaning shops.
 - d. Tailor shops.
 - e. Travel agencies.
 - (8) Bed and breakfast inns without kitchens or cooking facilities in rooms used for guest occupancy.
 - (9) Restaurants or carry-out restaurants but not including drive-through/drive-in restaurants with a maximum size of 6,000 square feet. Such restaurants shall be allowed to operate no more than six billiard tables upon the premises. Drive-through or drive-in restaurants may be allowed through special permit. The desired configuration for a drive-through or drive-in restaurant in this district is not a stand-alone building but rather part of a larger development and the site plan specifically addresses pedestrian orientation and safety.
 - (10) Theaters (with a maximum size of 8,000 square feet) which do not provide entertainment as defined in section 11-2-1 of this Code, including adult films, adult stage productions, adult videos or other adult entertainment performances.

- (11) Customary accessory buildings and uses.
- (12) Public, private and parochial schools operated for the purpose of instructing in elementary and high school general education subjects. In addition, other schools are allowed subject to a finding by the city planning commission that the proposed method of establishment and operation would not adversely impact the use and enjoyment of surrounding properties.
- (13) Churches and other places of worship.
- (14) Single-family detached dwellings, subject to the density restrictions in subsection (19) of this section.
- (15) Single-family attached dwellings with at least two units attached, but no more than 12 and subject to the density restrictions in subsection (23) of this section.
- (16) Group homes, subject to the restrictions in section 93-2-19.
- (17) Adult daycare facilities.
- (18) Combination of residential and business applications within a single structure, provided that each use must have a separate entrance directly accessible from the required sidewalk or within a jointly used lobby.
- (19) Bail bond offices, subject to section 93-2-23.
- (20) Check cashing businesses, subject to section 93-2-23.
- (21) Pawnshops, subject to section 93-2-23.
- (22) Private probation offices, subject to section 93-2-23.
- (23) Residential density limitations shall be as follows:
 - a. The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;
 - b. The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
 - c. Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.
- (24) Veterinarians and animal hospitals.

(Ord. No. 2005-11, § 3(8-5-120J), 11-15-2005; Ord. No. 2007-11, § 1, 7-3-2007; Ord. No. 2011-10, § 1, 9-20-2011; Ord. No. 2015-15, § 14, 8-4-2015; Ord. No. 2016-03, § 5, 3-1-2016; Ord. No. 2018-15, § 2, 11-6-2018; Ord. No. 2016-28, § 6, 12-6-2016; Ord. No. 2019-15, § 2, 7-2-2019; Ord. No. 2020-21, § 1, 9-1-2020; Ord. No. 2021-06, § 3, 3-2-2021)

Sec. 93-11.2-4. Nonpermitted uses.

The following uses, while permitted in other areas within the city, are not permitted in the U-V zone.

- (1) Reserved;
- (2) Adult entertainment establishments, as defined by section 11-2-1 of this Code, including, but not limited to, adult bookstores, video or DVD adult rental or purchase, adult movie or adult live theaters,

adult gifts and novelties, and other venues for viewing other adult entertainment through any other electronic or other technological medium;

- (3) Automotive repair shops, dealerships and service stations, boat sales, auto parts stores;
- (4) Tattoo parlors;
- (5) Palm reading and fortunetelling, including psychic and crystal ball readings;
- (6) Reserved;
- (7) Carnivals;
- (8) Stables;
- (9) Shooting galleries, firearm, and archery ranges;
- (10) Firearms dealers;
- (11) Modeling agencies;
- (12) Massage parlors;
- (13) Bathhouses;
- (14) Hypnotists;
- (15) Handwriting analysis;
- (16) Escort services;
- (17) Bazaars;
- (18) Specialty shops;
- (19) Flea markets;
- (20) Junk stores;
- (21) Variety shops;
- (22) Labor pools;
- (23) Addiction services clinic, mental health clinic, hospital, rehabilitation or treatment facility.
- (24) Extended stay motels/hotels;
- (25) Nursing homes;
- (26) Personal care homes; and
- (27) Kennels.

(Ord. No. 2005-11, § 3(8-5-120K), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015; Ord. No. 2016-03, § 6, 3-1-2016; Ord. No. 2016-28, § 7, 12-6-2016; Ord. No. 2019-15, § 3, 7-2-2019; Ord. No. 2021-06, § 10, 3-2-21)

Sec. 93-11.2-5. Conditional uses.

Specific uses may be permitted as conditional uses, provided conformance to the purpose and intent of the applicable code. Such uses are:

- (1) SIC Code 5261, lawn and garden supplies with a maximum floor area of 20,000 square feet, provided:
 - a. No outdoor storage of merchandise in the supplemental area.
 - b. Outdoor storage in the rear yard, only, is permitted, provided storage areas are completely screened.

- (2) SIC Code 5411, grocery stores and food stores with a floor area less than 30,000 square feet;
- (3) SIC Code 7011, hotels and motels;
- (4) SIC Code 7641, reupholstery and furniture repair with a maximum floor area of 6,000 square feet;
- (5) Laundry and dry cleaning shops with a maximum floor area of 6,000 square feet;
- (6) Parking lots (except for municipal parking lots benefiting the U-V zone); and
- (7) Kindergarten schools as defined under section 93-1-2, and the following facilities as defined herein:
 - a. "Day care center" or "center" means any place operated by a person, society, agency, corporation, institution or group wherein are received for pay for a group care, for fewer than 24 hours per day without transfer of legal custody, 19 or more children under 18 years of age.
 - b. "Group day care home" means any place operated by any person, partnership, association or corporation wherein are received for pay for group care not less than seven or more than 18 children under 18 years of age for less than 24 hours without transfer of legal custody.
 - c. "School-age group day care home" means a group daycare home, or part thereof with separate facilities and a separate license, which provides daytime care exclusively to school-age children before and/or after the normal school day. Such programs may operate a full-day program solely during the regular school year during those periods when school is not in session.
- (8) Spas. For the purpose of this section, a spa shall be defined as a business location where massages by certified masseurs, makeovers, body wrapping, hair removal, saunas, manicures, pedicures and non-surgical cosmetic procedures are performed. Any combination of at least three or more of the above listed uses shall occur in the location.
- (9) All multifamily uses shall be conditional uses in U-V zone. In addition to meeting the conditional use provisions, all multifamily uses in U-V shall comply with [subsection] 93-11.2-3(19).
- (10) Research and development facilities that meet the following criteria:
 - a. Facility does not emit or produce designated hazardous waste or hazardous waste as defined in O.C.G.A. § 12-8-62.
 - b. Facility cannot conduct outside research or development activities or storage units.
 - c. The conditional use permit will be issued for the specific business and specific parcel that has applied; all new or subsequent business will have to reapply.

(Ord. No. 2005-11, § 3(8-5-120L), 11-15-2005; Ord. No. 2007-11, § 2, 7-3-2007; Ord. No. 2019-24, § 1, 8-6-2019)

Sec. 93-11.2-6. Special uses.

The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-6, in any U-V zone:

- (1) Reserved.

(Ord. No. 2015-15, § 14, 8-4-2015)

Sec. 93-11.2-7. Area, placement, and buffering requirements.

All buildings or structures erected, converted or structurally altered shall hereafter comply with the following lot area, yard, and building coverage requirements:

- (1) *Lot area and width.* The minimum area shall be established by the restriction governing lot coverage, setbacks, height, and parking requirement as found in article 22.1. Generally, no lot shall have a

minimum frontage of less than 20 feet; however, single-family residential lots shall have a minimum frontage of 30 feet.

- (2) *Front yard.* See subsection (3) below.
- (3) *Build-to line.* The minimum build-to line shall be zero feet and the maximum shall be 15 feet, provided that the maximum build-to line may be increased as determined to be necessary and advisable by the city planning commission in the course of its site plan review process. In determining such increase, the city planning commission shall consider the size and configuration of the proposed buildings, their relationship to the existing and proposed thoroughfares, the relationship to existing and proposed parks and plazas, the location of existing mature trees, and supplemental area of adjacent structures. Where the built-to line is modified to provide parks and plazas, said facilities shall be directly accessible to the public during normal city park hours.
- (4) *Side yards.* There shall be no minimum side yard requirement except as required by subsection (8) of this section for residential zone buffers.
- (5) *Rear yards.* There shall be no minimum rear yard requirements except as required by subsection (8) of this section for residential zone buffers.
- (6) *Distance between buildings.* Section 93-2-6 notwithstanding, the minimum distance between two buildings on a single lot or on contiguous property under the same ownership shall be ten feet, plus four additional feet for every story or fraction thereof that the building exceeds three stories, or such distance determined necessary by the city planning commission to enhance the aesthetics of development. All exterior walls shall be designed per the International Residential Building Code 2003, as amended, or the International Building Code 2003, as amended. Adjoining buildings, whether commercial, residential, or mixed-use, shall have sprinkler systems and there shall be a fire resistance rating of one hour between buildings and occupancies that are side-by-side and top and bottom. However, if a building is a single-family dwelling and the adjacent building is closer than 15 feet there can be no vertical openings (windows) between the two structures of buildings that exist within 15 feet of the horizontal fire separation.
- (7) *Height regulations.* No building or structure shall be less than 24 feet in height or exceed four stories or a 64 feet in height, provided the city planning commission may allow a development with greater height via site plan approval, if it finds that:
 - a. The proposed height will not adversely impact adjacent properties or nearby residential neighborhoods.
 - b. The added height is necessary to support redevelopment of an area, which currently contains uses that have an adverse impact upon adjacent neighborhoods.
 - c. The proposed development is designed to facilitate the objectives and strategies of an officially adopted master plan, an LCI Study or the current comprehensive plan.
 - d. The proposed development meets approval from the fire department and FAA.
 - e. The proposed development meets the sprinkling standards set forth by the fire department. It shall meet the requirements as set forth in NFPA (13)(D), standard for the installation of sprinkler systems in one-family or two-family dwellings and NFPA (13)(R) for residential occupancies up to and including four stories in height. All others shall be required to meet NFPA (13) standard for the installation of sprinklers.
- (8) *Residential buffer.* Where any use other than a single-family detached use in this district adjoins a residential zone, all applicable new developments must provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:

- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line. Said buffer shall comply with the buffer requirements of chapter 93, article 29. Shrubs, flowers or grasses shall also be provided and maintained to visually screen non-residential areas and provide an attractive boundary that encourages continued investment in the adjacent residential zones.
- b. A permanent opaque wall between six and eight feet in height and faced in wood, stacked stone, brick or hard-coat true stucco. Said wall may be located anywhere within the required landscaped buffer.
- c. Where an alley separates this zone from a residential zone, the required landscape buffer and permanent opaque wall shall be provided on the portion of the U-V-zoned property adjacent to the alley.

(Ord. No. 2005-11, § 3(8-5-120M), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015; Ord. No. 2019-04, § 1, 2-19-2019; Ord. No. 2020-4, § 5, 1-7-2020)

Editor's note(s)—Ord. No. 2015-15, § 14, adopted August 4, 2015, renumbered the former sections 93-11.2-6—93-11.2-13 as sections 93-11.2-7—93-11.2-14. The historical notation has been preserved for reference purposes.

Sec. 93-11.2-8. Supplemental area requirements.

Supplemental areas shall meet the following requirements:

- (1) The following may not be located in the supplemental area:
 - a. Recreational areas and facilities such as swimming pools, tennis courts;
 - b. Fences and walls;
 - c. Service elements such as dumpsters, loading docks and similar elements;
 - d. Mechanical features; and
 - e. Parking.
- (2) Adjacent to ground floor retail or restaurant uses the supplemental area:
 - a. Shall be at the same grade, slope, and cross slope as the adjacent required sidewalk;
 - b. Shall be hardscaped for a minimum of 80 percent of its horizontal area with decorative pavers, bricks, slate, or stamped or colored concrete, but not asphalt;
 - c. Shall be accessible to the general public and may be used for pedestrian amenity elements such as benches, trees, outdoor dining, merchandise display and potted plants.
- (3) Adjacent to ground floor dwelling units, excluding live-work dwellings, the supplemental area:
 - a. Shall be landscaped, except for area uses for stoops, porches, wheelchair ramps, or walkways;
 - b. Shall be planted with one canopy tree, as established in section 93-2-14(k)(11), an average of 40 feet on-center as measured parallel to the front lot line.
 - c. Shall be differentiated from the adjacent sidewalk by a continuous wall, fence, hedge, or retaining wall between six and 30 inches in height.
- (4) Adjacent to ground floor live-work dwellings, all other uses, or when not adjacent to a building the supplemental area shall be treated as identified in subsections (2) or (3) of this section.

(Ord. No. 2005-11, § 3(8-5-120N), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015)

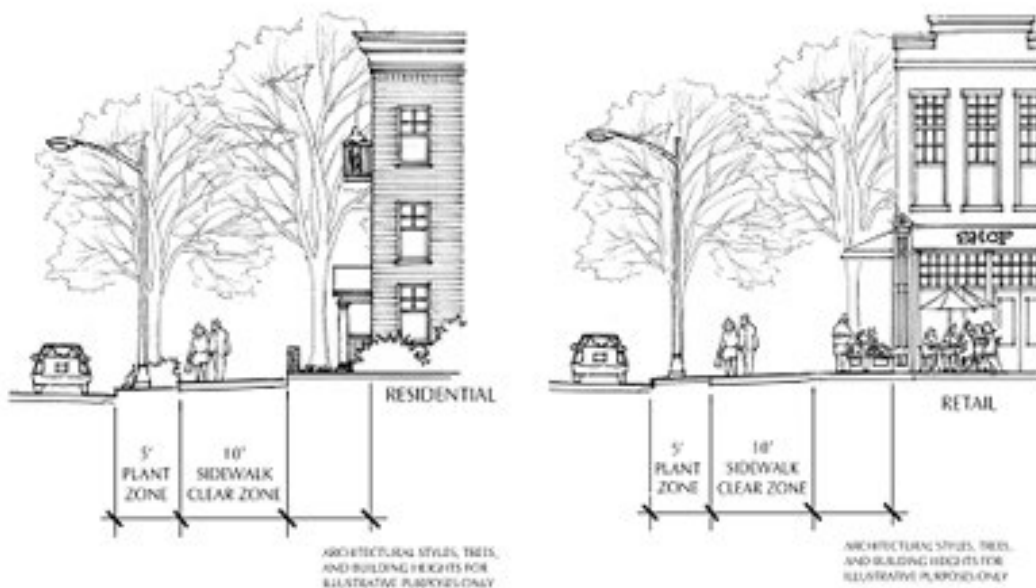
Note(s)—See editor's note at section 93-11.2-7.

Sec. 93-11.2-9. Sidewalk requirements.

Public sidewalks shall be located along all public and private streets. Sidewalks shall be of the widths indicated below and shall consist of two areas: a landscape area and a clear area. The following regulations shall apply to all required sidewalks:

(1) Sidewalk landscape area requirements.

- a. The landscape area shall have a minimum width of five feet and shall be located adjacent to the curb.
- b. The landscape area may be primarily paved adjacent to on-street parking and shall be landscaped in all other areas.



