



City Council Meeting & Public
Hearing
JULY 27, 2020

ALPHARETTA CITY HALL
COUNCIL CHAMBERS
2 PARK PLAZA
6:30 PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE TO THE FLAG
- IV. CONSENT AGENDA
 - A. Council Meeting Minutes (Meeting of 7/20/2020)
- V. PUBLIC HEARING
 - A. V-20-01 / E-20-02: Midgard Self Storage Parking Variance & Height Exception
Consideration of a variance and exception to allow a 3-story, 90,000 square foot self-storage facility on 14.9 acres. A parking variance is requested to reduce the minimum required parking from 91 to 28 spaces and to increase the building height from 35' to 36'-4". The property is located at 11425 Morris Road and is legally described as being located in Land Lot 856, 1st District, 2nd Section, Fulton County, Georgia.
 - B. PH-19-09 Unified Development Code Text Amendments – Signs
Sponsored By: Mayor Pro Tem Mitchell
Consideration of text amendments to the Unified Development Code related to Sign regulations.
 - C. PH-19-28 Unified Development Code and Code of Ordinance Text Amendments – Massage and Spa Establishment
Consideration of text amendments to the Unified Development Code and Code of Ordinances related to Massage and Spa Establishment regulations.
- VI. OLD BUSINESS
 - A. PH-20-08 Code of Ordinances Text Amendments – Litter Ordinance (2nd Reading)
Consideration of text amendments to the Code of Ordinances related to Litter. The proposed changes match the minimum standards of the latest model ordinance from the Metropolitan North Georgia Water Planning District.
- VII. NEW BUSINESS
 - A. Resolution for National Endowment for the Arts Our Town Grant
 - B. Resolution Requesting Sales Tax Information from The Georgia Department of Revenue
Sponsored By: Council Member Burnett
- VIII. PUBLIC COMMENT
- IX. REPORTS
- X. ADJOURNMENT TO EXECUTIVE SESSION



City Council Meeting & Public Hearing STAFF REPORT

Submitting Department: City Clerk

Submitted By: Erin Cobb

Sponsored By:

Meeting Date: July 27, 2020

I. AGENDA ITEM TITLE: COUNCIL MEETING MINUTES (MEETING OF 7/20/2020)

II. RECOMMENDATION:

III. REPORT IN BRIEF:

IV. ALTERNATIVES:

V. ATTACHMENTS:

Council Meeting Minutes Draft 7-20-2020



City Council Meeting
July 20, 2020
Office of the City Clerk
CITY HALL 2 PARK PLAZA | 6:30 PM

This summary is provided as a convenience and service to the public, media, and staff. It is not the intent to record proceedings verbatim. Any reproduction of this summary must include this notice. Public comments are noted as heard by Council, but not quoted or paraphrased. This document includes limited presentation by Council and invited speakers in summary form. This is not an official record of the Alpharetta City Council Meeting proceedings. Official Minutes are recorded and available for review.

I. CALL TO ORDER

- *Mayor Gilvin called the meeting to order at 6:30 p.m.*

II. ROLL CALL

- **Council Members**

- o Mayor Jim Gilvin
- o Mayor Pro Tem Donald F. Mitchell
- o Jason Binder
- o Ben Burnett
- o John Hipes
- o Dan Merkel
- o Karen Richard

- **Staff**

- o Bob Regus, City Administrator
- o Michael Stacey, Asst. City Attorney
- o James Drinkard, Asst. City Administrator
- o Erin Cobb, City Clerk
- o Peter Sewczwicz, Director of Public Works
- o Morgan Rodgers, Director of Recreation, Parks & Cultural Services
- o Tom Harris, Director of Finance
- o Kathi Cook, Director of Community Development
- o Randy Bundy, Director of Information Technology
- o Cris Randall, Director of Human Resources

III. PLEDGE TO THE FLAG

IV. CONSENT AGENDA

A. Council Meeting Minutes (Meeting of 6/22/2020)

B. Financial Management Report: Month Ending May 31, 2020

❖ Mayor Pro Tem Mitchell offered a motion to approve the consent agenda

- The motion received a second from Council Member Burnett
- The motion was approved unanimously (7-0)

V. PUBLIC HEARING

A. PH-20-07 City of Alpharetta Comprehensive Plan 2040

- Director of Community Development, Kathi Cook, came forward to present this item.
- GIS Specialist/Planner, Ben Kern, and Georgia Tech student, Jay Burnett, came forward to give a brief presentation.
- The Comprehensive Plan Kickoff announcement is a required public hearing for informational purposes.
- The City is kicking off the planning process for the 2040 Alpharetta Comprehensive Plan. The Comprehensive Plan is a long-range planning tool used to guide future development in the City. Areas of focus will include Community Goals/Vision, Land Use, Housing, Economic Development, Broadband Services, Transportation, Community Improvement Element (CIE), and 5-Year Community Work Program.
- The planning process will rely heavily on a combination of in-person and online public engagement of City residents, property owners, elected officials, and other stakeholders. The City's deadline to adopt the 2040 Comprehensive Plan is June 30, 2021. This major update to the Comprehensive Plan will be completed in-house by City Staff, with the exception of the housing component which will be performed by Bleakly Advisory Group.
- Tentative Project Schedule
 - o Comprehensive Plan Kickoff (Council Public Hearing - required) – July 20, 2020
 - o Steering Committee Meeting #1 – August 2020
 - o Public Meetings #1 – September 2020
 - o Steering Committee Meeting #2 – December 2020
 - o Public Meetings #2 – January 2021
 - o Prepare Draft Plan – February-April 2021
 - o Steering Committee Meeting #3 – April 2021
 - o Draft Plan Transmittal Hearing (Council Public Hearing - required) – May 2021
 - o Transmit Plan to ARC for Review (up to 40 days) – May 2021
 - o Plan Adoption (Council – no public hearing) – no later than June 30, 2021

