



**City of Flowery Branch
City Council Meeting
Thursday, May 04, 2023, 6:00 PM
City of Flowery Branch City Hall
5410 Pine Street, Flowery Branch, GA 30542**



CALL WORK SESSION TO ORDER:

PLEDGE OF ALLEGIANCE:

ADOPTION OF AGENDA:

PUBLIC HEARING:

- Discuss Proposed Text Amendment Implementing Zoning Ordinance Changes.
[ARTICLE_33_FINAL.pdf](#)
[ARTICLE_34_FINAL.pdf](#)
[ARTICLE_37_FINAL.pdf](#)
[ARTICLE_38_FINAL.pdf](#)
[ARTICLE 6 May 4 Rough Draft.pdf](#)
[Article 9 May 4 Rough Draft.pdf](#)
[ARTICLE 10 May 4 Rough Draft.pdf](#)
[Article 8 May 4 Rough Draft.pdf](#)

DEPARTMENT REPORTS: - a. City Manager Report

- b. City Clerk Report
- c. Community Relations Report
- d. Finance Department Report
- e. Planning Department Report
- f. Police Department Report
- g. Public Works & Utilities Report
- h. Attorney Report
- i. Council Report

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

PUBLIC COMMENTS: - Please limit to two minutes

CONSENT AGENDA:

- Consider April 20, 2023 City Council Meeting Minutes
[Unofficial April 20, 2023 City Council Meeting Minutes.pdf](#)

- Consider April 20, 2023 Executive Session Minutes
- Consider April 2023 Per Diem for Mayor Asbridge
[Mayor Per Diem - April 2023.pdf](#)

NEW BUSINESS - VOTING SESSION:

- Consider the First Read of Ordinance 693, a variance request submitted by Stanton E. Porter allowing fuel pumps to be located in front of the primary structure at 4603 Atlanta Highway.
[letter of intent.pdf](#)
[Thurmond Tanner Pkwy Retail Center Site Plan_6-24-22.pdf](#)
[signed variance app.pdf](#)
[Landscape plan.pdf](#)
[Staff Report.pdf](#)
[ORDINANCE 693.pdf](#)

EXECUTIVE SESSION:**ADJOURNMENT:**

If you have a disability or impairment and need special assistance please contact the City Clerk prior to the meeting at 770-967-6371 - Meeting agenda is subject to change



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Discuss Proposed Text Amendment Implementing Zoning Ordinance Changes.

COUNCIL MEETING DATE: May 4, 2023

HISTORY:

City Council requested certain changes and updates to the current zoning ordinance to better present the standards and expectations of the City's vision for responsible development. Additionally, there are legal updates that need to be adopted regarding advertising time lines for rezonings, conditional use permits, and variances.

FACTS AND ISSUES:

Rough drafts of Articles 6, 8, 9, 10, 33, 34, 37, and 38 of the Zoning Ordinance are attached below. These Articles may change prior to adoption.

OPTIONS:

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IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

0

RECOMMENDATION:

No action at this time.

SAMPLE MOTION:

No motion - discussion only.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Shelia Cooper

ATTACHMENTS

- [ARTICLE_33._FINAL.pdf](#)
- [ARTICLE_34._FINAL.pdf](#)
- [ARTICLE_37_FINAL.pdf](#)

- [ARTICLE _38_FINAL.pdf](#)
- [ARTICLE 6 May 4 Rough Draft.pdf](#)
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- [ARTICLE 10 May 4 Rough Draft.pdf](#)
- [Article 8 May 4 Rough Draft.pdf](#)

ARTICLE 33. - TEXT AMENDMENTS

Sec. 33.1. - Authority to Amend.

The City Council may from time to time amend any regulation pertaining to any zoning district; or may amend any other Article or Section of this Zoning Ordinance.

Sec. 33.2. - Initiation of Proposals for Text Amendments.

An application to amend the text of this Zoning Ordinance may be initiated by:

- (a) The City Council; or
- (b) The Director of Planning and Community Development.

Sec. 33.3. - Notice of Public Hearing.

At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the City Council, the City shall cause to be published within a newspaper of general circulation within the city a notice of the public hearing before City Council. The notice shall state the time, place, and purpose of the public hearing.

Sec. 33.4. - Public Hearing.

The City Council shall hold a public hearing on all text amendments in accordance with the public hearing procedures specified in Article 35 of this zoning ordinance.

Sec. 33.5. - Decision.

- (a) Within a period ninety (90) calendar days from the date of the public hearing held by the City Council on any such application(s), the City Council shall render a decision on the application(s).
- (b) The City Council may approve or disapprove the proposed text amendment as written, or it may approve modifications of the text amendment as originally proposed.
- (c) In rendering a decision on any such application, the City Council shall consider all information supplied by the Director of Planning and Community Development and the standards under Sec. 33.6 below.

(Ord. No. [581](#), § 1(Exh. A), 8-1-2019)

Sec. 33.6. - Standards for Text Amendments.

The City Council shall consider the following standards in considering any proposal that would result in a change to the text of this Zoning Ordinance, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

- (a) Is the proposed amendment consistent with the purpose of this Zoning Ordinance as stated under Article 1?
- (b) Does the proposed amendment further or is it compatible with the purpose and intent of the Comprehensive Plan?
- (c) Is the proposed amendment required to adequately address new or changing conditions or to properly implement the Comprehensive Plan?
- (d) Does the proposed amendment reasonably promote the public health, safety, morality or general welfare?

Copies of the standards for review, as outlined above, shall be printed and available for distribution to the general public at the public hearing held by the City Council.

Sec. 33.11. – Special Public Notice and Hearing Requirements for Text Amendments Pertaining to Single-Family Zoning Classifications and Multifamily Uses.

The procedures set forth in O.C.G.A. § 36-66-4(h)(1) shall apply:

- (a) Where a text amendment proposes to revise one or more zoning classifications or definitions related to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning; or
- (b) To any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of a local government, or that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of a local government to multifamily residential uses of property.

This Section shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

Sec. 33.12. - Incorporation Clause.

This Article is intended to comply with the provisions of the Georgia Zoning Procedures Act, O.C.G.A. § 36-66-1 et seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this Article is in conflict with any provision of the Act, the Act shall control. Or where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

ARTICLE 34. - REZONING AND CONDITIONAL USE APPLICATIONS^[9]

Footnotes:

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Editor's note— [Ord. No. 348-18](#), § 1 (Exh. A), adopted Sept. 6, 2018, repealed former Art. 34, §§ 34.1—34.21, and enacted a new Art. 34 as set out herein. Former Art. 34 pertained to similar subject matter and derived from Ord. No. 348-11, § 26, 11-18-2010.

Sec. 34.1. - Authority to Amend.

City Council may from time to time amend the boundaries of any zoning district established in this Zoning Ordinance, and it may consider upon application the approval, conditional approval, or denial of conditional use applications.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.2. - Initiation of Proposals for Rezoning.

An application to amend the official zoning map of the City, thus changing the boundaries of a zoning district, may be initiated by:

- (a) City Council; or
- (b) Any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which an amendment is sought.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.3. - Initiation of Conditional Use Applications.

An application for conditional use may be initiated by any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which the conditional use is sought.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.4. - Application Requirements.

Applications to amend the official zoning map of this zoning ordinance or for a conditional use shall require submittal of an application requirements specified in this Section. The Director of Planning and Community Development may waive the application fee and certain application requirements specified in this Section when an application for amendment of the official zoning map is initiated by City Council or authorized by the City Manager.

- (a) Application fee as specified by this ordinance or established by resolution of the City Council;
- (b) Application form furnished by the Director of Planning and Community Development, including signed and notarized signature of property owner;
- (c) Legal description of the property;
- (d) Survey plat of the property;
- (e) Letter of intent describing the proposed use of the property or other action requested;

- (f) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (g) Statistics regarding the proposed development;
- (h) Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application;
- (i) Description of any special conditions voluntarily made a part of the request; and
- (j) Other information as may be required by the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.5. - Site Plan Requirements.

Applications described in this Article shall include a site plan, which shall at minimum include on the site plan information specified in this Section.

- (a) Existing and proposed buildings and structures;
- (b) Parking and internal circulation;
- (c) Proposed landscaping;
- (d) Buffers, where required; and
- (e) Other information as may be required by the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.6. - Development Statistics Required.

Applications described in this Article shall submit development statistics and specifications shall at minimum include on the site plan or in written form the information specified in this Section.

- (a) Maximum and proposed height of any structure;
- (b) Maximum and proposed gross square footage of the building area (nonresidential only);
- (c) Color renderings of any proposed structures;
- (d) Material list (with percentages) of any proposed structures;
- (e) Maximum and proposed number of dwelling units and minimum and proposed square footage of heated floor area for any dwelling unit (residential only);
- (f) Maximum and proposed lot coverage of building area (square feet and percent);
- (g) Minimum and proposed square footage of landscaped area (square feet and percent);
- (h) Minimum, maximum and proposed number of parking spaces; and
- (i) Other dimensional information as may be required by the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment

or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to the Director of Planning and Community Development in making recommendations and by the City Council in the decision-making process.

- (a) The existing land uses and zoning classification of nearby property;
- (b) The suitability of the subject property for the zoned purposes;
- (c) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- (d) The extent to which the diminution of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- (e) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
- (f) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- (g) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- (h) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the future development map.
- (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

Copies of the standards for rendering a zoning decision, as outlined above, shall be printed and available for distribution to the general public at the public hearing held by the City Council for each variance application.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.8. - Application Compliance and Completeness.

- (a) No application described in this Article shall be processed by the Director of Planning and Community Development unless it complies with the procedural requirements of this Article and is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this Article.
- (b) If an application described and regulated by this Article does not comply with all provisions of this Article, the Director of Planning and Community Development shall reject the application and refuse to process it.
- (c) In cases where more than one application (rezoning, conditional use, variance) pertaining to a particular piece of property is filed simultaneously, the applicant must prepare separate applications

and meet all application requirements for each application filed; provided, however, that the Director of Planning and Community Development may waive separate site plan, fees, and the letter of intent filing requirements when they would be unnecessarily duplicative.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.9. - Administrative Processing of Applications.

The Director of Planning and Community Development is hereby authorized to establish administrative deadlines for the receipt of applications specified in this Article. Upon a finding by the Director of Planning and Community Development that an application is complete and complies with the requirements of this Article, including deadlines, the application shall be marked received and approved for initiation, and the date of such consideration shall be indicated in the file of the application.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.10. - Concurrent Consideration of Applications.

- (a) *Concurrent Conditional Use Applications.* In cases where an applicant is proposing a rezoning (i.e., amendment to the official zoning map), and where the applicant files an application to obtain a conditional use at the same time of filing a rezoning application, the two applications shall be processed simultaneously and shall be heard at the same public hearing before the City Council. However, the conditional use application shall not be considered until the rezoning application is approved (which may be the same public hearing or meeting), since the conditional use would not otherwise be permitted without the rezoning.
- (b) *Concurrent Variance Applications.* In cases where an applicant is proposing a rezoning (i.e., amendment to the official zoning map), and where the applicant files an application to obtain a variance or seek conditions at the same time of filing a rezoning application, the two applications shall be processed simultaneously and shall be heard at the same public hearing before the City Council. However, the variance application shall not be considered until the rezoning application is approved (which may be the same public hearing or meeting), since the variance would not otherwise be permitted without the rezoning.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.11. - Investigations and Recommendation.

- (a) Within a reasonable period of time after acceptance of a complete application, the Director of Planning and Community Development may send the application out for review by internal municipal departments and external agencies as may be appropriate (i.e., inter-agency review). Such internal municipal agencies should include the police department and public works/utilities department. External agencies may include but are not limited to the Hall County Board of Education; Georgia Regional Transportation Authority, Georgia Department of Transportation; Georgia Mountains Regional Development Center, adjacent local governments, and various departments of Hall County Government.
- (b) Any written comments received in a timely manner shall be submitted to City Council for consideration, and any such comments shall become an official public record.
- (c) With respect to each rezoning or conditional use application, and any concurrent variances filed, the Director of Planning and Community Development may investigate and make a recommendation

regarding any or all of the relevant matters concerning the application. Any such investigation and recommendation shall if in writing be made available to the applicant and City Council and shall become an official public record.

- (d) Copies of the Director of Planning and Community Development's findings and recommendations maybe provided to the applicant prior to the public hearing and shall be available upon request to interested members of the public prior to or at public hearing on the matter.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.12. - Notice of Public Hearing.

- (a) The City Council shall hold a hearing on each application involving an amendment to the official zoning map, application for conditional use, or concurrent application as described under Sec. 34.10.
- (b) At least thirty (30) but not more than forty-five (45) days prior to the date of the public hearing before City Council, the city shall cause to be published within a newspaper of general circulation within the City a notice of the public hearing before City Council, on each application that is the subject of this Article. The notice shall state the time, place, and purpose of the public hearing.
- (c) If the application is for the rezoning of property and the rezoning is initiated by a party other than the local government, then the notice shall include the location of the property, the present zoning classification, and the proposed zoning classification of the property in addition to the information required under subsection (b) above.
- (d) Notice of said scheduled public hearing required under this Section shall also be provided by first class mail to the owner of the property that is the subject of the proposed action. This notice shall be mailed via USPS Certified Mail at least thirty (30) days prior to the public hearing and shall state the time, place, and purpose of the public hearing.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.13. - Public Notice Sign.

- (a) For all applications involving an amendment to the official zoning map, application for conditional use, or application for a concurrent variance, the Director of Planning and Community Development shall cause to have posted in a conspicuous location on said property one (1) or more sign(s).
- (b) The public notice sign shall be erected not less than thirty (30) calendar days prior to the public hearing before the City Council pertaining to said application. Each public notice sign shall state the time, place, and purpose of the public hearing and the location of the property.
- (c) Each public notice sign pertaining to an amendment to the official zoning map shall state the present zoning classification and the proposed zoning classification of the property.
- (d) Each public notice sign pertaining to a conditional use shall state the existing or proposed zoning classification and the proposed use of the property.
- (d) Each public notice sign pertaining to a concurrent variance shall state the proposed zoning classification and the type of variance applied for. ([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.14. - Special Notice Requirements for Halfway Houses and Related Uses.

This section is adopted pursuant to the specific requirements of the State Zoning Procedures Law. When a proposed zoning map amendment or conditional use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug

dependency, a duly noticed public hearing shall be held by City Council on the proposed action in accordance with the procedures and requirements established in this zoning ordinance. In addition, the following requirements shall apply.

- (a) Such public hearing before the City Council shall be held at least six (6) months but not more than nine (9) months prior to the date of final action on the application.
- (b) All published or posted notices of the public hearing shall include a prominent statement that the proposed zoning map amendment or conditional use relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency.
- (c) The published notice shall be at least six (6) column inches in size and shall not be located in the classified advertising section of the newspaper.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.15. - Public Hearing.

City Council shall hold a public hearing on all rezoning and conditional use applications in accordance with the public hearing procedures specified in Article 35 of this zoning ordinance.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.16. - Decision.

- (a) Within a period of ninety (90) calendar days from the date of the public hearing on any such application(s) described in this Article, City Council render a decision on the application(s) and shall adopt findings of fact supporting their decision.
- (b) City Council may approve or disapprove the proposed rezoning or conditional use as applied for, or it may approve modifications of the application as originally proposed, and it may place conditions of approval on the application. Such modifications of the application or conditions of approval shall be included in the motion for approval.
- (c) In rendering a decision on any such application, City Council shall consider all information supplied by the applicant and Director of Planning and Community Development in addition to the criteria under Sec. 34.7 of this Article.
- (d) The applicant shall be informed in writing of the City Council's decision and the findings of fact regarding the decision in accordance with Sec. 34.20.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#) ; Ord. No. [581](#), § 1 (Exh. A), 8-1-2019)

Sec. 34.17. - Withdrawal of Application.

Any application described in this Article may be withdrawn at any time at the discretion of the person or agency initiating such a request, upon written notice to the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.18. - Refunds When Application is Withdrawn.

- (a) When any application described in this Article is initiated by a party other than City Council, and said application is withdrawn within ten (10) calendar days from the date of approval for initiation by the Director of Planning and Community Development, one half (1/2) of the entire application fee paid by the applicant shall be refunded to the applicant. The Administrator shall refund that portion of the application fee within thirty (30) calendar days of the date of withdrawal of the application.
- (b) No portion of a required application fee shall be refunded on any application withdrawn by an applicant later than ten (10) calendar days from the date of approval for initiation by the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.19. - Limitations on the Frequency of Filing Applications.

- (a) No application regulated by this Article and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve (12) months shall have elapsed from the date of denial.
- (b) The same or any portion of property previously considered in a zoning map amendment or conditional use application which was denied by City Council may not again be initiated until the expiration of at least six (6) months immediately following denial.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.20. - Notice of Action.

The Director of Planning and Community Development shall notify the applicant in writing of the action taken by City Council, including the findings of fact regarding the action, within five (5) working days from the date City Council took action on said application. Notice shall be sent by regular mail. Failure to receive the written decision within five (5) working days shall not constitute a procedural error on the part of the City, nor affect the decision of the City Council in any manner. ([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 34.21. - Incorporation Clause.

This Article is intended to comply with the provisions of the Georgia Zoning Procedures Act, O.C.G.A. § 36-66-1 et seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this Article is in conflict with any provision of the Act, the Act shall control. Or where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of the Act, such provision of the Act, so as to meet the mandate of the Act, shall be fully complied with.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

ARTICLE 37. - VARIANCES

Sec. 37.1. - Authority to Grant Variances.

The City Council shall have the power to authorize upon application in specific cases such variances from the terms of this zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this zoning ordinance will in an individual case result in practical difficulty or unnecessary hardship, so that the spirit of this zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done.

The City Council may upon application consider the approval, conditional approval, or denial of variances, subject to the requirements of this Article. In granting a variance, the City Council may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth in this zoning ordinance, as may be deemed necessary for the protection of adjacent properties and the public interest.

Sec. 37.2. - Initiation of Variance Applications.

An application for variance may be initiated by any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which the variance is sought.

Sec. 37.3. - Application Requirements.

Applications for variance shall require submittal of an application requirements specified in this Section.

- (a) Application fee as specified by this ordinance or established by resolution of the City Council;
- (b) Application form furnished by the Director of Planning and Community Development, including signed and notarized signature of property owner;
- (c) Legal description of the property;
- (d) Survey plat of the property;
- (e) Letter of intent describing the proposed use of the property or other action requested;
- (f) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (g) Statistics regarding the proposed development;
- (h) Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application;
- (i) Description of any special conditions voluntarily made a part of the request; and
- (j) Other information as may be required by the Director of Planning and Community Development.