- c. Street trees shall be planted on average 30 feet on center, spaced equal distance between streetlights, and in line with stripes of parallel parking spaces. All newly planted trees shall comply with the requirements of chapter 93, article 29, shall be limbed up to a minimum height of seven feet and shall be of an appropriate street tree species found in appendix A, attached to the ordinance from which chapter 93, article 29 was derived. The city planning commission may approve an alternate for street tree requirement subject to constraints such as overhead or underground utilities or underground utility easements.
 - d. The landscape area is also intended for the placement of street furniture, including utility poles, waste receptacles, fire hydrants, traffic signs, newspaper vending boxes, bus shelters, bicycle racks, public kiosks and similar elements in a manner that does not obstruct pedestrian access or motorist visibility as approved by the city.
 - e. The landscape area shall be maintained by the adjacent property owner.
- ### (2) Sidewalk clear area requirements.

- a. The clear area shall be the portion of the sidewalk reserved for pedestrian passage and unobstructed by permanent objects to a height of eight feet, including but not limited to steps and stoops, traffic control boxes, and utility structures. The sidewalk clear area shall have a consistent cross slope not exceeding two percent.
 - b. No awning or canopy shall extend more than five feet over the clear area.
 - c. Along the following streets, if zoned U-V: South Central Avenue, North Central Avenue, Perry Hudson Boulevard, Dogwood Drive, Sylvan Road, Virginia Avenue, International Boulevard, and Atlanta Avenue, the sidewalk clear area shall have a minimum width of ten feet.
 - d. Along all other streets zoned U-V, the sidewalk clear zone shall have a minimum width of six feet.
 - e. Where property within the district abuts a residential zone without an intervening street, the sidewalk area within 20 feet of such district shall taper when necessary to provide a smooth transition to the existing residential zone sidewalk. In the event that the abutting residential zone has no existing sidewalk, the sidewalk shall taper to a width of six feet, measured from the street curb, or as approved by the city planning commission.
- (3) *Paving materials to remain continuous.* Any paving materials, including concrete, special pavers, or decorative paving within the landscape area or clear area shall continue across any intervening driveway.

(Ord. No. 2005-11, § 3(8-5-1200), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015; Ord. No. 2020-4, § 6, 1-7-2020)

Note(s)—See editor's note at section 93-11.2-7.

Sec. 93-11.2-10. Parking and curb cut requirements.

In addition to the requirements of article 23, off-street parking and loading, the following requirements shall apply within the U-V district:

- (1) See article 22.1 of this chapter for minimum parking space requirements.
- (2) See section 93-23-7 for mixed-use developments, which may be reduced as authorized by the board of appeals subject to a shared parking arrangement under the following criteria:
 - a. The minimum number of parking spaces for a project where shared parking is proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute (ULI) Shared Parking Report or Institute of Transportation Engineers (ITE) Shared Parking Guidelines. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys shall be conducted to determine actual parking accumulation.
 - b. An applicant shall submit the following information as part of an application to reduce parking requirements and avoid conflicting parking demands:
 - 1. A to-scale map indicating location of proposed parking spaces;
 - 2. Hours of business operation of nonresidential parking users;
 - 3. Copies of the legal instrument that authorizes the use of shared parking facilities;
 - 4. Copies of the relevant legal instrument authorizing the shared use, shall be filed with the department of economic development.
 - 5. Where authorized shared parking exists and a change affecting the shared use occurs, the applicant shall have up to 30 calendar days to provide the city director of economic development with a valid legal instrument reflecting the modified parking arrangements.
 - c. Change to any of the conditions identified in this subsection, except as identified in subsection (2)b.5 above, shall terminate authorization for shared parking. A shared parking arrangement

shall be deemed a condition of the zoning and any modification will require a new site plan, parking plan, and zoning approval.

- (3) Developments are permitted a maximum of two driveway curb cuts per block face or one. For the purposes of this section, two curb cuts serving two one-way driveways shall only be counted as one curb cut.
- (4) No curb cuts, driveways or circular drives shall be permitted on South Central Avenue, Virginia Avenue or Atlanta Avenue when access can be provided from a side or rear street. Circular drives are prohibited, with the exception of hotel and hospital uses.
- (5) Rear alleys or rear drives shall be provided to access attached single-family garages, detached single-family dwelling garages, and commercial loading and service areas.
- (6) Carports shall be prohibited.
- (7) Garages shall not face adjacent streets except where alley or rear drive access is not feasible, in which case such garages shall be set back a minimum of 25 feet from the build-to line. All garage materials shall match those of the principal structure.
- (8) Parking structures shall conceal automobiles from view, shall have the appearance of a horizontal storied building on all levels, shall be faced in brick, stacked stone, cast stone, poured-in-place rubbed concrete, or pre-cast concrete faced in or having the appearance of brick or stacked stone. Parking structures adjacent to the supplemental area shall also meet the requirements of section 93-11.2-10(1).
- (9) Bicycle or moped parking spaces are required as follows: All non-residential uses shall provide one such space for every 20 automobile spaces and condominium and apartment uses shall provide one such space for every five units provided that no such uses shall have fewer than two such spaces or be required to exceed 30 spaces. Such spaces shall be located within the sidewalk landscape a maximum distance of 100 feet from the primary pedestrian entrance, or within the supplemental area, or at least as close as the closest automobile space, except for handicapped parking spaces. Bicycle parking spaces shall include a bike rack with a metal anchor sufficient to secure the bicycle frame when used in conjunction with a user-supplied lock.
- (10) Dumpsters shall be entirely screened from view of any street with vertically enclosed opaque walls matching the materials of the principal structure.

(Ord. No. 2005-11, § 3(8-5-120P), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015)

Note(s)—See editor's note at section 93-11.2-7.

Sec. 93-11.2-11. Reserved.

Editor's note(s)—Ord. No. 2009-02, § 1, adopted Feb. 17, 2009, deleted § 93-11.2-10, which pertained to general facade requirements and derived from Ord. No. 2005-11, § 3(8-5-120Q), adopted Nov. 15, 2005.

Note(s)—See editor's note at section 93-11.2-7.

Sec. 93-11.2-12. Commercial design ground floor requirements.

In addition to the requirements of section 93-11.2-10, the following shall apply to buildings with enfronting ground floor commercial uses; and all enfronting buildings along South Central Avenue, North Central Avenue, Virginia Avenue, International Boulevard, or Atlanta Avenue:

- (1) Enfronting ground floor facades shall provide a display window area consisting of:
 - a. A non-glass base or knee wall beginning at grade and extending not more than 24 inches above the required sidewalk.

- b. A glass display window beginning at the top of the bulkhead or knee wall, to a height not less than ten feet and not more than 12 feet above the adjacent required sidewalk. Such glass shall provide views into display windows that have a minimum depth of 2½ feet into and are accessible from the building interior.
 - c. Primary pedestrian entrances to all commercial uses adjacent to the front yard shall be recessed a maximum of five feet from the exterior facade, remain unlocked during normal business hours, and have a surface area that is a minimum of 70 percent glass.
 - d. A glass transom located above the glass display window and entry door shall have a minimum height of 24 inches and a maximum height of 36 inches.
 - e. A minimum of 75 percent of the length of the enfronted portion of the build-to line shall be provided in glass, including glass doors and display windows.
 - f. No linear distance of more than ten feet without intervening glass display windows or glass doors.
 - g. A non-glass sign band located above the glass transom having a minimum height of 36 inches.
- (2) Ground floor drop ceilings shall be recessed a minimum of 18 inches from the display window opening.
 - (3) The ground floor finished floor to ceiling slab shall be a minimum of 18 feet. Finished ceiling height shall be a minimum of 14 feet.

(Ord. No. 2005-11, § 3(8-5-120R), 11-15-2005; Ord. No. 2015-15, § 14, 8-4-2015)

Note(s)—See editor's note at section 93-11.2-7.

Sec. 93-11.2-13. Reserved.

Sec. 93-11.2-14. Regionally significant developments.

The following additional requirements shall apply to regionally significant developments:

- (1) The regulations set forth herein shall only apply to portions of regionally significant developments located greater than 30 feet from any parcel zoned R-1, R-2, R-3, R-4, R-5, R-O, R-SF, or V.
- (2) In addition to those uses set forth in section 93-11.2-3, the following shall also be permitted uses within regionally significant developments:
 - a. Conference/convention centers;
 - b. Hotels and motels having at least 200 guest rooms and at least one on-premises restaurant defined as a retail establishment that serves prepared food to customers, generally for eating on premises;
 - c. Telecommunications and/or data centers;
 - d. Subsection 93-11.2-5(6) notwithstanding, commercial parking lots and decks shall be a permitted use when located in an area with a day-night sound level (DNL) in excess of 75 decibels at the time of the adoption of this section, as shown in exhibit 1 of the FAA's Hartsfield-Jackson Atlanta International Airport FAR 150 Study, dated January 2006. For all other areas, commercial parking lots and decks shall be permitted uses when serving retail, restaurant, conference/convention centers, hotels, or office uses within an adjoining jurisdiction, and as set forth in subsection (3) below.
 - e. Warehouse and Distribution facilities, subject to the following:
 - 1. Such facilities shall be located inside the 70+ DNL area identified in the Hartsfield-Jackson Atlanta International Airport FAR 150 Study, dated January 2006, and shall have their primary points of ingress/egress on North Airport Loop Road.

2. Manufacturing and assembly line operations shall not be permitted.
 3. Truck loading and unloading areas shall be shielded from the main road(s) serving the facility.
 4. All equipment, electrical substations and mechanical devices shall be shielded from view from the main road(s) servicing the facility.
 5. The storage of goods or materials in an open area is not allowed.
 6. Accessory buildings, when such are required for the function of the principal building/use(s), are permitted provided that all such accessory building comply with all setback and yard area requirements, screening/landscaping and any other provisions of this zoning district as are required of principal buildings.
 7. The grade level of all proposed structured shall be oriented for safe pedestrian access.
 8. All electric, telephone, telecommunications, and other service lines shall be installed subsurface.
 9. A greenbelt planting screen is required between the main service road and the facility.
 10. Landscaped islands are required in parking lots.
 11. No land or structure in this district shall be used or occupied in any manner which creates dangerous, injurious, noxious or otherwise objectionable conditions which may affect any other property.
- (3) Parking for a retail, restaurant, office, conference/convention centers, or hotel uses within an adjoining jurisdiction shall only be permitted in Hapeville when:
- a. Such use occupies a building that is located in multiple jurisdictions, and
 - b. Such use meets or exceeds the minimum parking requirements of the city, including for the portion within the adjoining jurisdiction; and
 - c. At least 75 percent of the required parking for the proportion of the use within another jurisdiction is located within the adjoining jurisdiction.
- (4) The minimum parking space requirements for uses not specified in Section 93-22.1-1 shall be:
- a. *Conference/conventions centers.* One space per 1,500 square feet of floor area.
 - b. *Hotels and motels.* One space per lodging unit.
 - c. *Telecommunications and/or data centers.* One space per employee.
- (5) In no case shall the number of parking spaces within a commercial parking lot(s) exceed more than 30 percent of the minimum number of parking spaces required for the regionally significant development at build-out in accordance with article 22.1 and section 3 [section 93-22.1-3] herein, which shall be calculated by applying such minimum requirements to all portions of the regionally significant development, including those portions within other jurisdictions
- (6) Sections 93.11.2-3 and 93.11.2-5 notwithstanding, there shall be no maximum floor area limits for any use.
- (7) Subsections 93-11.2-7(1), (2), and (3) and section 93-22.1-1 notwithstanding, there shall be no minimum lot frontage, lot area, lot coverage, setbacks, or width requirements for nonresidential uses within regionally significant developments. Furthermore, the minimum build-to line along a public street within a regionally significant development shall be zero feet and the maximum build-to-line shall be 15 feet.
- (8) Subsection 93-11.2-7(6) notwithstanding, the minimum distance between two buildings on a single lot or on contiguous property shall only be limited by applicable public safety and fire codes.
- (9) Subsection 93-11.2-7(7) notwithstanding, no building or structure height shall exceed the applicable flight-safety restrictions for Hartsfield-Jackson Atlanta International Airport established by the FAA, not to exceed 1,176 feet above mean sea level, except where the applicable property has been encumbered, prior to adoption of this section, by a pre-existing aviation easement, the terms of which shall control over the above FAA standards.

- (10) The prohibition against them in subsection 93-11.2-8(1) notwithstanding, fences and walls not exceeding four feet in height shall be permitted in the supplemental area when used to surround outdoor dining.

(Ord. No. 2009-08, § 2, 6-16-2009; Ord. No. 2015-15 , § 14, 8-4-2015)

Note(s)—See editor's note at section 93-11.2-7.



ARTICLE 14. C-2 (GENERAL COMMERCIAL)

Sec. 93-14-1. Intent.

By virtue of its location within the comprehensive land development plan for the city, and in recognition of the present extent and concentration of business and commercial developments serving the whole city, and because of the continuous process of intensification of uses in certain areas, the C-2 zone is established in order to:

- (1) Protect present business and commercial uses.
- (2) Guide the further development of this zone in accordance with the design principles of modern shopping centers oriented to the extensive use of the automobile as well as public transit.
- (3) Exclude industrial uses (such as manufacturing, processing and warehousing) and residential uses.
- (4) Encourage the eventual elimination of uses inappropriate to the function of the central business area.
- (5) Encourage intensive development of this zone as the shopping and business center of the city and surrounding trade areas.
- (6) Exclude uses which would be dangerous or offensive, or detrimental to the present or intended character of this zone or vicinity or persons or property therein by reason of the emission of dust, gas, smoke, noise, fumes, glare, odors, vibrations or surface water and drainage.

(Code 1981, § 8-5-141)

Sec. 93-14-2. General use criteria.

The uses permitted within the C-2 zone shall include the business, professional, retail and service uses permitted in the C-1 zones plus certain other uses appropriate to a general business area. These additional uses include wholesale and other retail activities not requiring extensive storage or warehousing, hotel and motel type uses, uses pertaining to the sale of new and used automobiles, commercial parking facilities, small fabrication and assembly plants selling at retail on the premises, entertainment facilities and other uses specifically enumerated below. All these uses shall be conducted wholly within a completely enclosed building, except when a use included in the following list is followed by the phrase "outside use."

(Code 1981, § 8-5-142)

Sec. 93-14-3. Permitted uses.

The following uses are permitted within any C-2 zone:

- (1) Antique shops.
- (2) Apparel shops, including cloth and sewing stores.
- (3) Appliance, radio and television sales outlets and services, including incidental repairing.
- (4) Art and photography stores and studios.
- (5) Automobile parts sales stores.
- (6) Bakery shops.
- (7) Banks and other financial institutions, including loan and finance shops.
- (8) Barbershops and beauty shops.

