

Planning Commission Meeting

700 Doug Davis Drive
Hapeville, GA 30354

August 11, 2020 6:00 PM

Agenda

1. Call to Order
2. Roll Call
Brian Wismer
G. Leah Davis
Cliff Thomas
Lucy Dolan
Jeanne Rast
Charlotte Rentz
Larry Martin
3. Minutes of July 14, 2020
3.I. Approval of Minutes

1. MINUTES - 07-14-2020 (2)

4. New Business
4.I. 590 South Central Avenue Special Exception
Background:

Southern Bank Equipment on behalf of Wells Fargo Bank requested approval of a special exception to authorize the installation of an Automated Teller Machine (ATM) at 590 South Central Avenue, Parcel Identification Number 14 009800200489. The property is zoned RMU, Residential Mixed Use and is located in the Arts District Overlay (A-D).

Staff Comment:

Applicant Comment:

Public Comment:

Documents:

1. 590 South Central Avenue - Application_Redacted
2. Planners Report Special Exception 590 S Central Ave

4.II. Solar Energy Systems Text Amendment
Background:

Consideration of a text amendment to create Article 30 (Solar Energy Systems), Section 93-30-1 (Intent) through Section 93-30-13 (Permit Fees) for the purpose of creating regulations regarding solar energy systems.

Staff Comment:
Public Comment:

Documents:

1. Ordinance - Solar Energy Systems (02513270xA0B3B)
2. Ordinance - Text Amendment Architectural Design Standards - Solar Energy Systems (02513271xA0B3B)
3. Planner's Report Text Amendment Solar Panels _080620
5. Next Meeting Date - September 8, 2020 at 6 p.m.
6. Adjourn



Chairman, Brian Wismer
Vice Chairman, Jeanne Rast
Leah Davis
Lucy Dolan
Larry Martin
Charlotte Rentz
Cliff Thomas

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

July 14, 2020 6:00 PM

MINUTES

1. Call to Order

The meeting was called to order at 6:12 p.m.

2. Roll Call

Brian Wismer
G. Leah Davis - teleconference
Cliff Thomas
Lucy Dolan - teleconference
Jeanne Rast
Charlotte Rentz
Larry Martin - absent

3. Approval of Minutes

3.I. Minutes of April 14, 2020

Background:

This item was approved with conditions at the June 9, 2020 meeting. Staff is requesting the Planning Commission approve the minutes as submitted.

MOTION: Jeanne Rast made a motion, Cliff Thomas seconded to approve the minutes of April 14, 2020 as submitted. Motion Carried: 5-0.

3.II. Minutes of June 9, 2020

MOTION: Cliff Thomas made a motion, Charlotte Rentz seconded to approve the minutes of June 9, 2020 as submitted. Motion Carried: 5-0.

3.III. Minutes of June 25, 2020

MOTION: Leah Davis made a motion, Lucy Dolan seconded to approve the minutes of June 25, 2020 as submitted. Motion Carried: 5-0.

4. New Business

4.I. 817 Custer Street

Site Plan Review

Background:

Ardina Pierre requested site plan review to construct a new two and a half story, 2,622-sf single-family home at 817 Custer Street, Parcel Identification Number 14 009800080204. The property is zoned V, Village and is subject to the Neighborhood Conservation Area of the Architectural Design Standards.

The dwelling will have three bedrooms and two and a half bathrooms and will be 32'4" high from the average ground line across the front of the building. The site plan shows a 2 ½ story, 2,622-sf single family and a 2-car detached garage.

Ms. Pierre stated that the existing shed located on the adjacent property will be removed. Mr. Pierre also stated the driveway will be high grade concrete and not gravel or porous as indicated on the site plan.

Chairman Wismer asked staff to review code Section 93-2-6, Distance between buildings and Section 93-2-5, Accessory uses, accessory buildings, yard requirements of accessory buildings, outbuildings, and fences as it relates to Comment 8 of the Planner's report.

MOTION: Jeanne Rast made a motion, Cliff Thomas seconded to approve the site plan for 817 Custer Street subject to the following conditions:

- 1. Applicant must address deficiencies #1-7 outlined in the Planner's report.**
- 2. Planner must confirm the setback requirements for the proposed accessory structure as it relates to Sections 93-2-6 and 93-2-5.**
- 3. The driveway surface is concrete and not porous.**
- 4. The adjacent neighbor's shed be removed or relocated.**

Motion Carried: 5-0.

4.II. 3273 Old Jonesboro Road

Site Plan Review

Background:

Terrence Adams requested site plan review to construct a new two-story single-family dwelling at 3273 Old Jonesboro Road, Parcel Identification Number 14 009400040442. The property is zoned R-SF, Residential Single Family and is subject to the Neighborhood Conservation Area of the Architectural Design Standards.

The dwelling will have 1,990-sf of living area, three bedrooms and two and half bathrooms, and will be 24.8' high from the foundation. A 484-sf detached garage will provide tow covered spaces, connected to the street via a nine-foot-wide driveway.

Mr. Adams stated the site plan indicated the width of the driveway is 12.2' and the garage setback is shown as 6'9". The garage and patio are attached via a 7' wall.

MOTION: Jeanne Rast made a motion, Lucy Dolan seconded to approve the site plan request for 3273 Old Jonesboro Road subject to the following deficiencies:

1. The height of the garage must be provided.
2. The applicant must provide a Tree Conservation and Protection Plan for review by Staff prior to the issuance of a Land Disturbance Permit.
3. A detailed landscape plan must be provided showing the saved trees, new trees (size and species) and other landscaping. The site plan also shows shrub fence between the sidewalk which is not shown anywhere on the submitted landscape plan.
4. The plans show an out of date construction schedule which must be updated.

Discussion: Chairman Wismer indicated Comment 1 of the Planner's report must be addressed. Jeanne Rast confirmed that the rear setback for the garage and dwelling is provided on the site plan.

Motion Carried: 5-0.

4.III. 244 Mt. Zion Road (formerly 250 Mt. Zion Rd.)

Site Plan Review

Background:

Justin Honore requested site plan review to construct a new two-story single-family dwelling at 244 Mt. Zion Road (formerly 250 Mt. Zion Rd), Parcel Identification Number 14 009400090090. The property is zoned R-1, One Family Residential and is subject to the Neighborhood Conservation Area of the Architectural Design Standards.

The dwelling will have 2,268-sf of living area, four bedrooms and three bathrooms, and will be 26'10" high from the foundation. No driveway detail or parking pad is delineated in the site plan.

The applicant stated that revised plans were submitted on July 14, 2020 to address the comments listed in the Planner's report.

MOTION: Jeanne Rast made a motion, Cliff Thomas seconded to approve the site plan request for 244 Mt. Zion Road provided that the City Planner confirms that the revised plans meets all the requirements noted in the Planner's report. Motion Carried: 5-0.

4.IV. 3206 Oakdale Road

Site Plan Review

Background:

Ranjan Avasthi requested site plan review to construct a new three and a half story single- family dwelling at 3206 Oakdale Road, Parcel Identification Number 14 009900031545. The property is zoned R-1, One Family Residential and is subject to the Neighborhood Conservation Area of the Architectural Design Standards.

The dwelling will have four bedrooms and three and a half bathrooms and will be 35' from the average ground line across the front of the building and approximately 40'8" from the rear ground level. The limitation for heights is 35' from the average ground line across the front of the building and two and a half stories. The dwelling likely measures three and a half stories as the average level of the adjoining ground to the basement exceeds five feet. The applicant must provide actual measurements of the adjoining ground. The application and plans do not indicate actual square feet of living area.

MOTION: Leah Davis made a motion, Cliff Thomas seconded to approve the site plan request for 3206 Oakdale Road provided the applicant address the following deficiencies:

1. Replace survey on all sheets with correct address.
2. Provide average level of the adjoining ground to determine basement categorization.
3. Provide square footage of single-family dwelling.
4. Provide side, front, and rear setbacks.
5. Show proposed grades.
6. Provide location and size of proposed landscape material other than trees.
7. Provide an updated development schedule.
8. Provide proof of ownership as Tax records do not show the applicant as the owner.
9. Comply with Tree Conservation Ordinance.

Motion Carried: 5-0.

4.V. Major Street Plan

Text Amendment

Background:

Consideration of an amendment to the Major Street Plan.

The City of Hapeville received a proposal to change the Major Street Plan by abandoning Sherman Road to allow for a new consolidated site plan with properties across Sherman Road along North Central Avenue. The City would retain a utility easement for underground utilities on the site.

The Mayor and Council approved the request to abandoned Sherman Road on June 2, 2020.

MOTION ITEM: Jeanne Rast made a motion, Charlotte Rentz seconded to recommend approval to Mayor and Council. Motion Carried: 5-0.

4.IV. Townhome Density in U-V (Urban Village) Text Amendment

Background:

Consideration of a text amendment to Article 11.2 (Urban Village), Section 93-11.2-3 (Permitted uses) and Article 22.1 (Dimensional Requirements), Section 93-22.2-1 (Chart of dimensional requirements).

Staff has identified discrepancies and unclear language in the Zoning Code regarding the number of townhomes allowed per building in the U-V, Urban Village zoning district. The proposed text amendment corrects the text to reflect the requirements of the most current ordinances.

MOTION ITEM: Cliff Thomas made a motion, Charlotte Rentz seconded to recommend approval to Mayor and Council. Motion Carried: 5-0.

5. Next Meeting Date - Tuesday, August 11, 2020 at 6PM

6. Adjourn

There being no further discussion, the following action is taken:

MOTION ITEM: Cliff Thomas made a motion, Leah Davis seconded to adjourn the meeting at 7:13 p.m. Motion Carried: 5-0.

Respectfully submitted,

Brian Wismer, Chairman

Adrienne Senter, Secretary

20-PC-08-14

**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

Name of Applicant Southern Bank Equipment

Mailing Address: P O Box 938 Duluth GA 30096

Telephone 770-751-1412 Mobile # [REDACTED] Email peter@southernbankequipment.com

Property Owner (s) Steven L Kaplan

Mailing Address 9350 Wilshire Blvd Suite 402 Beverly Hills CA 90212

Telephone 310-488-1347 Mobile #

Address/Location of Property: 590 S Central Ave Hapeville, GA 30354

Parcel I.D. # **(INFORMATION MUST BE PROVIDED):** 14 009800200489

Present Zoning Classification: ~~G-2 General Commercial~~ RmU Size of Tract: .9183 acres acre(s)

Present Land Use: Commercial

Please check the following as it applies to this application

- ☒ Site Plan Review
☐ Conditional Use Permit
☐ Temporary Use Permit

Other (Please State) Special Exception

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. 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.

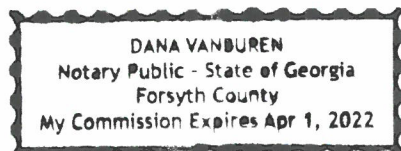
[Signature]
Applicant's signature

Date: 6/29/2020

Sworn to and subscribed before me

This 29th day of June, 2020.