Public Comment:

- No Public Comment

B. PH-20-08 Code of Ordinances Text Amendments – Litter Ordinance (1st Reading)

- Senior Planner, Michael Woodman, came forward to present this item.
- Staff is recommending that Mayor and Council approve amendments to the Code of Ordinances as it relates to Litter.
- In 2001 the Georgia General Assembly created the Metropolitan North Georgia Water Planning District to develop comprehensive regional and watershed-specific water resource management plans to be implemented by local governments. In accordance with the June 2017 Water Resources Management Plan, Alpharetta is required to adopt policies, ordinances, and regulations that match the surrounding 15 counties and 93 municipalities that make up The District.
- The Plan requires cities and counties to enforce regulations to prevent littering. Amendments are proposed to the definition of Litter and violation fine amounts. The District has developed a model ordinance for local governments to adopt for this compliance. The ordinance presented here for adoption and approval is the model ordinance.
- Asst. City Attorney, Michael Stacey, read the ordinance aloud.

Public Comment:

- No Public Comment
- ❖ Council Member Richard offered a motion to approve PH-20-08 Code of Ordinances Text Amendments – Litter Ordinance
 - The motion received a second from Council Member Burnett
 - The motion was approved unanimously (7-0)

VI. OLD BUSINESS

A. PH-18-16 Unified Development Code Text Amendments – Historic Preservation Ordinance (2nd Reading)

- Director of Community Development, Kathi Cook, came forward to present this item.
- Staff is recommending that Mayor and Council approve text amendments to the Unified Development Code (UDC) related to the Historic Preservation Incentive Zoning Ordinance.
- Planning Commission proposes UDC text amendments allowing 'structure', or 'parcel of land', not just buildings, to be designated as historic. In addition, staff

proposes an amendment allowing historic property plaques or markers to be made of a material other than 'bronze'.

- No changes have been made to the ordinance since the first reading.
- Asst. City Attorney, Michael Stacey, read the ordinance aloud.
- ❖ Council Member Richard offered a motion to approve PH-18-16, text amendments to the Unified Development Code (UDC) related to the Historic Preservation Incentive Zoning Ordinance
 - The motion received a second from Mayor Pro Tem Mitchell
 - The motion was approved unanimously (7-0)

B. An Ordinance to Amend Chapter 3 (Alcoholic Beverages) of the City Code to Add a New Article Providing for the Licensing of Distilleries (2nd Reading)
Sponsored By: Mayor Gilvin & Council Member Merkel

- City Clerk, Erin Cobb, came forward to present this item.
- Staff is recommending that Mayor and Council adopt an ordinance amending Chapter 3 (Alcoholic Beverages) of the City Code in order to add a new article providing for the licensing of distilleries.
- The ordinance, as presented, will amend Chapter 3 (Alcoholic Beverages) of the City of Alpharetta Code in order to add a new provision allowing for the manufacturing of distilled spirits. According to the ordinance, the manufacturing of distilled spirits in the City will be authorized pursuant to the issuance of a distiller's license by the Mayor and City Council.
- Each holder of a distiller's license shall comply with the provisions of the City's Alcoholic Beverage Codes and all other applicable state and local statutes, ordinances, resolutions and regulations, including, but not limited to, rules and regulations promulgated by the Department of Revenue.
- There have been no changes made to the ordinance since the first reading.
- Asst. City Attorney, Michael Stacey, read the ordinance aloud.
- ❖ Council Member Merkel offered a motion to approve an ordinance amending Chapter 3 (Alcoholic Beverages) of the City Code in order to add a new article providing for the licensing of distilleries
 - The motion received a second from Council Member Richard
 - The motion was approved unanimously (7-0)

VII. NEW BUSINESS

A. Board and Commission Appointments: Reappoint Chairman Dennis Mitchell to the Recreation Commission

- Mayor Gilvin reappointed Dennis Mitchell as Chairman to the Recreation Commission.