- (9) Business and professional offices, including incidental warehousing of products sold.
- (10) Churches and other places of worship.
- (11) Clubs and lodges.
- (12) Commercial parking lots and parking garages.
- (13) Customary accessory buildings and uses.
- (14) Dance studios.
- (15) Department, gift and bookstores.
- (16) Drugstores, pharmacies and soda fountains.
- (17) Electrical sales outlets and services.
- (18) Florist shops.
- (19) Food stores.
- (20) Furniture stores.
- (21) Hardware stores.
- (22) Hobby shops.
- (23) Blood plasma donation center, medical clinic, medical or dental laboratory, medical or dental office, surgical center, addiction services clinic, mental health clinic, hospital, rehabilitation or treatment facility.
- (24) Hotels and motels.
- (25) Jewelers and jewelry stores.
- (26) Laundries, self-service and laundry pickup stations.
- (27) Laundry and dry cleaning establishments.
- (28) Libraries and other public buildings.
- (29) Locksmith shops.
- (30) Minor storage, repackaging and servicing of goods and small nonmotorized equipment, provided the use does not violate the intent provisions of this article. In addition, incidental activities associated with the use such as sales, loading, bookkeeping and administration shall also be permitted.
- (31) Opticians and optical stores.
- (32) Paint stores.
- (33) Plumbing sales outlets and services.
- (34) Printing shops.
- (35) Public, private and parochial schools operated for the purpose of instructing in elementary and high school general education subjects. In addition, other schools are allowed subject to a finding by the planning commission that the proposed method of establishment and operation would not adversely impact the use and enjoyment of surrounding properties.
- (36) Restaurants, carry-out restaurants, drive-in restaurants or drive-through restaurants.
- (37) Shoe stores and repair shops.
- (38) Tailor shops.
- (39) Theaters and bowling alleys.
- (40) Undertaking establishments and funeral homes.

- (41) Extended-stay hotels, subject to the provisions of sections 93-2-22 and 93-2-23.
- (42) Bail bond offices, subject to section 93-2-23.
- (43) Check cashing businesses, subject to section 93-2-23.
- (44) Pawnshops, subject to section 93-2-23.
- (45) Private probation offices, subject to section 93-2-23.
- (46) Veterinarians, animal hospitals and kennels.

(Code 1981, § 8-5-143; Ord. No. 75-3, 4-1-1975; Ord. No. 84-8, 11-6-1984; Ord. No. 89-3, § 3, 3-7-1989; Ord. No. 2000-10, § 1, 4-4-2000; Ord. No. 2015-15, § 20, 8-4-2015; Ord. No. 2016-03, § 9, 3-1-2016; Ord. No. 2016-18, §§ 6, 7, 8-16-2016; Ord. No. 2018-15, § 5, 11-6-2018; Ord. No. 2016-28, § 5, 12-6-2016; Ord. No. 2019-15, § 7, 7-2-2019; Ord. No. 2021-06, § 7, 3-2-2021)

Sec. 93-14-4. Nonpermitted uses.

The following uses are not permitted in any C-2 zone:

- (1) Group homes.
- (2) Nursing homes.
- (3) Personal care homes.

(Ord. No. 2015-15, § 20, 8-4-2015)

Sec. 93-14-5. Conditional uses.

Upon application to and favorable decision thereon by the mayor and council, as provided in article 25 of this chapter, the conditional uses specified herein are permitted in this district provided that their establishment promotes the health, safety, morals, and general welfare of the city. Specific conditional uses which may be permitted as so specified are as follows:

- (1) Labor pools, provided also that:
 - a. The building or structure located on the property has a sufficient amount of space or area, either inside or outside, which is configured in such a way as to prevent potential laborers who have congregated in the building or on the property from being observed from any right-of-way or any adjoining property;
 - b. The proposed site for a labor pool is not located within 1,000 feet of an existing labor pool;
 - c. No further labor pools may be established when the total number of such operating establishments would number more than one for each 5,000 persons residing in the city. It is the intent of this provision to require a population of 5,000 for each such operating establishment.

Examples:

- 1. Population = 5,000, then one license may be issued;
- 2. Population = 9,999, then one license may be issued;
- 3. Population = 10,000, then two licenses may be issued.

If an existing operating establishment shall go out of business and the number of such existing operating establishments shall continue to exceed the limit prescribed herein, such establishments may not be reinstated. The population shall be determined by the most recent United States decennial Census.

- d. The labor pool has a properly configured, safe area on the property where the day laborers can be picked up and dropped off. Any such area shall not include any right-of-way immediately adjacent to the property or on any adjoining property which is not owned or leased by the labor pool.

- e. The labor pool is located only in one of the following areas:
 - 1. On properties along the north right-of-way of Willingham Drive, west of Colville Avenue to the city limits of East Point.
 - 2. On South Central Avenue from its intersection with Colville Avenue to the city limits of East Point.
 - 3. On Sylvan Road from its intersection with Central of Georgia Railroad to its intersection with Grimes Street.
 - 4.
 - i. On North Central Avenue from its intersection with Sylvan Road to the city limits of East Point.
 - ii. Any labor pool in existence as of the effective date of this section which is not located in the above described areas will be considered a nonconforming use and subject to the provisions of this chapter.
- (2) Automobile sales lots (new and used and showrooms (outside use), including incidental service and repairing when conducted entirely within a completely enclosed building.
- a. All vehicles offered for sale shall: be clean in appearance, not require body repairs or painting, be in an operable condition and suitable for licensing and operation under laws applicable in the state.
 - b. All vehicle repairs shall be conducted within an enclosed building and shall be limited to those vehicles actually available for sale on the premises. Such repairs shall consist of minor auto repair operations, only; bodywork is prohibited.
 - c. A 30-foot landscaped buffer shall be maintained along the boundary of any residential property. Such buffer shall consist of species and plant sizes sufficient to yield a substantial visual screen throughout the year. Section 93-23-18 regarding landscape requirements for vehicular use areas shall be applicable to these conditional uses.
 - d. No driveway shall be located within 25 feet of any residential property.
 - e. All site lighting shall be directed inward and toward the ground to prevent glare on public rights-of-way and adjoining properties.
- (3) Boat sales and service (outside uses).
- a. All boats offered for sale shall be clean in appearance; not require hull or other repairs or painting; be in an operable condition; and be suitable for licensing and operation under laws applicable in the state.
 - b. Boat motor repairs shall be conducted within an enclosed building; hull repairs or other repairs utilizing fiberglass or other materials that produce fumes shall not be conducted on the premises. Provided, however, that upon presentation of evidence of on-site filtering techniques that effectively eliminate such odors or fumes, rendering them imperceptible at the property line, such repairs may be permitted.
 - c. A 30-foot landscaped buffer shall be maintained along the boundary of any residential property. Such buffer shall consist of species and plant sizes sufficient to yield a substantial visual screen throughout the year. The standards found in section 93-23-18 regarding landscape requirements for open lot sales shall be applicable to these conditional uses.
 - d. No driveway shall be located within 25 feet of any residential property.
 - e. All site lighting shall be directed inward and toward the ground to prevent glare on public rights-of-way and adjoining properties.
- (4) Gasoline service stations (outside use), not including outside repair of automobiles or outside storage of any tires batteries, new or used automobile parts or other merchandise not necessary for the sale of gasoline and motor oil.
- a. Access drives shall be clearly defined utilizing curbing.
 - b. Vehicle services shall be limited to oil changes, lubrication, tire repair, tune-ups and other minor services. All such operations shall be performed within an enclosed building.

- c. Storage of vehicles which are on the premises for the above repairs shall be limited to two per service bay.
 - d. Pumps shall be setback a minimum distance of 25 feet from the street right-of-way.
 - e. Stations providing car washing as an accessory use shall ensure that all wash water is contained on the premises.
 - f. A 30-foot landscaped buffer shall be maintained along the boundary of any residential property. Such buffer shall consist of species and plant sizes sufficient to yield a substantial visual screen throughout the year. The standards found in section 93-23-18 regarding landscape requirements for vehicular use areas shall be applicable to these conditional uses.
 - g. No driveway shall be located within 25 feet of any residential property.
 - h. All site lighting shall be directed inward and toward the ground to prevent glare on public rights-of-way and adjoining properties.
- (5) Processing, cleaning, or other servicing devices or equipment, providing that the following uses may be approved by mayor and council, based upon a finding by the mayor and council that such uses conform to adopted performance standards, and that said uses further the purpose of the zone in which they are located or in which the use would be placed. No approved use shall be expanded that is inconsistent with the criteria set fourth below. Discontinuation of an approved use for a period of 30 or more days shall result in termination of the conditional uses after notice sent registered mail to the permit holder's last known address without further process. Discontinuation of a use for a period of 30 or more days shall create a presumption and be evidence of an intent to abandon the use.
- a. Processing, cleaning, or otherwise servicing devices or equipment. The following shall be allowed by conditional uses:
 - 1. Processing, cleaning, or otherwise servicing devices or equipment.
 - 2. Business offices, including incidental warehousing of products sold and minor storage, repackaging and servicing of goods.
 - 3. Limited processing and fabrication of goods, or light assembly utilizing components parts manufactured elsewhere.
 - b. Applicable conditions. The following conditions must be met for conditional uses issuance:
 - 1. No truck terminals shall be allowed;
 - 2. Shipping shall be accomplished using local haul trucks as the term is commonly used in the trucking industry, and shall not use trucks with 18 or more wheels, also known as long haul trucks, on the permitted property;
 - 3. No outdoor storage of materials, equipment or other materials shall be permitted;
 - 4. All such operations shall be conducted in an enclosed building; and
 - 5. The maximum lot area of such a use shall be one acre.
 - c. Performance standards. The following performance standards which shall be complied with are:
 - 1. Pollution control and nuisance abatement. Each nonresidential use is required to continuously employ the best pollution control and nuisance abatement technology when reasonable and practicably available for each particular use; provided that where federal and state laws or regulations establish the appropriate level of technology to be employed, the applicable standards shall apply.
 - 2. Heat, light and glare.
 - i. All operations and facilities producing heat, light or glare shall be so constructed, screened or used so as to not unreasonably infringe upon the use and enjoyment of property beyond the lot line for the use concerned.
 - ii. Outdoor lighting structures shall be located, angled, shielded and/or limited in intensity so as to cast no direct light upon adjacent property and to avoid the creation of a visual safety hazard to passing motorists.
 - 3. Ground vibrations. No ground vibration other than that caused by highway vehicles, trains or

construction activity shall be permitted which is discernible, without instruments, at or beyond the property line for the use concerned.

4. Odor, dust, dirt and smoke. No odor, dust, dirt, or smoke shall be emitted that is detectable, at or beyond the property line, for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use and enjoyment of property beyond the property line of the use concerned.
5. Noise. The maximum constant sound level of 120 decibels as measured on the "A" scale of a sound meter (hereinafter dbA) and a maximum peak sound level of 150 dbA shall not be exceeded at or beyond the property line of the use emitting such sound.
6. Toxic gases and fumes. There shall be no emission of toxic gases or fumes in such a concentration or of such duration as to cause a public nuisance, to exceed state or federal mandated limitations, or to be injurious to the public health or general welfare.
7. Nuisance uses. No use or manner of operation shall be permitted which would constitute a nuisance or which is obnoxious or offensive by reason of odor, smoke, noise, glare, gas, fumes, vibration, unusual danger of fire or explosion, emission of particulate matter, or interference with radio or television communication or is otherwise incompatible with the character of the district and in relation to any adjoining district.

(Code 1981, § 8-5-144; Ord. No. 95-10, § 2, 11-7-1995; Ord. No. 98-08, § 1, 4-7-1998; Ord. No. 2000-01, § 1, 1-4-2000; Ord. No. 2000-11, § 1, 4-4-2000; Ord. No. 2015-15, § 20, 8-4-2015)

Editor's note(s)—Ord. No. 2015-15, § 20, adopted August 4, 2015, renumbered the former section 93-14-4 as section 93-14-5. The historical notation has been preserved for reference purposes.

Sec. 93-14-6. Uses requiring a special use permit.

The following uses require a special use permit, in accordance with section 93-3.2-5 and 93-3.2-6, in any C-2 zone:

- (1) Adult daycare facilities.
- (2) Climate-controlled storage facilities. Climate-controlled storage facilities may be permitted in any C-2 zone, subject to special use permit and the following conditions:
 - a. *Parking and loading requirements.*
 1. Parking spaces—One space for every 40 rental spaces and one space for each employee who may be working or arriving to work.
 2. Loading spaces—One space for every 400 rental spaces or majority fraction thereof.
 3. Customer and employee parking spaces shall be full size spaces; loading spaces shall be a minimum of 12 feet by 24 feet and have 14 feet of vertical clearance. No part of any parking and loading spaces or maneuvering space shall encroach into a public right-of-way.
 - b. *Minimum number of floors.* For the purpose of maximizing land utilization and minimizing impervious area, all climate-controlled storage facility developments shall be a minimum of three stories.
 - c. *Architectural design.*
 1. For the purpose of avoiding the industrial appearance of traditional mini-warehouses, the design and exterior finishes shall at a minimum reflect that of a typical Class B office building.
 - (a) For purposes of this section, Class B buildings are defined as follows:
 - i. These buildings are a grade below Class A. Generally, they are slightly older buildings with good management and quality tenants.
 - ii. It is not uncommon for value-added investors to target these buildings with the intention of renovating them back into Class A buildings.
 - iii. Class B buildings are well maintained overall and quite functional.

- iv. Class B office buildings commonly have an acceptable curtain wall finish, adequate (but not state of the art) mechanical, electrical and safety and security systems, and a mid-quality level of interior finish.
 - v. Class B buildings compete for a wide range of users at average rental rates for their market area.
 - vi. The following additional criteria characterize Class B office space: fair to good building finishes; good quality systems; and average rental rates.
- 2. All features that would afford a view into a private rental storage space should be faux or "one way" windows and shall present an opaque panel on the building facade.
- 3. All storage units shall be accessed through an interior entrance. Outside access to storage units is prohibited.
- d. *Operational standards.*
 - 1. All climate-controlled storage facilities shall feature temperature and humidity regimens that protect personal goods stored on the premises from damaging temperature, sun and humidity extremes.
 - 2. Outside storage of goods is prohibited.
 - 3. Storage of recreational vehicles and dry storage of pleasure boats of any type customarily maintained by private individuals for personal use shall be prohibited.
 - 4. Storage of flammable liquids, highly combustible or explosive materials, or hazardous chemicals shall be prohibited.
 - 5. No units within the facility shall be used for or considered to be premises for the purpose of establishing residency or for assigning a legal address in order to obtain an occupational license or any other government permit or license to conduct business.
 - 6. The hours of operation during which individuals with a written contract to rent or lease one or more storage units on the property shall be between 6:00 a.m. and 11:00 p.m., Monday through Sunday.
 - 7. No resident manager or any type of overnight accommodations for such shall be permitted.
 - 8. No units shall be used to manufacture, fabricate or process goods; to service or repair vehicles, boats, small engines or electrical equipment; or to conduct similar repair activities; to conduct garage sales or retail sales of any kind; to rehearse or practice utilizing band instruments; for conversion to an apartment or dwelling unit; or to conduct any other commercial or industrial activities on the site; provided that the owner may conduct retail sales in the leasing office limited to such items as locks, boxes and other moving supplies.
- e. *Building and site plan review.* Any new construction or renovation, including interior renovation, shall be subject to approval by the planning commission and the design review committee. Any conversion of a building a climate-controlled storage facility shall comply with the standards contained herein for new construction, including the minimum building height of three stories.