[Signature]
Notary Public



**CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION**

WRITTEN SUMMARY

In detail, provide a summary of the proposed project in the space provided below. (Please type or print legibly.)

Add a drive up ATM on the last lane of the existing drive thru island under the canopy. There is no change to building square footage or site or parking, as it is a drive up kiosk in an existing covered lane that served remote banking.

CITY OF HAPEVILLE
ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING COMMISSION APPLICATION

AUTHORIZATION OF PROPERTY OWNER

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

590 South Central Avenue

Hapeville, GA 30354

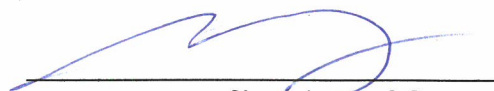
City of Hapeville, County of Fulton, State of Georgia

WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF THIS APPLICATION FOR PLANNING COMMISSION REVIEW.

Name of Applicant Financial Total Leasing dba Southern Bank Equipment

Address of Applicant
P O Box 938 Duluth GA 30096

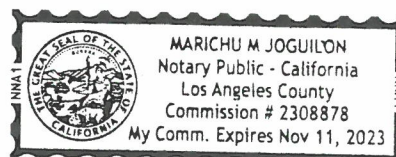
Telephone of Applicant
770-751-1412


Signature of Owner

STEVEN L. KAPLAN
Print Name of Owner

Personally Appeared Before Me this 12th day of June, 2020


Notary Public



Site Plan Checklist – Please include with your application.

A site plan is used to determine the practical ability to develop a particular property within the City of Hapeville. Information relating to environmental condition, zoning, development impact, consistency with the Hapeville Comprehensive Plan and relevant town master plans will be considered in the decision process. To be considered, a site plan **must** contain the following information:

(Please **initial** each item on the list above certifying the all required information has been included on the site plan)

PH

A brief project report shall be provided to include an explanation of the character of the proposed development, verification of the applicant's ownership and/or contractual interest in the subject site, and the anticipated development schedule. Please complete and submit all forms contained within the application for site plan review.

PH

Site plans shall be submitted indicating project name, applicant's name, adjoining streets, scale, north arrow and date drawn.

NA

The locations, size (sf) and height (ft) of all existing and proposed structures on the site. Height should be assessed from the base of the foundation at grade to the peak of the tallest roofline.

NA

Site plans shall include the footprint/outline of existing structures on adjoining properties. For detached single-family residential infill development, the front yard setback shall be assessed based on the average setback of existing structures on adjoining lots. Where practical, new construction shall not deviate more than ten (10) feet from the average front yard setback of the primary residential structure on an adjoining lot. Exemption from this requirement due to unnecessary hardship or great practical difficulty can be approved at the discretion of the Planning Commission. To be considered for an exemption, the applicant must submit a "Request for Relief" in writing with their site plan application, including the conditions that necessitate relief (i.e. floodplain, wetland encroachment, excessive slope, unusual lot configuration, legally nonconforming lot size, unconventional sitting of adjoining structures, etc).

NA

The location and general design cross-section characteristics of all driveways, curb cuts and sidewalks including connections to building entrances. A walkway from the primary entrance directly to the public sidewalk is required for all single-family residential development.

NA

The locations, area and number of proposed parking spaces. Please refer to Article 22.1 Chart of Dimensional Requirements to determine the correct number of parking spaces for your particular type of development.

NA

Existing and proposed grades at an interval of five (5) feet or less.

NA

The location and general type of all existing trees over six (6) inch caliper and, in addition, an identification of those to be retained. Requirements for the tree protection plan are available in Code Section 93-2-14(f). Please refer to Sec. 93-2-14(y) to determine the required tree density for your lot(s).

NA

A Landscape Plan: The location and approximate size of all proposed plant material to be used in landscaping, by type such as hardwood deciduous trees, evergreen trees, flowering trees and shrub masses, and types of ground cover (grass, ivies, etc.). Planting in parking areas should be included, as required in Section 93-23-18.

NA

The proposed general use and development of the site, including all recreational and open space areas, plazas and major landscape areas by function, and the general location and description of all proposed, outdoor furniture (seating, lighting, telephones, etc.). Detached single-family residential development may be exempt from this requirement.

NA

The location of all retaining walls, fences (including privacy fences around patios, etc.) and earth berms. Detached single-family residential development may be exempt from this requirement.

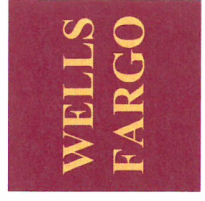
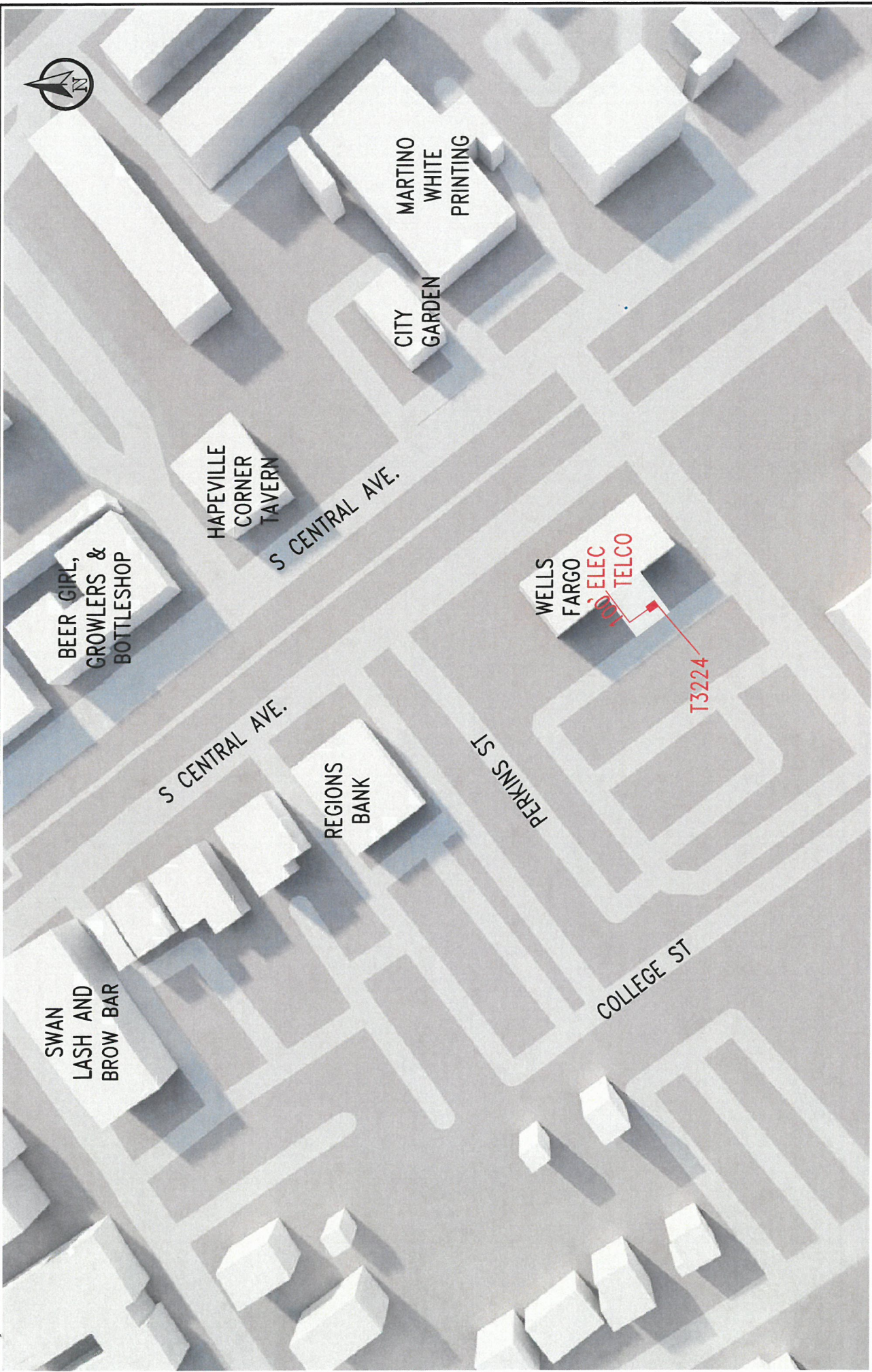
NA

The identification and location of all refuse collection facilities, including screening to be provided. Detached single-family residential development may be exempt from this requirement.

- NA Provisions for both on-site and offsite storm-water drainage and detention related to the proposed development.
- NA Location and size of all signs. Detached single-family residential development may be exempt from this requirement.
- PH Typical elevations of proposed building provided at a reasonable scale (1/8" = 1'0") and include the identification of proposed exterior building materials. Exterior elevations should show all sides of a proposed building.
- NA Site area (square feet and acres).
- NA Allocation of site area by building coverage, parking, loading and driveways, and open space areas, including total open space, recreation areas, landscaped areas and others. Total dwelling units and floor area distributed generally by dwelling unit type (one-bedroom, two-bedroom, etc.) where applicable.
- NA Floor area in nonresidential use by category. Detached single-family residential development may be exempt from this requirement.
- NA Total floor area ratio and/or residential density distribution.
- NA Number of parking spaces and area of paved surface for parking and circulation
- PH At the discretion of the planning commission, analyses by qualified technical personnel or consultants may be required as to the market and financial feasibility, traffic impact, environmental impact, storm water and erosion control, etc. of the proposed development.

Please ***initial*** each item on the list above certifying the all required information has been included on the site plan, sign and submit this form with your site plan application. Failure to include this form and information required herein may result in additional delays for the consideration of your application.