B. Design and Project Management Services for Old Milton Parkway Widening

- Director of Public Works, Pete Sewczwicz, came forward to present this item.
- Staff is recommending that Mayor and Council approve AECOM's proposal in the amount of \$2,161,400.00 for the design of the Old Milton Parkway Widening Improvements from North Point Parkway to Kimball Bridge Road; approve Atkins's proposal in the amount of \$638,600.00 for project management services for the Old Milton Parkway Widening Improvements project; and, authorize the Mayor to execute all necessary documents.
- This request is for the approval of AECOM's proposal for design services related to the Old Milton Parkway Widening Improvements from North Point Parkway to Kimball Bridge Road and the approval of Atkins's proposal for project management services for the same.
- On December 12, 2016, AECOM was awarded the conceptual design of and Atkins was awarded project management services for the Old Milton Parkway Capacity Improvements TSPLOST project. On May 22, 2017, staff from the Department of Public Works presented a workshop item to Mayor and Council on the conceptual design of the Old Milton Parkway Capacity Improvements TSPLOST project. On March 5, 2018, AECOM was awarded the preparation of costing plans intended to determine the project footprint and to develop accurate construction and right of way cost estimates based on the previously presented concept.
- The development of the final design plans is a progression upon the work performed by both firms to date. During this process, elected officials and staff from Administration, Public Works, and Atkins have had several meetings with the Georgia Department of Transportation (GDOT) to discuss the project, the necessary permitting, and GDOT's involvement with the project. Included in this agenda items are the project concepts which have been verbally approved by GDOT.
- As funding for this project will involve participation by GDOT and federal funds, the full GDOT Plan Development Process will need to be followed. To this end, AECOM's services will include roadway, bridge, hydro, and urban design; traffic analysis and design; environmental surveys and studies; topographical and property surveys; environmental site assessments; and geotechnical analysis and design.
- In addition to project management, Atkins services include right of way pre-acquisition and acquisition services as City staff does not have the necessary qualifications required for federally funded projects along a state route. Anticipated cost to purchase ROW and easements is currently budgeted at \$1.5-\$2.0 million. Accompanying the agenda item is a worksheet and a letter from GDOT enabling the City to move forward with the project and a project worksheet providing details concerning funding and responsibility of obtaining the funding. Alpharetta is responsible for the design and acquisition of right of way of the project. On the worksheet the abbreviation CST references construction, which is slated to be bid out by GDOT in FY 2024 and GDOT is funding construction through various funding sources (State and Federal). The worksheet dates are preliminary. GDOT has a process to review the schedule and once the schedule is approved by GDOT Public Works will pass this information along.
- It will take approximately three to five years to work through the design and right of way process. The environmental approval process will take the longest to approve due to the adding lanes. Until each step of the project process is approved, the design team cannot progress onto the next step. The team is looking for avenues to expedite the project and once a few of the initial environmental assessments are accomplished there will be a clearer time frame of the design and ROW acquisition aspects of the project. Once AECOM's and Atkins's proposals are approved, work can begin immediately.

- AECOM was awarded one of three contracts for on-call engineering services on August 1, 2016 through RFQ 16-1009. Atkins and City staff have reviewed AECOM's proposal and found their rates and allocated hours for the various design tasks to be reasonable and in line with industry standards. Staff from Atkins will review AECOM's invoices to verify that the hours being billed accurately represent the progress made for each billing period and make payment recommendations to the City.
- On November 12, 2016, Atkins was awarded a contract to provide project management services for the design and construction of larger scale projects associated with the City's BOND and the TSPLOST projects. City staff will review Atkins's invoices to verify that the hours being billed accurately represent the progress made for each billing period.

Public Comment:

- No Public Comment
- ❖ Mayor Pro Tem Mitchell offered a motion to approve AECOM's proposal in the amount of \$2,161,400.00 for the design of the Old Milton Parkway Widening Improvements from North Point Parkway to Kimball Bridge Road; approve Atkins's proposal in the amount of \$638,600.00 for project management services for the Old Milton Parkway Widening Improvements project; and, authorize the Mayor to execute all necessary documents
 - The motion received a second from Council Member Burnett
 - The motion was approved unanimously (7-0)

C. McGinnis Ferry Road Widening Intergovernmental Agreement

- Director of Public Works, Pete Sewczwicz, came forward to present this item.
- Staff is recommending that Mayor and Council approve the Intergovernmental Agreement with Johns Creek and Forsyth County regarding funding and project responsibilities associated with the McGinnis Ferry Road Widening Project and authorize the Mayor to execute all necessary documents.
- On December 16, 2019, Mayor and Council approved an Intergovernmental Agreement (IGA) between Forsyth County and the Cities of Alpharetta and Johns Creek whereby each City was obligating \$5.9 million to the project. When the IGA was approved, there was still a funding gap and the rationale to move forward was to start the right-of-way (ROW) acquisition phase of the project and continue in good faith to work to obtain the necessary funds for the entire project.
- All the agencies (Alpharetta, Johns Creek, Forsyth County, and Georgia Department of Transportation) have been working diligently the last few months to locate funding sources to fund the shortfall. The total project cost is estimated at \$61.5 million. Working collaboratively a tentative agreement pending approvals of each respective governing body has been met. The agreement is as follows: the two cities would increase their funding from \$5.9 million to \$8.9 million, the County would contribute \$23 million, and GDOT would come to the table with \$19.8 million. Alpharetta has already contributed \$500k towards the project, hence the funding request is \$8.4 million.
- Public Works is requesting your approval of the attached IGA and with your approval the City can begin acquiring the needed right of way for the entire portion of the project within Alpharetta's City Limits. Alpharetta staff will acquire

the necessary ROW and easements for the project and per the IGA, Forsyth County will be obtaining the necessary appraisals and title research for the City. The current schedule is for the City to obtain the necessary ROW by March 2022.

Public Comment:

- No Public Comment
- ❖ Mayor Pro Tem Mitchell offered a motion to approve the Intergovernmental Agreement with Johns Creek and Forsyth County regarding funding and project responsibilities associated with the McGinnis Ferry Road Widening Project up to an amount of \$8.9 million including the \$500,000 already contributed, and authorize the Mayor to execute all necessary documents
 - The motion received a second from Council Member Burnett
 - The motion was approved unanimously (7-0)