Sec. 37.4. - Site Plan Requirements.

Applications for variance shall include a site plan, which shall at minimum include on the site plan information specified in this Section. The Director of Planning and Community Development may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in this Section are not essential to the review process.

- (a) Existing and proposed buildings and structures;
- (b) Other information as may be required by the Director of Planning and Community Development to describe and/or graphically depict the requested variance.

Sec. 37.5. - Criteria for Granting Variances.

Any applicant requesting consideration of a variance to any provision of the zoning ordinance shall provide a written justification that one or more of the following condition(s) exist. The City Council shall not approve a variance application unless it shall have adopted findings that one or more of the following conditions exist:

- (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;
- (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located;
- (c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located;
- (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
- (e) The special circumstances are not the result of the actions of the applicant;
- (f) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed; and
- (g) The variance shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

Copies of the standards for rendering quasi-judicial decisions, as outlined above, shall be printed and available for distribution to the general public at the public hearing held by the City Council for each variance application.

Sec. 37.6. - Application Compliance and Completeness.

- (a) No variance application shall be processed by the Director of Planning and Community Development unless it complies with the procedural requirements of this Article and is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this Article.
- (b) If the variance application does not comply with all application submittal requirements of this Article, the Director of Planning and Community Development shall reject the application and refuse to process it.
- (c) In cases where more than one application (rezoning, conditional use, variance) pertaining to a particular piece of property is filed simultaneously, the applicant must prepare separate applications and meet all application requirements for each application filed; provided, however, that the Director of Planning and Community Development may waive separate site plan or letter of intent filing requirements when they would be unnecessarily duplicative.

Sec. 37.7. - Administrative Processing of Applications.

The Director of Planning and Community Development is hereby authorized to establish administrative deadlines for the receipt of variance applications. Upon a finding by the Director of Planning and Community Development that a variance application is complete and complies with the requirements of this Article, including deadlines, the application shall be marked received and approved for initiation, and the date of such consideration shall be indicated in the file of the application.

Sec. 37.8. - Concurrent Variance Application.

In cases where an applicant is proposing a rezoning (i.e., amendment to the official zoning map) and/or conditional use, and where the applicant files an application to obtain a variance or seek conditions at the same time of filing a rezoning or conditional use application, the two applications shall be processed simultaneously and shall be heard at the same public hearing before the City Council. However, the variance application shall not be considered until the rezoning or conditional use application is approved (which may be the same public hearing or meeting), since the variance would not otherwise be permitted without the rezoning or conditional use.

Sec. 37.9. - Investigations and Recommendation.

- (a) Within a reasonable period of time after acceptance of a complete application, the Director of Planning and Community Development may send the application out for review by internal municipal departments and external agencies as may be appropriate (i.e., inter-agency review). Such internal municipal agencies should include the police department and public works/utilities department. External agencies may include but are not limited to the Hall County Board of Education; Georgia Regional Transportation Authority, Georgia Department of Transportation; Georgia Mountains Regional Development Center, adjacent local governments, and various departments of Hall County Government.
- (b) Any written comments received in a timely manner shall be submitted to the City Council for consideration, and any such comments shall become an official public record.
- (c) The Director of Planning and Community Development may investigate and make a recommendation regarding any or all of the relevant matters concerning the application. Any such investigation and recommendation shall if in writing be made available to the applicant and City Council prior to the public hearing held by the City Council and shall become an official public record.
- (d) Copies of the Director of Planning and Community Development's findings and recommendations shall be provided to the applicant prior to the public hearing and shall be available upon request to interested members of the public prior to or at public hearing on the matter.

Sec. 37.10. - Notice of Public Hearing.

- (a) The City Council shall hold a hearing on each variance application.
- (b) At least thirty (30) but not more than forty-five (45) days prior to the date of the public hearing before the City Council, the City shall cause to be published within a newspaper of general circulation within the city a notice of the public hearing before City Council, on the variance application. The notice shall state the time, place, and purpose of the public hearing.
- (c) Notice of said scheduled public hearing shall also be provided by first class mail to the owner of the property that is subject to the proposed variance. This notification letter shall be mailed using the USPS Certificate of Mailing at least thirty (30) days prior to the public hearing and shall state the time, place, and purpose of the public hearing.

Sec. 37.11. - Public Notice Sign.

- (a) For all variance applications the Director of Planning and Community Development shall cause to have posted in a conspicuous location on said property one (1) or more sign(s).
- (b) The public notice sign for a proposed variance shall be erected not less than thirty (30) calendar days prior to the public hearing before City Council pertaining to said application. Each public notice sign shall state the time, place, and purpose of the public hearing before City Council, the location of the property, and the section or section(s) of the Zoning Ordinance from which a variance is sought.
- (c)
- (d) The public notice sign pertaining to a concurrent variance application as described in Sec. 37.08 above shall be erected not less than thirty (30) calendar days prior to the public hearing before City Council and shall state the time, place and purpose of the hearing, in addition to the present zoning

classification of the subject property, the proposed zoning classification and/or conditional use, and the section or sections of the Zoning Ordinance from which a variance is sought.

Sec. 37.12. - Public Hearing.

The City Council shall hold a public hearing on all variance applications in accordance with the public hearing procedures specified in Article 35 of this zoning ordinance.

Sec. 37.13. - Decision.

- (a) Within a period of ninety (90) calendar days from the date of the public hearing held by the City Council on any variance application, the City Council shall render a decision on the application and shall adopt findings of fact supporting their decision.
- (b) The City Council may approve or disapprove the variance as applied for, or it may approve modifications of the application as originally proposed, and it may place conditions of approval on the application. Such modifications of the application or conditions of approval shall be included in the motion approving the variance.
- (c) In rendering a decision and preparing its findings of fact on any such application, the City Council shall consider all information supplied by the applicant and Director of Planning and Community Development in addition to the criteria and requirements under Sec.37.5 of this Article.
- (d) The applicant shall be informed in writing of the City Council's decision and the findings of fact regarding the decision, which shall be sent by regular mail within five (5) working days of the date of the decision. Failure to receive the written decision within five (5) working days shall not constitute a procedural error on the part of the City, nor affect the decision of the City Council in any manner.

(Ord. No. [581](#), § 1(Exh. A), 8-1-2019)

Sec. 37.14. - Withdrawal of Application.

A variance application may be withdrawn at any time at the discretion of the person or agency initiating such a request, upon written notice to the Director of Planning and Community Development.

Sec. 37.15. - Refunds When Application is Withdrawn.

- (a) When a variance application is withdrawn within ten (10) calendar days from the date of approval for initiation by the Director of Planning and Community Development, one half (½) of the entire application fee paid by the applicant shall be refunded to the applicant. The Administrator shall refund that portion of the application fee within thirty (30) calendar days of the date of withdrawal of the application.
- (b) No portion of a required application fee shall be refunded on any application withdrawn by an applicant later than ten (10) calendar days from the date of approval for initiation by the Director of Planning and Community Development.

Sec. 37.16. - Limitations on the Frequency of Filing Applications.

No variance application affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve (12) months shall have elapsed from the date said application was denied by City Council.

Sec. 37.17. - Notice of Action.

The Director of Planning and Community Development shall notify the applicant of the action taken by the City Council on the application no later than five (5) working days from the date the City Council took action on said application.

ARTICLE 38. - ADMINISTRATIVE VARIANCES^[10]

Footnotes:

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Editor's note— [Ord. No. 348-18](#), § 1 (Exh. A), adopted Sept. 6, 2018, repealed former Art. 38, §§ 38.1—38.12, and enacted a new Art. 38 as set out herein. Former Art. 38 pertained to similar subject matter and derived from Ord. No. 348-14, § 1, 3-16-2017.

Sec. 38.1. - Authority.

The Director of Planning and Community Development shall have the power to authorize upon application in specific cases such administrative variances from the terms of this zoning ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this zoning ordinance will in an individual case result in practical difficulty or unnecessary hardship, so that the spirit of this zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done.

The Director of Planning and Community Development may upon application consider the approval, conditional approval, or denial of administrative variances, subject to the requirements of this Article. In granting an administrative variance, the Director of Planning and Community Development may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth in this zoning ordinance, as may be deemed necessary for the protection of adjacent properties and the public interest.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.2. - Provisions that May Be Administratively Varied.

The following provisions of this zoning ordinance may be administratively varied by the Director of Planning and Community Development, subject to the specific limitations of this Section:

- (a) Front building setback for a principal building, reduction not to exceed seven (7) feet.
- (b) Side building setback for a principal building, reduction not to exceed three (3) feet.
- (c) Rear building setback for a principal building, reduction not to exceed five (5) feet.
- (d) Setback for an accessory building, reduction not to exceed two (2) feet.
- (e) Maximum height of a building, not to exceed five (5) feet above the applicable maximum.
- (f) Landscape strip minimum widths, reduction not to exceed twenty percent (20%) of the minimum required width. For example, if the minimum landscape strip width is ten feet (10'), the Director of Planning and Community Development may authorize a reduction to no less than eight feet (8'). The Director of Planning and Community Development may also authorize an average width of landscape strip rather than a minimum.
- (g) Parking above the maximum or twenty percent (20%) below the minimum required as specified in Table 21.3, on a case-by-case basis based upon the scale and impacts of the request, for good cause shown, as provided in Section 21.18 of this zoning ordinance.
- (h) The maximum height of fences and walls, not to exceed a 2-foot increase.

- (i) Certain dimensional requirements of the TND zoning district, as specified in Table 7.2 of this zoning ordinance, may be administratively varied by the Director of Planning and Community Development, for one or more lots for detached, single-family dwellings only, as follows:
 - 1. The required minimum lot size of 6,700 square feet may be reduced to 6,000 square feet (and the corresponding maximum density may be increased from 6.5 to 7.26 dwelling units per acre);
 - 2. The required minimum lot width of forty-five (45) feet may be reduced to forty (40) feet;
 - 3. The minimum lot depth may be reduced from eighty (80) feet to seventy (70) feet.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.3. - Initiation of Administrative Variance Applications.

An application for variance may be initiated by any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner or owner's agent of the property for which the administrative variance is sought.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.4. - Application Requirements.

Applications for administrative variance shall require submittal of an application requirements specified in this Section.

- (a) Application fee as specified by this ordinance or established by resolution of the City Council;
- (b) Application form furnished by the Director of Planning and Community Development, including signed and notarized signature of property owner;
- (c) Legal description of the property;
- (d) Survey plat of the property;
- (e) Letter of intent describing the proposed use of the property or other action requested;
- (f) Site plan of the property at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements;
- (g) Statistics regarding the proposed development;
- (h) Written analysis of how the proposed action compares to decision criteria specified for deciding on the subject type of application;
- (i) Description of any special conditions voluntarily made a part of the request; and
- (j) Other information as may be required by the Director of Planning and Community Development.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.5. - Site Plan Requirements.

Applications for administrative variance shall include a site plan, which shall at minimum include on the site plan information specified in this Section. The Director of Planning and Community Development may waive one or more of the requirements of this Section in individual cases when he/she determines that one or more elements of the required information specified in this Section are not essential to the review process.

- (a) Existing and proposed buildings and structures;
- (b) Other information as may be required by the Director of Planning and Community Development to describe and/or graphically depict the requested administrative variance.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.6. - Application Compliance and Completeness.

- (a) No administrative variance application shall be processed by the Director of Planning and Community Development unless it complies with the procedural requirements of this Article and is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this Article.
- (b) If the variance application does not comply with all application submittal requirements of this Article, the Director of Planning and Community Development shall reject the application and refuse to process it.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.7. - Criteria for Granting Variances.

Any applicant requesting consideration of an administrative variance shall provide a written justification that one or more of the following condition(s) exist. The Director of Planning and Community Development shall not approve an administrative variance application unless it shall have adopted findings that the one or more of the following conditions exist:

- (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;
- (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located;
- (c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located;
- (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
- (e) The special circumstances are not the result of the actions of the applicant;
- (f) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed; and
- (g) The variance shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.8. - Procedures.

Administrative variance applications shall be considered and processed in accordance with the requirements of this Section.

- (a) Director of Planning and Community Development shall review all completed applications, as described under Sec. 38.6.
- (b) . At least thirty (30) but not more than forty-five (45) days prior to the date the Director of Planning and Community Development considers an administrative variance for approval, the City shall cause to be published within a newspaper of general circulation within the city a notice stating the time, place, and purpose. Notice shall also be provided by first class mail to the owner of the property that is subject to the proposed administrative variance. This notification letter shall include the same information as the published notice and shall be mailed using the USPS Certificate of Mailing at least thirty (30) days prior to consideration by the Director.
- (c) The Director of Planning and Community Development shall render a final decision on any application for administrative variance on or before ten (10) days following the published date of consideration for approval.
- (d) The applicant shall be informed in writing of the Director's decision and the findings of fact supporting the decision, which shall be sent by regular mail within five (5) working days of the date of the decision. Failure to receive the written decision within five (5) working days shall not constitute a procedural error on the part of the City, nor affect the decision of the Director in any manner.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.9. - Withdrawal of Application.

An administrative variance application may be withdrawn at any time at the discretion of the person or agency initiating such a request, upon written notice to the Director of Planning and Community Development. No refunds of the application fee shall be provided in the case of a withdrawal.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.10. - Limitations on the Frequency of Filing Applications.

No variance application affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve (12) months shall have elapsed from the date said application was denied by City Council.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.11. - Appeal.

- (a) *Denial.* The Director of Planning and Community Development's denial of an administrative variance shall not be appealed as an administrative determination by the subject property owner, but any applicant denied an administrative variance may file an application for variance with the City Council pursuant to Article 37 of this zoning ordinance.
- (b) *Approval.* The Director of Planning and Community Development's approval of an administrative variance may be appealed as an administrative decision, but only if there is alleged to be an error in the administration or enforcement of this zoning ordinance. If such appeal is filed it shall be processed and considered in accordance with Article 39 of this zoning ordinance. When the administrative variance application was approved by the Director of Planning and Community Development with conditions, and in the case of the subject property owner finds such conditions are not acceptable, the

applicant shall not be authorized to file an appeal of the administrative decision but may file an application for variance with the City Council pursuant to Article 37 of this zoning ordinance.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

Sec. 38.12. - Records.

The Director of Planning and Community Development shall keep public records of all administrative variances applied for and granted pursuant to this Article.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

**ARTICLE 6
AGRICULTURAL AND CONVENTIONAL
RESIDENTIAL ZONING DISTRICTS**

ARTICLE 6. - AGRICULTURAL AND CONVENTIONAL RESIDENTIAL ZONING DISTRICTS

Sec. 6.1. - A, Agricultural District.

- (a) *Purpose and Description.* The Agricultural District is established to maintain those areas within the City of Flowery Branch that are not intended to convert to urban or suburban development in the short term.
- (b) *Permitted and Conditional Uses.* Permitted and conditional uses shall be as provided in Table 6.1, "Permitted and Conditional Uses in Agricultural and Conventional Residential Zoning Districts."
- (c) *Dimensional Requirements.* Dimensional requirements shall be as provided in Table 6.2, "Dimensional Requirements in Agricultural and Conventional Residential Zoning Districts."
- (d) *Design Requirements.* See Articles 10, 12 and 40 of this Zoning Ordinance.

Sec. 6.2. – R-1, Residential, Detached Single Family, Low-Density District.

- (a) *Purpose and Description.* This zoning district is established to accommodate single-family residences at low suburban densities and to protect the future development of land in accordance with the comprehensive plan. This district consists predominantly of detached single-family dwellings (site built or modular) and is "" intended to implement the "suburban residential" character area established in the comprehensive plan. The regulations that apply to the R-1 district are designed to encourage the formation and continuance of a stable, healthy, and attractive living environment for its residents.
- (b) *Permitted and Conditional Uses.* Permitted and conditional uses shall be as provided in Table 6.1, "Permitted and Conditional Uses in Agricultural and Conventional Residential Zoning Districts."
- (c) *Dimensional Requirements.* Dimensional requirements shall be as provided in Table 6.2, "Dimensional Requirements in Agricultural and Conventional Residential Zoning Districts."
- (d) *Design Requirements.* See Articles 10, 12 and 40 of this Zoning Ordinance.

Sec. 6.3. - R-2, Residential, Detached Single Family

- (a) *Purpose and Description.* This zoning district is established to accommodate single-family residences at moderate suburban densities and to protect the future development of land in accordance with the comprehensive plan. This district consists of detached single-family dwellings (site built or modular) and is intended to implement the "suburban residential" character area established in the comprehensive plan. The regulations that apply to the R-2 district are designed to encourage the formation and continuance of a stable, healthy, and attractive living environment for its residents.
- (b) *Permitted and Conditional Uses.* Permitted and conditional uses shall be as provided in Table 6.1, "Permitted and Conditional Uses in Agricultural and Conventional Residential Zoning Districts."
- (c) *Dimensional Requirements.* Dimensional requirements shall be as provided in Table 6.2, "Dimensional Requirements in Agricultural and Conventional Residential Zoning Districts."
- (d) *Design Requirements.* See Articles 10, 12 and 40 of this Zoning Ordinance.

Sec. 6.4. - MHP, Manufactured Home Park District.

- (a) *Purpose and Description.* This zoning district is intended exclusively for the placement of manufactured homes in manufactured home parks and for the development of land in accordance with the comprehensive plan. This district is also intended to implement the "urban density community" character area established in the comprehensive plan, as it pertains to existing manufactured home park use. The regulations that apply to the MHP district are designed to encourage the formation and continuance of a stable, healthy, and attractive living environment for its residents.
- (c) *Permitted and Conditional Uses.* Permitted and conditional uses shall be as provided in Table 6.1, "Permitted and Conditional Uses in Agricultural and Conventional Residential Zoning Districts."
- (d) *Dimensional Requirements.* Dimensional requirements shall be as provided in Table 6.2, "Dimensional Requirements in Agricultural and Conventional Residential Zoning Districts." Dimensional requirements such as specifications for manufactured home spaces shall be as designated on an approved site plan.
- (e) *Limitations on Rezoning.* There shall be no rezoning to the MHP zoning district, unless it is contiguous to an existing MHP zoning district, or unless it is designated MHP at the time of annexation into the city limits.
- (f) *Design Requirements.* See Articles 10 and 40 of this Zoning Ordinance.