(Ord. No. 2015-14 , § 2, 8-4-2015; Ord. No. 2015-15 , § 20, 8-4-2015)

Sec. 93-2-23. - Extended-stay hotels.

No extended-stay hotel shall be initially constructed or thereafter operated, and no hotel may be converted to be, and operated as an extended-stay hotel unless in full compliance with each of the following provisions:

(a)Extended stay hotel standards.

- (1)The minimum number of guest rooms shall be 100.

(2)Public access to the interior of the premises shall be by means of a single, main entrance within view of a registration desk that is staffed by at least one person at all times.

(3)A manager and a minimum of one additional employee shall be on duty on the premises at all times.

(4)The minimum number of floors shall be four.

(5)A minimum lighting intensity of two and one-half foot-candles shall be maintained in all motor vehicle drives and parking areas and all pedestrian areas.

(6)A minimum lighting intensity of five foot-candles shall be maintained at each public entrance and exit.

(7)A flat roof is allowed; sloped roofs shall have a minimum roof pitch of a six-to-twelve ratio (6:12).

(8)All construction shall comply with the architectural design standards that allow brick, concrete stucco, stone and wood. In addition, glass in combination with metal and approved synthetic finishes complying with the "Dryvit" standards acceptable to the city shall be allowed.

(9)Management must provide without additional charge guest room cleaning on a minimum schedule of once weekly.

(10)Outside storage, long term parking of heavy equipment, and parking of construction or related equipment shall be prohibited.

(11)Any pay phone on the premises shall only be located in the lobby of the building.

(12)A minimum of two of the following amenities shall be offered for the use of all guests:

a.Fitness room.

i.The fitness room of an extended-stay hotel with between 100 and 200 guest rooms shall be no less than 275 square feet. Further, the fitness room must contain a minimum of four pieces of exercise equipment. Four required pieces must include the following: One treadmill, one upright or recumbent cycle, one elliptical cross trainer or stair climber and a two strength station gym or two independent strength pieces.

ii.The fitness room of an extended-stay hotel with over 200 guest rooms shall be no less than 350 square feet. Further, the fitness room must contain a minimum of six pieces of exercise equipment. Six required pieces must include the following: Two treadmills, two upright or recumbent cycles, one elliptical cross trainer or stair climber and a two-station gym or two independent strength pieces.

b.Swimming pool, with dimensions of no less than 30 square feet by 60 square feet.

c. A minimum of two meeting rooms, each having, dimensions of no less than 1,200 square feet.

(13) A daily hot breakfast shall be made available on the premises, by the hotel, for consumption by guests.

(14) Affiliation of the hotel with a national chain shall be required.

(15) A minimum of a three-star rating from the Smith Travel Accommodations Report, or its successor(s)-in-interest, shall be required.

(b) Hotel guest room standards.

(1) Access to guest rooms shall be via an interior corridor, only, with guest room doors opening only onto such corridors.

(2) No guest room shall be directly accessible from the exterior of the building.

(3) Access to individual guest rooms shall be by magnetic card access or as otherwise required by fire or life safety regulations.

(4) Room furnishings shall be subject to inspection by the city police chief who shall evaluate the furnishings for "wear and tear" on a seven-year cycle and shall be authorized to require replacement of any furnishings deemed to be in disrepair or otherwise in need of replacement.

(5) All guest rooms shall be protected with a smoke detector and sprinkler system approved by the city fire department.

(6) All guest rooms shall provide an automatic power shut off timer for each stove top unit or other type burner.

(7) No guest room permitted under this section shall be converted to or used as an apartment or condominium.

(8) Guest room amenities shall be consistent with or exceeding an upscale market class as defined by the Smith Travel Accommodations Report or its successor(s)-in-interest.

(c) Maximum number of certificates of occupancy available. The number of certificates of occupancy allowed, at one time, for the operation of an extended-stay hotel within the city shall not exceed four. The lots of the holders of certificates of occupancy, existing on the date of adoption of the ordinance from which this section derives, for extended-stay hotels in the city bear the Fulton County Parcel Identification numbers of 14 0127 LL0356, 14 0127 LL1107, 14 0098 00090476, and 14 0127 LL1263.

(d) Zoning districts. Extended-stay hotels shall be located only within the areas designated as "high intensity mixed use" or "commercial", on the "City of Hapeville Future Development Map", dated October 21, 2014, and as may be amended from time to time. The city future

development map is available for inspection during normal business hours in the office of the city clerk. Further, no extended-stay hotel shall be developed on a lot abutting any area occupied, planned (as so designated on the city future development map) or zoned for residential use, only.

(e)Penalties for noncompliance. An extended-stay hotel that fails to meet the requirements of the above subsections (a) through (d) is prohibited from offering cooking facilities in more than 20 percent of its total units. Further, any extended-stay hotel that fails to meet the requirements of this section shall be subject to citation imposing the maximum penalty allowed under the charter and ordinances of the city for each day of noncompliance. Each day of noncompliance shall constitute a separate offense punishable by a separate citation.



Sec. 93-22.1-1. Chart of dimensional requirements.

City of Hapeville

Article 22.1 Dimensional Requirements

							Minimum Front Yard		Minimum		Maximum			
Zoning District	Development Type	Lot Frontage (Feet)	Min. Lot Area SF	Lot Area/DU SF Square Feet	Floor Area/DU Sq. Ft.	Max Lot Coverage	Minor Col.	Maj. Arterial	Side	Rear	Stories	Feet	Min. Parking Spaces	Max. Unit Per Bldg. Lot
C-2	Nonresidential					80	15	15	0	0		40 b.	c., d., e.	
UV	Nonresidential	20	2,000			90	0/15	0/15	0	0	4 g.	64 g.	d, e, i. j. k.	
	Single-family	30	2,400		1,000	90	0/15	0/15	0	0	2 ½	35	1.5 DU	1

	Accessory structures								0	0	2	25		
	Single-family	30	2,400		1,000	90	0/15	0/15	0	0	2 ½	35	1 DU	2
	Single-family	20	1,200		1,000	90	0/15	0/15	0	0	3	45	1 DU	1.
	Accessory structures								0	0	2	25		
	Multi-family	20	2,000		600	90	0/15	0/15	0	0	4 g.	64 g.	1 DU	
.	Single-family attached patio/townhomes cannot have more than eight units per building and no less than four units attached.													
.	Buildings over 40 feet in height must be approved by the building official and fire chief to ensure that fire safety design standards are met.													
.	One parking space for every 200 square feet of enclosed commercial floor area.													
.	One parking space for every unit in a hospital, hotel, motel, boardinghouse, or similar establishment. One off-street loading space for every 10,000 square feet of building.													
.	One parking space for every three seats in an auditorium, church, theater, or similar establishment.													

.	One parking space for every two employees on the largest shift of any industrial uses or similar establishment.
.	Buildings over four stories or 64 feet in height must be approved by the planning commission and the fire chief to insurance that fire safety standards are met. One off-street loading space for every 10,000 square feet of building.
.	All live-work units shall provide a total of three parking spaces per dwelling unit, one of which may be provided in adjacent on-street parking.
.	Three parking spaces for every 1,000 square feet of enclosed commercial/office floor area.
.	One parking space for every three seats in an auditorium, church, theater, or similar establishment.
.	Three parking spaces for every 1,000 square feet of enclosed restaurant floor area; and three parking spaces for every 1,000 square feet of unenclosed restaurant floor area when such floor area exceeds 300 square feet.
.	Single-family attached patio/townhomes cannot have more than 12 units attached and no less than two units attached.
.	Reference subsection 93-11.5-3(18) Residential density limitations.

ARTICLE 25. AMENDMENTS

Sec. 93-25-1. Amendments to chapter.

The text of this chapter, as well as the official zoning map, may be amended by the mayor and council on its own motion, or on application or recommendation by the building official, any public agency, or department of the city.

(Code 1981, § 8-5-261; Ord. No. 97-05, § 1, 7-8-1997)

Sec. 93-25-2. Application for zoning amendment by individual.

- (a) A zoning map amendment may be proposed by an individual or entity owning fee simple title to the subject property or written authorization to act on behalf of such an owner.
- (b) A petition for amendment to the official zoning map or text, except those proposed by the mayor and council or other city agents shall be accompanied by a filing fee established by separate action, and shall be filed on a form provided by, and shall be filed with, the building official, at least 30 days prior to the date of the planning commission meeting at which the applicant wishes the petition to be considered.
- (c) The building official may vary the deadline by up to seven days provided that he/she determines that the petition may still be properly advertised and all notice requirements followed on schedule for the regularly scheduled planning commission meeting.
- (d) An application for a zoning map amendment should contain the following:
 - (1) A completed copy of the application for a zoning map amendment on the form provided by the building official.

Application form is from September submission and not updated. The correct survey was included but not the correct acreage.

- (2) A conceptual site plan depicting the proposed use of the property including:
 - a. A correct scale and north arrow;
 - b. The proposed land use and building outline as it would appear should the zoning map amendment application be approved;
 - c. The present zoning classification of all adjacent parcels;
 - d. The gross square footage of all proposed buildings;
 - e. The proposed location of all driveways and entry/exit points for vehicular traffic, using arrows to depict direction of movement;
 - f. The location of required off-street parking and loading spaces, including number of spaces and driveway dimensions;
 - g. Required yard setbacks appropriately dimensioned; and
 - h. The location and extent of required buffer areas, depicting extent of natural vegetation and type and location of additional vegetation if required.

A conceptual site plan for an extended stay hotel was provided dated 2015. The site plan showed incorrect zoning and does not provide all of the required elements as outlined above. Furthermore, the maximum number of certificate of occupancies for extended stay hotels has been reached. The applicant's representative stated at the Planning Commission meeting that the extended stay hotel is not the only use

considered and the applicant did not want to specify a use, though they have submitted this site plan. Requests for a site plan for a proposed use were declined by the applicant.

- (e) Within ten days of receipt of an application for zoning map amendment, including the conceptual site plan, the building official shall determine compliance with this section and shall either accept the application as being "sufficient" or reject as being "insufficient." If it is so rejected, the revised application may be resubmitted for the following application period. The city will refund 50 percent of the application fee for a rezoning if the building official rejects the application due to an insufficient site plan.

The September application had incorrect information and could not be processed. In October 2022, the applicant requested the application be held until the correct survey could be provided. Despite repeated requests from the City for additional information, the applicant declined to provide additional information and requested the Planning Commission and Council review the proposed amendment. Based upon this request and the applicant's decision to provide limited information, staff processed the application to move forward on the next Planning Commission agenda (March 2023).

(Code 1981, § 8-5-262)

Sec. 93-25-3. Planning commission review of application for amendment.

- (a) All proposed amendments to the official zoning map or text except those proposed by the mayor and council shall be transmitted to the building official for study and recommendation by the building official and the planning commission.
- (b) The building official shall circulate the application and/or appropriate materials regarding the application to those agencies, departments, and/or entities of government which the building official deems to be appropriate for solicitation of comments.
- (c) The planning commission shall convene and discuss the proposed change within 30 days from the date on which the building official accepts a site plan as "sufficient." The planning commission may solicit comments concerning the proposed change, including those from those persons or entities referred to in subsection (b) of this section.
- (d) Upon deciding on the proposed amendment, the planning commission shall submit its recommendation to the mayor and council of the city. This report shall be in writing and shall be submitted to the director of public services within 60 days from the date of which the building official accepts the site plan as "sufficient." The recommendation by the planning commission shall be one of the following:
 - (1) Recommend approval;
 - (2) Recommend approval subject to stated conditions; or
 - (3) Recommend disapproval.
- (e) If the planning commission fails to act on a petition within 60 days from the date upon which the building official accepts the site plan as "sufficient," it shall be deemed to have approved the proposed amendment.

(Code 1981, § 8-5-263; Ord. No. 97-05, § 1, 7-8-1997)

The Planning Commission recommended disapproval at their meeting on March 14, 2023.

Sec. 93-25-4. Notification and public hearing by mayor and council.

- (a) Before enacting an amendment to this chapter, whether the proposed amendment is a text or map amendment, the mayor and council shall hold a public hearing thereon for the purpose of receiving and considering public comment on the merits of the proposed amendment. Such hearings shall be held only after substantial compliance with all required public notification of the hearing as set forth herein and shall occur within 60 days of submission of the planning commission's recommendations.
- (b) The city shall cause a legal notice to be published in a newspaper of general circulation in the county, as required by state law, prior to the required public hearing by the mayor and council, stating, where applicable, the time and place of such hearing, the location of the property, and the present and proposed zoning classifications.
- (c) Additionally, whenever a proposed amendment to the zoning ordinance, initiated by a party other than the city, involves changes in the zoning classification of property from one zone to another (map amendment), the building official shall cause to have posted in a conspicuous place on the property proposed to be rezoned one or more signs, each of which shall not be less than three square feet in area and each of which shall contain the time, date and location of the public hearing scheduled for the application, and such other information as the building official deems appropriate.
- (d) In instances where the posting of a sign or signs is required under this section, and if the property proposed for rezoning does not have frontage on a public street, then an additional sign may be posted on the right-of-way of the nearest public street which provides access to the site.
- (e) If the posting of a sign or signs is required under this section, and the property proposed for rezoning is made up of more than one parcel of property and in the opinion of the building official it would be either impractical or duplicitous to post signs on each parcel, then the building official in his discretion may cause fewer than one sign per parcel to be erected. In such cases, however, there shall be at least one sign posted on each public street which fronts the property proposed for rezoning. In determining compliance under this section, a sign placed at an intersection between streets which each front the property proposed for rezoning shall be deemed posted on each of those streets if, in the opinion of the building official, the sign is placed in such a position as to be visible from each street.
- (f) Proposed zoning text amendments and proposed revisions of the zoning map which are initiated by the city shall not require the posting of signs on affected property.

(Code 1981, § 8-5-264; Ord. No. 97-05, § 1, 7-8-1997)

Sec. 93-25-5. Hearing procedures of mayor and council.

- (a) The provisions of this section shall apply to public hearings by the mayor and council on all petitions for amendments under this article.
- (b) The governing, calling, and conducting of hearings shall be accomplished in accordance with the following policies and procedures:
 - (1) If any person desires a stenographic record of the proceedings, such person shall make arrangements for and bear the costs of such.
 - (2) The presiding officer of the hearing body shall indicate that a public hearing has been called for the consideration of zoning decisions. Thereupon, the hearing body shall consider each application on an individual basis.
 - (3) When an application comes up for review, the presiding officer shall ask those persons who wish to present data, evidence, and opinions both in favor or against the application to identify themselves. The presiding officer shall notify the persons described above that each side shall have a minimum of

ten minutes to present data, evidence, and opinion. Additional and equal time may be allowed in the discretion of the presiding officer. However, such time should not exceed 30 minutes per side unless the presiding officer determines a greater amount of time is necessary. The presiding officer may ask those with concurring view point to elect a spokesperson.

- (4) After the comments and concerns of the public have been heard, the hearing body may thereupon request a report from officers or agents of the city.
- (5) The applicant may reserve some part of their time for rebuttal. However, in no case shall the applicant be granted more time than those in opposition.
- (6) After the above procedures have been completed, the presiding officer will indicate that the public hearing is formally closed.
- (7) After the public hearing is closed, the hearing body may either vote upon the proposed change or may delay their vote to a subsequent meeting, provided that notice of the time, date, and location when such zoning decision is to be announced at the meeting during which the public hearing is held.