Applicant Signature: 
 Date 6/29/2020



Hapeville
590 S Central Ave.
Hapeville, GA
30354

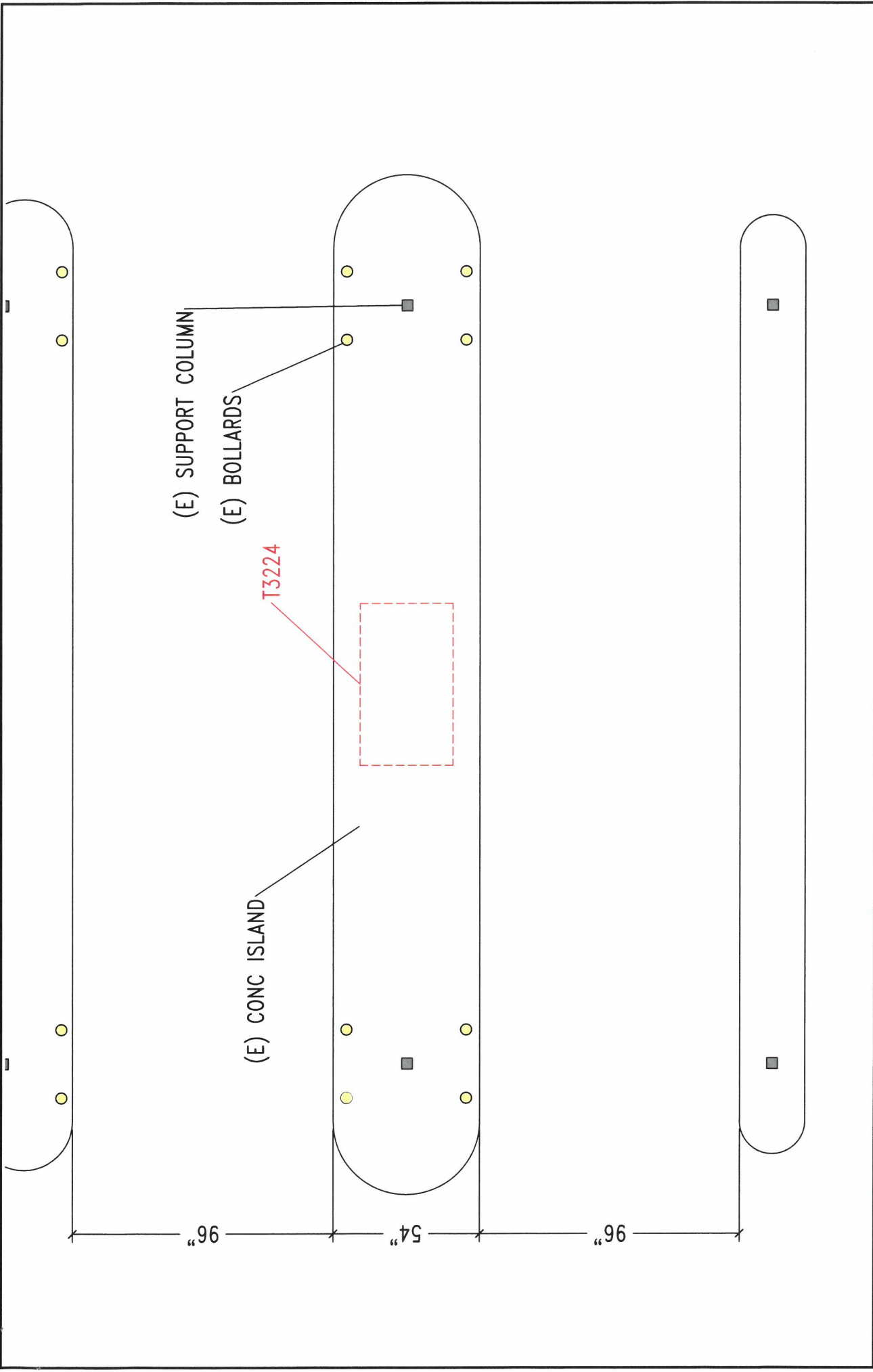
NEW ATM
T3224
Site Plan

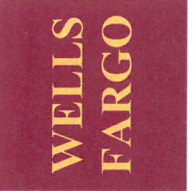
REVISED
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OPTION A
ISLAND-DU

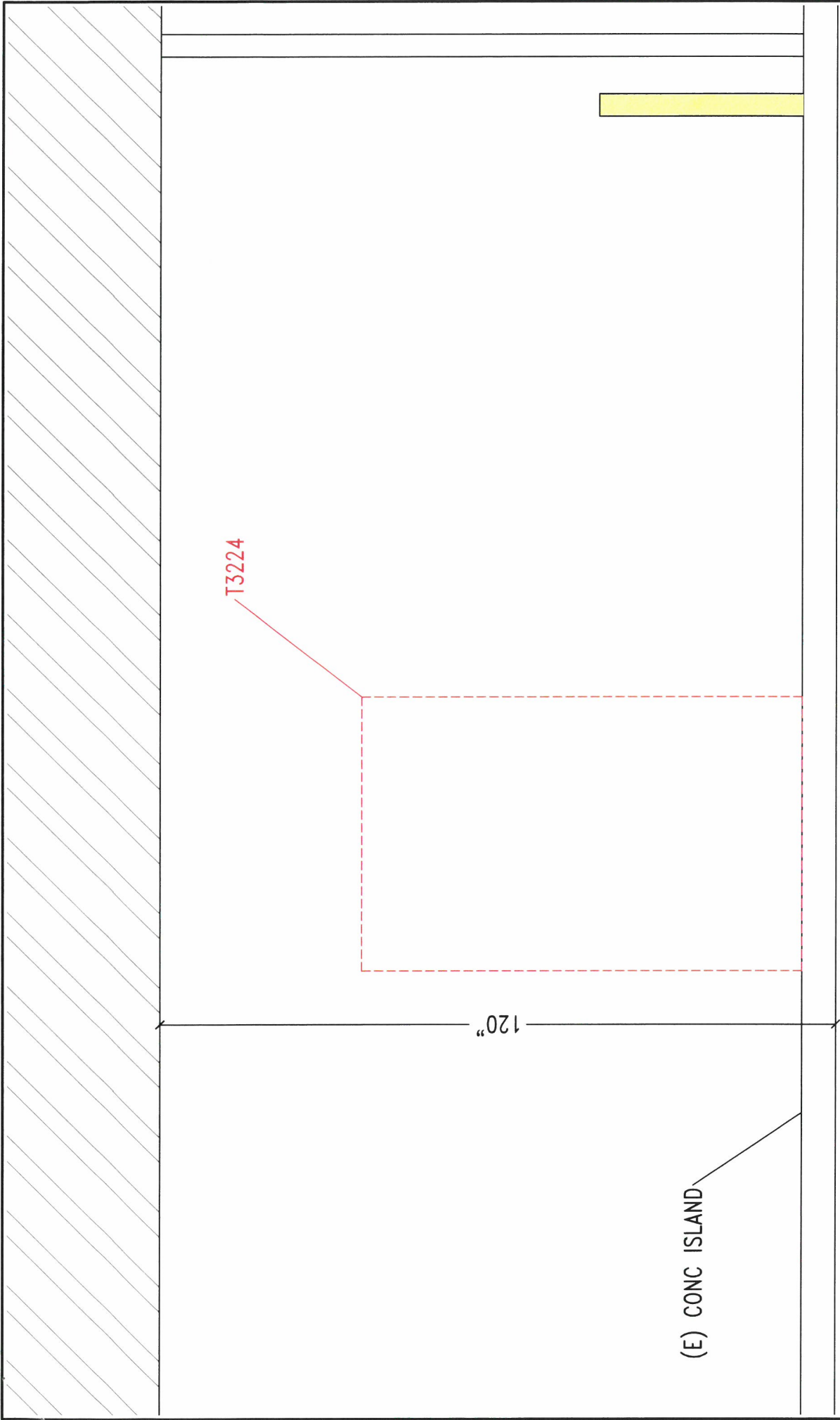
SCALE:
NTS
03/16/20
Page 1 of 7

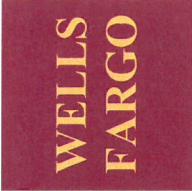


		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224 Aerial View	REVISED - - - OPTION A ISLAND-DU	SCALE: NTS 03/16/20 Page 2 of 7
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		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224 Existing Plan View	REVISED - - - OPTION A ISLAND-DU	SCALE: 1/4"=1'-0" 03/16/20 Page 3 of 7
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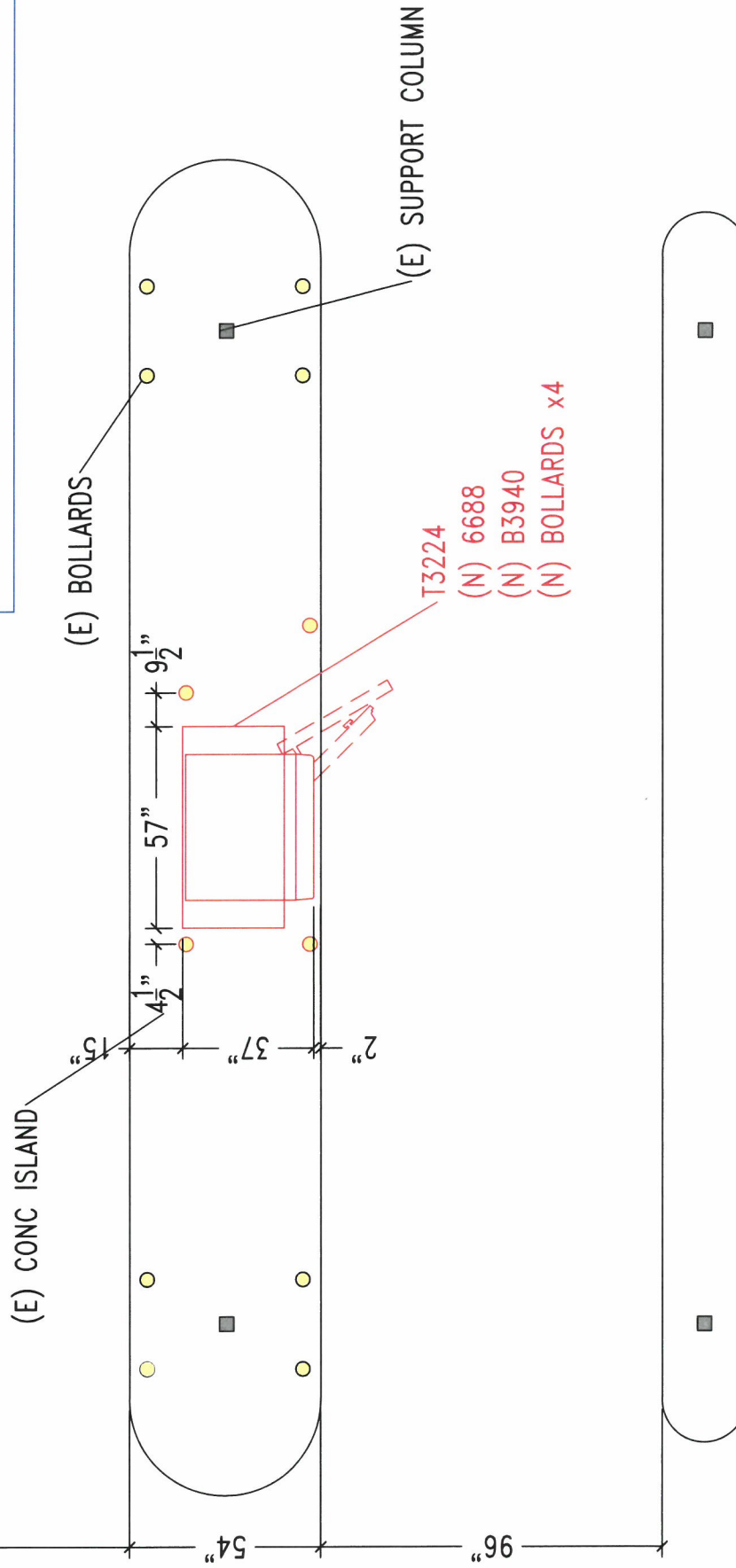