Table 6.1
Permitted and Conditional Uses in
Agricultural and Conventional Residential Zoning Districts
(P = Permitted Use C = Conditional Use X = Prohibited)

Use	A	R-1	R-2	MHP
Accessory apartment, attached	X	X	C	X
Accessory apartment, detached	X	C	C	X
Accessory building, structure, or use	P	P	P	P
Agriculture, production of field crops, fruits, nuts, and vegetables	P	P	X	X
Agriculture, raising of poultry or livestock	P	C	X	X
Cemetery	P	C	C	X
Church, temple, synagogue, or place of worship, including specified accessory uses (see Sec. 14.3) (Ord. 348-11)	C	C	C	X
Club or lodge, nonprofit, sponsored by a civic or similar organization	C	C	C	X
Community recreation	P	P	P	P
Conservation areas and passive recreational facilities	P	P	P	P
Conservation subdivision	C	C	P	P
Construction field office (temporary use)	X	X	P	P
Dwelling, single-family detached, fee-simple	P	P	P	X
Dwellings, single-family detached, condominium	X	X	X	X
Dwelling, townhouse (single-family attached, fee-simple)	X	X	X	X
Dwelling, two-family (duplex)	X	X	X	X
Dwelling, multi-family (apartment, attached residential condominium)	X	X	X	X
Garden, non-commercial, accessory to single-family detached dwelling	P	P	P	X
Golf course	P	P	P	X
Greenhouse, non-commercial, accessory to single-family detached dwelling	P	P	P	X
Guest house (accessory building/use)	P	P	P	X
Home occupation (Office Use Only)	P	P	P	P
Horse stables, non-commercial, as accessory to single-family residential use	P	C	X	X
Leasing or sales office for a subdivision or residential development (accessory or principal use)	P	P	P	P
Manufactured home, Class A	C	X	X	P
Use	A	R-1	R-2	MHP
Model home for single-family subdivision or townhomes (temporary)	P	P	P	X
Public or semi-public use	P	P	P	X

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School, private, elementary, middle, or high (Ord. 348-11)	C	C	x	X
School, public	P	x	x	X
School, special	C	x	x	X
Temporary use	P	P	P	X

Table 6.2
Dimensional Requirements for Agricultural and
Conventional Residential Zoning Districts

Requirement (measurement unit)	A	R-1	R-2	MHP
Maximum height (feet)	75	35	35	35
Maximum height (number of stories)	3	3	3	1
Maximum density (units per acre)	0.333	2.18	4	4
Minimum lot size for detached single-family dwelling (square feet) (1)	130,680	20,000	15,000	10,000
Minimum lot size for two-family dwelling (square feet) (1)	N/A	N/A	N/A	N/A
Minimum lot size for other uses (square feet) (1)	130,680	43,560	15,000	10,000
Minimum lot width (feet)	200	90	75	50
Minimum heated floor area per dwelling unit (square feet)	1,500	2,200	1,800	1,000
Minimum front yard setback from lot line, all principal buildings (feet)	80	35	25	25
Minimum side setback, interior lot line, all principal buildings (feet)	25	25	15	20
Minimum side setback, corner lot, all principal buildings (feet)	60	35	25	20
Minimum rear setback, all principal buildings (feet)	35	25	20	20
Minimum setback, all principal or accessory buildings and structures abutting an R-1, R-2, or R-3 district (feet)	Side and rear setbacks shall apply	50		
Minimum width of natural buffer abutting R-1, R-2, or R-3 district (feet)	None			40
Minimum landscape strip required along right-of-ways for any nonresidential use if permitted (width in feet)	15	15	10	10
Minimum landscape strip required along right-of-ways for any apartment or condominium (multi-family residential) use (width in feet)	N/A	N/A	N/A	N/A
Minimum landscape strip required	5	5	5	5

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along side property lines for any nonresidential use if permitted (width in feet)				
Maximum coverage of principal and accessory buildings (percent of lot)	25	25	35	50
Minimum landscaped open space, all principal uses except detached, single-family residential lots (percent)	20	20	15	15

(1) Where on on-site sewage system is used, minimum lot size requirements of the Hall County Environmental Health Department shall be required and may exceed these minimums.

ARTICLE 9 NONRESIDENTIAL ZONING DISTRICTS

- Sec. 9.1. O-P, Office-Professional District.
- Sec. 9.2. INST, Institutional District.
- Sec. 9.3. NS, Neighborhood Shopping District.
- Sec. 9.4. HB, Highway Business District.
- Sec. 9.5. CBD, Central Business District.
- Sec. 9.6. M-1, Light Manufacturing and Industrial District.
- Sec. 9.7. M-2, Heavy Manufacturing and Industrial District.

Sec. 9.1. O-P, Office-Professional District.

- (a) Purpose and Description. This zoning district is intended to implement the “Office-Professional” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “Institutional Campus” character area established in the comprehensive plan and may be appropriate within neighborhood commercial and activity center classifications shown on the character area map. The Office-Professional district is intended to encourage and provide suitable areas for professional, medical, research and scientific functions, general offices, and certain related activities. This district is intended to apply to single-function office buildings and to planned office parks and planned office complexes. In some cases, the OP district may be appropriate as a transition between a commercial zoning district and a single-family or multi-family residential zoning district.
- (b) Character. Access to this district is predominantly by automobile but pedestrian mobility is accommodated.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.”
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”

Sec. 9.2. INST, Institutional District.

- (a) Purpose and Description. This zoning district is intended to implement the “Public Institutional” and “transportation, communications and utilities” designations of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “Institutional Campus” character area established in the comprehensive plan. The Institutional zoning district is intended to encourage and provide suitable areas for institutional campuses including the Atlanta Falcons Training Facility, Hall County public schools, and large churches.
- (b) Character. These are mostly single-function land use districts where public access is controlled or limited. Areas are sometimes designed for trucks and individual establishments are not connected with one another. In the case of schools,

pedestrian accessibility is provided, but other institutions are largely reliant on the automobile for access. Campus-style site planning and generous landscaping are required.

- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, "Permitted and Conditional Uses in Nonresidential Zoning Districts."
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, "Dimensional Requirements in Nonresidential Zoning Districts."

Sec. 9.3. NS, Neighborhood Shopping District.

- (a) Purpose and Description. This zoning district is intended to implement the "commercial" designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the "neighborhood commercial" character area established in the comprehensive plan.
- (b) Character. Neighborhood commercial districts are intended to provide areas for limited, small-scale commercial uses of a convenience nature serving nearby residential neighborhoods as opposed to a regional market. This district provides for attractive, non-auto related neighborhood businesses and services, with distinctive architectural features and a scale compatible with pedestrians and connected to adjacent residential neighborhoods. Uses within neighborhood commercial character areas generally occur within enclosed buildings with no outside storage and limited outdoor display of goods and merchandise. Pedestrian accessibility is promoted via sidewalks connected to nearby neighborhoods but uses are mostly reliant on the automobile for access. Nonetheless, buildings and developments are scaled to be compatible with and promote pedestrian activity. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, "Permitted and Conditional Uses in Nonresidential Zoning Districts." Auto-related, highway-oriented commercial uses are not permitted. With the exception of convenience stores with gasoline pumps, neighborhood commercial districts are not intended to permit or accommodate automotive uses or other types of more intensive highway business activities, or those uses that generate excessive traffic, noise, odors, pollution, safety hazards, or other adverse impacts which would detract from the desirability of adjacent properties for residential use.
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, "Dimensional Requirements in Nonresidential Zoning Districts." Business establishments do not exceed 2,500 square feet in any one tenant space, to keep the bulk and intensity in scale with the needs of adjacent neighborhoods. Open space is limited to suburban plazas or small open spaces. A three-story height limit is imposed.

Sec. 9.4. HB, Highway Business District.

- (a) Purpose and Description. This zoning district is intended to implement the “commercial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “activity center” and “mixed use” character areas established in the comprehensive plan. Centered at the interchange of Spout Springs Road and I-985, and also extending north and south along Hog Mountain Road, this zoning district will be an accessible center of businesses, services, and complementary uses, which may include traditional neighborhood development and mixed-use developments, contributing extensively to the economic base of the city.
- (b) Character. This district is dominated by commercial uses but also intended to accommodate mixed-use developments. A grid block pattern of streets (connected local network) is provided, along with sidewalks and street trees. Pedestrian accessibility is promoted, although most activity is via the automobile for access. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” The widest possible range of uses is contemplated in this zoning district, except for industry and single-family, detached or manufactured homes. This character area is the proper place for big box retail, shopping centers, lodging and auto-related uses.
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”

Sec. 9.5. CBD, Central Business District.

- (a) Purpose and Description. This zoning district is intended to implement the redevelopment element of the Flowery Branch Comprehensive Plan, as amended. This zoning district is also intended to implement the “Central Business” designation of the Future Land Use Map contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “Old Town” character area established in the comprehensive plan, as amended. All construction projects require approval by the Zoning Administrator. If proposals are denied by the Zoning Administrator the applicant may appeal the decision to the City Council of Flowery Branch. For lots zoned CBD which are within the city’s local historic district, compliance with the city’s historic preservation ordinance is also required.
- (b) Character. This district is a compact area corresponding with the city’s downtown core. It is characterized by a grid block pattern with skinny streets, sidewalks composed of distinctive materials (e.g., stamped concrete) and lined with street trees. Developments are built to a pedestrian-friendly scale (i.e., “Main Street Commercial”) and include plazas and small urban pocket parks. Buildings and structures which are considered “historic” are retained to maintain the overall historic character of the area.

Article 9, Nonresidential Zoning Districts

- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, "Permitted and Conditional Uses in Nonresidential Zoning Districts."
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, "Dimensional Requirements in Nonresidential Zoning Districts."
- (e) Construction Approval. Any proposed construction project must be approved by the Zoning Administrator prior to issuance of any permit.
- (f) Construction Approval Requirements. All construction proposals shall submit the required application and shall include at a minimum the following:
 - 1. Application fee as specified by this ordinance or established by resolution of City Council;
 - 2. Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
 - 3. Legal description of the property;
 - 4. Survey of the property;
 - 5. Existing conditions analysis of the site to be redeveloped, including any existing buildings, structures, and/or uses on the subject site, and the existing land uses and description of buildings, structures, and uses on all adjacent lots;
 - 6. Letter of intent describing the proposed use(s) of the property or other action requested (redevelopment project approval). The applicant must be comprehensive in terms of describing all principal uses that will be included – these will become limiting and binding on the developer – refer to the permitted uses listing in Table 9.1 of Article 9 of the Flowery Branch Zoning Ordinance. For complex projects, the applicant should describe the intended phasing of the project, if applicable. The letter of intent shall address the following:
 - a. How the proposed action compares (and is consistent with) the goals, policies, and development requirements of the Old Town Redevelopment Plan;
 - b. How the project will be consistent with any adopted design guidelines for the type of development and/or the proposed use; and
 - c. How the general design, the character and appropriateness of design, scale of buildings, arrangement, texture, materials, and colors of buildings in the proposed redevelopment project will be appropriate in its surroundings;
 - 7. Two copies and one electronic copy of a site plan of the property, at an appropriate engineering scale, showing the proposed use and relevant

information (buildings, parking, open spaces, etc.) regarding proposed improvements;

8. Statistics regarding the proposed development (this may be incorporated into the letter of intent, or shown on the site plan, or both). At minimum, such statistics shall include the total square footage of the redevelopment project, including any existing buildings to be retained, the total gross square footages of building(s) devoted to each use, and proposed building heights for all buildings and structures proposed in the redevelopment project;
9. Two copies and one electronic copy of all exterior elevation drawings of all building faces that will front on a public or private street, and rear and side elevations of same if requested by Zoning Administrator, drawn to an architectural scale and signed by an architect. If structured parking is proposed, elevations of the parking structure must also be submitted. Said exterior elevation drawings shall clearly show in sufficient detail the exterior appearance and architectural design of proposed principal buildings. Each application shall also indicate proposed materials, textures and colors and provide samples of materials and colors. In cases where an applicant has already made application for approval of a certificate of appropriateness (COA), the applicant can submit the complete application for certificate of appropriateness as submitted to the Historic Preservation Commission. Where an applicant has already received a certificate of appropriateness from the Historic Preservation Commission, resubmission of the approved application for certificate of appropriateness shall constitute compliance with this application requirement unless the Zoning Administrator notifies the applicant that additional information is needed for aspects not covered in the approved COA application;
10. Facility impact analyses, including the following:
 - a. Proof of water and sewer availability from the Public Works Director and Wastewater Treatment Plant Superintendent.
 - b. Analysis of the adequacy of drainage for the site (description and assessment of adequacy of stormwater facilities on-site and off-site).
11. A written development agreement, if the developer requests city participation in the provision of on-site or off-site facilities, such as the sharing of costs for facilities, shared parking, etc. which may or may not be available from the city. If accepted by the city, the development agreement may become a condition of project approval or it may be considered and approved separately from redevelopment project approval;
12. If any variances or administrative variances are required, the applicant will file a separate application following submission requirements and processes for the type of variance sought.

Sec. 9.6. M-1, Light Manufacturing and Industrial District.

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- (a) Purpose and Description. This zoning district is intended to implement the “light industrial” and “transportation, communication and utilities” designations of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “industrial/employment” character area established in the comprehensive plan. It provides a concentration of employment and job activity, contributing substantially to the economic base of the city. (Ord. 348-13)
- (b) Character. Truck traffic is frequent, and individual manufacturing establishments are not necessarily connected with one another. Driveways and curb radii are designed to accommodate large trucks. Pedestrian accessibility is generally not anticipated, though pedestrian access is required along road frontages. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” Light industries are the primary permitted uses. (Ord. 348-13)
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”
- (e) Design Requirements.

Sec. 9.7. M-2, Heavy Manufacturing and Industrial District. (Ord. 348-13)

- (a) Purpose and Description. This zoning district is intended to implement the “heavy industrial” designation of the future land use plan contained within the comprehensive plan of the City of Flowery Branch. It is also intended to implement the “industrial/employment” character area established in the comprehensive plan. It provides a concentration of employment and job activity, contributing substantially to the economic base of the city.
- (b) Character. Truck traffic is frequent, and individual manufacturing establishments are not necessarily connected with one another. Driveways and curb radii are designed to accommodate large trucks. Pedestrian accessibility is generally not anticipated, though pedestrian access is required along road frontages. Entrances, frontages, and building façades are softened with landscaping and low-lying identification signs.
- (c) Permitted and Conditional Uses. Permitted and conditional uses shall be as provided in Table 9.1, “Permitted and Conditional Uses in Nonresidential Zoning Districts.” Light and heavy industries are the primary permitted uses.
- (d) Dimensional Requirements. Dimensional requirements shall be as provided in Table 9.2, “Dimensional Requirements in Nonresidential Zoning Districts.”
- (e) Design Requirements

Table 9.1
Permitted and Conditional Uses in Nonresidential Zoning Districts
(P = Permitted Use C = Conditional Use X = Prohibited)

Use	O-P	INST	NS	HB	CBD	M-1	M-2
Accessory building, structure, or use	P	P	P	P	P	P	P
Adaptive reuse of a detached single-family dwelling for a personal service establishment or enclosed retail establishment	C	C	P	P	P	X	X
Adult business (see Adult Entertainment of Code of Ordinances No. 360)	X	X	X	X	X	P	P
Agricultural processing	X	X	X	X	X	X	C
Aircraft landing area	X	X	X	X	X	X	C
Animal hospital or veterinary clinic	P	P	P	P	X	X	X
Animal rendering, slaughtering, and recycling plant	X	X	X	X	X	X	X
Animal shelter	X	P	X	C	X	P	P
Apparel manufacturing	X	X	X	X	X	P	P
Art gallery	P	P	P	P	P	X	X
Asphalt plant	X	X	X	X	X	X	C
Auction house or auction yard (excluding livestock)	X	X	X	X	X	P	P
Auction house or auction yard (including livestock)	X	X	X	X	X	X	P
Automated teller machines (accessory use)	P	P	P	P	X	P	P
Automobile sales and service establishment	X	X	X	P	X	X	X
Automobile sales without service	X	X	X	P	X	X	X
Automobile service establishment without sales	X	X	X	P	X	P	P
Bank or financial institution	P	P	P	P	P	X	X
Batching plant	X	X	X	X	X	X	C
Bed and breakfast inn	P	P	P	P	P	X	X
Big box commercial building	X	X	X	C	X	C	C
Borrow site	X	C	X	C	X	X	P
Botanical garden	P	P	P	C	X	X	X
Bottling or canning plant	X	X	X	X	X	C	P
Brewery or distillery	X	X	X	X	X	P	P
Broadcasting studio	P	P	P	P	X	P	P
Building material sales	X	X	X	C	X	P	P
Building sales establishment	X	X	X	C	X	P	P
Bulk storage	X	X	X	X	X	X	P
Business service establishment, not exceeding 2,500 square feet of gross floor area	C	C	P	P	P	P	P
Business service establishment, more than 2,500 square feet of gross floor area	X	X	X	P	P	P	P
Camp or campground	X	C	X	C	X	X	X
Car wash	X	X	X	C	X	P	P
Caretaker's residence	X	X	X	C	C	P	P
Carnival	X	X	X	C	X	X	P
Cemetery or mausoleum	X	P	X	C	X	P	P
Church, temple, synagogue, or place of worship, including specified accessory uses (see Sect. 14.3) (Ord. 348-11)	P	P	C	P	X	C	C
Clinic	P	P	P	P	X	X	X
Club or lodge, nonprofit, sponsored by a civic or similar organization	P	P	C	P	X	C	C
Club, private (Ord. 348-11)	X	C	X	C	X	X	X
Cold storage plant or frozen food locker	X	X	X	X	X	P	P
Co-generation facility	X	X	X	X	X	C	C
College or university (Ord. 348-11)	C	P	X	C	X	C	C
Commercial recreational facility, indoor (Ord. 348-11)	X	X	C	P	X	C	C
Commercial recreational facility, outdoor	X	X	X	C	C	C	C
Communication tower and antenna	P	P	X	P	X	P	P
Community recreation area	P	P	P	P	P	P	P
Composting facility	X	X	X	X	X	X	P