(Code 1981, § 8-5-265; Ord. No. 97-05, § 1, 7-8-1997; Ord. No. 2005-05, §§ 1, 2(8-5-265), 4-5-2005)

Sec. 93-25-6. Standards of review.

- (a) In ruling on any matter herein in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as they may be relevant to the application:
 - (1) The existing land use pattern;
 - (2) The possible creation of an isolated district unrelated to adjacent and nearby districts;
 - (3) The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets;
 - (4) The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety measures;
 - (5) The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity;
 - (6) Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;
 - (7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;
 - (8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area;
 - (9) The extent to which the proposed zoning map amendment is consistent with the land use plan;
 - (10) The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community;
 - (11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry-out the purposes of these zoning regulations;
 - (12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;
 - (13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;

- (14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.
- (b) After hearing evidence at the zoning hearing, the mayor and council shall apply the evidence to the standards of review in making their decision. It will not be required that the mayor and council consider every criteria contained in the standards of review. It shall be the duty of the applicant to carry the burden of proof that the proposed zoning map amendment promotes the public health, safety, morality or general welfare.
- (c) If the mayor and council determine from the evidence presented that the applicant has shown that the proposed zoning map amendment promotes the health, safety, morals and general welfare under the standards of review, then the application shall be granted, subject to those reasonable provisions as may be imposed by the mayor and council pursuant to section 93-25-8. Otherwise, such application shall be denied.
- (d) In ruling on any petition in which the petitioner has brought a challenge of the existing zoning classification, the mayor and council may impose upon such property any appropriate zoning classification, including provisions allowed by section 93-25-7, which might be consistent with the considerations contained in (a) above.

(Code 1981, § 8-5-266; Ord. No. 97-05, § 1, 7-8-1997)

Sec. 93-25-7. Conditions on zoning.

- (a) In deciding upon any application for zoning map amendment, the mayor and council may, on their own motion or upon the suggestion of the applicant, grant the application subject to certain conditions necessary to promote and protect the health, safety, morals and general welfare of the city. Such conditions shall be imposed for the benefit of the community to lessen any negative effects that the zoning map amendment may cause.
- (b) The mayor and council may grant any zoning map amendment and include condition as follows:
 - (1) Such conditions as are deemed necessary to protect neighbors and to lessen any negative effects of the zoning change;
 - (2) That the rezoning is conditional and that the applicant or any successor in title may construct only those uses and only in such a manner as is depicted upon any site plan submitted and approved with the application.
- (c) Prior to a final vote being taken upon any application for zoning map amendment in which conditions shall be imposed, such conditions will be announced at the hearing and the applicant shall be afforded an opportunity to present its position on such conditional requirements. If the applicant finds such proposed conditional requirements to be unacceptable, it may, at that time, withdraw its application for zoning map amendment; or seek a vote on the applicant.
- (d) If the mayor and council adopt a zoning map amendment which contains conditional requirements, such requirements shall become a part of the zoning ordinance and the official zoning map. Such property shall thereafter carry the suffix "-C" to indicate that such property has been conditionally zoned (e.g., R-1-C, I-1-C etc.). Such conditions shall be binding upon all owners of the property until removed or modified by the mayor and council. The building official shall so indicate in the records of the zoning actions the existence of the conditional requirements. The suffix "-C" shall be affixed to the zoning map for the appropriate property.
- (e) A conditional requirement may be imposed upon either permitted and/or conditional uses in any zoning district. In ruling on such conditional requirements, the mayor and council shall utilize the applicable standards of review contained in section 93-25-6.
- (f) In those instances where a rezoning is granted which is conditional upon the submitted site plan, such property shall revert to its former zoning classification by operation of law if a building permit for such development has not been applied for within one year, provided that the mayor and council, at a zoning

hearing, may extend this period for good cause shown by the property owner. The building official may grant "minor" changes to such site plans if the following conditions are met:

- (1) The developer can show a hardship requiring such modifications; and
 - (2) The building official determines that the changes so requested do not materially affect the basis design nor negate any special features which were an integral component of the plan.
- (g) It shall be the duty of the building official to review on a quarterly basis such conditional rezoning and to report to the mayor and council those rezoning actions which have reverted by operation of law.

(Code 1981, § 8-5-267; Ord. No. 97-05, § 1, 7-8-1997; Ord. No. 2005-04, § 1(8-5-267), 4-5-2005)

Sec. 93-25-8. Amendment to conditions.

Procedures for removing or modifying any conditional requirement of an approved rezoning matter, a non-text amendment, special use permit, or special exception shall follow a streamlined process but must meet the minimum standards in accordance with the requirements of the state zoning procedures law (Ga. Laws 1985, page 1139; O.C.G.A. §§ 36-66-1—36-66-5). These applications shall be submitted to the planning commission for analysis per section 93-25-3 of the city Code. The public shall be notified in accordance with section 93-25-4 of the city Code. The requisite public hearing will be held by the city, wherein the final decision will be made by the city. However, the city will not be required to hold two hearings for these approved rezoning matters, non-text amendments, special use permit(s), or special exception matters after completion of the one requisite public hearing.

(Code 1981, § 8-5-268; Ord. No. 97-05, § 1, 7-8-1997; Ord. No. 2005-04, § 2(8-5-268), 4-5-2005; Ord. No. 2019-18, § 1, 7-16-2019)

Sec. 93-25-9. Reconsideration of defeated actions.

If the zoning decision of the mayor and council is for the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning.

(Ord. No. 2019-29, § 1, 9-17-2019)



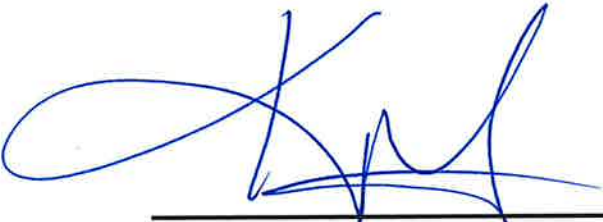
CITY OF HAPEVILLE
3468 NORTH FULTON AVENUE
ATLANTA, GA 30354

PUBLISHER'S AFFIDAVIT

STATE OF GEORGIA
COUNTY OF FULTON

Before me, the undersigned, a Notary Public, this day personally came the undersigned who, being duly sworn, according to law, says she is an agent of ALM Media, LLC., publishers of the **Daily Report**, the official newspaper published in Atlanta, GA, in said county and state, and that the publication, of which the annexed is a true copy, was published in said newspaper as provided by law on the following dates: 02/28/2023.





Subscribed and sworn to before me this February 28, 2023



**NOTICE
City of Hapeville**

A Public Hearing will be held by the City of Hapeville Mayor and Council on **Tuesday, March 21, 2023 at 6:00 p.m.** at the City of Hapeville Municipal Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354. The meeting will be made available to the public by live streaming only via teleconference/videoconference in accordance with O.C.G.A § 50-14-1(g) at <https://ga-hapeville3.civicplus.com/562/Agendas-and-Minutes> to consider the following:

Rezoning Request:

Rezoning requests for the property located at 0 Norman Berry Drive on Land Lot 127 of the 14th District, City of Hapeville, Fulton County, Georgia, Parcel Identification Number 14 0127 LL1230 from U-V, Urban Village to C-2, General Commercial for the purpose of constructing a hotel.
Applicant: Williams Teusink, LLC

Public Hearing Comments: For those who are unable to physically attend the meeting, citizen comments must be emailed to the City Clerk, Sharee Steed, at ssteed@hapeville.org or called in at 404-766-3004 no later than 5:00 p.m. on March 20, 2023. When emailing or verbally delivering your comment to the City Clerk, please include your name, address, the agenda item, and the comment for or against the item. All comments submitted to the City Clerk will be read into the record during the meeting. Citizens may not make comments on public hearing agenda items via teleconference.
#0000648868:2/28-1AS



Brian Wismer, Chairman
Lucy Dolan, Vice Chairman
G. Leah Davis
Rob Hall
Miller Radford
Jeanne Rast
Cliff Thomas

**Planning Commission Meeting
700 Doug Davis Drive
Hapeville, Georgia 30354**

March 14, 2023 6:00 PM

SUMMARY MINUTES

1. Called to Order at 6:04 PM.

2. Roll Call

Brian Wismer, Chairman
Lucy Dolan, Vice Chairman
G. Leah Davis
Rob Hall
Miller Radford - Teleconference
Jeanne Rast - Absent
Cliff Thomas

3. Approval of Minutes

3.I. Minutes of January 17, 2023

MOTION ITEM: Cliff Thomas made a motion to approve the minutes of January 17, 2023, as submitted. Lucy Dolan seconded the motion. Motion carried: 5-0.

4. New Business

4.I. 0 Norman Berry Drive

Rezoning Request

Background:

Sam Arthopoeus representative of the applicant Williams Teusink, LLC submitted a request to rezone the property located at 0 Norman Berry Drive on Land Lot 127 of the 14th District, City of Hapeville, Fulton County, Georgia, Parcel Identification Number 12 0127 LL1230 from U-V, Urban Village to C-2, General Commercial for the purpose of constructing a hotel.

Mr. Artopoeus stated Fort Wayne Capital LLC purchased the property in 2015 and at that time the property was zoned C-2. Mr. Artopoeus also stated that the applicant wishes to build a hotel as per the submitted site plan. Mr. Artopoeus stated that the applicant did not wish to declare a use and would like to develop the property as “they see fit” under the C-2 zoning regulations. Mr. Artopoeus also stated there was no specific plan but rather they wanted to keep options open under C-2.

Findings:

Dr. Patterson stated the City received a rezoning application from Williams Teusink LLC on behalf of Fort Wayne Capital LLC requesting the rezoning of a 1.351 acre (58,858 SF) parcel located at 0 Norman Berry Drive (Parcel ID 14 0127 LL1230) from U-V, Urban Village to C-2 General Commercial. The rezoning application for the property had been submitted in September 2022 with incorrect information regarding the proposed parcel for consideration including incorrect parcel data, a survey for an adjacent property, an out-of-date site plan for an extended stay hotel, and the wrong legal description. Staff spoke with Sam Artopoeus representing Williams Teusink outlining the deficient and incorrect application data as well as the proposed site plan (2015) for an extended stay hotel would not be allowed per Code. Mr. Artopoeus requested a delay in review until the application materials could be located and submitted. A correct property survey was provided on February 7, 2023 via email.

An additional conversation was held with Mr. Artopoeus in February advising him of missing information regarding site plan/proposed use. Mr. Artopoeus advised Staff that the proposed use was undecided.

Mr. Artopoeus was advised some indication for the proposed use (site plan, description, parcel sales marketing materials, etc.) should be provided to help inform City staff, the Planning Commission and the Mayor & Council with their evaluation of the rezoning case. The applicant declined verbally and, in an email, dated February 7, 2023 to provide the requested information, while also acknowledging that Fort Wayne Capital had been advised that additional information was needed. However, Mr. Artopoeus advised that Fort Wayne Capital would not provide a new site plan or any additional information to assist in the review of the application based on a proposed use.

The present land use is vacant. The property had been approved as a commercial parking lot in January 2022 upon completion of all Council requirements. These requirements have not been met as of the date of this report; therefore the property has not been permitted as a commercial parking lot.

The parcel has been zoned U-V, Urban Village since 2013. The proposed rezoning is C-2. The parcel immediately adjacent to the south is zoned U-V. The parcel to the east is located in the City of East Point, not Hapeville. The parcels located across I-85 to the north and to the east (not adjacent to the parcel) are zoned C-2. The permitted uses and other site requirements for both zoning districts are provided below.

The City of Hapeville Future Land Use Map identifies the property as High Intensity Mixed Use, consistent with the surrounding parcels.

A billboard sign permit was reviewed and approved for zoning compliance in October 2022.

Recommendation:

Despite repeated written and verbal requests, the applicant has declined to provide a proposed use to support the need for the rezoning application. Without this information, the Planner cannot provide a recommendation based upon the Code requirements.

Commissioner Hall asked regarding the plan for parking. Mr. Artopoeus stated they would possibly do underground parking or a shared parking agreement with the adjacent property owner.

Commissioner Wismer confirmed the current zoning and use allows for hotels. The applicant can request a conditional use permit.

Public Comment

Joseph Netto, 709 Reed Street, Atlanta, Georgia 30315. Mr. Netto, representative of Hapeville Centers located at 1155 Virginia Avenue. Mr. Netto expressed concerns regarding access to parking and a potential hindrance to their current tenants. Mr. Netto also expressed concerns regarding the impact on the existing water and sewer service and the existing tenants.

End of Public Comment.

MOTION ITEM: Rob Hall made a motion to recommend the Mayor and Council deny the rezoning request for 0 Norman Berry Drive, (Parcel ID: 12 0127 LL1230). The motion was seconded by Lucy Dolan. Motion carried: 5-0.

4.II. 3034, 3038, and 3044 Springdale Road

Preliminary Plat Review

Background:

Zain Farishta of Kimley-Horn requested preliminary plat review for the properties located at 3034, 3038, and 3044 Springdale Road (Parcel ID: 14-0099-0001-088-7, 14-0099-0001-023-4, 14-0099-0001-022-6) for the purpose of constructing a townhome development. The properties are zoned V, Village.

Findings:

The applicant should provide the following information to complete the preliminary plat:

- Address of owner
- Date of plat
- Zoning of adjacent parcels
- Size of individual parcels to be consolidated
- 5' addition right of way required and dedication of said right of way
- Utility connections per Engineer's report
- Grades at 5' intervals or less.

The applicant should address any outstanding issues raised in the Engineer's report. A final plat is required prior to sale of any single family attached units.

Recommendation

Once the necessary revisions are made, the preliminary plat may be approved with the understanding the applicant shall comply with all other zoning rules, regulations, covenants, and easements of record.

Public Comment:

None.

MOTION ITEM: Cliff Thomas made a motion to approve the preliminary plat for the properties located at 3034, 3038, and 3044 Springdale Road subject to the approval of a final plat prior to the sale of any units. Lucy Dolan seconded the motion. Motion Carried: 5-0.

4.III. 3034, 3038, and 3044 Springdale Road

Site Plan Review

Background:

Zain Farishta of Kimley-Horn requested site plan review for the properties located at 3034, 3038, and 3044 Springdale Road (Parcel ID: 14-0099-0001-088-7, 14-0099-0001-023-4, 14-0099-0001-022-6) for the purpose of constructing a townhome development. The properties are zoned V, Village.

Findings:

The development includes the construction of 59 single family attached homes on a newly consolidated parcel of 3.88 acres. The site includes 5 guest parking spaces, and a tree save area.

The proposed project includes three and four bedroom units ranging in size from 1,936 SF to 2,147 SF.

An additional 5' of right of way is required for Cofield Ave. The site plan should be adjusted for the dedication of this right of way and the buildings moved back to 15'. Furthermore, the steps and awnings are located in the front setback.

The site plan provided has a number of deficiencies per Code that must be rectified.