D. Equipment Refresh CIP 2021

- Director of Information Technology, Randy Bundy, came forward to present this item.
- Staff is recommending that Mayor and Council approve the request to provide for the annual replacement of technology for all City Departments in FY 2021 in the amount of \$150,000 and authorize the Mayor to execute all necessary documents.
- This request is to provide for the annual replacement of technology for all city departments. As in prior-years, funding for technology replacement is placed in one capital project account to allow for more efficient management (as opposed to being spread across multiple departments based on an estimate of replacement needs which may or may not equate to the actual need during the fiscal year). The city currently has 555 computers in operation (288 desktops; 267 laptops). The main component of the FY 2021 request includes funding for the replacement of approximately 124 PCs, 15 cellular phones, 78 iPhones, 58 iPads.
- The current city standards for technology replacement (based on funding availability) are as follows: servers (5-6 years); SANs – Storage (5-6 years); desktop PCs (4 years); laptop PCs (4 years); iPad tablets (3 years); iPhones (3 years); large scale multi-function printers (MFPs) (5-7 years); small scale MFPs (5 years); small printers (3-5 years); desktop UPS (electrical service backup) (3 years); Network UPS (closets) (4 years); Wireless Access Points (5 years); network routers/switched/firewalls (5 years); telephony gateways (5-6 years). Larger replacement initiatives are not included in this appropriation (e.g. CISCO network devices). Refresh of IT equipment is scheduled throughout the fiscal year and is allocated to the most essential needs first. In coordination with the Department of Finance and the City Administrator, the Department of Information Technology will manage the expenditures throughout the fiscal year to reflect any budgetary impacts.
- At the request of the Department of Finance, \$150,000 will be requested for approval now, and a second approval of up to \$150,000 will be requested for approval by mid-year in FY2021.

Public Comment:

- No Public Comment
- ❖ Council Member Burnett offered a motion to approve the request to provide for the annual replacement of technology for all City Departments in FY 2021 in the amount of \$150,000 and authorize the Mayor to execute all necessary documents
 - The motion received a second from Council Member Richard
 - The motion was approved unanimously (7-0)

E. ESRI Software - Geographic Information System (GIS) Maintenance and Licensing Agreement

- Director of Information Technology, Randy Bundy, came forward to present this item.
- Staff is recommending that Mayor and Council award ESRI as the vendor to provide the Geographic Information Systems (GIS) maintenance agreement for three years at a fixed cost that is renewed annually for the City of Alpharetta in the amount of \$60,500.00, and authorize the Mayor to execute all necessary documents.
- This GIS maintenance and licensing agreement is funded in the 2021 Budget. This program allows the City to deploy as many licenses to desktops and servers as needed at no additional cost. The agreement is for three years at a fixed cost that is renewed annually.

Public Comment:

- No Public Comment
- ❖ Council Member Burnett offered a motion to award ESRI as the vendor to provide the Geographic Information Systems (GIS) maintenance agreement for three years at a fixed cost that is renewed annually for the City of Alpharetta in the amount of \$60,500.00, and authorize the Mayor to execute all necessary documents
 - The motion received a second from Council Member Merkel
 - The motion was approved unanimously (7-0)

F. Microsoft Azure Cloud Infrastructure as a Service (IaaS)

- Director of Information Technology, Randy Bundy, came forward to present this item.
- Staff is recommending that Mayor and Council approve the request to provide for Microsoft Azure Cloud Services (IaaS) using the Statewide Contract (SWC) 99999-SPD-T20190814-0002 for Cloud Solutions for all City Departments in the FY2021 in the amount of \$150,000 and authorize the Mayor to execute all necessary documents.
- This request is for estimated cloud data storage costs in lieu of onsite servers and storage equipment. Cloud Services such as Microsoft Azure offer the ability to move virtual servers in an onsite data center to the cloud providing, in some cases,

economy of scale and security that is of higher value. These services can also provide some fail-over capability for the cloud services and onsite services. The goal in the early years is to have a mix of onsite server/storage equipment coupled with leveraging of cloud servers. The future goal is to move most if not all functionality to the cloud when it is proven to be operationally and economically beneficial to do so.

- This initiative will free the city from having to fund large server and data storage equipment initiatives periodically through the capital budget and be able to manage consumption of our information technology systems more efficiently.
- Procurement is through the State of Georgia Statewide Contract (SWC) 99999-SPD-T20190814-0002 for Cloud Solutions. This provides through this negotiated state contract the best pricing and support for Microsoft Azure and cloud services using the National Association of State Procurement Officials (NASPO) "ValuePoint" that leverages the expertise and buying power of many states and other participating entities.
- Also, with the City of Alpharetta being a Microsoft based enterprise with Office 365, Windows 10, and implementation of Hyper V server virtualization technologies, we can leverage existing licensing and enterprise credits to reduce implementation and long-term costs in using cloud services.

Public Comment:

- No Public Comment
- ❖ Council Member Burnett offered a motion to approve the request to provide for Microsoft Azure Cloud Services (IaaS) using the Statewide Contract (SWC) 99999-SPD-T20190814-0002 for Cloud Solutions for all City Departments in the FY2021 in an amount not to exceed \$150,000 and authorize the Mayor to execute all necessary documents
 - The motion received a second from Council Member Merkel
 - The motion was approved unanimously (7-0)

G. Contract Renewal with Peachtree Government Relations

- City Administrator, Bob Regus, came forward to present this item.
- Staff is recommending that Mayor and Council approve the annual contract renewal with Peachtree Government Relations in the amount of \$36,000 and authorize the Mayor to execute all necessary documents.
- After the 2019 Georgia Legislative Session Mayor and Council, along with Staff, discussed contracting with a lobbying firm who would have the best interest of the City day in and day out at the Capitol. In September 2019 you approved a nine-month contract with PGR at \$3,000 per month for the remainder of the fiscal year.
- Though this was an extraordinary legislative year with the session being suspended and then continued in June, PGR has not missed a beat, keeping us up to date with the most current and best information possible.
- At this time of year PGR is monitoring what is known as veto session which ends August 15th. This is the period Governor Kemp reviews all bills and signs or vetoes the legislation. PGR will bring to us any legislation they feel we should show support for or even ask the Governor to veto.