		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224 Existing Elevation	REVISED - - - OPTION A ISLAND-DU	SCALE: 1/2"=1'-0" 03/16/20 Page 4 of 7
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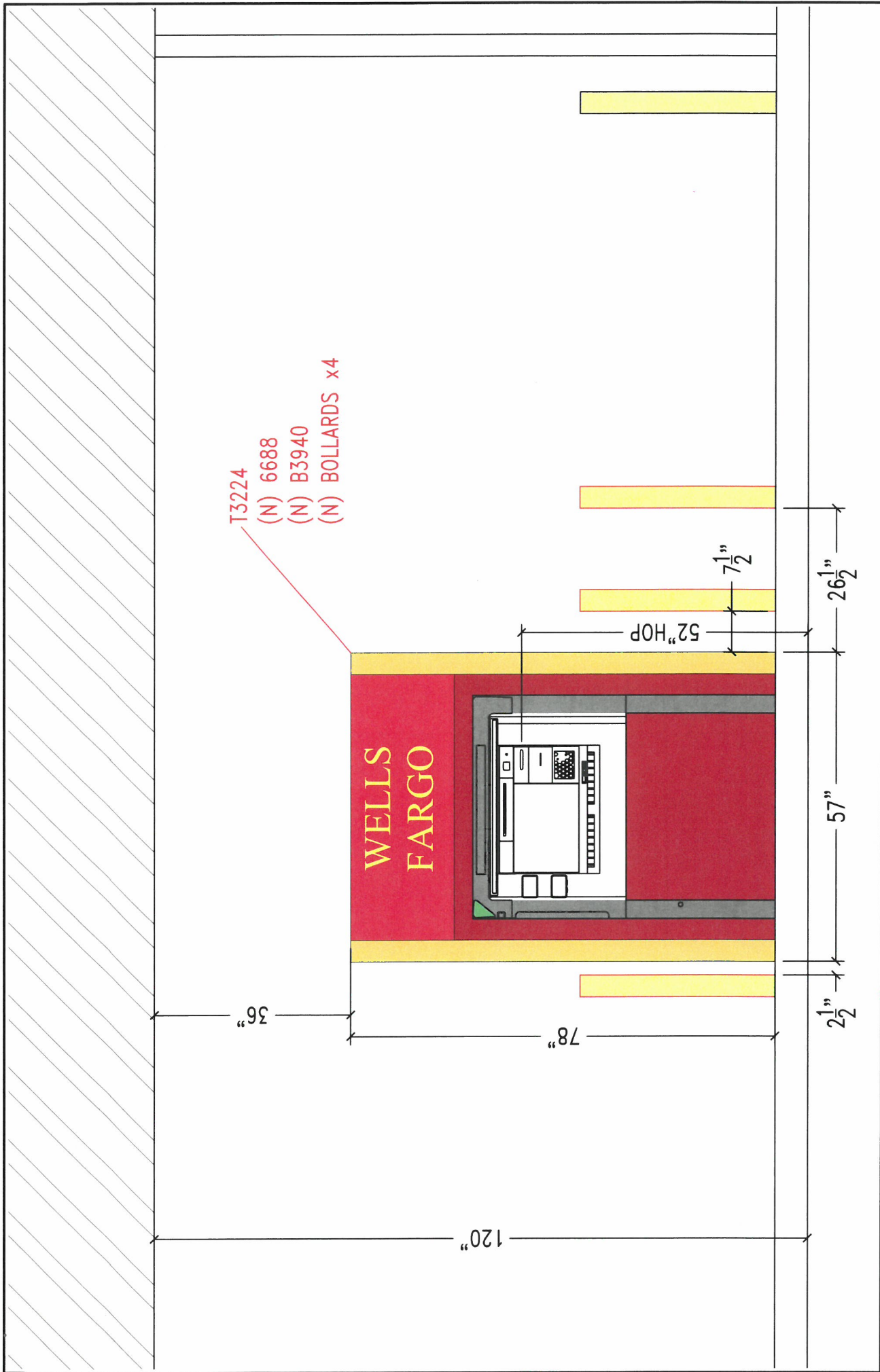
SCOPE OF WORK:

INSTALLATION OF ATM TO BE COMPLETED BY SBE SPECIFICATIONS, INCLUDING BUT NOT LIMITED TO THE FOLLOWING:

- A. RUN NEW CONDUIT CAT-5, ALARM, CAMERA WIRE
- B. RUN 30 AMP & 20 AMP CIRCUIT
- C. INSTALL NEW NCR 6688 & B3940
- D. INSTALL BOLLARDS x4

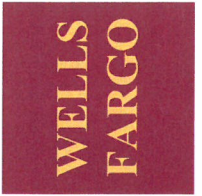


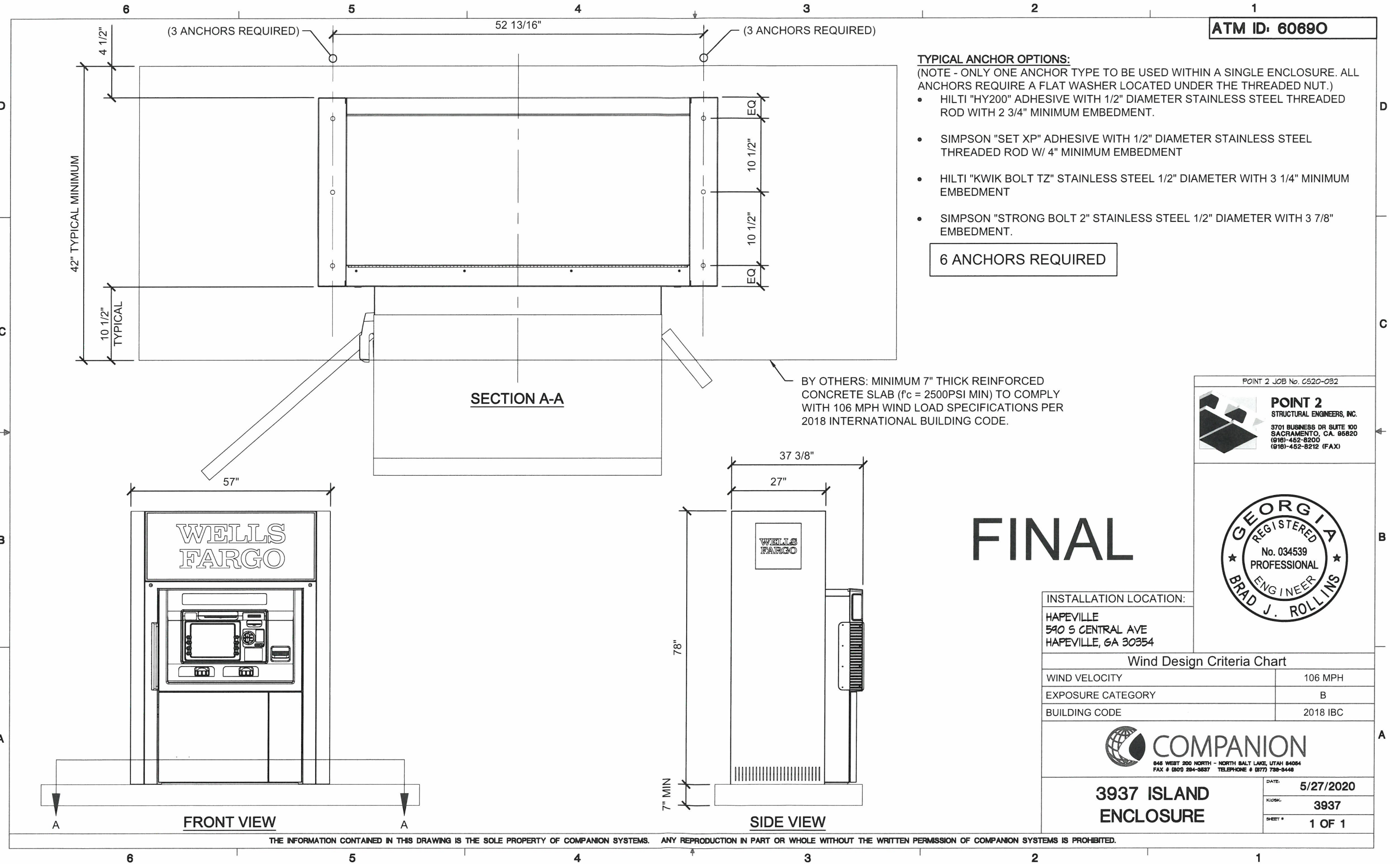
		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224	REVISED - - - OPTION A ISLAND-DU	SCALE: 1/4" = 1'-0" 03/16/20 Page 5 of 7
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		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224	REVISED - - - OPTION A ISLAND-DU	SCALE: 1/2" = 1'-0" 03/16/20 Page 6 of 7
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		Hapeville 590 S Central Ave. Hapeville, GA 30354	NEW ATM T3224 Rendering	REVISED - - - OPTION A ISLAND-DU	SCALE: NTS 03/16/20 Page 7 of 7
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**DEPARTMENT OF PLANNING AND ZONING
PLANNER'S REPORT**

DATE: July 16, 2020
TO: Adrienne Senter
FROM: Lynn M. Patterson
RE: **Special Exception Request – 590 South Central Avenue**

BACKGROUND

The City of Hapeville has received a special exception application from Southern Bank Equipment to replace an existing drive through lane with a drive-up ATM accessory to the Wells Fargo Bank located at 590 South Central Avenue. The ATM would be located on the south side of the building replacing a teller drive-through lane. The property is zoned RMU, Residential Mixed-Use, and is within the A-D, Arts District overlay.

REVIEW

The following code sections are applicable to this application:

ARTICLE 11.5. - RMU ZONE (RESIDENTIAL MIXED USE)

Sec. 93-11.5-1. - Intent.

The RMU district is established in order to:

- (1) Ensure development that is consistent with neo-traditional planning practices, which are often defined by pedestrian-oriented buildings, interconnected streets, a mix of uses and housing types, and a compact walkable scale.
- (2) Help create a compact, dense, and distinguishable core area;
- (3) Provide for an urban form allowing mid-rise structures;
- (4) Encourage multiple uses within the same structure; and
- (5) Include street oriented activity and pedestrian amenities at the street level of structures.

Sec. 93-11.5-3. - Permitted uses.

The following are permitted within the RMU zone:

- (1) Business and professional offices/agencies, including:
 - j. Banks and other financial institutions (not including pawnshops, check cashing businesses, title pawn, and payday loans).

ARTICLE 28. - A-D ZONE (ARTS DISTRICT OVERLAY)

Sec. 93-28-3. - Purpose.