- The subdivision plat requires an additional 5' of right of way along Cofield Drive. This should be shown on the site plan and dedicated to the City. The setback should then be updated to accommodate the new property line.
- Setbacks should be shown to the closest building element.
- The steps and awnings for the units cannot be located in the setback.
- The retaining wall design meet Architectural guidelines.
- The drive aisle is not to be dedicated to the City but is rather a private driveway and will be maintained by the HOA.
- A wall or fence should be shown along the northern boundary.
- No parking will be allowed along the interior driveway as this is to be kept clear for Fire vehicles.
- Only 5 guest parking spaces have been provided for 59 townhomes. The dimensions for the individual driveways (depth) have not been provided. If the proposed driveways are

deep enough to accommodate additional cars, additional visitor parking may not be required by the Planning Commission.

- Address all items in the arborist report.
- Show mechanical location and screening.
- There is no parking for the mail kiosk.
- Provide correct site coverage.
- Project timeline should be provided.
- The building elevations will be reviewed by the Design Review Committee for compliance with the Architectural Design Standards.

Staff recommends the applicant address the aforementioned including updating the Site Plan including Engineer's Comments and obtain an approval for the landscape/tree plan by the Arborist prior to approval.

Public Comment:

None.

MOTION ITEM: Cliff Thomas made a motion to table the application for 3034, 3038, and 3044 Springdale Road until Tuesday, April 11, 2023. Leah Davis seconded the motion. Motion carried: 5-0.

6. Next Meeting Date – April 11, 2023 at 6:00 p.m.

7. Adjourn

MOTION ITEM: Lucy Dolan made a motion to adjourn the meeting at 7:01 p.m. Leah Davis seconded the motion. Motion carried: 5-0.

Respectfully submitted by,

Brian Wismer, Chairman

Adrienne Senter, Secretary



CIVILITY PLEDGE

The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy, and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

ALAN HALLMAN
MAYOR

MIKE RAST
ALDERMAN AT LARGE

BRETT REICHERT
COUNCILMAN AT
LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

MAYOR AND COUNCIL REGULAR SESSION

Join in person at 700 Doug Davis Drive, Hapeville, GA 30354 Or, visit the City's Website for live stream at <http://hapevillega.civicclerk.com/Web/Player.aspx?id=933&key=-1&mod=-1&mk=-1&nov=0>

March 7, 2023 6:00 PM

MINUTES

1. **CALL TO ORDER:** by Mayor Hallman at 6:02 PM
2. **ROLL CALL:** All Members of Council were present which constituted a quorum.
 - ✓ Alan Hallman
 - ✓ Mike Rast
 - ✓ Brett Reichert
 - ✓ Mark Adams
 - ✓ Chloe Alexander
3. **WELCOME:** Mayor Hallman welcomed all to the March 7th Meeting.
4. **PLEDGE OF ALLEGIANCE:** The pledge of allegiance was recited in unison.
5. **INVOCATION:**
6. **PRESENTATIONS:** None
7. **PUBLIC HEARING:** None
8. **QUESTIONS ON AGENDA ITEMS:** None
9. **CONSENT AGENDA:**
 - 9.I. Consideration and Action to approve the February 21st, Council Meeting minutes.
 - 9.II. Consideration and Action to approve the February 21st, Executive Session Meeting minutes.
 - 9.III. Consideration And Action On The Exchange Club's Request To Use The Concession Stand During Baseball Season.

MOTION: Alderman Rast made a motion to approve the consent agenda, Councilman Reichert provided a second. **Motion carried 4-0.**
10. **OLD BUSINESS:** None
11. **NEW BUSINESS:**
 - 11.I. Consideration and Action to approve the Keep Momma Moving Walkathon Event Request.

MOTION: Councilman Reichert made a motion to approve the Keep Momma Moving Walkathon Event Request, Councilman Adams provided the second. **Motion carried 4-0.**
 - 11.II. Consideration and Action to approve the Spin the District Event Request.

MOTION: Councilman Adams made a motion to approve the Spin the District Event Request, Councilman Alexander provided the second. **Motion carried 4-0.**

- 11.III. Consideration and Action to approve the Got Seafood & Beer Girl Crawfish Boil Event Request.

MOTION: Alderman Rast made a motion to approve the Got Seafood & Beer Girl Crawfish Boil Event Request, Councilman Alexander provided the second. **Motion carried 4-0.**

- 11.IV. Consideration and Action to approve JOC Construction LLC in the amount of \$ 298,223.86 for the construction of a multi-purpose field at the Tommy Morris Sports Complex.

MOTION: Councilman Reichert made a motion to approve JOC Construction LLC in the amount of \$ 298,223.86 for the construction of a multi-purpose field at the Tommy Morris Sports Complex, Councilman Adams provided the second. **Motion carried 4-0.**

12. **CITY MANAGER REPORTS:** City Manager, Tim Young spoke about the Following items:

- The property tax largely completed the collection of property taxes.
- The business license renewal process is going on and is due by the end of this month.
- Mr. Young complemented the 10 and 12-year-old boys' basketball team for finishing the season as state runner-up this year. He also congratulated the 14-year-old boys' basketball team for finishing the season as State Champions. Mr. Young stated that the team would be able to come and get acknowledged at an upcoming meeting. He would like to celebrate them properly before the Mayor and Council.

13. **PUBLIC COMMENTS:**

1. Ardina Pierre
2. David Burt
3. Melvin Traynum

14. **MAYOR AND COUNCIL COMMENTS:**

Councilman Reichert thanked all everyone for attending the meeting tonight and thanked City staff for their hard work on upcoming events. He thanked Economic Development Director Adrienne Senter for educating residents and property owners on the short-term ordinance, which led to transparency around that whole project.

Councilman Adams Thanked the audience for attending the Council meeting.

Alderman Rast No Comment at this time.

Councilman Alexander No Comment at this time.

Mayor Hallman informed Community Service of a large pothole located on Dogwood. Mayor Hallman expressed appreciation to everyone for attending the Council meeting. He stated that it means a lot that the residents would take the time to be involved with their city government.

15. **EXECUTIVE SESSION:** An Executive Session was not conducted at this meeting.

16. **ADJOURN:**

MOTION: Councilman Adams made a motion to adjourn at 6:32 PM, Councilman Alexander provided a second. **Motion carried 4-0.**

Respectfully submitted,

Alan Hallman, Mayor

Sharee Steed, City Clerk



BRIGHT FROM THE START

Georgia Department of Early Care and Learning

2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, Georgia 30334

DELEGATION OF AUTHORITY FROM AN OFFICER TO A PRINCIPAL

I, Alan Hallman am the Mayor of City of Hapeville, and
(Officer's Name) (Title) (Name of Organization)

hereby grant authorization to Ashley Moody, as a legal employee, to act on the behalf of
(Principal's Name)

City of Hapeville while conducting business and/or activities pertinent to administering and/or
(Name of Organization)

operating the SFSP Food Program.
(CACFP or SFSP)

Ashley Moody is to be considered an agent of the City of Hapeville and therefore
(Principal Name) (Name of Organization)

the signature of said agent is binding and causes the City of Hapeville to assume all responsibilities connected to or
(Name of Organization)

associated with the signature as they may relate to City of Hapeville
(Name of Organization)
SFSP Food Program business.
(CACFP or SFSP)

I, Ashley Moody understand that it is my sole responsibility to grant and terminate any such authorization and
(Principal's Name)

to ensure that Bright from the Start receives notice of such grant or termination within 30 days. The attached documentation demonstrates my appointment as Officer, and/or documentation supporting the governing board's approval of the delegation of authority to Ashley Moody.
(Principal's Name)

I, Ashley Moody hereby accept my appointment as Principal of City of Hapeville with all
(Principal) (Name of Organization)

duties and responsibilities pertinent to this appointment.

I, Ashley Moody, hereby declare that I have fully read Bright from the Start's Participation Agreement and understand the terms and conditions of the agreement.
(Principal)

Signature of Officer

Title:

Date:

Signature of Delegated Principal

Title:

Date:

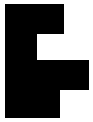
Legal Name of Organization: _____

Sworn to and Subscribed before me

This _____ day of _____ 20_____

My Commission Expires: _____

Notary Public Signature



From: noreply@civicplus.com <noreply@civicplus.com>
Sent: Monday, February 6, 2023 12:57 PM
To: Sharee Steed <ssteed@hapeville.org>; Jamie Jones <jjones@hapeville.org>
Subject: Online Form Submittal: Event Request Form

Event Request Form

Please note that approval by Hapeville Mayor and Council is required for events that include any of the following:

- *More than 50 attendees*
- *Use of City staff, services, utilities, or the placement of a banner on City property*
- *Food or Alcohol vendors*
- *Charges for admission or other event activities*

After you submit this form, you will be contacted regarding date availability, cost estimates, and, if applicable, a date to go before the Mayor and Council for approval (typically either the 1st or 2nd Tuesday of each month).

Today's Date	2/6/2023
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CONTACT INFORMATION:

Contact Person	Joi Freemont
----------------	--------------

Name of Organization	James M. & Erma T. Freemont Foundation
----------------------	--

Full Mailing Address	606 S. Central Ave.
----------------------	---------------------

Telephone #:	
--------------	---

Cell #:	
---------	---

Fax #:	Field not completed.
--------	----------------------

E-mail Address

(Section Break)

EVENT INFORMATION:

Name of the Event: Represent Yourself Scholarship 5K

Date of the Event: 09/23/2023

Start time: 8:00 AM

End time: 1:00 PM

Arrival Time for Set-Up 6:00 AM

Location of the Event: Jess Lucas Park

If other was selected,
please explain *Field not completed.*

How many attendees? 150

Banner: Yes

If yes, where is the banner
to be placed?: Park gate facing S. Central Ave.

Specify dates banner will
hang in proposed location: 08/01/2023 - 09/23/2023

If placing a banner on City
property, provide a
description of the banner
(measurements, color,
etc.): see attached

Upload a pdf version of the
banner: [Hapeville Banner 2023.png](#)

**Banners placed on the Jess Lucas Park fence facing S. Central Avenue must be placed to the left of the telephone pole of Christ Church.*

Will there be alcohol at this
event? No

Will there be a DJ/Music at Yes

this event?

Additional information about this event:	This is the Freemont Foundation's 10th annual event. We have enjoyed the use of the park for several years and are excited about the continued use.
--	---

(Section Break)

CITY SERVICES:

Check all that apply	Road Closures
----------------------	---------------

If requesting City Staff, please specify:	electricity, road closures, garbage service
---	---

If requesting road closures, please specify which roads:	ROUTE: Start at Jeff Lucas Park –head down S. Central Ave. Turn RIGHT onto Elm St. Turn RIGHT onto Chestnut St. Turn RIGHT onto Union Ave. Turn LEFT onto Chestnut St. Continue onto Doug Davis Dr. Turn RIGHT onto Elkins St. Turn RIGHT onto Willingham Dr. Turn RIGHT onto S. Central Ave. Turn RIGHT onto Atlanta Ave. Turn LEFT onto College St. Turn LEFT onto Elm St. Turn LEFT onto S. Central Ave. Finish at 606 S. Central Ave. (Freemont Dental)
--	--

Will there be a charge for admission or other event activities?	Yes
---	-----

If yes, please specify:	Registration for the 5K
-------------------------	-------------------------

(Section Break)

VENDOR(S):

Will there be food vendors?	No
-----------------------------	----

Required to check box	I understand that it is the responsibility of the event organizer to ensure that all food vendors obtain a Transient Vendor or Mobile Food permit from the City Clerk.
-----------------------	--

Will there be any other kinds of vendors? If so, what will they be selling?	N/A
---	-----

Required to check box	I understand that it is the responsibility of the event organizer to ensure that all non-food vendors obtain a Transient Vendor permit from the City Clerk.
-----------------------	---

(Section Break)

LIABILITY INSURANCE:

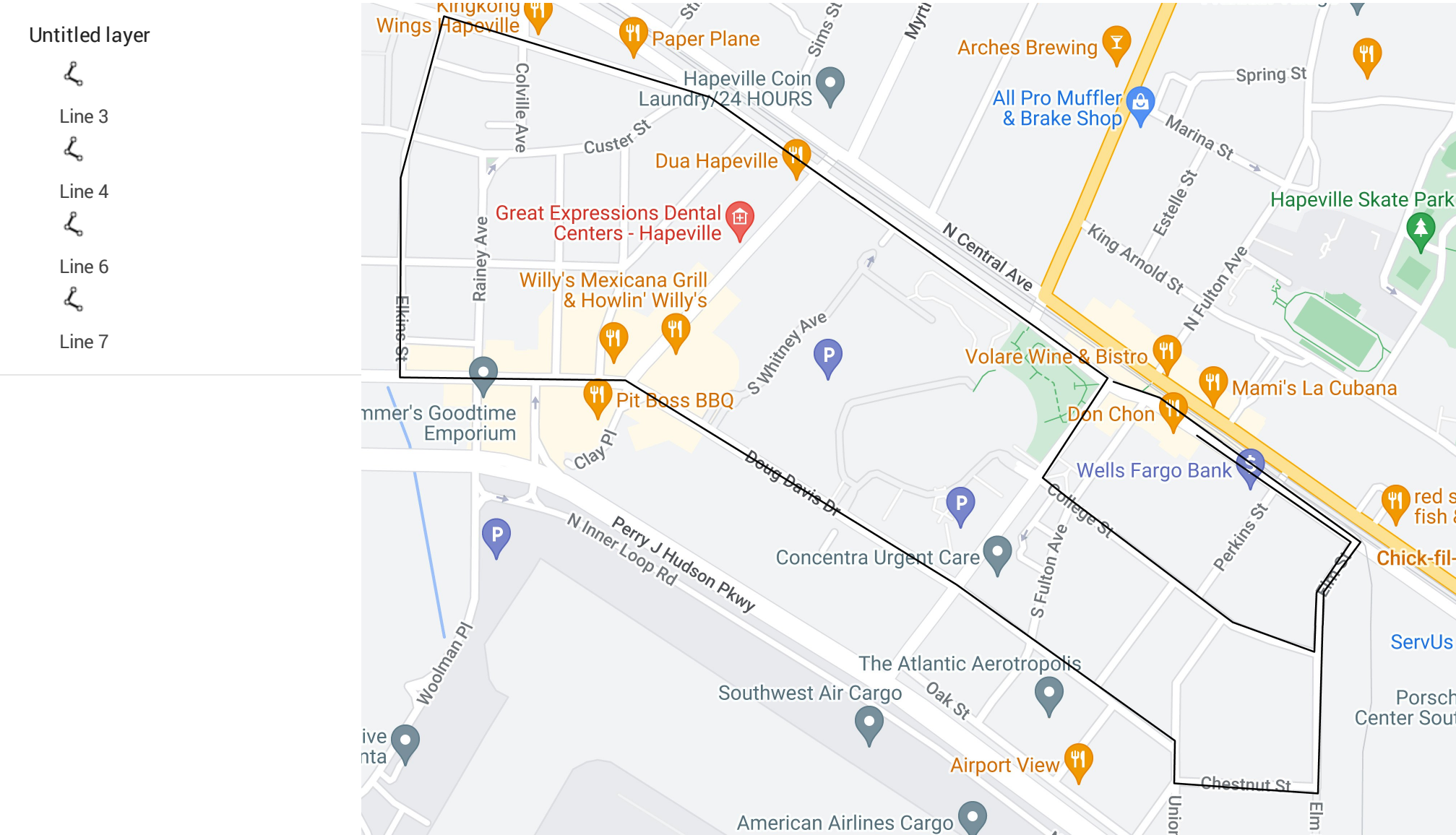
Do you or the organization currently possess liability insurance?	Yes
---	-----

Required to check box	I understand that I must provide a certificate of insurance totaling \$1,000,000 General Liability for events that require Mayor and Council approval.
-----------------------	--

An application for temporary road closure will need to be filled out at the Hapeville Police Department located at 700 Doug Davis Drive, Hapeville.