- PGR will also be providing an election report. They track all changes that will occur during the August 11th Runoff and the November General Election to make sure we are all up to date on the results and any new members that may have been elected that could have an effect on Alpharetta.
- PGR will continue to benefit us by giving information on what is going on in committee meetings throughout the later part of the Summer into the Fall, when there is a better opportunity for a committee to understand our view on a matter.
- PGR will continue to assist us in meeting with the Georgia Department of Transportation and other State agencies that are pertinent to Alpharetta, will continue to set up one on one meetings with legislators on key issues, and will monitor issues being followed by GMA and ACCG to understand their agenda for the 2021 Session.

Public Comment:

- No Public Comment
- ❖ Council Member Merkel offered a motion to approve the annual contract renewal with Peachtree Government Relations in the amount of \$36,000 and authorize the Mayor to execute all necessary documents
 - The motion received a second from Mayor Pro Tem Mitchell
 - The motion was approved unanimously (7-0)

VIII. WORKSHOP

A. Unified Development Code Text Amendments: Alpharetta Downtown Code, Murals, Special Event Facilities, Temporary Uses and Fences

- Director of Community Development, Kathi Cook, came forward to present this item.
- Staff is recommending that Mayor and Council approve text amendments to the Unified Development Code related to the Alpharetta Downtown Code, Murals, Special Event Facility, Temporary Uses and Fences.
- Consideration of text amendments to Unified Development Code (UDC) Subsections 1.4 Definitions, to add definitions for 'Mural' and 'Special Event Facility'. Text amendments to add 'Special Event Facility' as a permitted and conditional use in certain zoning districts. Text amendments to the Downtown Code, including amendments to the naming of certain future land use categories, regulations pertaining to the painting of brick or stone exterior finish materials, miscellaneous amendments to the use table, amendments to the DT-C (Downtown Core) building setbacks, and amendments to the DT-MU (Downtown Mixed-Use) building height. Text amendments to add a temporary use inside a building and regulations related to privacy fences along a street.
- This item was presented for City Council discussion and informational purposes. No vote or formal action was requested at this time. Based upon the feedback received, Staff will bring the item forward for consideration and action at a later date.

IX. PUBLIC COMMENT

- No Public Comment

X. REPORTS

- Council Member Merkel announced that the new 100 ft. pavilion, which was donated by Whole Foods, is now located behind the Community Center.
- Council Member Burnett encouraged residents to complete the census survey. Additionally, the City will be presenting a TSPLOST Resolution in the near future and will need the census facts to determine all the facts.
- Mayor Pro Tem Mitchell thanked Senator Brandon Beach for his support with our City's transportation projects.
- Council Member Richard announced the Community Workshop regarding the Alpha Link Connection at the GA 400 Center taking place on Wednesday, July 29th at 5:30 – 7:30 P.M.
- City Administrator, Bob Regus, came forward to present Mayor and Council with a brief overview of City operations.

XI. ADJOURNMENT TO EXECUTIVE SESSION

- ❖ Council Member Merkel offered a motion to adjourn into Executive Session
 - The motion received a second from Mayor Pro Tem Mitchell
 - Council Member Binder offered a friendly amendment that the Executive Session will last no longer than 15 minutes
 - Council Member Merkel accepted the friendly amendment
 - The motion was approved unanimously (7-0)
- ❖ With no further business to discuss or items to be heard, Mayor Gilvin adjourned the meeting to Executive Session at 8:23 P.M.

Respectfully submitted,



Erin Cobb, City Clerk



City Council Meeting & Public Hearing STAFF REPORT

Submitting Department: Community Development

Submitted By:

Sponsored By:

Meeting Date: July 27, 2020

I. AGENDA ITEM TITLE: V-20-01 / E-20-02: MIDGARD SELF STORAGE PARKING VARIANCE & HEIGHT EXCEPTION

CONSIDERATION OF A VARIANCE AND EXCEPTION TO ALLOW A 3-STORY, 90,000 SQUARE FOOT SELF-STORAGE FACILITY ON 14.9 ACRES. A PARKING VARIANCE IS REQUESTED TO REDUCE THE MINIMUM REQUIRED PARKING FROM 91 TO 28 SPACES AND TO INCREASE THE BUILDING HEIGHT FROM 35' TO 36'-4". THE PROPERTY IS LOCATED AT 11425 MORRIS ROAD AND IS LEGALLY DESCRIBED AS BEING LOCATED IN LAND LOT 856, 1ST DISTRICT, 2ND SECTION, FULTON COUNTY, GEORGIA.

II. RECOMMENDATION:

III. REPORT IN BRIEF:

IV. ALTERNATIVES:

V. ATTACHMENTS:

Midgard Staff Report 7.27.20, Applicant's Response to Staff IF APPROVED Conditions, Aerial Map, Future Land Use, Zoning Map, Location Map, CZIM Sign-In Sheet, Complete Citi Part B Report, Revised Elevations 7.24.20, MPS Elevations 10.16.19 - Reduced Size (002), 19-10-30-01 MidGard SS Arborist Report Alpharetta Compiled, Amended Letter of Intent 7.22.20, Midgard Variance Letter of Intent-constitutional assertions, Site Plans, Midgard Complete App 11.20.19



CITY COUNCIL MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: V-20-01/E-20-02 MIDGARD SELF STORAGE VARIANCE & EXCEPTION

CITY COUNCIL:

JULY 27, 2020

II. RECOMMENDATION:

Deny V-20-01/E-20-02 Midgard Self Storage Variance & Exception.