The purpose of the arts district overlay is to facilitate creation of an arts destination, sustain established arts and cultural uses and promote new arts and cultural uses. The arts district overlay seeks integration of the arts into the fabric of the community and is conceived as the location of art galleries and art studios forming the core of an arts district. A complementary mix of shops, restaurants and entertainment venues will support these uses. These elements are expected to generate interest in downtown Hapeville and attract arts and cultural events.

The arts district overlay features an expanded range of permitted uses focused on the arts while retaining all property rights established by the underlying zoning. The arts district overlay encourages adaptive reuse of historic buildings and new construction technologies, affording owners expanded development options. These measures will enhance the market attractiveness of the arts district.

Arts venues, community festivals, expanded arts uses and pedestrian character are expected to promote an arts district. Planned investment in public art, lighting, sidewalks and off-street parking will leverage private investment and enhance public safety. This combination of public and private investment is expected to advance Hapeville's position in regional leadership in the arts and stimulate broad economic revitalization. Importantly, the arts district overlay features walkable distances from nearby neighborhoods to small-scale establishments and live entertainment venues accommodated by the arts district overlay and compatible with the neighborhood character.

Sec. 93-28-8. - Prohibited uses.

The following uses shall be prohibited in the Arts District Overlay:

- (1) All drive-through facilities other than those permitted by special exception for accessory use by banks or credit unions.

Sec. 93-24-10. - Special exceptions.

- (a) Special exceptions and special property use permits shall be decided by the mayor and council.
- (b) The planning commission shall review and make nonbinding recommendations to the mayor and council on special exceptions and special property use permits.
- (c) Special exceptions may be sought for:
 - (1) Reduction of the number and size of parking spaces and off-street loading space requirements;
 - (2) Location of off-street parking space and off-street loading spaces; and
 - (3) Location and number of drive-throughs.
- (d) When acting upon an application for a special exception, in addition to the requirements listed under the above references, the planning commission and the mayor and council shall give consideration to the following factors where applicable:
 - (1) The proposed design and location of the particular development;
 - (2) The possible traffic generating characteristics of the proposed development;
 - (3) The effects the proposed development will have on the present or intended character of the area in which it proposes to locate;
 - (4) The availability of public utilities, facilities and services; and
 - (5) The character, and effect of the parking demands of the proposed development.
- (e) After considering the above-listed factors and after reviewing the planning commission recommendation, the mayor and council shall take any actions or establish any reasonable conditions of approval, such as planted buffers, as will accomplish the intent and purpose of this chapter.

RECOMMENDATION

As the proposed location will replace an existing drive through lane with the ATM machine on the south side of the site, the replacement will require no site changes and traffic generated by those seeking ATM access will likely reflect existing levels of customers utilizing the walk-up ATM.

The character of the area is the downtown, arts district and would not, because of its location and accessory use to the existing bank, have a negative impact.

No public utilities, facilities or services are required nor are there parking demands related to the ATM. The existing drive through lanes should adequately support demand.

In considering the special exception, staff recommends approval for the replacement of the teller lane with a drive-through ATM.

DRAFT

1 **STATE OF GEORGIA**
2 **CITY OF HAPEVILLE**

3
4 **ORDINANCE NO. _____**
5

6 **AN ORDINANCE TO AMEND CHAPTER 93 (“ZONING”) TO CREATE ARTICLE 30**
7 **(“SOLAR ENERGY SYSTEMS”), SECTIONS 93-30-1 (“INTENT”) THROUGH**
8 **SECTION 93-30-13 (“PERMIT FEES”) OF THE CODE OF ORDINANCES, CITY OF**
9 **HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL**
10 **CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO**
11 **PROVIDE FOR OTHER LAWFUL PURPOSES.**
12

13 **WHEREAS**, the Mayor and Council shall have full power and authority to provide for the
14 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
15 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,
16

17 **WHEREAS**, the municipal government of the City of Hapeville (hereinafter “City”) and
18 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
19 the legislative body of the City; and,
20

21 **WHEREAS**, amendments to any of the provisions of the City’s Code may be made by
22 amending such provisions by specific reference to the section number of the City’s Code; and,
23

24 **WHEREAS**, existing ordinances, resolutions, rules and regulations of the City and its
25 agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall
26 remain effective until they have been repealed, modified or amended; and,
27

28 **WHEREAS**, every official act of the Mayor and Council which is to become law shall be
29 by ordinance; and,
30

31 **WHEREAS**, the procedures required for amending the City’s zoning ordinance have been
32 satisfied, including, but not limited to, notice and public hearings; and,
33

34 **WHEREAS**, the governing authority of the City finds it desirable to create regulations
35 regarding solar energy systems.
36

37 **BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**
38 **THE CITY OF HAPEVILLE, GEORGIA THAT:**
39

40 **Section One.** Chapter 93 (Zoning) of the City Code of Ordinances is hereby amended by
41 creating Article (Solar Energy Systems), Sections 93-30-1 (Intent) through Section 93-30-13
42 (Permit fees), which shall state as follows:
43

44 **Sec. 93-30-1. – Intent**

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45 The City has identified a need to facilitate the siting, construction, installation, and
46 decommissioning of solar energy systems (SESs) in a manner that encourages local economic
47 development and protects the health, safety, and welfare of the citizens of Hapeville, and at the
48 same time mitigates any adverse impacts to the city or the community.

49 **Sec. 93-30-2. – Definitions**

50 *Solar Energy System (SES)* means any device or structural design feature that provides for the
51 collection of solar energy for electricity generation, consumption, or transmission, or for thermal
52 applications.

53 For the purposes of this article, SES refers only to (1) photovoltaic SESs that convert
54 solar energy directly into electricity through a semiconductor device or (2) solar thermal
55 systems that use collectors to convert the sun's rays into useful forms of energy for water
56 heating, space heating, or space cooling.

57 SES as used here excludes concentrated solar power, which uses mirrors to focus the
58 energy from the sun to produce electricity.

59 *Integrated Solar Energy System* means an SES where solar materials are incorporated into
60 building materials, such that the two are reasonably indistinguishable, or where solar materials
61 are used in place of traditional building components, such that the SES is structurally an integral
62 part of a house, building, or other structure. An Integrated SES may be incorporated into, among
63 other things, a building facade, skylight, shingles, canopy, light, or parking meter.

64 *Rooftop Solar Energy System* means an SES that is structurally mounted to the roof of a house,
65 building, or other structure and does not qualify as an Integrated SES.

66 *Ground Mounted Solar Energy System* means an SES that is structurally mounted to the ground
67 and does not qualify as an Integrated SES. For purposes of the Hapeville zoning code, any solar
68 canopy that does not qualify as an Integrated SES shall be considered a Ground Mounted SES,
69 regardless of where it is mounted.

70 The *Footprint* of a Ground Mounted SES is calculated by drawing a perimeter around the
71 outermost SES panels and any equipment necessary for the functioning of the SES, such as
72 transformers and inverters. The Footprint does not include any visual buffer or perimeter
73 fencing. Transmission lines (or portions thereof) required to connect the SES to a utility or
74 consumer outside the SES perimeter shall not be included in calculating the Footprint.

75 Ground Mounted SESs shall be delineated by size as follows:

- 76 • *Small Scale Ground Mounted Solar Energy System (Small Scale SES)* means a
77 Ground Mounted SES with a Footprint of less than 1 acre.
- 78 • *Intermediate Scale Ground Mounted Solar Energy System (Intermediate Scale SES)*
79 means a Ground Mounted SES with a Footprint of between 1 and 15 acres.

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- *Large Scale Ground Mounted Solar Energy System (Large Scale SES)* means a Ground Mounted SES with a Footprint of more than 15 acres.

Sec. 93-30-3. – Permitted Use

Integrated SES, Rooftop SES, and Ground Mounted SES are permitted as accessory uses in all districts, subject to the requirements of this article. No other SES are permitted anywhere in the city.

Sec. 93-30-4. – Applicability

(a) This article applies to the siting, construction, installation, and decommissioning of any new SES to be constructed or installed after [the effective date of this ordinance] within the jurisdiction of the City of Hapeville.

(b) Any SES that, prior to [the effective date of this ordinance]:

1. is in operation;
2. is being lawfully sited, constructed, or installed; or
3. has caused the incurrence of substantial liabilities relating to siting, construction, or installation;

(c) shall be exempt from complying with this article, unless the surface area of an Integrated SES or Rooftop SES is increased by more than 10% after [the effective date of this ordinance].

(d) Unless otherwise expressly stated herein, an SES shall comply with all applicable federal, state, and local laws, including the requirements of the City of Hapeville zoning code and applicable building, fire, electric, and plumbing codes. If a provision in this article directly conflicts with a requirement of the City of Hapeville zoning code, this article shall control.

Sec. 93-30-5. – Requirements for Integrated Solar Energy Systems

(a) *Solar Access.* Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring the Integrated SES adequate exposure to sunlight.

(b) *Tree Removal.* The removal of trees or natural vegetation for an Integrated SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of Sec. 93-2-14.

Sec. 93-30-6. – Requirements for Rooftop Solar Energy Systems

(a) *Solar Access.* Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring the Rooftop SES adequate exposure to sunlight.

(b) *Tree Removal.* The removal of trees or natural vegetation for a Rooftop SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of Sec. 93-2-14.

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- 115 (c) *Height*. A Rooftop SES shall be given an equivalent exemption, if any, to the applicable
116 zoning district's height restrictions for roof-mounted mechanical devices or equipment,
117 except a Rooftop SES mounted on a sloped roof shall not vertically exceed the highest point
118 of the roof to which it is attached.
- 119 (d) *Roof Setback*. A setback from all roof edges, as defined by most recent the International Fire
120 Code adopted by Georgia at the time the rooftop solar energy system is installed, shall be
121 provided for rooftop solar energy systems to ensure that firefighters may access the roof in a
122 quick and safe manner and may penetrate the roof to create ventilation if necessary.
- 123 (e) *Visibility*. Solar Energy systems shall not be allowed on a street-facing sloped roof unless the
124 building owner demonstrates that other locations will result in a decrease in expected energy
125 production of at least 40%.
- 126 (f) *Slope*. Street facing Rooftop SES shall be flush with or parallel to the roofline on a sloped
127 roof. Solar panels not visible from the right-of-way may be tilted up to 15% from the roofline
128 on a sloped roof.
- 129 (g) *Equipment Placement*. Solar energy equipment shall be installed, when possible, inside walls
130 and attic spaces to reduce their visual impact.

131 **Sec. 93-30-7. – General Requirements for All Ground Mounted Solar Energy Systems**

132 The following requirements apply to all Ground Mounted SESs, in addition to the specific
133 requirements in this article that apply to Intermediate and Large Scale SESs respectively.