Email not displaying correctly? [View it in your browser.](#)

Represent Yourself 5k





September 23, 2023

Register at FreemontFoundation.com

F [REDACTED]

[REDACTED]

From: noreply@civicplus.com <noreply@civicplus.com>

Sent: Monday, February 27, 2023 6:51 AM

To: Sharee Steed <ssteed@hapeville.org>; Jamie Jones <jjones@hapeville.org>

Subject: Online Form Submittal: Event Request Form

Event Request Form

Please note that approval by Hapeville Mayor and Council is required for events that include any of the following:

- *More than 50 attendees*
- *Use of City staff, services, utilities, or the placement of a banner on City property*
- *Food or Alcohol vendors*
- *Charges for admission or other event activities*

After you submit this form, you will be contacted regarding date availability, cost estimates, and, if applicable, a date to go before the Mayor and Council for approval (typically either the 1st or 2nd Tuesday of each month).

Today's Date 2/27/2023

CONTACT INFORMATION:

Contact Person Didi Pinet

Name of Organization Delta Air Lines

Full Mailing Address [REDACTED]

Telephone #: [REDACTED]

Cell #: Field not completed.

Fax #: Field not completed.

E-mail Address

{Section Break}

EVENT INFORMATION:

Name of the Event: Delta Scholarship Fund 5K

Date of the Event: 06/10/2023

Start time: 7am

End time: 12pm

Arrival Time for Set-Up 5am

Location of the Event: Other

If other was selected,
please explain 5K run

How many attendees? 500

Banner: No

If yes, where is the banner
to be placed?: *Field not completed.*

Specify dates banner will
hang in proposed location: *Field not completed.*

If placing a banner on City
property, provide a
description of the banner
(measurements, color,
etc.): *Field not completed.*

Upload a pdf version of the
banner: *Field not completed.*

****Banners placed on the Jess Lucas Park fence facing S. Central Avenue must be placed to the left of the telephone pole of Christ Church.***

Will there be alcohol at this
event? No

Will there be a DJ/Music at Yes

this event?

Additional information
about this event:

Field not completed.

(Section Break)

CITY SERVICES:

Check all that apply

Field not completed.

If requesting City Staff,
please specify:

Field not completed.

If requesting road closures,
please specify which roads:

Field not completed.

Will there be a charge for
admission or other event
activities?

Yes

If yes, please specify:

There will be a race entry charge.

(Section Break)

VENDOR(S):

Will there be food vendors?

Yes

Required to check box

I understand that it is the responsibility of the event organizer to ensure that all food vendors obtain a Transient Vendor or Mobile Food permit from the City Clerk.

Will there be any other
kinds of vendors? If so,
what will they be selling?

Jewelry, t-shirts, colleges (information purposes).

Required to check box

I understand that it is the responsibility of the event organizer to ensure that all non-food vendors obtain a Transient Vendor permit from the City Clerk.

(Section Break)

LIABILITY INSURANCE:

Do you or the organization
currently possess liability
insurance?

N/A

Required to check box

I understand that I must provide a certificate of insurance totaling \$1,000,000 General Liability for events that require Mayor and Council approval.

An application for temporary road closure will need to be filled out at the Hapeville Police Department located at 700 Doug Davis Drive, Hapeville.

Email not displaying correctly? [View it in your browser.](#)

Tim Young

From: Jamie Jones
Sent: Friday, March 17, 2023 11:50 AM
To: Tim Young
Subject: Delta 5k/Coffee & Chrome Workaround
Attachments: Road Race Route.pdf

Hi Tim,

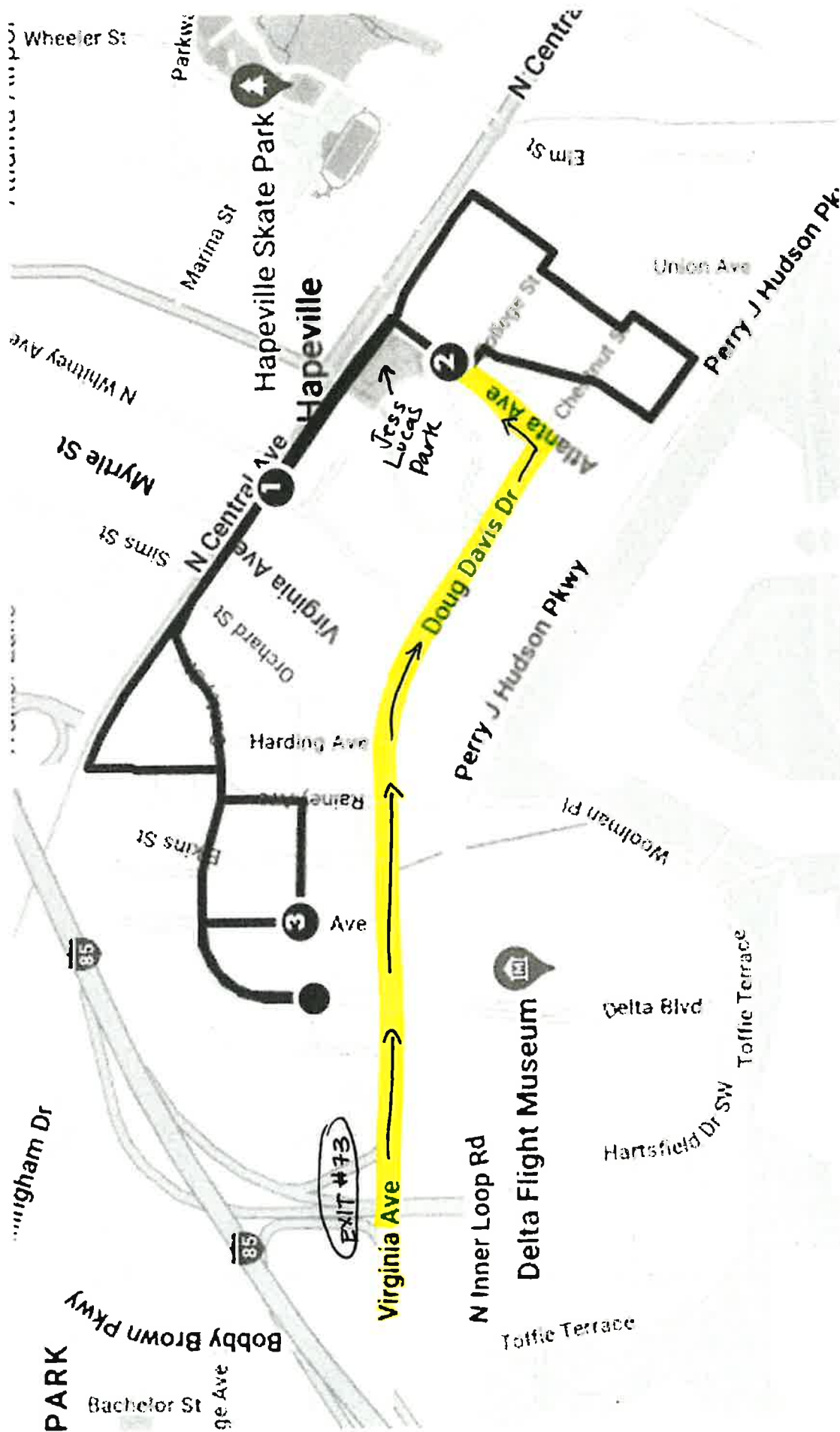
I spoke with Mike Simpson and Delta, and both parties are on board with the following plan. In advance of the car show, I will communicate to the attendees the following ways to avoid any road closures:

- Arrive by 8:15am. The 5k starts at 8:30, so folks should be able to get through to Jess Lucas without problem before then.
- If they can't come early, enter the park from Doug Davis to Atlanta Avenue and then let the officer know you're there for Coffee & Chrome. As the attached map shows, they'll only have to get through one minor roadblock. Chief G will let the officers know to let attendees through. I'll make a nicer map to send out to the attendees before the car show.

Thanks,
Jamie

Jamie Jones
Special Events Manager
Department of Recreation
City of Hapeville
Ph: 404-669-2116





SIMPLEST WAYS TO AVOID ROAD CLOSURES

① Take 85 to Exit 73 (Virginia Avenue)

② Arrive early! The 5K starts at 8:30am.

- Go west on Virginia Avenue
- Stay straight onto Doug Davis Dr
- Turn left onto Atlanta Avenue
- Let officer know you're there for coffee & Chrome



INTEROFFICE MEMORANDUM

TO: Fulton County Board of Commissioners
Fulton County Board of Registration & Elections
Dick Anderson, County Manager
City Clerks

FROM: Nadine Williams, Interim Director, Registration & Elections *NW*

RE: Municipal Election Cost & Precinct Changes

DATE: January 10, 2023

With the conclusion of the 2022 General Elections, the Fulton County Department of Registration & Elections has diligently analyzed Election cost for all Election types. The 2022 November and December Elections are the first General Elections to have all new legislative requirements in place to illustrate voter turnouts for Advance Voting and Election Day for future Elections.

Voter turnouts for all Election types from 2020 to 2022 were reviewed. With this data, Fulton County Registration & Elections will continue to streamline processes for efficiency and Election cost reductions. In the interim, please note the following:

Municipal Election Cost Increase

The 2019 Municipal Cost Resolution notes it was to be revised after the 2020 new voting equipment was implemented. The resolution cost per voter was based on 2017 Election budgets. Many factors have increased Election cost since the approval of the resolution. Municipal Election budgets also fluctuate dependent upon municipalities involved, legislative changes, facility rental rates, vehicle rental rates, etc.

Fulton County's cost per voter, for Municipal Elections, have increased from **2017 \$2+ per voter to approximately 2023 \$9+ per voter**. Please see cost comparisons attached – Exhibit 1. In 2021, Fulton County incurred over \$2 million in Municipal Election cost, since the 2019 resolution cost per voter was insufficient.

Therefore, to not have the County incur cost in conducting Municipal Elections, Fulton County Registration & Elections will be requesting approval to have the Municipal Cost Resolution revised. We are requesting to revert to the percentage of Election cost distribution based on the Municipalities number of registered voters. Percentage cost will allow the budget to be drafted for the current year to account for any fluctuations in cost. A refund to Municipalities of any unexpended funds will be disbursed. Please see percentage cost attached – Exhibit 2.

The revised Municipal Resolution will be finalized and presented to the Fulton County Board of Registration & Elections (January 12th) and to the Fulton County Board of Commissioners (January 18th) for approval.

Municipal Election Options

While Fulton County Registration & Elections is happy to serve Municipalities in conducting their Elections, we encourage Municipalities to explore alternative Election methods for cost saving measures. These options are not allotted to County conducted Elections. Please contact your Secretary of State liaison for additional information.

The Fulton County Department of Registration & Elections will continue to review Election budget cost reductions for all Election types, including the 2023 Elections.

Election Day Cost Reduction Review

Currently to reduce Election Cost, Election Day precincts with less than 2000 registered voters assigned to a polling location were reviewed for possible merges with neighboring polling locations. Every attempt was made to ensure voters are not displaced to an inaccessible location and will hopefully not feel suppressed regarding Election Day precinct changes. Poll workers displaced will be offered positions at different locations, if available. We will continue to review for possible additional merges in the upcoming months and advise of any changes before implementation. Upon approval, we will ensure voters are notified by the election code required time prior to Election Day. Please see attachment of proposed merges – Exhibit 3&4 and corresponding maps. Please provide input regarding proposed changes by January 31st.

Advance Voting Cost Reduction Review

Advance Voting locations for Municipal Elections, while the quantity is reduced, should utilize the largest municipal venue, with additional locations added for upcoming General Elections. This will allow for staff reduction cost for Municipal Elections. Please see recommended locations attached – Exhibit 5&6. Please provide input regarding proposed locations by January 31st.

Thank you for your support.

**INTERGOVERNMENTAL AGREEMENT FOR THE
PROVISION OF ELECTION SERVICES BETWEEN
FULTON COUNTY, GEORGIA and
CITY OF HAPEVILLE, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT is entered into this ____ day of _____, 2023, between Fulton County, Georgia (“County”), a political subdivision of the State of Georgia, and the City of Hapeville, Georgia, a municipal corporation lying wholly or partially within the County (each a “Party” and collectively the “Parties”).

WHEREAS, the Parties to this Agreement are both governmental units; and

WHEREAS, the County and the City of Hapeville desire to maintain a mutually beneficial, efficient, and cooperative relationship that will promote the interests of the citizens of both jurisdictions; and

WHEREAS, the City of Hapeville desires to contract with the County to conduct the City of Hapeville’s 2023 general election and potential runoff elections for the citizens of the City of Hapeville pursuant to the applicable laws of the State of Georgia; and

WHEREAS, the City of Hapeville and the County are authorized by Art. IX, Sec. III, Par. I of the Constitution of the State of Georgia to contract for any period not exceeding fifty (50) years for the provision of facilities or services which they are authorized by law to provide, including an agreement for the conduct of the City of Hapeville elections; and

WHEREAS, O.C.G.A. § 21-2-45(c) authorizes the governing authority of any municipality to contract with the county within which that municipality wholly or partially lies to conduct any or all elections; and

WHEREAS, pursuant to O.C.G.A. § 21-2-45(c), a municipality, via adoption of an ordinance, may authorize a county to conduct such election(s), and the City of Hapeville has adopted such an ordinance; and

WHEREAS, pursuant to O.C.G.A. § 21-2-45(c), a municipality may request that the county perform all duties as superintendent of elections as specified in Title 21 of Georgia Law.

NOW THEREFORE, in consideration of the following mutual obligations, the County and City of Hapeville agree as follows:

ARTICLE 1 - CONDUCT OF ELECTIONS

1.1 This Agreement will govern the conduct of any and all elections which the City of Hapeville requests the County to conduct, including any and all runoffs which may be necessary. It is the intent of the Parties that any elections which the County has agreed to perform based on the City

of Hapeville's request ("City of Hapeville Elections") shall be conducted in compliance with all applicable federal, state, and local legal requirements.

1.2 For each election that the City of Hapeville would like the County to perform, the City of Hapeville, at its sole option, shall submit to County a request for the County to conduct the City of Hapeville's municipal election, in the form attached hereto as Exhibit A. Requests must be made and received at the address specified in the Notice Section below no later than March 31, 2023 to allow the County sufficient advance time and notice to adequately prepare to conduct the City of Hapeville Election. If a request is not made and received within the prescribed time, the County shall not conduct the City of Hapeville's election even if the City of Hapeville has so requested the County conduct an election.