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Use	O-P	INST	NS	HB	CBD	M-1	M-2
Conservation areas and passive recreational facilities	P	P	P	P	P	P	P
Construction field office and/or yard (temporary use)	X	P	X	P	X	P	P
Continuing care retirement community	C	P	X	P	C	X	X
Contractor's establishment	X	X	X	P	X	P	P
Convenience store, with or without gasoline pumps	X	X	X	C	X	X	X
Cottage industry	P	P	P	P	P	P	P
Crematorium in conjunction with a funeral home or mortuary (Ord. 348-13)	X	C	X	C	X	P	P
Crematorium not in conjunction with a funeral home or mortuary (Ord. 348-13)	X	X	X	X	X	X	P
Crisis center	C	P	X	P	X	P	P
Custom order shop	X	X	P	P	P	P	P
Day care center serving no more than 17 persons	P	P	P	P	X	C	C
Day care center serving 18 persons or more	X	P	C	P	X	C	C
Distribution center, including truck terminals	X	X	X	C	X	P	P
Dry cleaning plant	X	X	X	C	X	P	P
Dwelling, single-family detached, fee-simple	P	P	X	X	P	X	X
Dwelling, single-family detached, condominium	P	P	X	X	P	X	X
Dwelling, townhome (single-family attached fee-simple)	X	X	X	X	P	X	X
Dwelling, multi-family	X	X	X	X	C	X	X
Dwelling, two-family (duplex)	C	C	X	X	X	X	X
Dwelling, located within a building containing a nonresidential principal use	X	X	X	X	X	X	X
Explosives storage	X	X	X	X	X	X	C
Exterminating and pest control business or disinfecting service	X	X	C	P	X	P	P
Extraction and removal of sand, gravel, top soil, clay, dirt, precious metals, gems, and minerals	X	X	X	X	X	X	C
Fairgrounds	X	P	X	X	C	P	P
Finance, insurance, and real estate establishment, 2,500 square feet or less of gross floor area per establishment	P	P	P	P	P	P	P
Finance, insurance, and real estate establishment, more than 2,500 square feet of gross floor area per establishment	P	P	P	P	P	X	X
Food processing plant	X	X	X	X	X	X	P
Fuel oil distributor	X	X	X	X	X	P	P
Funeral home or mortuary	X	X	X	C	X	P	P
Gas tank sales	X	X	X	C	X	X	P
Greenhouse (commercial)	X	X	X	P	X	P	P
Group home	C	P	X	P	X	X	X
Growler							
Gym or exercise facility, not open 24 hours a day	P	P	P	P	P	P	P
Gym or exercise facility open 24 hours a day	P	P	X	P	P	P	P
Hazardous waste receiving, handling, and/or disposal facility, or volatile organic liquid handling and storage	X	X	X	X	X	X	C
Health spa	X	X	X	P	P	P	P
Hospital	C	P	X	P	C	C	C
Incinerator	X	X	X	X	X	X	C
Institutional residential living and care facility, serving no more than 17 persons	P	P	P	P	X	X	X
Institutional residential living and care facility, serving 18 persons or more	C	P	X	P	X	X	X
Junk/salvage yard	X	X	X	X	X	X	C
Kennel	X	X	X	P	X	P	P
Laboratory	P	P	C	P	X	P	P
Landfill (sanitary, construction/demolition, inert waste)	X	X	X	X	X	X	C
Landscaping company	X	X	X	P	X	P	P
Live/work unit	C	X	C	C	P	P	P
Lodging service (hotel, motel, motor hotel, inn)	X	C	X	P	P	X	X
Logging yard	X	X	X	X	X	X	P
Lumber yard	X	X	X	C	X	P	P
Machine shop	X	X	X	P	X	P	P
Manufactured home, "Class A"	X	X	X	X	X	X	X

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Manufactured home other than "Class A"	X	X	X	X	X	X	X
Manufactured home park	X	X	X	X	X	X	X
Manufacturing, ceramics	X	X	X	X	X	C	P
Manufacturing, cosmetics or toiletries	X	X	X	X	X	P	P
Manufacturing, coating of cans, coils, fabrics, vinyl, metal furniture, appliance surfaces, wire, paper, and flat wood paneling	X	X	X	X	X	C	C
Manufacturing, electronics, camera, or photographic or communication equipment	X	X	X	X	X	P	P
Manufacturing, instrument assembly	X	X	X	X	X	P	P
Manufacturing, metal products	X	X	X	X	X	C	P
Manufacturing, pharmaceuticals and medical supplies	X	X	X	X	X	P	P
Manufacturing, textiles	X	X	X	X	X	P	P
Manufacturing, wood products	X	X	X	X	X	P	P
Manufacturing, processing, and assembling, within buildings, not otherwise specified	X	X	X	X	X	C	C
Marina	X	C	X	P	X	X	X
Materials recovery facility	X	X	X	X	X	X	C
Micro brewery	X	X	X	X	P	P	P
Mixed use building or development	C	X	P	P	P	C	X
Museum	P	P	P	P	P	P	P
Office	P	P	P	P	P	P	P
Office-warehouse	X	X	X	C	X	P	P
Open air business	X	X	X	P	C	C	C
Open storage yard (principal use)	X	X	X	C	X	P	P
Package Store	X	X					
Parking deck or structures, on-site or off-site	C	C	X	P	C	C	C
Parking lot, off-site	P	P	P	P	C	P	P
Personal service establishment	C	C	P	P	P	P	P
Petroleum bulk storage site	X	X	X	X	X	X	P
Power plant, private	X	X	X	X	X	X	C
Public or semi-public use	P	P	P	P	P	P	P
Rail yard	X	C	X	X	X	X	P
Railroad freight terminal	X	C	X	X	X	X	P
Recreational vehicle park	X	X	X	C	X	X	X
Recovered materials processing facility	X	X	X	X	X	X	C
Recycling center	X	X	X	X	X	C	C
Restaurant, excluding drive-ins or drive through facilities and fast-food restaurants as defined	X	C	P	P	P	P	P
Restaurant, including drive-ins or drive through facilities and fast-food restaurants as defined	X	X	X	P	X	C	C
Retail trade establishment, enclosed	X	X	P	P	P	P	P
Retreat center	P	P	X	P	X	X	X
Riding academy or equestrian center	X	X	X	P	X	C	C
Rooming or boarding house	C	X	X	C	X	X	X
Sawmill	X	X	X	C	X	X	P
School for the arts (Ord. 348-10; Ord. 348-11)	P	P	C	P	C	C	C
School, private, elementary, middle, or high (Ord. 348-11)	P	P	C	P	X	C	C
School, public	P	P	X	X	X	X	X
School, professional (Ord. 348-11)	P	P	C	P	X	C	C
School, special (Ord. 348-11)	P	P	X	X	X	C	C
School, trade (Ord. 348-11)	C	C	X	X	X	C	C
Self-service storage facility (mini-warehouse)	X	X	X	C	X	P	P
Service and fuel-filling station	X	X	X	P	X	P	P
Showroom	X	X	X	X	X	P	P
Slaughterhouse	X	X	X	X	X	X	C
Solid waste handling and/or transfer facility	X	X	X	X	X	X	C
Special event facility (Ord. 348-11)	C	P	C	P	X	X	X
Taxi cab and limousine service	X	X	X	X	X	X	X
Temporary use approved by the Zoning Administrator	P	P	P	P	P	P	P

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Therapeutic camp	X	C	X	X	X	X	X
Tow service	X	X	X	P	X	C	P
Truck stop or truck terminal	X	X	X	C	X	X	P
Utility company	P	P	X	P	X	P	P
Use	O-P	INST	NS	HB	CBD	M-1	M-2
Utility company substation	P	P	P	P	P	P	P
Vehicle emission testing facility	X	X	X	P	X	P	P
Warehouse or storage building	X	X	X	C	X	P	P
Water plant or wastewater treatment facility	X	X	X	X	X	X	X
Wholesale trade establishment	X	X	X	C	C	P	P
Wireless telecommunications equipment	X	C	X	C	X	C	C
Wireless telecommunications facility	X	C	X	C	X	C	C
Wrecked motor vehicle compound	X	X	X	C	X	X	P
Yoga Studio	P	P	P	P	P	P	P

(Ord. 348-13)

Table 9.2
Dimensional Requirements for Nonresidential Zoning Districts

Dimensional Requirement (measurement unit)	O-P	INST	NS	HB	CBD	M-1	M-2
Maximum height (feet)	35	45	35	60	Note 1	75	75
Maximum height (number of stories)	3	3	3	5	Note 1	4	5
Maximum density (units per acre)	3	3	3	12	N/A	N/A	N/A
Minimum lot size for detached single family dwelling (square feet)	10,000	10,000	10,000	10,000	7,000	N/A	N/A
Minimum lot size for other uses (square feet)	10,000	None	None	None	None	None	None
Minimum lot width (feet)	75	75	90	None	None	100	100
Minimum heated floor area per dwelling unit (square feet)	1,200	1,200	1,200	700	700	700	700
Minimum front yard setback (feet)	25	40	25	None	None	25	25
Minimum side setback, interior lot line (feet)	10	40	10	10	None	15	15
Minimum side setback, corner lot (feet)	15	40	15	15	None	25	25
Minimum side setback, interior lot line (width in feet) for institutional zones abutting other institutional zones	N/A	10	N/A	N/A	N/A	N/A	N/A
Minimum landscape strip required along side property lines for institutional zones abutting other institutional zones (width in feet)	N/A	5	N/A	N/A	N/A	N/A	N/A
Minimum rear setback (feet)	20	40	20	25	None	25	25
Minimum setback abutting an R-1, R-2, R-3, TND, or PUD district (feet)	25	50	40	30	None	60	60
Minimum width of natural buffer abutting an R-1, R-2, R-3, TND, or PUD district (feet)	15	40	30	30	None	50	50
Minimum landscape strip required along right-of-ways for any nonresidential or multi-family use (width in feet)	10	25	10	10 (None If built to front lot line)	None	30	30
Minimum landscape strip required along side property lines for any nonresidential or multi-family use (width in feet)	5	15	5	None	None	None	None
Maximum lot coverage (percent)	35	40	45	50	None	None	None
Minimum landscaped open space (percent)	25	20	15	15	N/A	10	10

(Ord. 348-13)

Note 1. Building Height and Number of Stories. The maximum height of any building, including those on lots subsequently zoned CBD after the effective date of this zoning ordinance amendment, shall be three stories and 45 feet, except as follows:

The maximum building height shall be four stories and 60 feet for the following city blocks: The city block bounded by Railroad Avenue, Pine Street Extension, Church Street, and Chestnut Street; the city block bounded by Railroad Avenue, Main Street, Church Street, and Pine Street Extension; and the city block bounded by Railroad Avenue, Bailey Drive, Church Street, and Main Street. The building height may project 6 feet above the maximum for purposes of screening roof mounted equipment, safety railings and/or other service equipment.

10.21. Residential Street Design Requirements

10.21.1 General Landscaping Standards for Streets

The following is a list of general landscaping standards for all street landscaping. A full, detailed plan for the entire community must be submitted and approved as part of the land disturbance/civil plans.

1. Landscape Area grading and slopes shall not exceed 5:1 for turf areas and 4:1 for planting areas. If Landscape Area grading or slopes exceed these ratios, a retaining wall shall be required. All retaining walls over 4 feet in height shall be reviewed and approved by the City.
2. The minimum planting size for a tree shall be 15-gallon, with two-third (2/3) of all trees being 2" caliper or larger.
3. All street trees shall be selected from the approved City list (see XXXX)
4. Street Trees shall be located every 25' on center spacing.
5. Secondary Trees or Accent Trees shall occur in informal groupings of three or five trees of the same species, planted between the sidewalk and adjacent land use property line. Mixed massings of flowering trees and evergreen species are required.
6. Street Trees and Secondary Trees or Accent trees shall be a combination of deciduous and evergreen trees for purposes of screening and creating seasonal change. A minimum of 30% of the Street Trees and Secondary or Accent trees on a particular street shall be evergreen species.
7. All trees planted within 10 feet of a street, sidewalk, paved trail, walkway or plaza element shall be separated by a tree root barrier to prevent damage to public improvements and private property. The tree root barrier shall be installed at time of planting of the tree.
8. A minimum distance of 10' is required between the center of a tree and all light standards.
- 9.. Shrub plantings adjacent to walls and fences shall be group massings, layered to provide visual interest. Variety in height is required. Multiple rows of layered plantings are encouraged where space is adequate.
10. All shrub planting (i.e. small, medium, large) along any Landscape Corridor and intersections containing entry monuments shall be a minimum of 5-gallon in size. When shrubs are planted to serve as a hedge or screen, the shrub shall be planted at a spacing relative to the plant species' mature width (a shrub with a four-foot-wide mature width shall be planted at four feet on center). Plants that are not commercially available in a 5-gallon size, may be substituted with a 1-gallon size.
11. When a particular size plant is specified across large sections of the proposed landscape plan, (i.e. medium shrub), the landscape architect shall use alternating groupings of plants to achieve a planting design that has different genus and species along the entire streetscape. This shall be done to prevent a monolithic plant palette extending along the street.
12. All groundcover planting shall be 1-gallon or grown in flats of up to 64 plants. Root cuttings from plants shall not be located greater than 12 inches on center spacing.

ARTICLE 10 May 4 Update

Containerized 1-gallon groundcover plants shall not be located greater than 3' on center spacing.

13. Groundcover plantings shall be located between all separated sidewalks and back of curb/right-of-way ("ROW") along all publicly maintained Landscape Corridors, or as determined by the City.
14. A 3" layer of walk-on type bark mulch shall be located in all planter areas around trees, shrubs and groundcover within all Landscape Corridors.
15. Locations of colored concrete enhanced paving shall be submitted and evaluated at the entitlement stage of each development project.
16. All bulbouts shall be planted in a combination of shrubs and groundcover, and/or concrete paving as applicable to adjacent land use.
17. All tree grates shall be located at back of curb. Tree guards shall not be installed.

10.21.2 Specific Residential Street Landscaping Requirements

1. Primary Residential Street

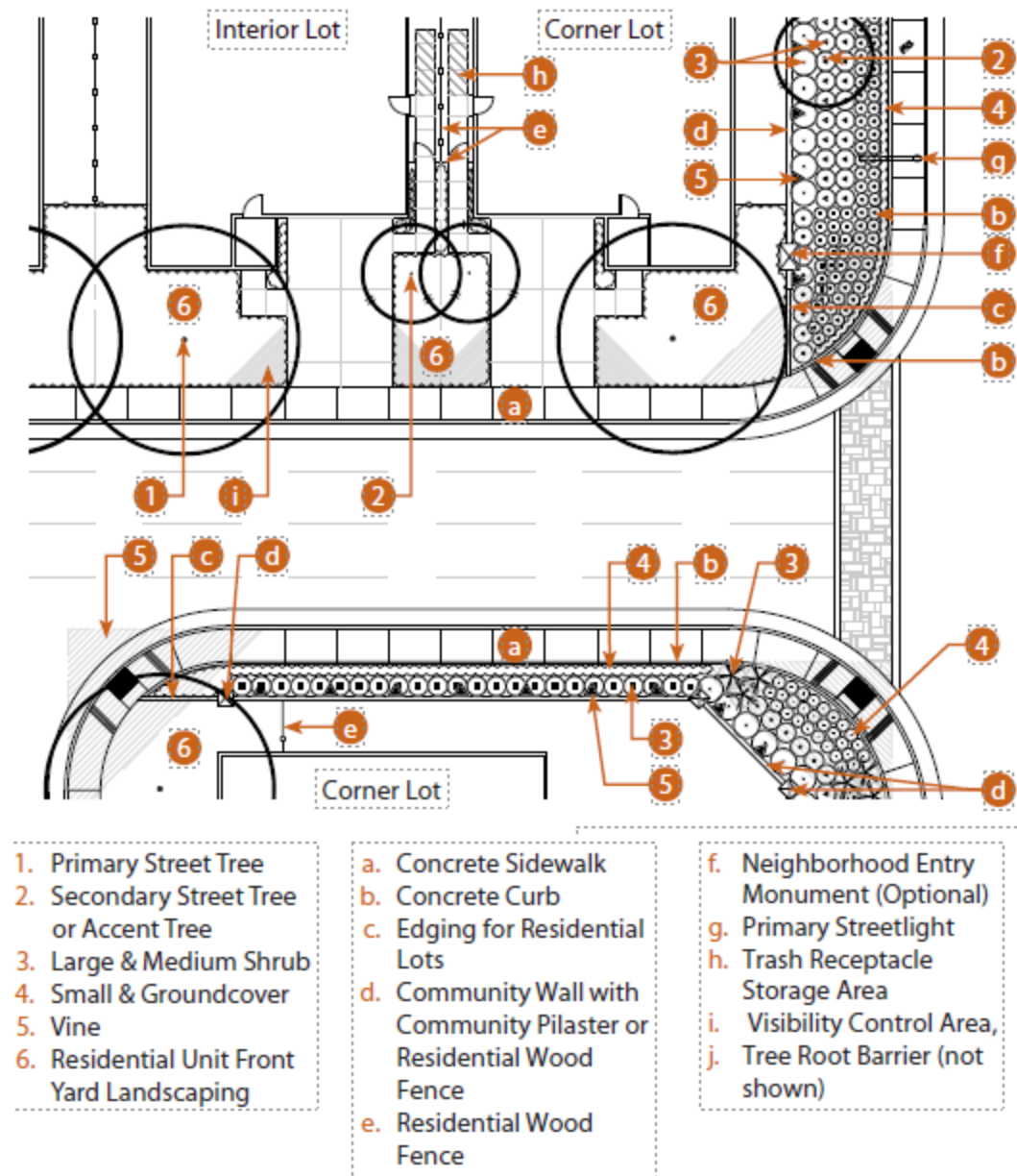
Primary Residential Streets provide access into and through the neighborhoods. When single-family residential houses back onto the street, a Community Wall is required at the property line and an additional 8' Landscape Area shall be required to provide screening of the Community Wall. In this application, all landscape improvements including the 8' Landscape Area and the landscaping within the separated sidewalk shall be considered public improvements and shall comply with all City requirements. When single-family residential houses fronts the street, the entire Landscape Area on that side of the street shall be private landscaping designed to the City's satisfaction and maintained by the landowner.

2. Local Residential Street

Local residential streets provide access into and through neighborhoods. Only residential houses will front a local residential street. Therefore, all landscape improvements shall be private landscaping designed to the City's satisfaction and maintained by the landowner.