- 134 (a) *Residential Zoning*. Ground Mounted SES shall not be visible from the public right-of-way
135 for any properties zoned residential or where the primary use of the property is residential.
- 136 (b) *Solar Access*. Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a
137 solar easement from another property owner for the purpose of ensuring a Ground Mounted
138 SES adequate exposure to sunlight.
- 139 (c) *Impervious Surface*. Ground mounted structures and components of the Ground Mounted
140 SES, including transformers and foundations, shall be considered impervious and included
141 when determining lot coverage. However, for purposes of compliance with the City of
142 Hapeville zoning code's maximum lot coverage requirements found in Sec. 93-22.1-1, the
143 panels of a Ground Mounted SES shall be considered pervious if they maintain sheet flow
144 and allow for water to infiltrate under and around them through a pervious surface and into
145 the subsoil.
- 146 (d) *Lighting*. To reduce light pollution, lighting of a Ground Mounted SES shall:
147 1. not be allowed in any residential district or where the primary use of a lot is residential;
148 2. be limited to the minimum reasonably necessary for its safe operation;
149 3. be directed downward where reasonably feasible;
150 4. incorporate full cut-off fixtures; and
151 5. reasonably utilize motion sensors.
- 152 (e) *Tree Removal*. The removal of trees or natural vegetation for a Ground Mounted SES shall be
153 avoided to the extent reasonably practicable and shall comply with the requirements of Sec.
154 93-2-14.

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- (f) *Decommissioning*. Unless otherwise approved by the Planning Commission, decommissioning shall begin no later than 12 months after a Ground Mounted SES has ceased to generate electricity or thermal energy:
1. for a Ground Mounted SES allowed without a permit, within 6 months of the beginning of decommissioning, the SES and all structures associated with it shall be removed, all materials shall be recycled or otherwise reused to the extent reasonably practicable, and the property shall be returned to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use; and
 2. for a Ground Mounted SES allowed with a permit, the SES shall be decommissioned in accordance with the most recent decommissioning plan approved by the Planning Commission, and as further described in the Special Use Permit provision of this article.

Sec. 93-30-8. – Specific Requirements for Intermediate Scale Solar Energy Systems

The following requirements apply to Intermediate Scale SESs, in addition to the general requirements in this article that apply to all Ground Mounted SESs.

- (a) *Setbacks*. An Intermediate Scale SES shall comply with the following setback requirements:
1. the Intermediate Scale SES shall be located no closer than the lesser of (a) 15 feet from any property line, or (b) the required setback for the applicable zoning district, if any;
 2. the Intermediate Scale SES shall be located no closer than the lesser of (a) 20 feet from any public right-of-way, or (b) the required setback for the applicable zoning district, if any; and
 3. the Intermediate Scale SES shall be located no closer than 50 feet from any residential dwelling unit on an adjacent lot.
- (b) *Visual Buffers*. An Intermediate Scale SES in a residential or mixed-use district shall have, to the extent reasonably practicable, a 15-foot visual buffer of natural vegetation, plantings, earth berms, and/or six to eight feet high fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable.
- (c) *Signage*. An Intermediate Scale SES:
1. shall display signs (a) stating the risks that may result from contact with an Intermediate Scale SES, (b) identifying the owner or operator of the Intermediate Scale SES, and (c) providing a 24-hour emergency contact phone number;
 2. shall comply with the requirements of Article 3.3 of the City Zoning Code for displaying any advertisement; and
 3. may have signs that contain educational information about the Intermediate Scale SES.

Sec. 93-30-9. – Specific Requirements for Large Scale Solar Energy Systems

The following requirements apply to Large Scale SESs, in addition to the general requirements in this article that apply to all Ground Mounted SESs.

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- (a) *Setbacks*. A Large Scale SES shall comply with the following setback requirements:
1. the Large Scale SES shall be located no closer than the lesser of (a) 15 feet from any property line, or (b) the required setback for the applicable zoning district, if any;
 2. the Large Scale SES shall be located no closer than the lesser of (a) 20 feet from any public right-of-way, or (b) the required setback for the applicable zoning district, if any; and
 3. the Large Scale SES shall be located no closer than 100 feet from any residential dwelling unit on an adjacent lot.
- (b) *Visual Buffers*. A Large Scale SES shall have, to the extent reasonably practicable, a 15-foot visual buffer of natural vegetation, plantings, earth berms, and/or six to eight feet high fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable.
- (c) *Signage*. A Large Scale SES:
1. shall display signs (a) stating the risks that may result from contact with a Large Scale SES, (b) identifying the owner or operator of the Large Scale SES, and (c) providing a 24-hour emergency contact phone number;
 2. shall comply with the requirements of Article 3.3 of the City Zoning Code for displaying any advertisement; and
 3. may have signs that contain educational information about the Large Scale SES.

Sec. 93-30-10. – Permit Required.

It shall be unlawful for any person to place, install, alter, relocate, or modify any SES without first obtaining a permit from the city planner in the manner set forth in this article and otherwise complying with the terms herein.

Sec. 93-30-11. – Permit Application Submission, Requirements, Decision, and Appeal.

- (a) *Submission*. SES applications must be delivered to the department of community services. All permit applications must be stamped by planning and zoning department personnel indicating the submission date.
- (b) *Requirements for All SES*. The applicant shall submit the following information on a form provided by the community services department:
1. the address of the property on which the SES will be located;
 2. the applicant's name, address, telephone number, and email address;
 3. the property owner's name, address, telephone number, and email address;
 4. if known, the installation company's name, address, telephone number, email address, and license number;
 5. evidence of the applicant's control of the property, such as a deed, lease, or option agreement with the landowner; and

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- 232 6. a site plan of the property that depicts the locations of all existing and proposed structures
233 (including solar arrays, inverters, transformers, electrical substations, and buildings),
234 property lines, rights-of-way, roads, required setbacks, and visual buffers.

235 (c) *Additional requirements for Large Scale SES.* When applying for a permit for a Large Scale
236 SES, the following additional information is required:

- 237 1. a topographic map that depicts vegetative cover, watersheds, or wetlands on the property;
238 2. a visual buffer plan that demonstrates that any visual buffer (a) minimizes impacts of the
239 SES on adjacent residential dwelling units, as required by this article, (b) preserves
240 natural tree growth and natural land forms along the SES perimeter, as required by this
241 article, and (c) adheres to any additional visual buffer requirements of the City of
242 Hapeville zoning code that may further minimize impacts of the SES on the community
243 character;
244 3. a list that identifies (a) federal or state endangered, threatened, or candidate species that
245 may be present on the property or within 1,000 feet of the property, and (b) critical
246 habitat on the property or within 1,000 feet of the property;
247 4. a decommissioning plan that contains the following:

248 a the name, address, telephone number, and e-mail address of the person(s) or
249 entity(ies) responsible for implementing the decommissioning plan;
250 b a statement of conditions that require the decommissioning plan to be implemented;
251 c as part of decommissioning, a removal plan that identifies all structures, components,
252 and non-utility owned equipment that shall be removed;
253 d as part of decommissioning, a plan for recycling or otherwise reusing all materials to
254 the extent reasonably practicable;
255 e as part of decommissioning, a restoration plan to return the property to its condition
256 prior to the installation of the SES or to some other condition reasonably appropriate
257 for the designated land use after the SES is removed; and
258 f a timeline to complete decommissioning.
- 259 5. an affidavit that provides, to the best of the applicant's knowledge:
260 a construction and operation of the SES will comply with all applicable federal and
261 state laws;
262 b construction and operation of the SES will comply with all local laws, including the
263 requirements of the City of Hapeville zoning code; and
264 c commercial general liability insurance will be maintained throughout the siting,
265 construction, installation, operation, and decommissioning of the SES.

266 (d) *Approval of the community services department.* The community services department shall
267 review all SES applications that require a permit for compliance with the building codes and
268 indicate such compliance in a written report attached to the application. After completing any
269 such report, the community services department shall forward the application, including any
270 other documents submitted by the applicant, and the report to the city planner.

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(e) *Decision of the city planner.*

1. Provided that the application is complete, all permit fees have been paid, and the proposed SES and the lot on which the SES is to be placed are in compliance with all requirements of this division and all other ordinances and laws of the city, the city planner shall render a determination and shall inform the applicant of his or her decision within 45 calendar days of the submission date. The city planner shall give notice to the applicant of his or her decision on such application by hand delivery or by mailing such notice, by certified mail, return receipt requested, to the address on the permit application on or before the 45th day.

Upon the expiration of the 45-day period without a decision being made on the application, the applicant shall be permitted to erect and maintain the SES under this statutory provision unless and until the city planner notifies the applicant of a denial of the application and states the reasons for the denial. No person erecting a SES under this provision shall acquire any vested rights to continued maintenance of such SES, and following a subsequent denial of a SES application by the city planner, the SES must be brought into compliance with this division.

2. The city planner shall reject any application that is incomplete or contains false material information or omissions within 45 calendar days of the submission date. Applications subsequently submitted in conformity with this section shall be deemed to have been submitted on the date of resubmission rather than the original submission date.
3. If the city planner determines that a previously issued SES was issued pursuant to an application that contained false material information or omissions, he or she shall promptly revoke such permit and the sign shall be immediately removed.

(f) *Appeal.* An applicant who is dissatisfied by a decision of the city planner on the application for a SES permit has the right to appeal that decision. Any such appeal shall occur under the following procedures:

1. The applicant shall deliver a written notice of appeal to the city planner within 14 calendar days of his or her receipt of the notice of the decision. In the event that that no appeal is made within the 14-day period, the decision of the city planner shall become final. In the event that an appeal is filed, the city planner shall promptly transmit to the board of appeals all documents constituting the record upon which the decision appealed from was made.
2. The board of appeals shall (a) hold a hearing on any timely filed appeal no more than 30 days after the notice of appeal was received; and (b) make its final determination of the appeal not more than 30 days after the date of such hearing. The review by the board of appeals shall be limited to a determination of whether or not the decision of the city planner was clearly erroneous.
3. Any appeal of the decision of the board of appeals shall be taken to the superior court of Fulton County by a petition for a writ of certiorari.

Sec. 93-30-12. - Permit expiration date.

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311 If work authorized under a permit has not been completed to the satisfaction of the code
312 enforcement officer using common industry standards within six months after the date of
313 issuance, the permit shall become null and void.

314 Sec. 93-30-13. - Permit fees.

315 Each application for a SES permit must be accompanied by a payment for the permit fee.
316 The fee for a SES permit shall be as established by mayor and council from time to time. A copy
317 of the fee schedule shall be available electronically on the city website or as hard copy in the
318 community services department.

319 **Section Two. Codification and Certify.** This Ordinance adopted hereby shall be codified
320 and certified in a manner consistent with the laws of the State of Georgia and the City.

321

322 Section Three. Severability.

323

324 (a) It is hereby declared to be the intention of the Mayor and Council that all sections,
325 paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment,
326 believed by the Mayor and Council to be fully valid, enforceable and constitutional.