If approval is considered, recommend the following conditions:

1. Property shall be developed substantially in accordance with submitted plan prepared by AEC, dated 11/1/2019, except for modifications required to comply with the conditions below.
2. Maximum building height shall be 3-stories and 36'-4".
3. Self-storage facility shall appear as an office building and shall be substantially brick on 3 sides (West, North and East) with breaks and relief in the elevations, final approval by DRB. Parapet heights shall be approved by DRB.
4. Dumpster shall have brick enclosure with painted metal doors, with final approval by DRB.
5. Retaining walls facing Old Milton Parkway or Georgia 400 shall be brick to match the building. Retaining walls exceeding 16' in height shall be terraced with landscaping, as approved by DRB.
6. Interior storage units shall not be visible through windows.
7. Loading/unloading areas shall not be visible from Georgia 400 or Old Milton Parkway and shall be heavily screened with landscaping and decorative walls or berms.
8. Fences and walls visible from Georgia 400 or Old Milton Parkway shall be decorative, subject to approval by DRB.
9. "Moving vehicles/vehicles for hire" shall not be sold or leased from the property and shall not be parked between the building and Georgia 400 or Old Milton Parkway.
10. Outside storage shall be prohibited.
11. Existing tree buffer along Old Milton Parkway shall remain undisturbed, except to accommodate the driveway extension from Morris Road, as depicted on the plan prepared by AEC, dated 11/1/2019. Additional landscaping may be required to be installed within the Georgia 400 where sparse subject to Staff approval.
12. Wall signs shall not be permitted facing Georgia 400 and all signage shall be approved by DRB.
13. CC&R's shall be recorded and shall limit the use of the subject property to conditioned, self-storage with no lodging or dwelling.

III. REPORT IN BRIEF:

The applicant, Midgard Self Storage, is requesting a variance to reduce the required number of parking spaces and an exception to increase the building height in order to construct a 3-story, 91,000 square foot self-storage facility on 14.9 acres. The subject property is located at 11425 Morris Road at the southeast corner of Old Milton Parkway and Georgia 400.

DISCUSSION

The submitted request, if approved, would allow for the construction of a 3-story, 91,000 square foot self-storage facility on 14.9 acres. A variance is requested to reduce the required number of parking spaces from 91 to 28 parking spaces and an exception is requested to increase the building height from 35' to 36'-4". The subject property is located at 11425 Morris Road at the southeast corner of Old Milton Parkway and Georgia 400.

The subject property is zoned LI (Light Industrial) and O-I (Office-Institutional) and is currently undeveloped with a significant amount of floodplain impacting the property. The proposed self-storage use is located on a portion of the property zoned LI and is only allowed in that zoning district. The remainder of the property zoned O-I and is undevelopable due to the presence of floodplain. Surrounding properties are zoned LI and O-I to the South, O-P (Office-Professional) to the North and O-I and CUP (Community Unit Plan) to the East. Avanti Senior Living is located to the South, undeveloped property and Morris Road right-of-way are located to the East, Georgia 400 is located to the West and an undeveloped property approved for office is located to the North. The Comprehensive Land Use Plan designation of the property is 'Corporate Office'.

The applicant is requesting the following variance and exception from the Unified Development Code (UDC):

- UDC Subsection 2.5.1 (C), Number of vehicle parking spaces required, Wholesale and Industrial Uses. One (1) parking space per 1,000 square feet is required for Industrial uses, which includes self-storage facilities. The applicant is requesting a variance to reduce the parking requirement from 91 spaces to 28 spaces. Parking variances for self-storage facilities as well as data centers have been granted in the past. However, subject to a condition requiring that land be set aside to accommodate additional parking in the future, if determined to be necessary by Staff.
- UDC Subsection 2.2.17(D), Light Industrial District Regulations. The applicant is requesting to increase the maximum building height from 35' to 36'-4". The first-floor height of the building is 15', 2nd-floor is 10'-8" and 3rd-floor is 10'-8" for a total height of 36'-4". According to the applicant, approval of the height exception would allow for a larger first-floor height (15') to accommodate fire access with the building overhanging a portion of the driveway adjacent to Georgia 400.

SITE PLAN

The submitted site plan depicts a 3-story, 91,000 square foot self-storage building on 14.9 acres. Access is proposed by way of a new project driveway connecting to an existing private road easement. The adjacent property to the South, Avanti Inspired Living, constructed the private road easement in conjunction with their development, which provides direct access to the traffic light at Old Milton Parkway and Morris Road. The building overhangs the project driveway on the West side of the property adjacent to Georgia 400. This condition is directly related to the applicant's request to increase the height of the building from 35' to 36'-4".

Approximately 10% of the site is buildable due to the presence of stream buffer and floodplain. 28 surface parking spaces are provided around the perimeter of the building, except on the side adjacent to Georgia 400. 91 spaces are required and land is not available to construct additional parking if required or use changes. Additionally there is not an adjacent buildable parcel that could accommodate additional parking for heavy use times. The site plan depicts a stormwater management facility to the East of the proposed building and within the 150' impervious setback.

BUILDING ELEVATIONS

The submitted elevations depict a flat-roof building with a vertical mix of materials, including brick, EIFS and fiber cement siding. Loading entrances are proposed on the East and West building elevations; however, it is recommended that loading areas not be visible from Old Milton Parkway or Georgia 400. Since GDOT's Georgia 400 Express Lane project will impact the existing tree buffer along Georgia 400 and the City does not have jurisdiction within the Old Milton Parkway right-of-way, it is recommended that the building be substantially brick on 3-sides (West, North and East) with breaks and relief in the elevations. It is likely that the building would be visible from Georgia 400 and possibly from Old Milton Parkway in the future.