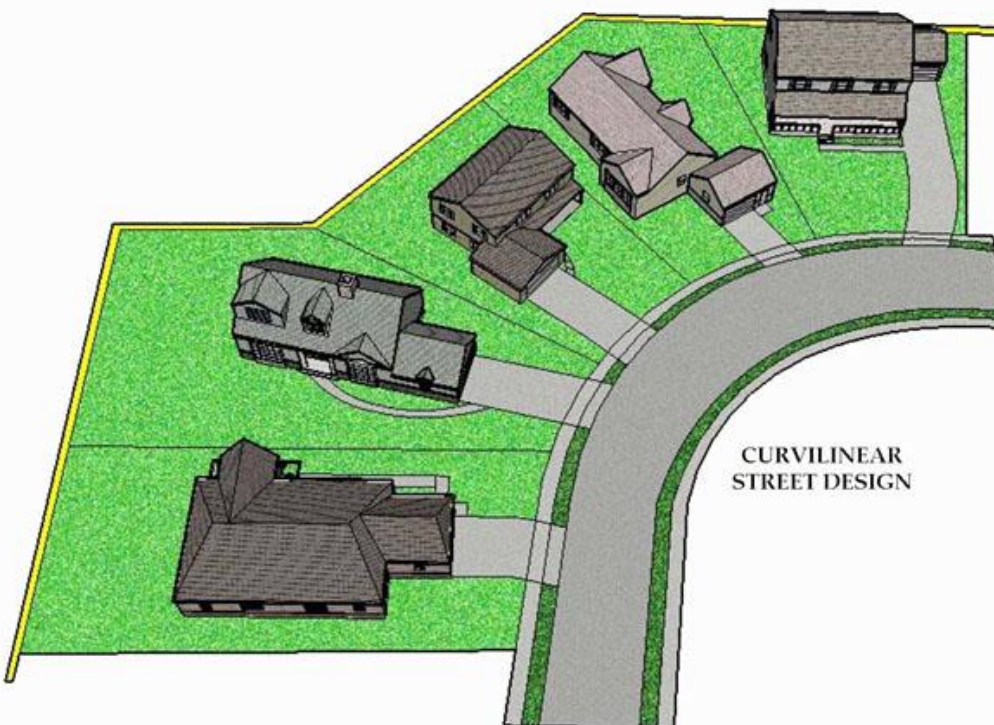
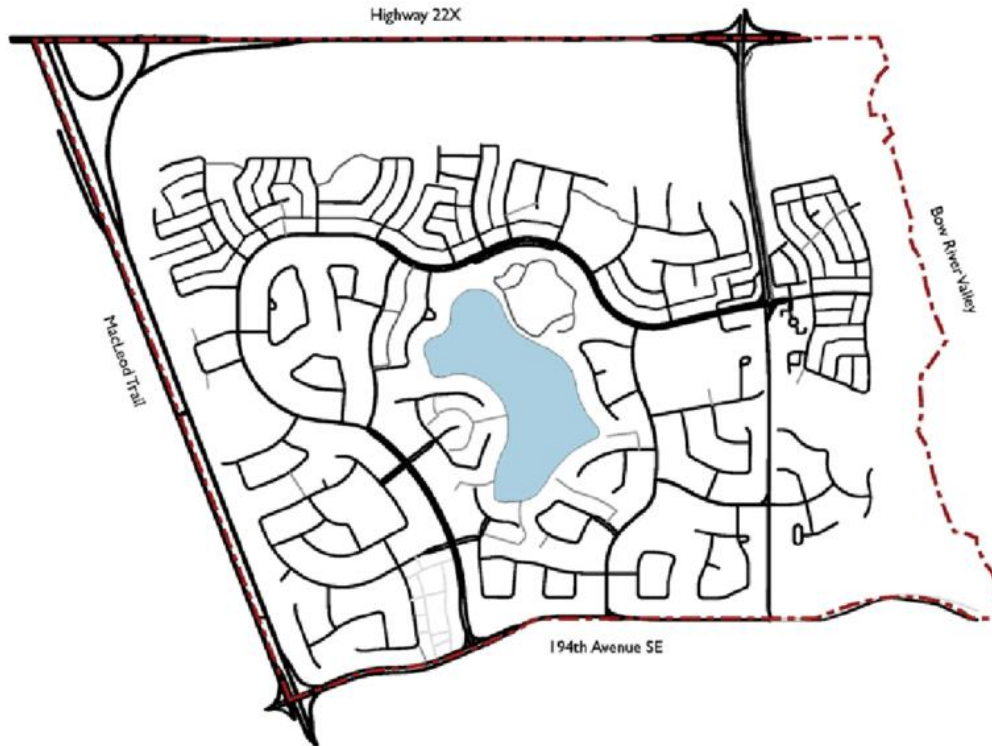
3. Corner Lot Landscaping Requirements

Residential corner lots are a critical component to the overall theme of a community. The individual residential unit improvements specified in this section are outside of the ROW for each associated street. Therefore, all landscape improvements shall be private landscaping designed to the City's satisfaction and maintained by the landowner. The standards in this chapter regarding corner lot landscaping are the minimum requirements. The builder/designer may deviate from the planting design as long as the design consistency is preserved throughout the community. Any deviation to the planting design shall be approved by the City.



10.21.3 Residential Street Design Requirements

All new residential streets shall be curvilinear. All streets more than three hundred and sixty (360) feet in length shall have at least twenty-five feet of lateral deviation from a straight course.



ARTICLE 10 May 4 Update

10.22 Open Space Requirements

Defined. Open space is the horizontal outdoor area of a site reserved to provide separation, resource protection, scenic enjoyment, recreation, or amenity. It includes two types: civic space and amenity space.

Minimum Requirements

Uses	Open Space minimum required percentage
Non-Residential (Sites Under 5 Acres)	Amenity Space + Civic Space: 15% min.
Non-Residential (Sites Over 5 Acres)	Civic Space: 10% min Amenity Space: 5% min
Residential	Civic Space: 10% min Amenity Space: 5% min

- New developments with a mix of residential and non-residential uses shall satisfy both requirements independently.

Development

- Restaurants with one or more exterior walls shall be subject to the following additional requirements:
 1. An outdoor dining area equal to at least 10% of the restaurant floor area shall be provided. When the outdoor dining area conforms to Sec. xxx it may be counted towards amenity space requirements.
 2. When the restaurant abuts a public street (including across an intervening parking lot) the required outdoor dining area shall be located along the portion of the façade facing such public street.
 3. The Director of Community Development has the authority to authorize the required outdoor dining to be placed in locations other than required by "b" above when:
 - a. There is insufficient area between the restaurant and the street to accommodate all the required outdoor dining; or
 - b. There are other unique circumstances not created by the applicant than render this requirement unfeasible.
- Civic Space. Civic space is the portion of open space for public use defined by the combination of certain physical constants including the relationships among their intended use, their size, their landscaping, and their adjacent buildings. Above-ground cistern design and appearance shall require approval by the Director of Community Development.
 1. Park. An open space available for structured or unstructured recreation. A park may be independent of surrounding buildings at its edges. Its landscape may consist of paths and trails, meadows and lawns, water bodies, runoff reduction measures such as bioretention areas, swales, cisterns, and woodlands. Recreation fields and courts may also be included. The minimum size for a park is one acre.
 2. Square. An open space available for unstructured recreation and civic purposes. A square is spatially defined by building or streets at its edges. Its landscape must consist of paths and trees and may also include runoff reduction measures such as bioretention areas and cisterns, lawns and non-asphalt paved surfaces. The minimum size for a square is one-half acre.

ARTICLE 10 May 4 Update

3. Plaza. An open space, available for civic purposes and commercial activities. A plaza must be spatially defined by building or streets at its edges. Its landscape must consist primarily of non-asphalt paved surfaces and trees, and may include runoff reduction measures such as bioretention areas and cisterns. The minimum size for a plaza is one-quarter acre.
 4. Pocket Park. An open space, available for unstructured recreation. A pocket park may be spatially defined by buildings or streets at its edges. Its landscape must consist of lawn and trees and may include runoff reduction measures such as bioretention areas and cisterns. There is no minimum size for pockets parks.
 5. Playground. An open space designed and equipped for the recreation of children. A playground must be fenced and may include an open shelter. Playgrounds must be interspersed within residential areas, may be placed within a block, and may be included in parks and greens. There is no minimum size for playgrounds. Playgrounds may include runoff reduction measures such as bioretention and underground detention.
 6. Performance Venues. An open space available for outdoor performance. Performance venues typically include a stage surrounded by formal or informal seating on at least one side. Performance venues may have a combination of landscaped and hardscaped areas. The minimum size for a performance area is one-half acre.
 7. Multi-Use Trails with Potential Connections to Offsite Trails. A linear open space consisting of a conforming multi-use trail that includes a connection to existing or proposed off-site trails. There is no minimum size for this type of open space.
 8. Park Overlooks. An open space primarily intended for the viewing of parks and other open spaces. Park overlooks must include seating. There is no minimum size for park overlooks.
- Amenity space. Amenity space is the covered or uncovered, but unenclosed, outdoor areas of at least 100 square feet each for use by the occupants, invitees and guests of the development and specifically excluding Civic Spaces and required sidewalks. Amenity spaces may include, but are not limited to:
 1. Rooftop decks
 2. Balconies (min. 6' x 8')
 3. Patios and porches
 4. Outdoor dining areas;
 5. Pool areas;
 6. Tennis courts, basketball courts, and similar uses;
 7. Yards, lawns, and flower gardens;
 8. Community gardens;
 9. Hardscape areas improved for pedestrian enjoyment;
 10. Wooded areas; and
 11. Runoff reduction measures such as bioretention areas and cisterns.Each amenity area approved must be available and accessible as exterior space appropriately improved for pedestrian amenity or for aesthetic appeal, subject to approved by Director of Community Development. Above-ground cistern design and appearance shall also require approval by the Director.
 - Open space requirement may be met using existing and/or new open space, subject to approval of the Director of Community Development.
 - Open space may be privately, or publicly owned. Private open space is open space that is owned by a corporation, individual, or homeowners' association. Public open space is open space owned by a governmental agency.

ARTICLE 10 May 4 Update

- Wetlands, lakes, ponds, streams, rivers, flood zones, and stream buffers may only be considered open space when located within one of the eight types of civic spaces identified in Sec. 2.10.C or within an amenity space that conforms Sec. 2.10.10.D, unless part of an approved stormwater management plan for the site that includes runoff reduction measures.
- No required buffer may be used to satisfy open space requirements, except for stream buffers that are improved with trails and other authorized amenities.
- Stormwater management facilities for the site may be used to satisfy open space requirements if they meet this Chapter's definition of open space. Open space credit may be given at the discretion of the Director of Community Development.
- No areas used for vehicles, except for incidental service, maintenance, or emergency actions, may be used to satisfy open space requirements.

ARTICLE 8. - MIXED-USE DEVELOPMENT DISTRICT

Sec. 8.1. - Description and Intent.

This zoning district is intended to implement certain residential and mixed-use developments in a way that meets objectives that cannot necessarily be accomplished by conventional residential zoning districts. It is specifically intended to primarily implement the “mixed use – neighborhood” character area.

Sec. 8.2. - Objectives.

The Mixed-Use Development District is intended to meet the following objectives:

- (a) Allow mixes of land uses that are not elsewhere permitted in conventional zoning districts.
- (b) Permit a broader mix of residential housing types, including detached and attached dwellings, and specific commercial uses to be developed in one cohesive development.
- (c) Allow the development of tracts of land as single developments that are planned neighborhoods or communities, including residential and commercial uses that help to make up a community.
- (d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments.
- (e) Provide a more desirable living environment than would be possible through the strict application of conventional residential zoning requirements.
- (f) Ensure that the design of building forms is interrelated and architecturally harmonious.

Sec. 8.3. - Character.

Design of detached single-family neighborhoods and residential communities in the MU district may follow principles of conventional suburban subdivision design which include curvilinear streets with some cul-de-sacs. However, MU districts are intended to differ from conventional subdivisions in that they provide greater pedestrian access and interconnections between and among units of the neighborhood.-This district is primarily envisioned to apply to urban and suburban areas with sanitary sewer and public water service, though it may be used to provide for imaginative site arrangements in rural areas at exurban/rural densities.

Chart 8.1 Permitted Uses

Dwelling, single-family detached, fee simple
Dwelling, townhome, single-family attached
Dwelling, two-family, duplexes
Dwelling, multi-family, apartment, attached residential condominium
Home Occupation (office Use Only)
Commercial uses as allowed per the Neighborhood Shopping District

Chart 8.2 Dimensional Requirements

Requirement (measurement unit)	MU
Maximum density (units per acre)	6
Minimum lot width, single-family detached (feet)	50
Minimum heated floor area per dwelling unit (square feet)	1,200
Minimum width of natural buffer abutting R-1, R-2, or R-3 district (feet)	None
Minimum landscape strip required along right-of-ways for any nonresidential use if permitted (width in feet)	25
Minimum landscape strip required along right-of-ways for any apartment or condominium (multi-family residential) use (width in feet)	25
Minimum landscape strip required along side property lines for any nonresidential use if permitted (width in feet)	25
Minimum landscaped open space	See Article 10

Sec. 8.4. - Design Requirements

The following requirements are a part of the rezoning approval process. Substantial deviation from, or inconsistency with, the guidelines in this Section shall be grounds for denial of a rezoning to the MU district.

- (a) Open spaces. Open spaces such as town greens and public squares, within developed portions of the development, should be located and designed to add to the visual amenities of the development. Greens and squares shall be spatially defined and distributed throughout the development so that no lot is more than a walking distance of 1,500 feet from a green, square, park or open space. Greens and squares should not be less than 8,000 square feet in area. A mix of peripheral as well as internal green space shall be provided. If two MUs are developed next to each other, there should be contiguous open space between the two MU's-
- (b) Greenspace. Preserve patches of high-quality habitat, as large and circular as possible, feathered at the edges, and connected by wildlife corridors. When continuous greenspace corridors cannot be provided or must be broken up for road access or other valid reasons, patches should be retained as "stepping stones" for wildlife corridors.
- (c) Residential portion of the project must include a minimum of 50% single-family detached homes.
- (d) A minimum of 50% of the residential portion of the project must be served by rear loaded, alley fed, two car garages.
- (e) All structures are required to meet all design and material requirements of the zoning ordinance.
- (f) Additional:
 1. When the development exceeds 35 residential units, it shall offer outdoor activities space such as neighborhood pocket park(s). Pedestrian-friendly paving should be used.

Placement:

-
- Outdoor activities space should be designed at a location well connected with most residential.
 - Those semi-public use should be located adjacent to outdoor activities space.
 - Sidewalk should be constructed over 8 feet but not exceed 15 feet.

2. Buffer Yard

- An enhanced landscape area of not less than 3% of the total property shall be provided. This area shall consist of accent plant materials including a minimum of 10% shrubs and 15% annuals or perennials. This area should also achieve 75% coverage within 3 years of planting while following nursery recommended spacing.
- Bioswale or any storm water retention solution should be considered as part of landscaping design.
- Fountains, drinking fountains, sculptures or other public art, decorative hardscape feature are encouraged.
- Underground sprinkle system is required.
- Parking area and sidewalk should be illuminated.
- Natural green space should be located to ensure maximum exposure to sunlight.

3. Parking

- Automobile parking, PTV parking, and bicycle parking shall be provided.

4. Amenities

- Outdoor furniture like benches should be provided 1 for every 100 linear feet of sidewalk. It is encouraged to use creative outdoor table set, designer benches, or swing set as outdoor furniture enrichment.
- Trash and recycling cans should be provided 1 for every 100 linear feet of sidewalk.
- Recreational facilities, dog run/exercise areas and health/fitness facilities should be considered.

(g) See also Article 10 of this Zoning Ordinance.



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider April 20, 2023 City Council Meeting Minutes

COUNCIL MEETING DATE: May 4, 2023

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [Unofficial April 20, 2023 City Council Meeting Minutes.pdf](#)



**City of Flowery Branch
City Council Meeting
Thursday, April 20, 2023, 6:00 PM
City of Flowery Branch City Hall
5410 Pine Street, Flowery Branch, GA 30542**



CALL WORK SESSION TO ORDER:

Mayor Asbridge called the council meeting to order at 6:03 p.m.

Present: Mayor Asbridge and Council Members Joe Anglin, William McDaniel, Joseph Mezzanotte, and Chris Mundy.

Also present were City Manager Tonya Parrish, Assistant City Clerk Nancy Rodriguez, Planning & Community Development Director Rich Atkinson, Public Works & Utilities Director Bill Whidden, Finance Director Matthew Hamby, Community Relations Director Renee Carden, Police Chief Christopher Hulsey, and City Attorney Karen Thomas.

Absent: Council Member Oliver McClellan and City Clerk Shelia Cooper

PLEDGE OF ALLEGIANCE:

Mayor Asbridge led the Pledge of Allegiance.

ADOPTION OF AGENDA:

There was a motion made to approve the agenda as presented.

MOTION: Joe Anglin

SECOND: William McDaniel

AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy

NAYS: None

Motion carried

PUBLIC HEARING:

A Public Hearing to Consider an Annexation and Rezoning Request submitted by Cook Communities.

Director Atkinson advised that Hall County has officially objected to the requested annexation. The applicant has asked that we table this request until the City Council Meeting on June 15, 2023.

There was a motion made to table the Public Hearing to consider an annexation and rezoning request submitted by Cook Communities until the City Council Meeting on June 15, 2023.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

Mayor Asbridge moved the following presentation to the second presentation.

A Public Hearing to Consider a Variance Request submitted by Stanton E. Porter allowing Fuel Pumps to be Located in Front of the Primary Structure at 4603 Atlanta Highway.

Director Atkinson presented a Public Hearing to consider a variance request submitted by Stanton E. Porter allowing fuel pumps to be in front of the primary structure at 4603 Atlanta Highway. This request asks for relief from the zoning ordinance requiring gas pumps to be located behind the principal structure.

Council held a discussion with the applicant regarding the variance request.

Against: None

For: None

Mayor Asbridge closed the Public Hearing at 6:14 p.m.

A Public Hearing to Consider a Rezoning Request for 7004 Lake Sterling Boulevard submitted by Matt Raines.

Director Atkinson presented a public hearing to consider a rezoning request for 7004 Lake Sterling Boulevard submitted by Matt Raines. This building was purchased by Matt Raines, and he runs his real estate business from this site. Mr. Raines is requesting to add a smoothie/shake shop as allowed use. This would be a pickup service only.