327

328 (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest
329 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this
330 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this
331 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the
332 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance
333 is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this
334 Ordinance.

335

336 (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance
337 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable
338 by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of
339 the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the
340 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any
341 of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to
342 the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and
343 sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and
344 effect.

345

346 **Section Four. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances
347 in conflict herewith are hereby expressly repealed.

348

349 **Section Five. Effective Date.** The effective date of this Ordinance shall be the date of
350 adoption unless otherwise stated herein.

351

352 **ORDAINED** this _____ day of _____, 2020.

353

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CITY OF HAPEVILLE, GEORGIA

Alan Hallman, Mayor

ATTEST:

Crystal Griggs-Epps, City Clerk

APPROVED BY:

City Attorney

1 STATE OF GEORGIA

2
3 CITY OF HAPEVILLE

4
5 ORDINANCE NO. _____

6
7 AN ORDINANCE TO AMEND CHAPTER 81 (“ARCHITECTURAL DESIGN
8 STANDARDS”), SECTION 81-1-5 (“APPLICABILITY”), SUBSECTION (b)
9 (“EXEMPTIONS FROM REVIEW”) OF THE CITY CODE OF THE CITY OF
10 HAPEVILLE; TO AMEND CHAPTER 81 (“ARCHITECTURAL DESIGN
11 STANDARDS”), SECTION 81-1-6 (“COMMERCIAL/MIXED-USE AREA”),
12 SUBSECTION (f) (“ROOF AND CHIMNEY STANDARDS”) OF THE CITY CODE OF
13 THE CITY OF HAPEVILLE; TO PROVIDE FOR SEVERABILITY; TO REPEAL
14 CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO
15 PROVIDE FOR OTHER LAWFUL PURPOSES.

16
17 WHEREAS, the Mayor and Council shall have full power and authority to provide for the
18 execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers,
19 agencies, or employees granted by the City of Hapeville’s Charter or by state law; and,

20
21 WHEREAS, the municipal government of the City of Hapeville (hereinafter “City”) and
22 all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be
23 the legislative body of the City; and,

24
25 WHEREAS, amendments to any of the provisions of the City’s Code may be made by
26 amending such provisions by specific reference to the section number of the City’s Code; and,

27
28 WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its
29 agencies now lawfully in effect not inconsistent with the provisions of the City’s charter shall
30 remain effective until they have been repealed, modified or amended; and,

31
32 WHEREAS, every official act of the Mayor and Council which is to become law shall be
33 by ordinance; and,

34
35 WHEREAS, the Mayor and Council wish to update the Architectural Design Standards
36 regarding solar energy systems.

37
38 BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF
39 THE CITY OF HAPEVILLE, GEORGIA THAT:

40
41 Section One. Chapter 81 (Architectural Design Standards), Section 81-1-5
42 (Applicability), Subsection (b) (Exemptions from review) of the City Code of Ordinances is hereby
43 amended by striking the subsection in its entirety and inserting in lieu thereof the following
44 language:

(b) Exemptions from review. The following shall be exempted from review by the design review committee provided that construction complies with all applicable design requirements:

- (1) Interior remodeling;
- (2) Single-structure demolition;
- (3) Replacement windows on existing structures;
- (4) Replacement siding;
- (5) Accessory structures less than 144 square feet, including, but not limited to, decks, porches, patios, landings, sheds, arbors, and gazebos.
- (6) The addition of solar energy systems, which are subject to the design requirements of **Sec. 93-30-6**.

Section Two. Chapter 81 (Architectural Design Standards), Section 81-1-6 (Commercial/mixed-use area), Subsection (f) (Roof and chimney) of the City Code of Ordinances is hereby amended by adding (f)(13) which states as follows:

13. Roof integrated or mounted solar energy systems are permitted, subject to the requirements of **Sec. 93-30-6**.

Section Three. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

Section Four. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

91 **Section Five. Repeal of Conflicting Ordinances.** All ordinances and parts of ordinances
92 in conflict herewith are hereby expressly repealed.

93
94 **Section Six. Effective Date.** The effective date of this Ordinance shall be the date of
95 adoption unless otherwise stated herein.

96
97 **ORDAINED** this _____ day of _____, 2020.

98 **CITY OF HAPEVILLE, GEORGIA**

99
100
101
102
103 _____
104 **Alan Hallman, Mayor**

105
106 **ATTEST:**

107
108
109
110 _____
111 City Clerk

112
113
114 **APPROVED BY:**

115
116
117
118 _____
119 City Attorney
120



**Department of Planning and Zoning
Planner's Report**

DATE: August 6, 2020
TO: Adrienne Senter
FROM: Lynn Patterson, Consulting Planner for City of Hapeville
RE: Solar Energy

BACKGROUND

The City of Hapeville does not currently have any zoning or design codes which govern the installation of photovoltaic panels on the roofs or supplemental areas of residences and businesses. Recent applications to install photovoltaic panels have been heard by the Design Review Commission on a case-by-case basis and without any guidance from the code. Outside of the DRC, the city lacks any enforcement mechanisms to ensure for the quality and aesthetics of new solar panel installations. To address this, the following Text Amendment based on Georgia Tech's "Model Solar Ordinance" is presented for recommendation to Mayor & City Council.

CODE

ARTICLE 30 – SOLAR ENERGY SYSTEMS

Sec. 93-30-1. – Intent.

The City has identified a need to facilitate the siting, construction, installation, and decommissioning of solar energy systems (SEs) in a manner that encourages local economic development and protects the health, safety, and welfare of the citizens of Hapeville, and at the same time mitigates any adverse impacts to the city or the community.

Sec. 93-30-2. – Definitions

Solar Energy System (SES) means any device or structural design feature that provides for the collection of solar energy for electricity generation, consumption, or transmission, or for thermal applications.

For the purposes of this article, SES refers only to (1) photovoltaic SESs that convert solar energy directly into electricity through a semiconductor device or (2) solar thermal systems that use collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.

SES as used here excludes concentrated solar power, which uses mirrors to focus the energy from the sun to produce electricity.

Integrated Solar Energy System means an SES where solar materials are incorporated into building materials, such that the two are reasonably indistinguishable, or where solar materials are used in place of traditional building components, such that the SES is structurally an integral part of a house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building facade, skylight, shingles, canopy, light, or parking meter.

Rooftop Solar Energy System means an SES that is structurally mounted to the roof of a house, building, or other structure and does not qualify as an Integrated SES.

Ground Mounted Solar Energy System means an SES that is structurally mounted to the ground and does not qualify as an Integrated SES. For purposes of the Hapeville zoning code, any solar canopy that does not qualify as an Integrated SES shall be considered a Ground Mounted SES, regardless of where it is mounted.

The *Footprint* of a Ground Mounted SES is calculated by drawing a perimeter around the outermost SES panels and any equipment necessary for the functioning of the SES, such as transformers and inverters. The Footprint does not include any visual buffer or perimeter fencing. Transmission lines (or portions thereof) required to connect the SES to a utility or consumer outside the SES perimeter shall not be included in calculating the Footprint.

Ground Mounted SESs shall be delineated by size as follows:

- *Small Scale Ground Mounted Solar Energy System (Small Scale SES)* means a Ground Mounted SES with a Footprint of less than 1 acre.
- *Intermediate Scale Ground Mounted Solar Energy System (Intermediate Scale SES)* means a Ground Mounted SES with a Footprint of between 1 and 15 acres.
- *Large Scale Ground Mounted Solar Energy System (Large Scale SES)* means a Ground Mounted SES with a Footprint of more than 15 acres.

Sec. 93-30-3. – Permitted Use

Integrated SES, Rooftop SES, and Ground Mounted SES are permitted as accessory uses in all districts, subject to the requirements of this article. No other SES are permitted anywhere in the city.

Sec. 93-30-4. – Applicability

- (a) This article applies to the siting, construction, installation, and decommissioning of any new SES to be constructed or installed after [the effective date of this ordinance] within the jurisdiction of the City of Hapeville.
- (b) Any SES that, prior to [the effective date of this ordinance]:
 - 1. is in operation;
 - 2. is being lawfully sited, constructed, or installed; or

- 3. has caused the incurrence of substantial liabilities relating to siting, construction, or installation;
- (c) shall be exempt from complying with this article, unless the surface area of an Integrated SES or Rooftop SES is increased by more than 10% after [the effective date of this ordinance].
- (d) Unless otherwise expressly stated herein, an SES shall comply with all applicable federal, state, and local laws, including the requirements of the City of Hapeville zoning code and applicable building, fire, electric, and plumbing codes. If a provision in this article directly conflicts with a requirement of the City of Hapeville zoning code, this article shall control.

Sec. 93-30-5. – Requirements for Integrated Solar Energy Systems

- (a) *Solar Access.* Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring the Integrated SES adequate exposure to sunlight.
- (b) *Tree Removal.* The removal of trees or natural vegetation for an Integrated SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of Sec. 93-2-14.

Sec. 93-30-6. – Requirements for Rooftop Solar Energy Systems

- (a) *Solar Access.* Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring the Rooftop SES adequate exposure to sunlight.
- (b) *Tree Removal.* The removal of trees or natural vegetation for a Rooftop SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of Sec. 93-2-14.
- (c) *Height.* A Rooftop SES shall be given an equivalent exemption, if any, to the applicable zoning district's height restrictions for roof-mounted mechanical devices or equipment, except a Rooftop SES mounted on a sloped roof shall not vertically exceed the highest point of the roof to which it is attached.
- (d) *Roof Setback.* A setback from all roof edges, as defined by most recent the International Fire Code adopted by Georgia at the time the rooftop solar energy system is installed, shall be provided for rooftop solar energy systems to ensure that firefighters may access the roof in a quick and safe manner and may penetrate the roof to create ventilation if necessary.
- (e) *Visibility.* Solar Energy systems shall not be allowed on a street-facing sloped roof unless the building owner demonstrates that other locations will result in a decrease in expected energy production of at least 40%.
- (f) *Slope.* Street facing Rooftop SES shall be flush with or parallel to the roofline on a sloped roof. Solar panels not visible from the right-of-way may be tilted up to 15% from the roofline on a sloped roof.
- (g) *Equipment Placement.* Solar energy equipment shall be installed, when possible, inside walls and attic spaces to reduce their visual impact.

Sec. 93-30-7. – General Requirements for All Ground Mounted Solar Energy Systems

The following requirements apply to all Ground Mounted SESs, in addition to the specific requirements in this article that apply to Intermediate and Large Scale SESs respectively.