The three (3) story building has a 1st floor height of 15', 2nd floor height of 10'-8" and 3rd floor height of 10'-8" for a total building height of 36'-4". Parapets range in height from 3'-4" to 10'-10". It is recommended that the Design Review Board approve final parapet heights based on the need to screen rooftop equipment.

VARIANCE & EXCEPTION REVIEW CRITERIA

The City of Alpharetta Unified Development Code Article IV, Section 4.5.3 outlines the criteria set forth for granting a variance. The ordinance specifically states..."a variance may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding that":

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or

Response: The 14.9-acre property is encumbered by stream buffer and floodplain resulting in only 10% of the site being buildable. Parking variances for self-storage facilities have been granted in the past; however, land should be set aside onsite to build parking if it becomes necessary or the use changes. This site does not have sufficient land outside the floodplain to accommodate UDC required parking if it becomes necessary. The height exception appears to be the minimum necessary to accommodate fire access with the proposed building overhanging a portion of the driveway adjacent to Georgia 400.

(2) The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or

Response: The 14.9-acre property is encumbered by stream buffer and floodplain resulting in only 10% of the site being buildable. Parking variances for self-storage facilities have been granted in the past however land should be required to be set aside for additional parking if needed in the future. The height exception appears to be the minimum necessary to accommodate fire access with the proposed building overhanging a portion of the driveway adjacent to Georgia 400. This site does not have sufficient land outside the floodplain to accommodate UDC required parking if it becomes necessary.

(3) There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned; or

Response: The 14.9-acre property is encumbered by stream buffer and floodplain resulting in only 10% of the site being buildable. In addition, parking variances for self-storage facilities have been granted in the past, however land should be required to be set aside for additional parking if needed in the future. The height exception appears to be the minimum necessary to accommodate fire access with the proposed building overhanging a portion of the driveway adjacent to Georgia 400.

(4) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the City of Alpharetta ordinances.

Response: Approval of the parking variance and height exception should not cause substantial detriment to the public good, if conditions are approved requiring that the structure have the appearance of an office building, prohibiting signage facing Georgia 400 and requiring a set aside of land to accommodate UDC required parking in the future. This site does not have sufficient land outside the floodplain to accommodate UDC required parking if it becomes necessary.

CONCURRENCES

Staff has reviewed the applicant's proposal and finds that it could support the requested parking variance if land was available outside of the floodplain to build additional spaces if required. Past City approvals for parking reductions for storage facilities and data centers have required land available onsite to accommodate a future use change or need for additional parking. The 14.9-acre property is encumbered by stream buffer and floodplain resulting in only 10% of the site being buildable. The height exception appears to be the minimum necessary to accommodate fire access with the proposed building overhanging a portion of the driveway adjacent to Georgia 400. If approved, conditions are recommended requiring that the structure have the appearance of an office building, prohibiting signage facing Georgia 400 and requiring a set aside of land to accommodate UDC required parking in the future.

CITIZEN PARTICIPATION PLAN

The report submitted by the applicant states that property owners within 500' were contacted regarding the applicant's intent. The report states that no comments were received.

COMMUNITY ZONING INFORMATION MEETING

The CZIM was held on December 11, 2019. There were no public comments.

IV. ATTACHMENTS:

- Site Plan



CITY COUNCIL MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

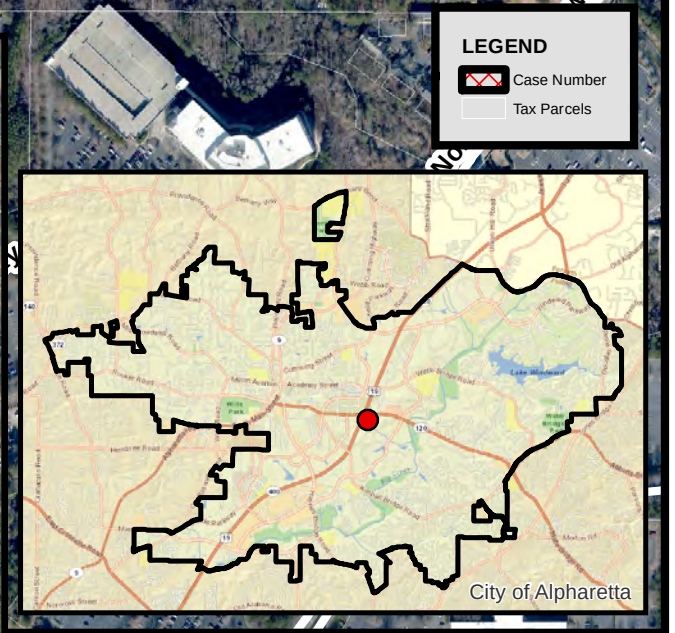
I. RECOMMENDATION:

Deny V-20-01/E-20-02 Midgard Self Storage Variance & Exception.