For:

Matt Raines, 5915 Peacock Lane, Hoschton, GA 30548

John Heath, 6709 Bonfire Drive, Flowery Branch, GA 30542

Against:

Mike Patterson, 6917 Creekstone Place, Flowery Branch, GA 30542

Eileen Sasso, 7240 Red Maple Court, Flowery Branch, GA 30542

Rosa Probst, 7038 Boathouse Way, Flowery Branch, GA 30542

Kim Tanis, 7277 Red Maple Court, Flowery Branch, GA 30542

Paul Sasso, 7240 Red Maple Court, Flowery Branch, GA 30542

Brian Kovach, 7015 Treehouse Way, Flowery Branch, GA 30542

Michele Dunphy, 7010 Treehouse Way, Flowery Branch, GA 30542
Christopher Jennings, 7039 Treehouse Way, Flowery Branch, GA 30542
Cynthia Schaefer, 7403 Switchback Lane, Flowery Branch, GA 30542
Rodney Andrew, 7898 Brass Lantern Drive, Flowery Branch, GA 30542
Neil & Kay MacMillan, 7472 Shady Glen Drive, Flowery Branch, GA 30542
Rebecca Chow, 6691 Trailside Drive, Flowery Branch, GA 30542
Aubrey Duke, 7016 Treehouse Way, Flowery Branch, GA 30542
Tyler Burke, 6786 Scarlet Oak Way, Flowery Branch, GA 30542
Maura Glassberg, 7046 Boathouse Way, Flowery Branch, GA 30542
Candi McClave, 7555 Brookstone Circle, Flowery Branch, GA 30542

Mayor Asbridge closed the Public Hearing at 7:05 p.m

NEW BUSINESS -WORK SESSION:

Discuss Proposed Text Amendment Implementing Zoning Ordinance Changes.

Director Atkinson led a discussion on a proposed text amendment implementing zoning ordinance changes. The goals are to update and clarify residential zoning districts by reworking the PUD to have more clearly defined objectives. Reworking street design and open space requirements and to ensure the City is in compliance with State requirements regarding advertising.

Council held a discussion regarding the proposed changes to the zoning ordinance.

DEPARTMENT REPORTS:

City Manager Report:

City Manager Parrish introduced the newly hired Public Utilities Manager, Peter Woerner.

Community Relations Report:

Director Carden invited all residents to the Grand Opening Celebration of Downtown on June 22, 2023.

Finance Department Report:

Director Hamby reported we purchased our first certificate of deposit which will earn 5.35%.

Police Department Report:

Police Chief Hulsey invited all residents to a Community Shred It Event at the Stonebridge Village Shopping Center from 10am – 2 pm.

Public Works & Utilities Report:

Director Whidden reported updates on the water tower and that the outside of the tower is scheduled to be painted mid-July.

Council Report:

Council Member Anglin reported he likes to see the great turnout of the citizens at the meeting.

ADJOURNMENT WORK SESSION:

Mayor Asbridge adjourned the work session at 7:45 p.m.

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

Mayor Asbridge called the voting session to order at 7:45 p.m.

PUBLIC COMMENTS:

Mark Weber, 6114 Stella Light Drive, Flowery Branch, GA 30542

He is glad that Council is reviewing the zoning ordinances in the City.

CONSENT AGENDA:

- Consider April 6, 2023 City Council Meeting Minutes
- Consider April 6, 2023 Executive Session Minutes

There was a motion made to approve the consent agenda as presented.

MOTION: Chris Mundy

SECOND: William McDaniel

AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy

NAYS: None

Motion carried

EXECUTIVE SESSION:

There was a motion made to enter executive session for matters related to the acquisition/disposition of real estate, for matters related to certain personnel issues, and for matters related to pending or potential litigation at 7:45 p.m.

MOTION: Joe Anglin

SECOND: William McDaniel

AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy

NAYS: None

Motion carried

There was a motion made to exit executive session at 9:05 p.m.

MOTION: Joe Anglin
SECOND: William McDaniel
AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

ADJOURNMENT:

There was a motion made to adjourn at 9:06 p.m.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, William McDaniel, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

Edward R. Asbridge, Mayor

Date

Shelia Cooper, City Clerk



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider April 20, 2023 Executive Session Minutes

COUNCIL MEETING DATE: May 4, 2023

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

-



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider April 2023 Per Diem for Mayor Asbridge

COUNCIL MEETING DATE: May 4, 2023

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

Yes

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [Mayor Per Diem - April 2023.pdf](#)



City of Flowery Branch
Mayor & Council Attendance Sheet Per Diem Pay

Name: Mayor Edward Asbridge Month/Year: April 2023

Meeting Date	Description of Meeting
April 25, 2023	T-SPLOST Meeting
April 26, 2023	Governor Kemp's Bill Signing
April 27, 2023	Chamber Board of Directors Meeting
April 28, 2023	Chamber Economic Development Meeting

My signature certifies that I am eligible to be paid for 4 meeting dates, a maximum of 5 per month, in accordance with the Per Diem Pay as described in Ordinance 477 and at a rate of \$50.00 per meeting.

Total of \$200.00

Signature



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider the First Read of Ordinance 693, a variance request submitted by Stanton E. Porter allowing fuel pumps to be located in front of the primary structure at 4603 Atlanta Highway.

COUNCIL MEETING DATE: May 4, 2023

HISTORY:

FACTS AND ISSUES:

Applicant wishes relief from Article 10, section 10.9 (f) of the zoning ordinance which requires fuel pumps to be located behind the primary structure.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

Approve as conditioned

SAMPLE MOTION:

I make a motion to approve Ordinance 693.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Shelia Cooper

ATTACHMENTS

- [letter of intent.pdf](#)
- [Thurmond Tanner Pkwy Retail Center Site Plan_6-24-22.pdf](#)
- [signed variance app.pdf](#)
- [Landscape plan.pdf](#)

- [Staff Report.pdf](#)
- [ORDINANCE 693.pdf](#)

STANTONPORTER LAW

Winder:
73 Church Street
P.O. Box 88
Winder, Georgia 30680
470.997.2010
stanton@stantonporter.com

Athens:
2005 South Milledge Avenue
Suite 101
Athens, Georgia 30606
(By Appointment Only)

February 9, 2023

City of Flowery Branch
5410 Pine Street
Flowery Branch, Georgia 30542

Re: Variance Application for Flowery Branch Development

Greetings:

This variance application concerns a variance necessary for the development of one tract of land located at 4603 Atlanta Highway. The end product will be a convenience store with fuel pumps as shown on the included concept plan. The variance needed is as follows:

1. *Section 10.9(f) Activity Centers Including Automobile-Related Establishments:* The code requires that a convenience store should locate fuel pumps behind the principal structure in order to screen the pumps from the street. It further provides that if the fuel pumps are not located in the rear of the primary structure, then landscaping should be required. **(Since there will be two entrances, a variance is needed to allow for the gas pumps to be placed in front of the convenience store as shown on the concept plan).**

Regarding the factors that the Board should consider, the following is provided:

1. The variance requested is the minimum variance that will make possible the proposed use of the property.
2. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property due to its size and shape that are not applicable to other properties in the same district. The Planning Director's own emails agree that it isn't possible to comply with the code at this site with a variance. I have included said emails.
3. This variance request would not adversely affect the existing use or usability of adjacent or nearby property.
4. This variance request will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The denial of this variance, will result in substantial monetary damage to the owner. Pursuant to the email correspondence with the City, the property owner was informed that a variance would not be needed for the subject property only to be informed later that a variance application

will be required. Furthermore, the denial of this request will violate the owner's rights of due process and equal protection, procedural and substantive, and violation of Article I, Section I, Paragraphs 1 and 2, and Article I, Section III, Paragraph 1 of the Georgia Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Denial of the variance request will destroy owner's property rights without first paying just compensation. A denial of this application would constitute an arbitrary and capricious act by the City of Flowery Branch without any rational basis therefor, constituting an abuse of discretion. A refusal to grant the variance for the subject property so as to permit the only feasible economic use of the property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the owner and owners' of similarly situated property. This application meets the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning as an expression of the government's police power.

For the foregoing reasons, the applicant and owner respectfully request that this variance be approved.

Sincerely,

Stanton Porter Law, LLC

By:


Stanton E. Porter

Meghan Wyatt

From: HH <hhamirani@gmail.com>
Sent: Friday, December 16, 2022 4:19 PM
To: Stanton Porter
Subject: Fwd: FW: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy
Attachments: Thurmond Tanner Pkwy Retail Center Site Plan_6-24-22.pdf

----- Forwarded message -----

From: Jon Evans <jevans@evansdg.com>
Date: Mon, Dec 12, 2022 at 3:55 PM
Subject: FW: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy
To: HH <hhamirani@gmail.com>

Husein,

In our coordination with Rich Atkinson with the City of Flowery Branch to submit this project in for review he responded below. This is contrary to the email (scroll down further in this email chain) and meeting I had with him in July. He is now saying either apply for variance or change layout to have pumps in the front. I have called him to discuss further, but got his voicemail.

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>
Sent: Thursday, December 8, 2022 10:52 AM
To: Ryder Amthor <ramthor@evansdg.com>
Subject: Re: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Good Morning

Our city attorney has informed me that the practice of allowing the pumps to be installed in front of the primary structure is not legal without a variance. Having two entrances does not matter. He just overturned my decision last week on another case. Sorry, but I am no longer allowed to approve the plan as shown. You will need to adjust the plan or apply for a variance.

Rich Atkinson

Director of Planning & Community Development

5410 Pine Street

P.O Box 757

Flowery Branch, GA 30542

(770) 967.6378

From: Ryder Amthor <ramthor@evansdg.com>
Sent: Wednesday, December 7, 2022 4:42 PM
To: Richard Atkinson <rich@flowerybranchga.org>
Cc: Jon Evans <jevans@evansdg.com>
Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

CAUTION: This email originated from outside of the City of Flowery Branch, GA email system. Maintain caution when opening external links/attachments

Rich,

Can you let me know what the LDP submittal requirements and process are?

Thanks,

Ryder Amthor

Evans Design Group, Inc.

678-548-6629

4755 Summer Song Court

Buford, GA 30519

From: Jon Evans <jevans@evansdg.com>

Sent: Wednesday, December 7, 2022 4:28 PM

To: Ryder Amthor <ramthor@evansdg.com>

Subject: FW: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>

Sent: Wednesday, July 6, 2022 3:27 PM

To: Jon Evans <jevans@evansdg.com>

Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

5410 Pine Street

Sent from Mail for Windows

From: Jon Evans
Sent: Wednesday, July 6, 2022 3:17 PM
To: Richard Atkinson
Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

2:00 works for me. Can you confirm your address to meet?

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>
Sent: Wednesday, July 6, 2022 3:05 PM
To: Jon Evans <jevans@evansdg.com>
Subject: Re: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

I can do 2:00 or 2:30.

Get Outlook for iOS

From: Jon Evans <jevans@evansdg.com>
Sent: Wednesday, July 6, 2022 2:59:23 PM
To: Richard Atkinson <rich@flowerybranchga.org>
Subject: FW: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Rich,

Did you have a few minutes tomorrow we could meet and look at this?

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Jon Evans

Sent: Wednesday, July 6, 2022 8:54 AM

To: Richard Atkinson <rich@flowerybranchga.org>

Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Rich,

I can meet tomorrow to discuss this. What time is good for you?

Thank you,

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>
Sent: Tuesday, July 5, 2022 3:06 PM
To: Jon Evans <jevans@evansdg.com>
Subject: Re: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

John

Normally yes, BUT because of the two entrances the intent of locating the pumps behind the primary structure (which is to shield the pumps from view) is unattainable on this site. Therefore, you have to landscape /berm as much as possible to screen the pumps from Thurmon Tanner and Atlanta Highway. I'm behind on some ordinances and staff reports but we can discuss or meet this Thursday if that would be easier.

Thanks,

Rich

Rich Atkinson

Director of Planning & Community Development

5410 Pine Street

P.O Box 757

Flowery Branch, GA 30542

(770) 967.6378

From: Jon Evans <jevans@evansdg.com>
Sent: Tuesday, July 5, 2022 3:00 PM
To: Richard Atkinson <rich@flowerybranchga.org>
Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Rich,

So from what you are saying below, if the owner wanted to keep the pumps in front of the building, he would have to apply for a variance?

Thanks,

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>

Sent: Tuesday, July 5, 2022 2:17 PM

To: Jon Evans <jevans@evansdg.com>

Subject: Re: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

With two entrances you cannot screen the pumps with the primary structure - you will see them from either Atlanta Highway or Thurmon Tanner - so you will need to landscape appropriately. The ordinance that is officially adopted states that they shall be located behind the primary structure - but I don't think it would make any difference here and would not meet the intent of the requirement. Sorry for any confusion.

Rich Atkinson

Director of Planning & Community Development

5410 Pine Street

P.O Box 757

Flowery Branch, GA 30542

(770) 967.6378

From: Jon Evans <jevans@evansdg.com>

Sent: Tuesday, July 5, 2022 1:56 PM

To: Richard Atkinson <rich@flowerybranchga.org>

Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Rich,

In the attached version of this part your ordinance (from 12-22-2020) the 10.9(f) reads differently. In this newer version, than the 2018 version you sent me, it states "Convenience stores should be located in the rear of the building for effective screening. But goes on to say "however, if fuel pumps are not located in the rear of the building, then additional landscaping should be required. So is this a matter of just designing additional landscaping in the front if pumps stay in front of the store? Or would it require a variance to keep pumps in front of the building? it seems that since it says should then goes on to mention the extra landscaping that it is a case by case decision by maybe yourself or others in your department to allow pumps to be in front of the building. Please advise.

Thank you,

Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830

From: Richard Atkinson <rich@flowerybranchga.org>

Sent: Thursday, June 30, 2022 4:17 PM

To: Jon Evans <jevans@evansdg.com>

Subject: Re: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Hey Jon

Take a look at the attached. I think you can make the argument that you are unable to meet the pumps behind the primary structure requirement as you have two entrances, but you would need to provide heavy landscaping to attempt to shield the pumps. There are some other requirements you should review before a formal submittal. If you have any questions let me know. I will be out of the office until Tuesday.

Enjoy your 4th!

Rich

Rich Atkinson

Director of Planning & Community Development

5410 Pine Street

P.O Box 757

Flowery Branch, GA 30542

(770) 967.6378

From: Richard Atkinson <rich@flowerybranchga.org>

Sent: Monday, June 27, 2022 9:19 AM

To: Jon Evans <jevans@evansdg.com>

Subject: RE: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Hey John

Yes, I will take a look this week.

Thanks,

Rich

Rich Atkinson

Director of Planning & Community Development



From: [Jon Evans](#)

Sent: Friday, June 24, 2022 1:35 PM

To: [Richard Atkinson](#)

Subject: proposed site at Atlanta Hwy and Thrumond Tanner Pkwy

Rich,

Could you please look over the attached proposed site plan for this property and provide feedback on the proposed layout and any other important information you may be able to share?

Thank you,

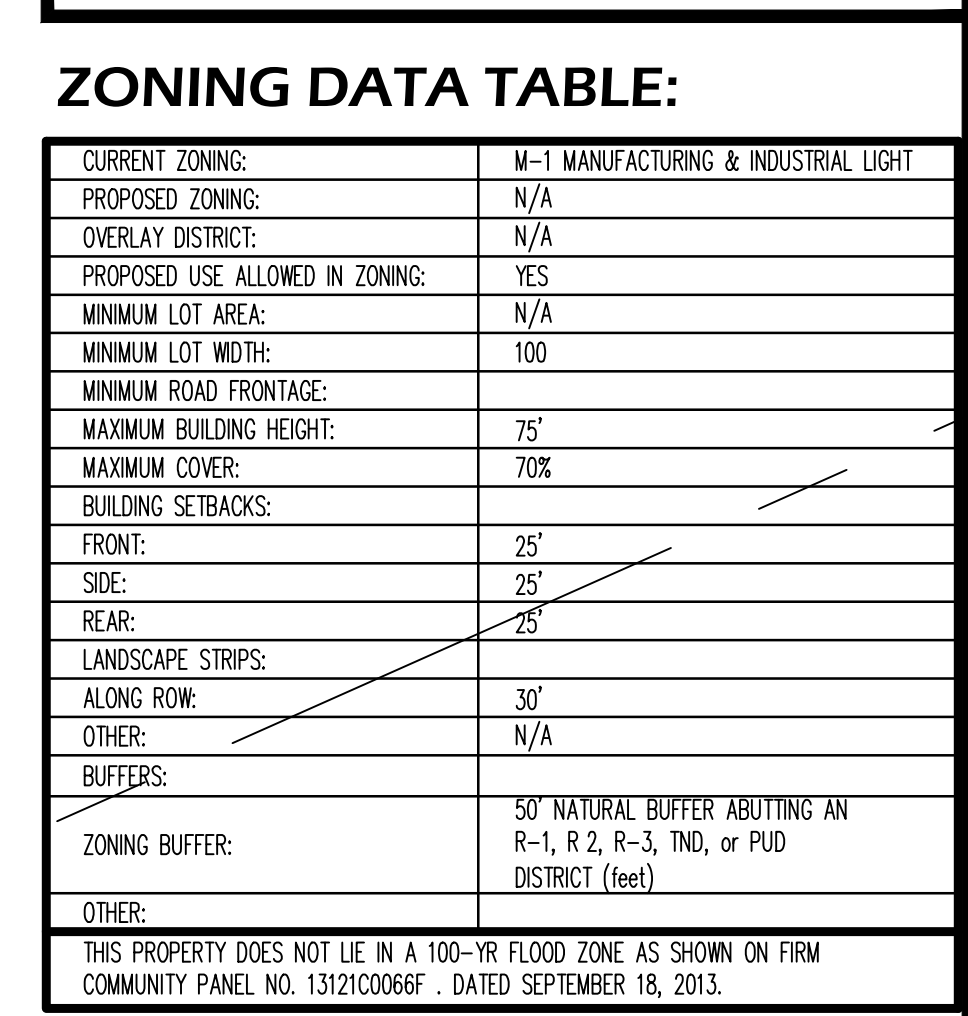
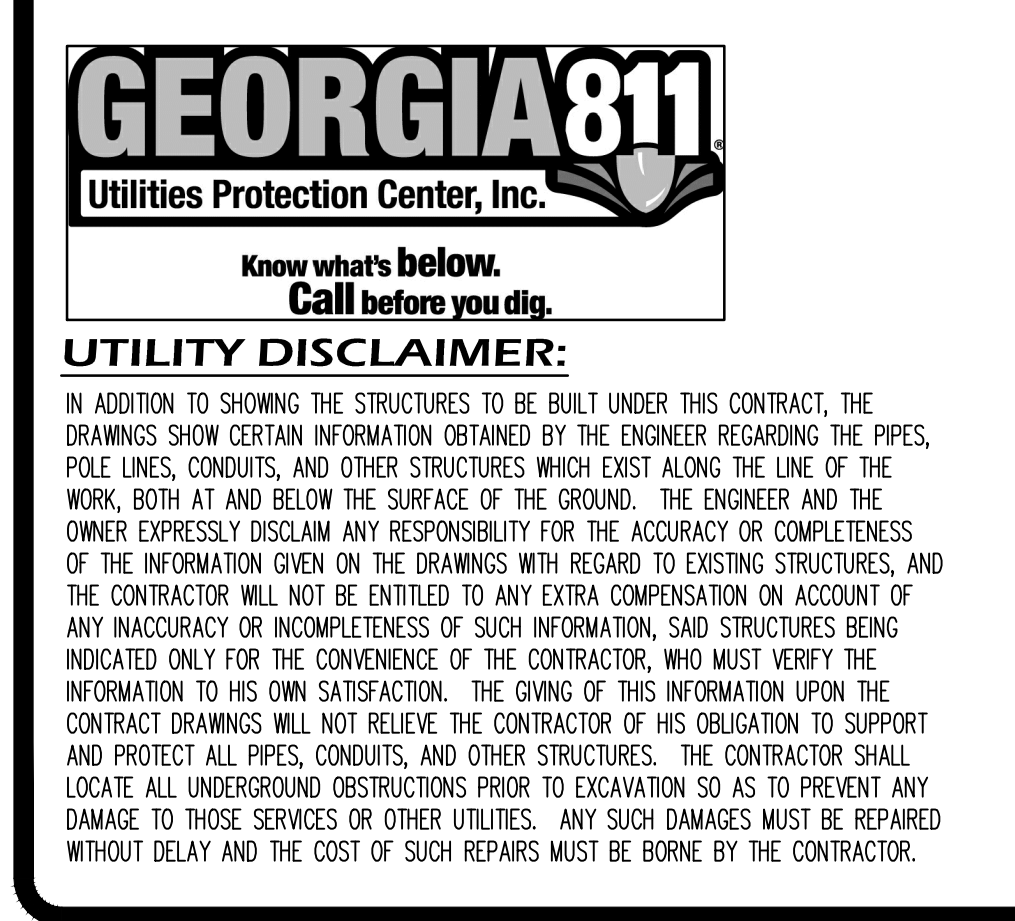
Jon M. Evans, P.E.