- (a) *Residential Zoning.* Ground Mounted SES shall not be visible from the public right-of-way for any properties zoned residential or where the primary use of the property is residential.
- (b) *Solar Access.* Consistent with O.C.G.A. § 44-9-20 et seq., a property owner may obtain a solar easement from another property owner for the purpose of ensuring a Ground Mounted SES adequate exposure to sunlight.
- (c) *Impervious Surface.* Ground mounted structures and components of the Ground Mounted SES, including transformers and foundations, shall be considered impervious and included when determining lot coverage. However, for purposes of compliance with the City of Hapeville zoning code's maximum lot coverage requirements found in Sec. 93-22.1-1, the panels of a Ground Mounted SES shall be considered pervious if they maintain sheet flow and allow for water to infiltrate under and around them through a pervious surface and into the subsoil.
- (d) *Lighting.* To reduce light pollution, lighting of a Ground Mounted SES shall:
 - 1. not be allowed in any residential district or where the primary use of a lot is residential;
 - 2. be limited to the minimum reasonably necessary for its safe operation;
 - 3. be directed downward where reasonably feasible;
 - 4. incorporate full cut-off fixtures; and
 - 5. reasonably utilize motion sensors.
- (e) *Tree Removal.* The removal of trees or natural vegetation for a Ground Mounted SES shall be avoided to the extent reasonably practicable and shall comply with the requirements of Sec. 93-2-14.
- (f) *Decommissioning.* Unless otherwise approved by the Planning Commission, decommissioning shall begin no later than 12 months after a Ground Mounted SES has ceased to generate electricity or thermal energy:
 - 1. for a Ground Mounted SES allowed without a permit, within 6 months of the beginning of decommissioning, the SES and all structures associated with it shall be removed, all materials shall be recycled or otherwise reused to the extent reasonably practicable, and the property shall be returned to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use; and
 - 2. for a Ground Mounted SES allowed with a permit, the SES shall be decommissioned in accordance with the most recent decommissioning plan approved by the Planning Commission, and as further described in the Special Use Permit provision of this article.

Sec. 93-30-8. – Specific Requirements for Intermediate Scale Solar Energy Systems

The following requirements apply to Intermediate Scale SESs, in addition to the general requirements in this article that apply to all Ground Mounted SESs.

- (a) *Setbacks.* An Intermediate Scale SES shall comply with the following setback requirements:
 - 1. the Intermediate Scale SES shall be located no closer than the lesser of (a) 15 feet from any property line, or (b) the required setback for the applicable zoning district, if any;
 - 2. the Intermediate Scale SES shall be located no closer than the lesser of (a) 20 feet from any public right-of-way, or (b) the required setback for the applicable zoning district, if any; and
 - 3. the Intermediate Scale SES shall be located no closer than 50 feet from any residential dwelling unit on an adjacent lot.

- (b) *Visual Buffers.* An Intermediate Scale SES in a residential or mixed-use district shall have, to the extent reasonably practicable, a 15-foot visual buffer of natural vegetation, plantings, earth berms, and/or six to eight feet high fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable.
- (c) *Signage.* An Intermediate Scale SES:
 - 1. shall display signs (a) stating the risks that may result from contact with an Intermediate Scale SES, (b) identifying the owner or operator of the Intermediate Scale SES, and (c) providing a 24-hour emergency contact phone number;
 - 2. shall comply with the requirements of Article 3.3 of the City Zoning Code for displaying any advertisement; and
 - 3. may have signs that contain educational information about the Intermediate Scale SES.

Sec. 93-30-9. – Specific Requirements for Large Scale Solar Energy Systems

The following requirements apply to Large Scale SESs, in addition to the general requirements in this article that apply to all Ground Mounted SESs.

- (a) *Setbacks.* A Large Scale SES shall comply with the following setback requirements:
 - 1. the Large Scale SES shall be located no closer than the lesser of (a) 15 feet from any property line, or (b) the required setback for the applicable zoning district, if any;
 - 2. the Large Scale SES shall be located no closer than the lesser of (a) 20 feet from any public right-of-way, or (b) the required setback for the applicable zoning district, if any; and
 - 3. the Large Scale SES shall be located no closer than 100 feet from any residential dwelling unit on an adjacent lot.
- (b) *Visual Buffers.* A Large Scale SES shall have, to the extent reasonably practicable, a 15-foot visual buffer of natural vegetation, plantings, earth berms, and/or six to eight feet high fencing that provides a reasonable visual and lighting screen to reduce the view of the SES from residential dwelling units on adjacent lots (including those lots located across a public right-of-way). The existing natural tree growth and natural land forms along the SES perimeter may create a sufficient buffer and shall be preserved when reasonably practicable.
- (c) *Signage.* A Large Scale SES:
 - 1. shall display signs (a) stating the risks that may result from contact with a Large Scale SES, (b) identifying the owner or operator of the Large Scale SES, and (c) providing a 24-hour emergency contact phone number;
 - 2. shall comply with the requirements of Article 3.3 of the City Zoning Code for displaying any advertisement; and
 - 3. may have signs that contain educational information about the Large Scale SES.

Sec. 93-30-7. – Permit Required.

It shall be unlawful for any person to place, install, alter, relocate, or modify any SES without first obtaining a permit from the city planner in the manner set forth in this article and otherwise complying with the terms herein.

Sec. 93-30-8. – Permit Application Submission, Requirements, Decision, and Appeal.

- (a) *Submission.* SES applications must be delivered to the department of community services. All permit applications must be stamped by planning and zoning department personnel indicating the submission date.
- (b) *Requirements for All SES.* The applicant shall submit the following information on a form provided by the community services department:
 - 1. the address of the property on which the SES will be located;
 - 2. the applicant's name, address, telephone number, and email address;
 - 3. the property owner's name, address, telephone number, and email address;
 - 4. if known, the installation company's name, address, telephone number, email address, and license number;
 - 5. evidence of the applicant's control of the property, such as a deed, lease, or option agreement with the landowner; and
 - 6. a site plan of the property that depicts the locations of all existing and proposed structures (including solar arrays, inverters, transformers, electrical substations, and buildings), property lines, rights-of-way, roads, required setbacks, and visual buffers.
- (c) *Additional requirements for Large Scale SES.* When applying for a permit for a Large Scale SES, the following additional information is required:
 - 1. a topographic map that depicts vegetative cover, watersheds, or wetlands on the property;
 - 2. a visual buffer plan that demonstrates that any visual buffer (a) minimizes impacts of the SES on adjacent residential dwelling units, as required by this article, (b) preserves natural tree growth and natural land forms along the SES perimeter, as required by this article, and (c) adheres to any additional visual buffer requirements of the City of Hapeville zoning code that may further minimize impacts of the SES on the community character;
 - 3. a list that identifies (a) federal or state endangered, threatened, or candidate species that may be present on the property or within 1,000 feet of the property, and (b) critical habitat on the property or within 1,000 feet of the property;
 - 1. a decommissioning plan that contains the following:
 - a the name, address, telephone number, and e-mail address of the person(s) or entity(ies) responsible for implementing the decommissioning plan;
 - b a statement of conditions that require the decommissioning plan to be implemented;
 - c as part of decommissioning, a removal plan that identifies all structures, components, and non-utility owned equipment that shall be removed;
 - d as part of decommissioning, a plan for recycling or otherwise reusing all materials to the extent reasonably practicable;
 - e as part of decommissioning, a restoration plan to return the property to its condition prior to the installation of the SES or to some other condition reasonably appropriate for the designated land use after the SES is removed; and

- f a timeline to complete decommissioning.
 - 2. An affidavit that provides, to the best of the applicant's knowledge:
 - a construction and operation of the SES will comply with all applicable federal and state laws;
 - b construction and operation of the SES will comply with all local laws, including the requirements of the City of Hapeville zoning code; and
 - c commercial general liability insurance will be maintained throughout the siting, construction, installation, operation, and decommissioning of the SES.
- (d) *Approval of the community services department.* The community services department shall review all SES applications that require a permit for compliance with the building codes and indicate such compliance in a written report attached to the application. After completing any such report, the community services department shall forward the application, including any other documents submitted by the applicant, and the report to the city planner.
- (e) *Decision of the city planner.*
1. Provided that the application is complete, all permit fees have been paid, and the proposed SES and the lot on which the SES is to be placed are in compliance with all requirements of this division and all other ordinances and laws of the city, the city planner shall render a determination and shall inform the applicant of his or her decision within 45 calendar days of the submission date. The city planner shall give notice to the applicant of his or her decision on such application by hand delivery or by mailing such notice, by certified mail, return receipt requested, to the address on the permit application on or before the 45th day.
- Upon the expiration of the 45-day period without a decision being made on the application, the applicant shall be permitted to erect and maintain the SES under this statutory provision unless and until the city planner notifies the applicant of a denial of the application and states the reasons for the denial. No person erecting a SES under this provision shall acquire any vested rights to continued maintenance of such SES, and following a subsequent denial of a SES application by the city planner, the SES must be brought into compliance with this division.
2. The city planner shall reject any application that is incomplete or contains false material information or omissions within 45 calendar days of the submission date. Applications subsequently submitted in conformity with this section shall be deemed to have been submitted on the date of resubmission rather than the original submission date.
 3. If the city planner determines that a previously issued SES was issued pursuant to an application that contained false material information or omissions, he or she shall promptly revoke such permit and the sign shall be immediately removed.
- (f) *Appeal.* An applicant who is dissatisfied by a decision of the city planner on the application for a SES permit has the right to appeal that decision. Any such appeal shall occur under the following procedures:
1. The applicant shall deliver a written notice of appeal to the city planner within 14 calendar days of his or her receipt of the notice of the decision. In the event that that no appeal is made within the 14-day period, the decision of the city planner shall become final. In the event that an appeal is filed, the city planner shall promptly transmit to the board of appeals all documents constituting the record upon which the decision appealed from was made.

2. The board of appeals shall (a) hold a hearing on any timely filed appeal no more than 30 days after the notice of appeal was received; and (b) make its final determination of the appeal not more than 30 days after the date of such hearing. The review by the board of appeals shall be limited to a determination of whether or not the decision of the city planner was clearly erroneous.
3. Any appeal of the decision of the board of appeals shall be taken to the superior court of Fulton County by a petition for a writ of certiorari.

Sec. 93-30-9. - Permit expiration date.

If work authorized under a permit has not been completed to the satisfaction of the code enforcement officer using common industry standards within six months after the date of issuance, the permit shall become null and void.

Sec. 93-30-10. - Permit fees.

Each application for a SES permit must be accompanied by a payment for the permit fee. The fee for a SES permit shall be as established by mayor and council from time to time. A copy of the fee schedule shall be available electronically on the city website or as hard copy in the community services department.

CHAPTER 81 – ARCHITECTURAL DESIGN STANDARDS

Sec. 81-1-5. – Applicability

- (a) *Exemptions from review.* The following shall be exempted from review by the design review committee provided that construction complies with all applicable design requirements:

(6) The addition of solar energy systems, which are subject to the design requirements of Sec. 93-30-6.

Sec. 81-1-6(f)

13. Roof integrated or mounted solar energy systems are permitted, subject to the requirements of Sec. 93-30-6.