1.3 In the event the City of Hapeville requires a special election as defined by O.C.G.A. § 21-2-2(33), the City of Hapeville and the County shall confer as allowed by law and determine the cost the City of Hapeville will pay for the County's election services, and a mutually convenient date to conduct any such election.

ARTICLE 2 - TERM OF AGREEMENT

This Agreement shall commence on the date that it is executed by the Chairman or on behalf of the governing authority of Fulton County, Georgia and will terminate on December 31, 2023, unless otherwise terminated as set forth herein.

ARTICLE 3 - DUTIES AND RESPONSIBILITIES

Pursuant to this Agreement, and contingent upon the City of Hapeville's timely request and agreement by the County to conduct a City of Hapeville election, each Party shall provide the following enumerated services for the election to be held November 7, 2023, and any associated runoff elections which may occur:

3.1 The County, through the Department of Registration and Elections ("DRE") or their designee(s), shall be responsible for:

- a) Designating early and advance voting sites and hours;
- b) Placing the City of Hapeville's candidate(s) on the electronic and printed ballots for City of Hapeville Elections after qualifying;
- c) Placing the City of Hapeville's referendum question(s) on the ballot for a City of Hapeville Election after timely written notice from the City of Hapeville is received by the County (which such notice shall include all necessary details and information);
- d) Hiring, training, supervising, and paying poll officers and absentee ballot clerks;

- e) Preparing and submitting to the City of Hapeville Clerk, as required by O.C.G.A. § 21-2-224(e), a list of electors;
- f) Performing duties of elections Superintendent and absentee ballot clerk for the November 7, 2023 City of Hapeville Election;
- g) Performing logic and accuracy testing as required by Sections 183-1-12-.08 of the Official Compilation of Rules and Regulations of the State of Georgia;
- h) Providing staff, equipment and supplies for conducting the November 7, 2023 City of Hapeville general election at City of Hapeville polling places on City of Hapeville Election days and for conducting recounts as may be required;
- i) Certifying City of Hapeville Election returns as required by O.C.G.A. § 21-2-493, and submitting certified City of Hapeville Election returns to the Georgia Secretary of State and City of Hapeville Clerk or as otherwise directed; and
- j) Upon a change in City of Hapeville precincts or voter districts, notifying City of Hapeville residents of any change in voting districts and/or municipal precincts.

3.2 The City of Hapeville shall be responsible for:

- a) Recommending, with the understanding that the County shall make the final determination of, early voting sites and hours of operation to the County in conformance with current election laws and regulations;
- b) Adopting Election ordinances pursuant to O.C.G.A. § 21-2-45(c);
- c) Preparing qualifying materials for potential candidates and performing qualifying of candidates, including any write-in candidates, for City of Hapeville Elections as required by state law, specifically O.C.G.A. § 21-2-130 *et seq.*;
- d) Fixing and publishing the qualifying fee as required by O.C.G.A. § 21-2-131;
- e) Collecting and retaining the qualifying fee as required by O.C.G.A. § 21-2-131, as it may be amended;
- f) Performing filing officer duties as required by the Georgia Government Transparency and Campaign Finance Commission for any and all state reports filed by the candidates or committees in conjunction with City of Hapeville Elections to ensure compliance with Title 21, Chapter 5 of the Official Code of Georgia;
- g) Verifying the City of Hapeville's voter list and street maintenance files by June 21, 2023.

- h) Providing the County with an electronic copy of referendums that must be placed on a ballot;
- i) Reviewing ballot proofs and notifying County of corrections or approval within twenty-four (24) hours of receiving proofs for candidate listings; and
- j) Otherwise cooperating with the County in the performance of this Agreement and providing the County such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

ARTICLE 4 - COMPENSATION AND CONSIDERATION

4.1 To conduct the general elections and associated run-off elections for all fifteen (15) municipalities within the County's geographical territory, the County estimates that the total cost to the County will be \$5,720,000.00 to conduct general municipal elections and \$2,451,900.00 to conduct any associated runoff elections.

4.2 In consideration for the County's election services, the City of Hapeville shall pay an estimated pro-rata share of the total election cost based on the City of Hapeville's number of registered voters. Payments must be received by the County at least four (4) months prior to the date of the City of Hapeville's scheduled general election and two (2) weeks prior to any associated run-off election.

4.3 The City of Hapeville's estimated pro-rata share of the total election cost presently is **\$31,563.17**. This amount is subject to recalculation if the County does not provide all cities within the County's jurisdictional limits with election assistance in 2023. The County will notify the City of Hapeville of any change in the City of Hapeville's estimated pro-rata share no later than September 1, 2023.

4.4 If the estimated pro-rata share payment results in the City of Hapeville making payments in excess of the actual cost of performing the City of Hapeville's requested election services, such excess payments shall be refunded to the City of Hapeville.

4.5 If the actual cost to the County to conduct the City of Hapeville's general election or associated runoff elections exceeds the estimated pro-rata share advance payment made by the City of Hapeville, the City of Hapeville shall pay such excess amount to the County within thirty (30) days of the County's request for payment of the excess amount. Failure on the part of the City of Hapeville to remit payment timely is a material breach of this Agreement.

4.6 Notwithstanding anything else in this Agreement to the contrary, in compliance with O.C.G.A. § 21-2-45(c), the City of Hapeville understands and agrees that it shall be responsible for paying all costs incurred by the County in performing election services which the City of Hapeville has requested from the County.

ARTICLE 5 - LEGAL RESPONSIBILITIES

5.1 The City of Hapeville shall be solely responsible for any liability resulting from any claims or litigation arising from or pertaining to any City of Hapeville Election, except claims or litigation arising solely from the acts of agents or employees of the County, the County Board of Registration and Elections, and the County Election Superintendent in connection with any City of Hapeville Election held pursuant to this Agreement. The City of Hapeville agrees to reimburse the County for all costs, including, but not limited to, court costs and attorney fees for the County Attorney or outside counsel, incurred by the County as a result of any liability resulting from any claims or litigation arising from or pertaining to any City of Hapeville Election, except claims or litigation arising solely from the acts of agents or employees of the County, the County Board of Registration and Elections, and the County Election Superintendent in connection with any City of Hapeville Election held pursuant to this Agreement. The City of Hapeville shall make payment of such reimbursements to the County within thirty (30) days of receipt of any invoice for reimbursement from the County.

5.2 In the event that a City of Hapeville Election is contested, the City of Hapeville shall be solely responsible for any liability resulting from any claims or litigation arising from or pertaining to any contested City of Hapeville Election, except claims or litigation arising solely from the acts of agents or employees of the County, the County Board of Registration and Elections, and the County Election Superintendent in connection with any City of Hapeville Election held pursuant to this Agreement. The City of Hapeville agrees to reimburse the County for all costs incurred in responding to the election challenge to a City of Hapeville Election, including but not limited to, attorney's fees for the County Attorney or outside counsel and all expenses associated with the election challenge and any appeals thereafter. The City of Hapeville shall make payment of such reimbursements to the County within thirty (30) days of receipt of any invoice for reimbursement from the County. If a second election is required, such election will constitute a City of Hapeville Election under this Agreement and shall be conducted in accordance with the terms of this Agreement.

5.3 To the extent allowed by law, the City of Hapeville agrees to defend and hold harmless the County with respect to any claim, demand, action, damages, judgment, cost and/or expenses (including, without limitation, reasonable attorney's fees and legal expenses) to which the County may be subjected as a consequence of or as a result of any error, omission, tort, intentional tort, willful misconduct, or any other negligence on the part of the City of Hapeville and/or its employees.

5.4 To the extent allowed by law, the County agrees to defend and hold harmless the City of Hapeville with respect to any claim, demand, action, damages, judgment, cost and/or expenses (including, without limitation, reasonable attorney's fees and legal expenses) to which the City of Hapeville may be subjected as a consequence of or as a result of willful misconduct on the part of the County and/or its employees.

5.5 It is the intent of the Parties for them, along with their officials, officers, employees and agents to be covered under the auspices of any applicable immunity granted by law, including sovereign immunity and official or qualified immunities.

5.6 Should it be necessary to comply with legal requirements that any of the County's personnel shall be sworn in as a temporary officer or employee of the City of Hapeville, such formality shall be observed without limitation.

ARTICLE 6 - EMPLOYMENT STATUS

6.1 All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

6.2 All County personnel assigned under this Agreement are and will continue to be part of the DRE and under the supervision of the Fulton County Director of the DRE.

6.3 All City of Hapeville personnel assigned under this Agreement are and will continue to be employees of the City of Hapeville.

ARTICLE 7 - RECORDKEEPING AND REPORTING

7.1 The DRE is the central repository for all DRE records and makes available public records as defined and required by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, O.C.G.A. § 21-2-51 and O.C.G.A. § 21-2-72, now and as they may be amended hereafter. During the term of this Agreement, the County will continue to comply with the applicable provisions of the Georgia Open Records Act and the Georgia Election Code.

7.2 Except as limited by any provision of state or federal law, the City of Hapeville may request, review and access data and County records at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 8 - E-VERIFY AND TITLE VI

Each Party agrees that it will comply with all E-Verify and Title VI requirements and execute any documents reasonably required related to such compliance. Further, each Party agrees that any contracts let for work completed pursuant to this Agreement shall contain all required E-Verify and Title VI requirements under applicable law.

ARTICLE 9 - AUTHORIZATION

Each of the individuals executing this Agreement on behalf of his or her respective Party agrees and represents to the other Party that he or she is authorized to do so and further agrees and represents that this Agreement has been duly passed upon by the required governmental agency or council in accordance with all applicable laws and spread upon the minutes thereof. The Parties hereto agree that this Agreement is an intergovernmental contract and is entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia 1983.

ARTICLE 10 - TERMINATION AND REMEDIES

Either Party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever or no reason at all, by notice in writing to the other Party delivered at least thirty (30) days prior to the effective date of the termination. Upon termination, the City of Hapeville shall be responsible for any and all costs the County has incurred, for preparation and/or performance of the City of Hapeville Election, up to receipt of notice to terminate this Agreement. Without terminating this Agreement, the County may suspend, delay, or interrupt all or any part of its responsibilities under this Agreement for the period of time that the County determines appropriate for its convenience.

ARTICLE 11 - NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested, or statutory overnight delivery. The Parties further agree to provide to each other non-binding duplicate electronic mail notice. Future changes in address shall be effective upon written notice being given by the City of Hapeville to the County Elections Superintendent or by the County to the City of Hapeville Clerk. Notices shall be addressed to the Parties at the following addresses:

If to the County: Fulton County Board of Registration and Elections
 Attn: Director
 130 Peachtree St SW, Suite 2186
 Atlanta, Georgia 30303

With a copy to: Fulton County Office of the County Attorney
 Attn: County Attorney
 141 Pryor Street SW, Suite 4038
 Atlanta, Georgia 30303

If to the City of Hapeville: Clerk for the City of Hapeville
 City of Hapeville
 3468 North Fulton Avenue
 Hapeville, Georgia 30354

With a copy to: City of Hapeville Attorney
 Smith Welch Webb & White, LLC
 Attn: Andrew J. Welch III, Esq.
 Post Office Box 10
 McDonough, Georgia 30253

ARTICLE 12 - NON-ASSIGNABILITY

Neither Party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 13 - ENTIRE AGREEMENT

The Parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the Parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City of Hapeville or the County. All Parties must sign any subsequent changes in the Agreement.

ARTICLE 14 - SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed, and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any Party institute suit concerning this Agreement, venue shall be in the Superior Court of Fulton County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agent prepared the same, it being agreed that the agents of all Parties have participated in the preparation hereof.

ARTICLE 15 - BINDING EFFECT

This Agreement is intended for the benefit of the Parties hereto and is not for the benefit of, nor may any provision hereof be enforced by, any other person.

ARTICLE 16 - COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument. Electronic signatures shall have the same weight and effect of wet signatures.

IN WITNESS WHEREOF, the City of Hapeville and County have executed this Agreement through their duly authorized officers on the day and year first above written.

{Doc: 3830061.DOCX}P

FULTON COUNTY, GEORGIA

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

DATE:

Attest: _____
Tonya R. Grier, Clerk to Commission

APPROVED AS TO FORM:

Y. Soo Jo, County Attorney

APPROVED AS TO SUBSTANCE:

Nadine Williams, Director
Fulton County Department of Registration
and Elections

[Signatures Continued on Following Page]

CITY OF HAPEVILLE OF, GEORGIA

_____ (SEAL)

Mayor

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read 'Lynne R.', is written over a horizontal line.

City of Hapeville Attorney

APPROVED AS TO SUBSTANCE:

Clerk for the City of Hapeville

EXHIBIT A

As per the Agreement executed on _____, the City of Hapeville, hereby requests that Fulton County conduct its General and potential Runoff Elections beginning on November 7, 2023 within the boundary of Fulton County.

The last day to register to vote in this election is October 10, 2023.

The list of early voting locations will be forthcoming.

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This _____ day of _____, 2023.

Clerk for the City of Hapeville

(SEAL)

Fulton County, Georgia agrees to conduct the City of Hapeville's General and potential Runoff Elections beginning on November 7, 2023, within the boundary of Fulton County.

This _____ day of _____, 2023.

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

(SEAL)

To: Georgia Department of Economic Development Tourism Division & Georgia Council for the Arts
From: Allie O'Brien, City of Hapeville Main Street & Marketing Manager
Re: Georgia Department of Economic Development Tourism Division & Georgia Council for the Arts
Tourism Product Development (TPD) Grant
Date: July 15, 2014

MEMORANDUM of UNDERSTANDING

On Tuesday, July 15, 2014 at the City of Hapeville Mayor and Council meeting, the City Council approved the submission of an application to the Georgia Department of Economic Development Tourism Division & Georgia Council for the Arts: Tourism Product Development (TPD) Grant. The purpose of this grant application is to further the goals of the City of Hapeville's Arts Initiative. Specifically, these funds would be used to transform shipping containers into pop-up art galleries and pop-up artisan stores.

Please let this memorandum serve as an agreement between the City of Hapeville and the Hapeville Arts Alliance to apply for a \$20,000 grant from the Georgia Department of Economic Development Tourism Division & Georgia Council for the Arts: Tourism Product Development (TPD) Grant.

This grant has a 1:1 match. The distribution of the \$20,000 match is as follows: The parties agree that The City of Hapeville will be responsible for an in-kind match of \$7,500 for the use of the land and on-going maintenance. The Hapeville Arts Alliance will be responsible for providing the remaining cash match of \$13,000 which will go entirely to construction expenses. The Hapeville Arts Alliance will be responsible for overseeing the design and construction of the shipping container galleries. In addition to, but not included as a part of the in-kind match, the City of Hapeville will provide the construction expertise of the city staff. The City of Hapeville also agrees to the shipping containers being placed on City of Hapeville property, with the Arts Alliance to provide appropriate arts programming and management.



Alan Hallman, Mayor
City of Hapeville



David Burt, Executive Director
Hapeville Arts Alliance