Evans Design Group, Inc.

4755 Summer Song Court

Buford, GA 30519

678-207-6830



KING REQUIREMENTS:			
REQUIREMENT:	REQUIRED MAXIMUM	REQUIRED MINIMUM	TOTAL PARKING
INCE STORE & RETAIL SPACE			
SPACE PER 200 S.F. (MIN) SPACE PER 150 S.F. (MAX)	(4,500 S.F.) 30	23	23*
SPACE PER 275 S.F. (MIN) SPACE PER 250 S.F. (MAX)	(1,290 S.F.) 6	5	5
T 1 SPACE PER 125 S.F. (MIN) T 1 SPACE PER 75 S.F. (MAX)	(1,290 S.F.) 18	11	11
TOTAL	54	39	39*

* INCLUDES 2 A.D.A. SPACES (2 REQUIRED)

NAME
ADDRESS

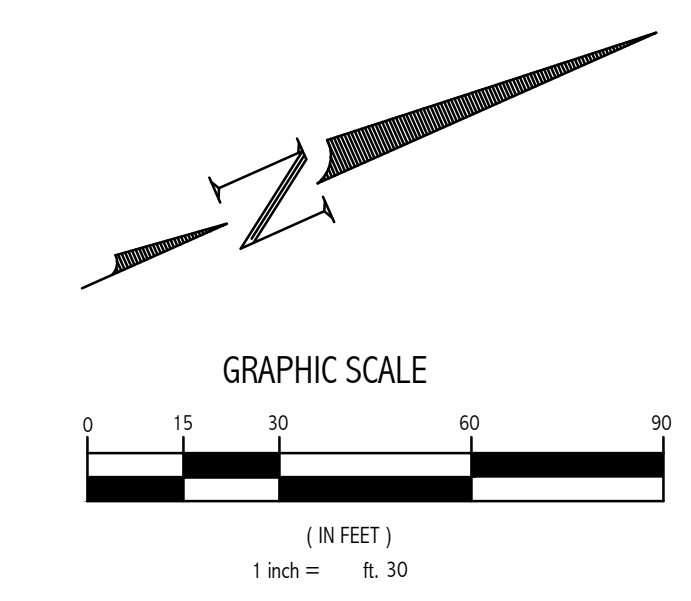
PHONE
EMAIL

24-HR CONTACT:

NAME
PHONE
EMAIL

ENGINEER:

EVANS DESIGN GROUP, INC
4755 SUMMER SONG COURT
BUFORD, GA 30519
678.207.6830 (Ph)
CONTACT: JON M. EVANS, P.E.



SHEET TITLE
SITE
PLAN
C-4



VARIANCE APPLICATION

Address of Request:

4603 Atlanta Highway, Flowery Branch, Georgia 30542

Type of Variance Requested

Complete requirements for variances can be found in the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 37;

Please verify all the requirements of the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 37, section 37.5 are being met.

Explain below:

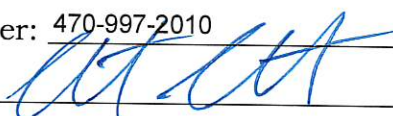
The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. Additionally, the special circumstances are not the result of the actions of the applicant and the variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.

Applicant: Stanton E. Porter

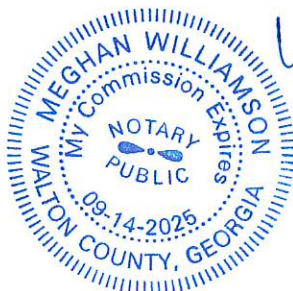
Address: P.O. Box 88, Winder, Georgia 30680

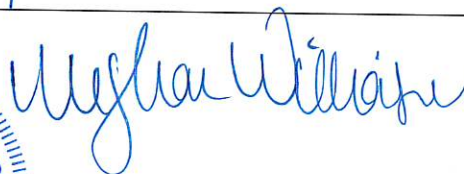
E-mail address: stanton@stantonporter.com

Phone number: 470-997-2010

Signature: 

Notary Seal:







Property owner information (if different than the applicant)

Property owner (please print): 1618 Land Holdings, LLC

Signature of property owner: _____

Notary Seal:

Please provide the following at time of submittal:

- Payment of \$325.00
- Legal description – one hard copy and on a flash drive
- Current survey of property – one hard copy and on a flash drive
- Site plan – one hard copy and on a flash drive
- Detailed description of request
- Conflict of interest disclosure (attached)
- Disclosure of campaign contributions (attached)



Conflict of Interest Disclosure

Identify all members of the City Council of the City of Flowery Branch and Employees of the City of Flowery Branch Community Development Department who

Have a property interest in the real property affected by this request

None.

Have a financial interest (direct ownership interest) of the total assets or capital stock of a business entity where such ownership interest is more than 10% in any business entity which has a property interest in the real property affected by this request

None.

Have a member of the family (spouse, mother, father, brother, sister, son or daughter) having a property financial interest as herein defined, in the real property affected by this request

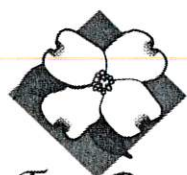
None.

Disclosure of Campaign Contributions

List below the names of local government officials of the City of Flowery Branch to whom campaign contributions were made, within two (2) years immediately preceding the filing of this application, which campaign contributions total \$250.00 or more or to whom gifts were made having a total value of \$250.00 or more.

Elected Officials Name

Amount of Description of Gift



Flowery Branch

PLANT LIST:				
QTY	SYM	BOTANICAL NAME	COMMON NAME	%TOTAL SIZE
CANOPY TREES				
5	Ar	Acer rubrum	Red Maple	31.3 3"
6	Up	Ulmus parvifolia 'Athena'	Athena Chinese Elm	37.5 3"
5	Zs	Zelkova serrata	Japanese Zelkova	31.3 3"
16	TREE TOTALS			

PARKING LOT TREES:

ONE (1) TREE FOR EACH 10 PARKING SPACES

39 PROPOSED PARKING SPACES

4 TREES REQUIRED

4 TREES PROVIDED

30' LANDSCAPE STRIP:

ONE (1) TREE FOR EACH 40 LINEAR FEET OF LANDSCAPE STRIP

320.0 L.F. ALONG THURMON TANNER PARKWAY

EXCLUDING BUFFERS AND DRIVEWAYS

8 TREES REQUIRED

8 TREES PROVIDED

160.0 L.F. ALONG ATLANTA HIGHWAY

EXCLUDING BUFFERS AND DRIVEWAYS

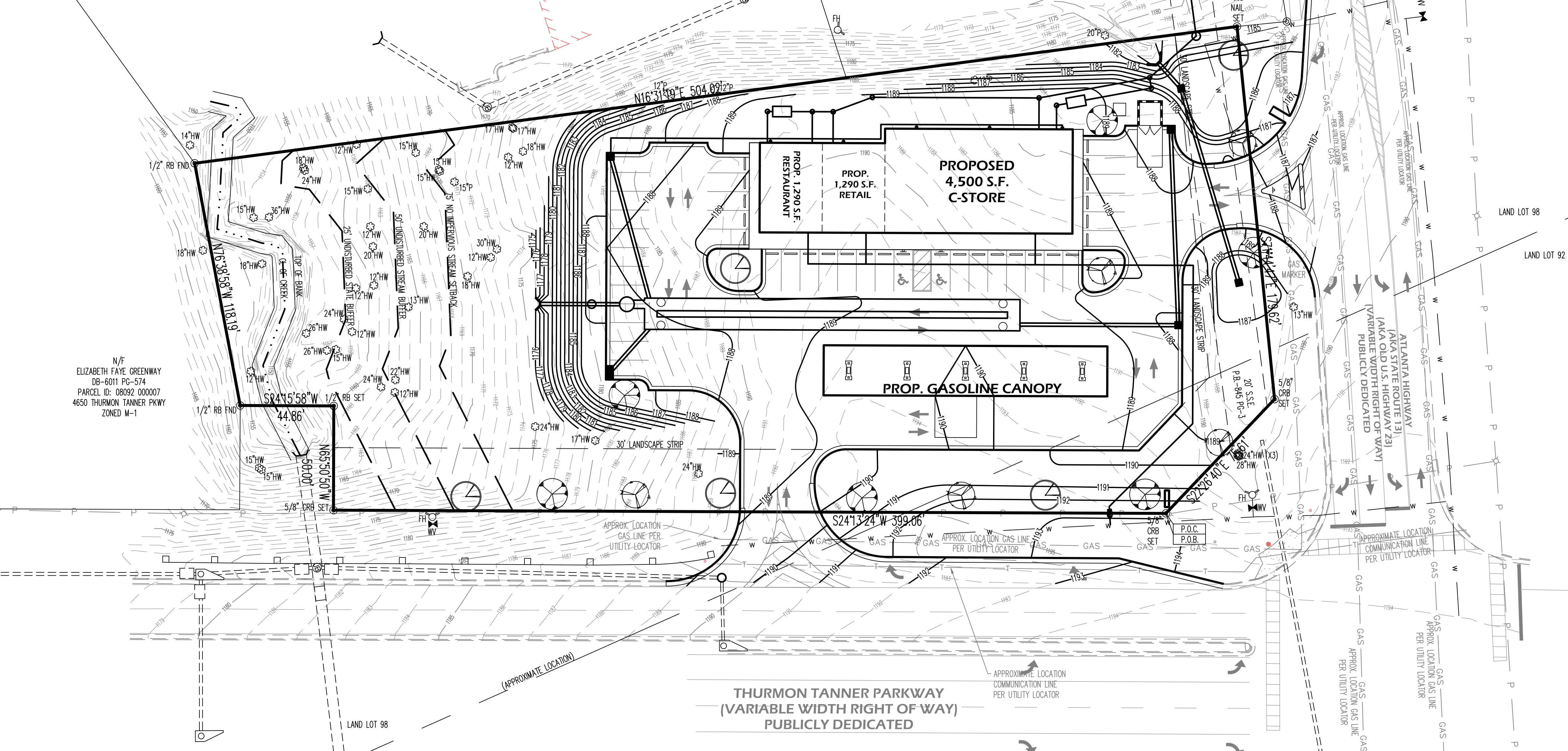
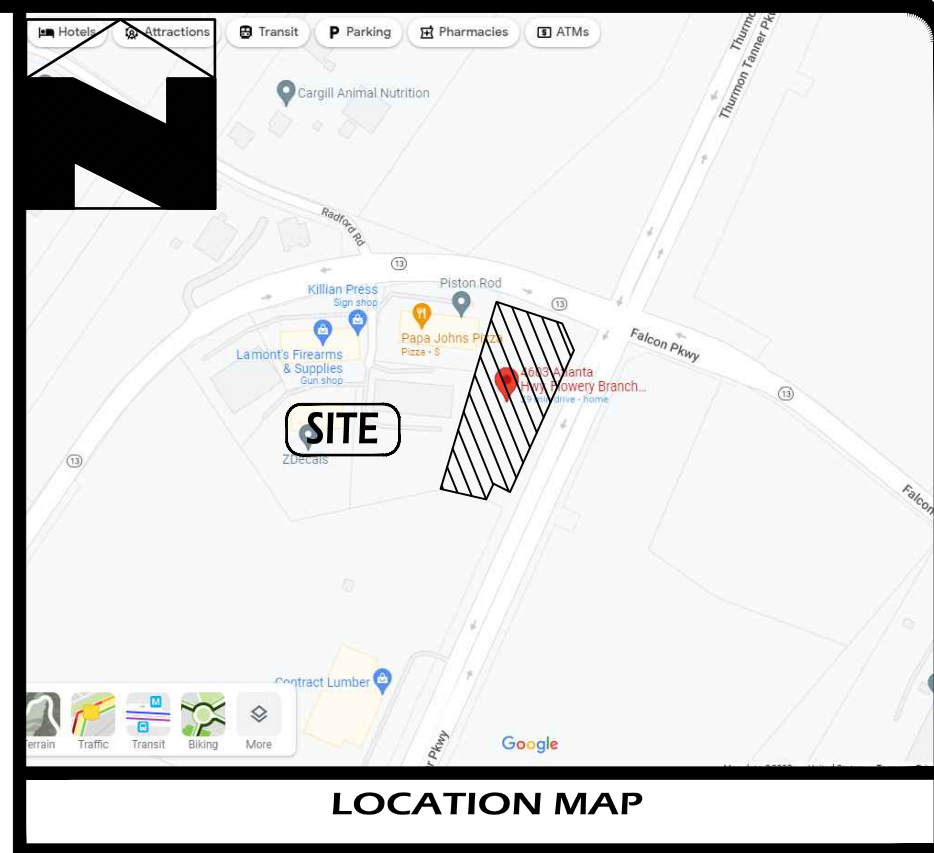
4 TREES REQUIRED

5 TREES PROVIDED

N/F
ELIZABETH FAYE GREENWAY
DB-7780 PG-527
DB-5076 PG-428
PARCEL ID: 08092 001024
4611 ELK RIDGE CT
ZONED M-1

N/F
HUTCH LLC
DB-8075 PG-788
PARCEL ID: 08092 001024
4605 ELK RIDGE CT
ZONED M-1

APPROXIMATE LOCATION
PER P.B.-845, PG-3
UNABLE TO RECOVER
FORCE MAIN



UTILITY DISCLAIMER:

IN ADDITION TO SHOWING THE STRUCTURES TO BE BUILT UNDER THIS CONTRACT, THE DRAWINGS SHOW CERTAIN INFORMATION OBTAINED BY THE ENGINEER REGARDING THE PIPES, POLE LINES, CONDUITS, AND OTHER STRUCTURES WHICH EXIST ALONG THE LINE OF THE WORK, BOTH AT AND BELOW THE SURFACE OF THE GROUND. THE ENGINEER AND THE OWNER EXPRESSLY DISCLAIM ANY RESPONSIBILITY FOR THE ACCURACY OR COMPLETENESS OF THE INFORMATION GIVEN ON THE DRAWINGS WITH REGARD TO EXISTING STRUCTURES, AND THE CONTRACTOR WILL NOT BE ENTITLED TO ANY EXTRA COMPENSATION ON ACCOUNT OF ANY INACCURACY OR INCOMPLETENESS OF SUCH INFORMATION, SAID STRUCTURES BEING INDICATED ONLY FOR THE CONVENIENCE OF THE CONTRACTOR, WHO MUST VERIFY THE INFORMATION TO HIS OWN SATISFACTION. THE GIVING OF THIS INFORMATION UPON THE CONTRACT DRAWINGS WILL NOT RELIEVE THE CONTRACTOR OF HIS OBLIGATION TO SUPPORT AND PROTECT ALL PIPES, CONDUITS, AND OTHER STRUCTURES. THE CONTRACTOR SHALL LOCATE ALL UNDERGROUND OBSTRUCTIONS PRIOR TO EXCAVATION SO AS TO PREVENT ANY DAMAGE TO THOSE SERVICES OR OTHER UTILITIES. ANY SUCH DAMAGES MUST BE REPAIRED WITHOUT DELAY AND THE COST OF SUCH REPAIRS MUST BE BORNE BY THE CONTRACTOR.

PLANT LEGEND:

- Athena Chinese Elm
- Japanese Zelkova
- Red Maple

OWNER/DEVELOPER:

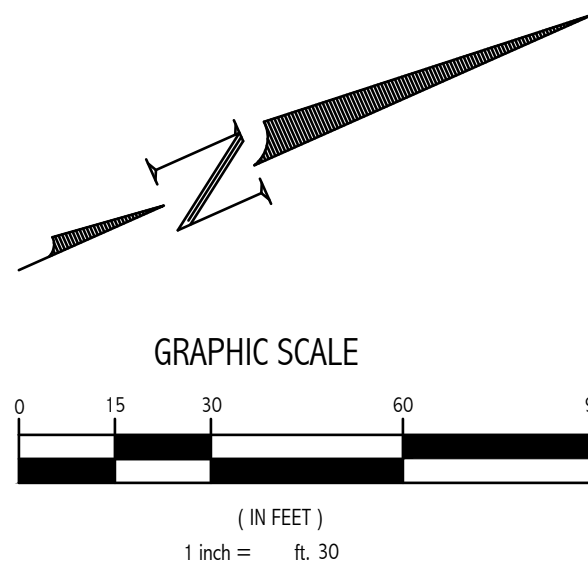
1618 LAND HOLDINGS LLC
1550 N BROWN RD SUITE 130,
LAWRENCEVILLE, GA 30043
LEAH CRUZ

24-HR CONTACT:

YUSUF ALI
770.617.4527

ENGINEER:

EVANS DESIGN GROUP, INC.
4755 SUMMER SONG COURT
BUFORD, GA 30519
678.207.6830 (Ph)
CONTACT: JON M. EVANS, P.E.



Evans Design Group, Inc.
Civil Engineering /
Site Planning /
Land Development Services
4755 Summer Song Court
Buford, GA 30519
(Ph) 678.207.6830
jevans@evansdg.com

PROFESSIONAL ENGINEER
JON M. EVANS
NO. 26681
12-22-22
CSWCC LEVEL II CERT. # 10877

PROJECT NAME
FLOWERY BRANCH C-STORE & RETAIL

**4603 ATLANTA HWY
I.I. 92, 8th DIST.
CITY OF FLOWERY BRANCH, GEORGIA**

DATE:
6/16/22

DESIGN BY JME **DRAWN BY** JME **CHECKED BY** JME

☒ Not Released For Construction
☐ Released For Construction

OWNER/DEVELOPER

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EVANS DESIGN GROUP, INC.
ALL RIGHTS RESERVED.
THESE CONSTRUCTION DOCUMENTS AND PERMITTED REPRODUCTIONS, IN WHOLE OR IN PART, ARE INSTRUMENTS OF SERVICE AND ARE THE SOLE PROPERTY OF EVANS DESIGN GROUP, INC. UNLESS OTHERWISE AGREED TO, THEY SHALL NOT BE REPRODUCED OR CONVEYED IN ANY MANNER NOR ARE THEY TO BE USED FOR ANY OTHER PROJECTS OTHER THAN THAT SPECIFICALLY INDICATED HEREIN WITHOUT WRITTEN PERMISSION FROM AND DUE COMPENSATION TO EVANS DESIGN GROUP, INC.

REVISIONS

1	12-22-22
FIRST SUBMITTAL	

JOB NUMBER:
22-029

SHEET TITLE
LANDSCAPE PLAN
C-11

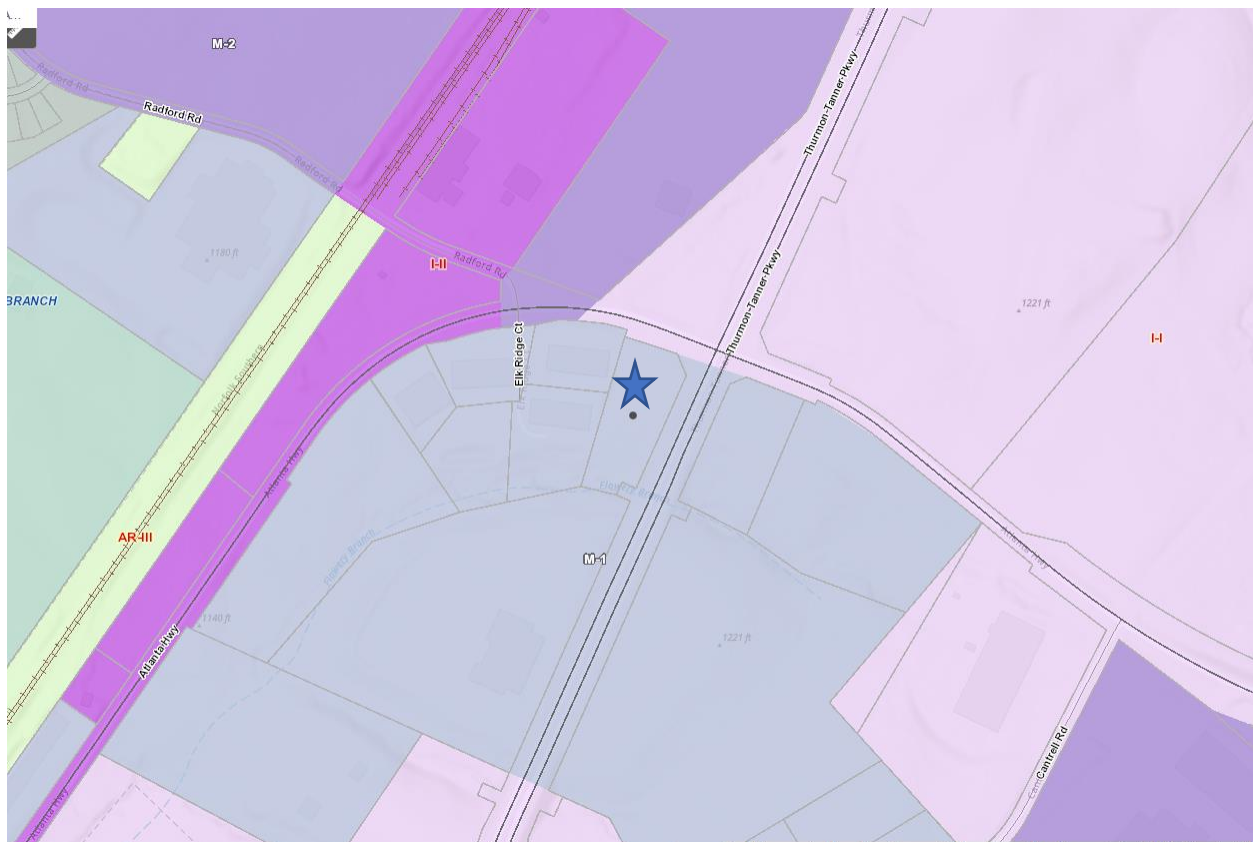


VARIANCE
4603 Atlanta Highway
Parcel# 08092 000001

Applicant is Stanton E. Porter; the current owner of the property is 1618 Land Holdings. LLC.

Variance from the requirements set forth in the City of Flowery Branch Zoning Ordinance;
Article 10, Development Requirements and Guidelines section 10.9 (f):
Convenience stores shall locate gas pumps behind the principal structure in order to effectively screen the pumps from view of the street.

The 2.21 +/- property is currently zoned Light Industrial (M1) and the use (gas station) is inherently allowed.







Public Hearing Published 03/15/2023
Public Hearing 04/20/2023

First Reading 05/04/2023
Adopted 05/18/2023

ORDINANCE 693

AN ORDINANCE GRANTING A VARIANCE FROM THE REQUIREMENTS OF ARTICLE 10, SECTION 10.9.(F) OF THE FLOWERY BRANCH ZONING ORDINANCE TO 4603 ATLANTA HIGHWAY, TAX PARCEL IDENTIFICATION NO.08092 000001, OWNED BY 1618 LAND HOLDINGS, LLC, AS SHOWN ON EXHIBIT "A", DESCRIBED ON EXHIBIT "B", AND SUBJECT TO THE CONDITIONS SET FORTH IN EXHIBIT "C", BY ALLOWING FUEL PUMPS TO BE LOCATED IN FRONT OF THE PRIMARY STRUCTURE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, 1618 Land Holdings, LLC. has submitted a written and signed application to the City of Flowery Branch, Georgia requesting a specific variance for property located at 4603 Atlanta Highway; and

WHEREAS, a survey and complete description of the property subject to the requested variance is included in the application; and

WHEREAS, the City Council of the City of Flowery Branch, Georgia held a public hearing on April 20, 2023, to consider the application, which was duly noticed as prescribed by law and published in the Gainesville Times, as shall be set forth in the minutes of said meeting; and

WHEREAS, the City Council of the City of Flowery Branch, Georgia has considered the subject variance application of 1618 Land Holdings, LLC, in conjunction with the standards set forth in Article 37, Section 37.5 of the Zoning Ordinance.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH HEREBY ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS:

The City Council finds that the proposed variance from the City of Flowery Branch Zoning Ordinance Article 10, Section 10.9.(f) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of Article 37, Section 37.5 of the City of Flowery Branch Zoning Ordinance as identified below.

Sec. 37.5. Criteria for Granting Variances.

Any applicant requesting consideration of a variance to any provision of the zoning ordinance shall provide a written justification that one or more of the following condition(s) exist. The City Council shall not approve a variance application unless it shall have adopted findings that one or more of the following conditions exist:

- (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

Public Hearing Published	03/15/2023	First Reading	05/04/2023
Public Hearing	04/20/2023	Adopted	05/18/2023

- (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located;
- (c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located;
- (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
- (e) The special circumstances are not the result of the actions of the applicant;
- (f) The variances requested are the minimum variances that will make possible the proposed use of the land, building, or structure in the use district proposed; and
- (g) The variance shall not permit a use of land, buildings or structures, which is not permitted by right in the zoning district or overlay district involved.

SECTION 2. LEGAL DESCRIPTION, VARIANCES GRANTED AND CONDITIONS IMPOSED:

The properties as shown in attached Exhibit "A" and as legally described in Exhibit "B" shall be granted the following variance from the requirements set forth in the Flowery Branch Zoning Ordinance Article 10, Section 10.9.(f):

1. Fuel pumps shall be allowed to be placed in front of the primary structure

Conditions set forth in Exhibit "C" are imposed on said property. Said Exhibits are incorporated by reference as if fully set forth herein.

SECTION 3. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Public Hearing Published 03/15/2023
Public Hearing 04/20/2023

First Reading 05/04/2023
Adopted 05/18/2023

SECTION 4. EFFECTIVE DATE.

The effective date of this Ordinance shall be upon adoption by the City Council of the City of Flowery Branch, Georgia.

SECTION 5. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Adopted this 18th day of May 2023.

Edward R. Asbridge, Mayor

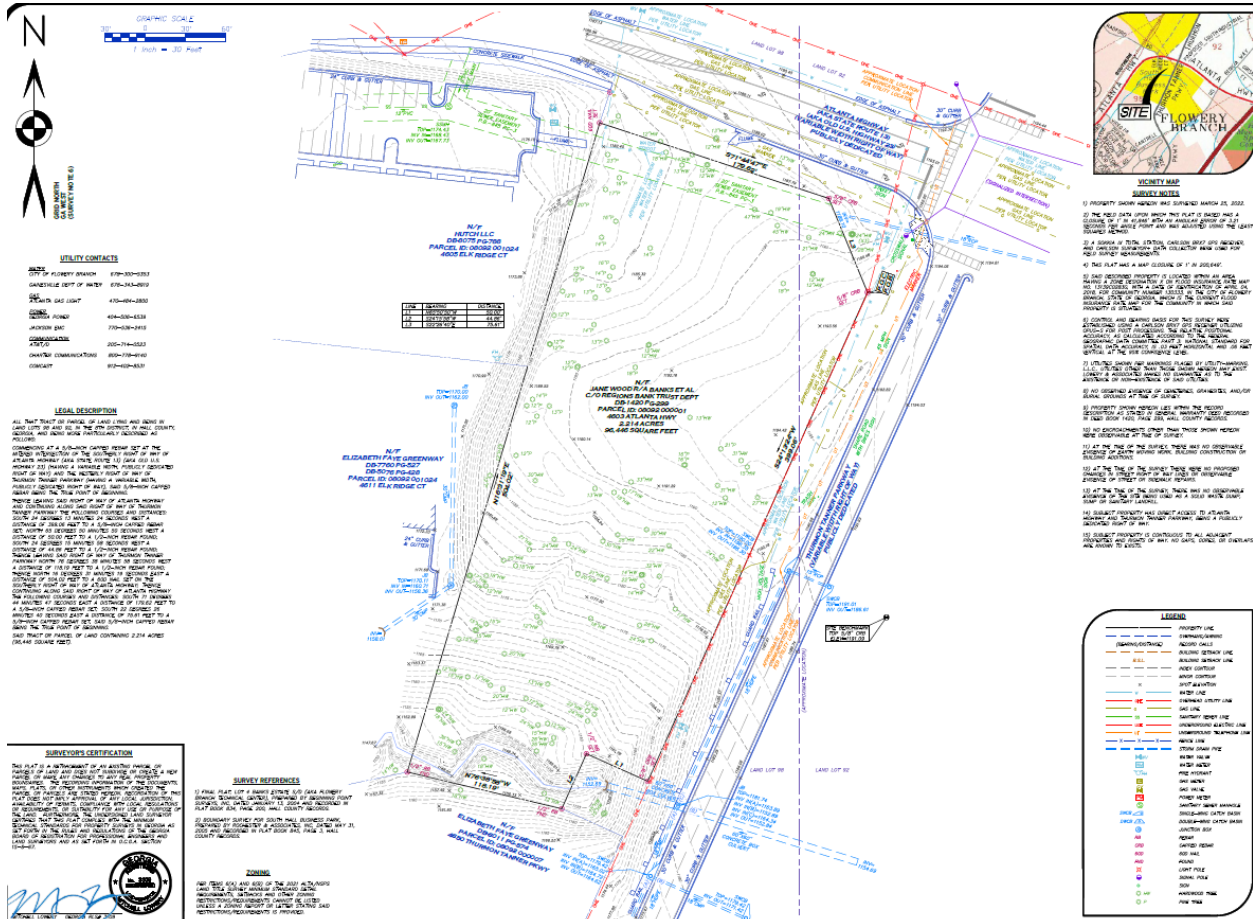
ATTEST:

Shelia R. Cooper, City Clerk

APPROVED AS TO FORM:

Karen Thomas, City Attorney

Exhibit "A"



Public Hearing Published 03/15/2023
Public Hearing 04/20/2023

First Reading 05/04/2023
Adopted 05/18/2023

Exhibit "B"

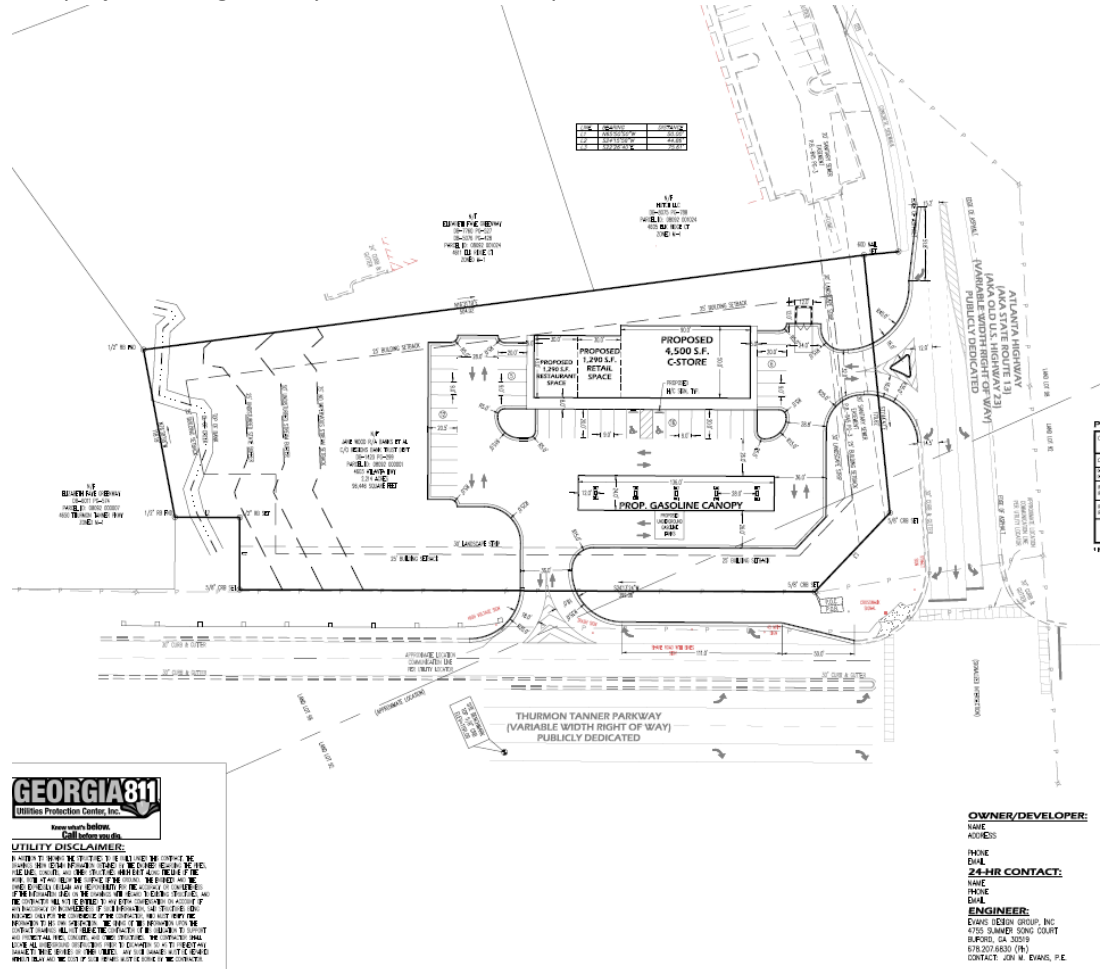
LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lots 92 and 98, 3th Land District, Hall County, Georgia, being Lot 3 as shown on a survey for South Hall Business Park, dated September 20, 2001, last revised October 3, 2001, prepared by Rochester & Associates, Inc., Georgia Registered Land Surveyors, and recorded in Plat Slide 805, page 105A of the Hall County, Georgia Plat Records, last revised at Plat Book 845, Page 3, Hall County, Georgia Records. Said plat and the record thereof are incorporated herein by reference for a more complete description of said property.

Exhibit "C"

Conditions of Zoning

1. The project shall generally adhere to the site plan as shown below:



2. Sewer shall be provided to the project by the City of Flowery Branch.
3. Water shall be supplied by the City of Gainesville.
4. Welcome to Flowery Branch monument sign.
5. Exterior building material shall be brick and stone on all 4 sides.
6. The dumpster enclosure shall be brick.
7. Gas canopy pillars shall be brick.
8. Detailed professionally drawn landscape plan required to be submitted and approved by staff prior to the issuance of a building permit.
9. A lighting plan shall be submitted and approved by staff prior to the issuance of a building permit.
10. Five (5) foot sidewalks required along the property length of Thurmon Tanner and Atlanta Highway.

Public Hearing Published	03/15/2023	First Reading	05/04/2023
Public Hearing	04/20/2023	Adopted	05/18/2023

11. The following uses shall be prohibited in the additional retail space attached to the primary structure (convenience store): vape or smoke shop, massage parlor, tattoo shop, or health spa.