APPLICANT'S RESPONSE TO STAFF
RECEIVED 7.24.20 IF APPROVED CONDITIONS

If approval is considered, recommend the following conditions: **APPLICANT VERSION**

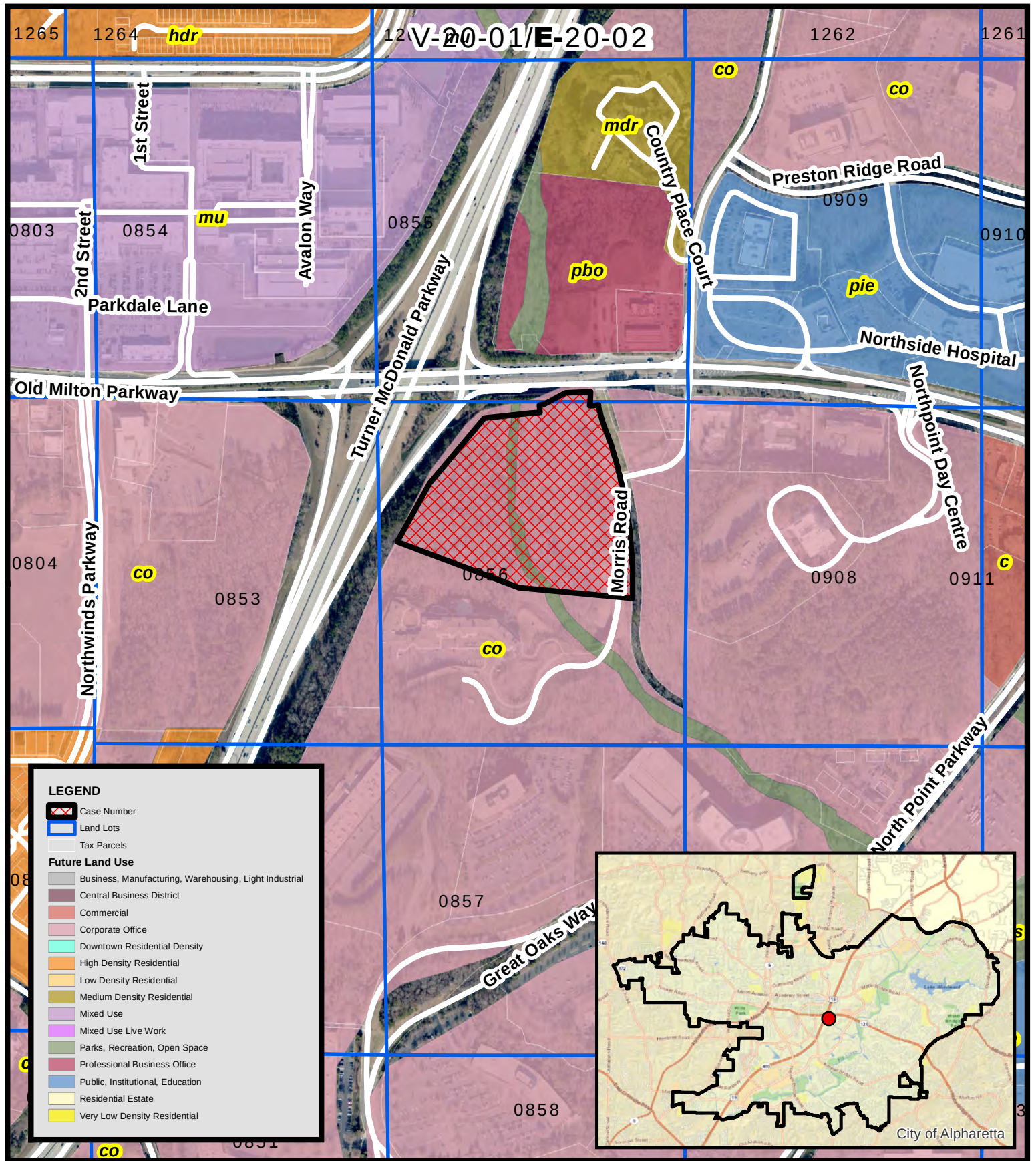
1. Property shall be developed substantially in accordance with submitted plan prepared by AEC, dated 11/1/2019, except for modifications required to comply with the conditions below.
2. Maximum building height shall be 3-stories and 36'-4".
3. Self-storage facility shall appear as an office building and shall be substantially brick on 3 sides (West, North and East) with breaks and relief in the elevations, final approval by DRB. Parapet heights shall be approved by DRB.
4. Dumpster shall have brick enclosure with painted metal doors, with final approval by DRB.
5. Retaining walls facing Old Milton Parkway or Georgia 400 shall be ~~brick~~ **modular block with color** to match the building. Retaining walls exceeding 16' in height shall be terraced with landscaping, as approved by DRB.
6. Interior storage units shall not be visible through windows.
7. Loading/unloading areas shall not be visible from Georgia 400 or Old Milton Parkway and shall be heavily screened with landscaping and decorative walls or berms.
8. Fences and walls visible from Georgia 400 or Old Milton Parkway shall be decorative, subject to approval by DRB.
9. "Moving vehicles/vehicles for hire" shall ~~not be sold or~~ **be** leased from the property ~~and shall not be parked between the building and Georgia 400 or Old Milton Parkway.~~
10. Outside storage shall be prohibited.
11. Existing tree buffer along Old Milton Parkway shall remain undisturbed, except to accommodate the driveway extension from Morris Road, as depicted on the plan prepared by AEC, dated 11/1/2019. Additional landscaping may be required to be installed within the Georgia 400 where sparse subject to Staff approval.
12. Wall signs shall not be permitted facing Georgia 400 and all signage shall be approved by DRB. **Applicant proposes a wall sign on the south side of the building (which side does not face GA 400).**
13. CC&R's shall be recorded and shall limit the use of the subject property to conditioned, self-storage with no lodging or dwelling.



Aerial Map
Midgard Self Storage- Variance & Exception
11425 Morris Road

V-20-01 / E-20-02
D/LL: 1/2/856
CC: 7/27/20

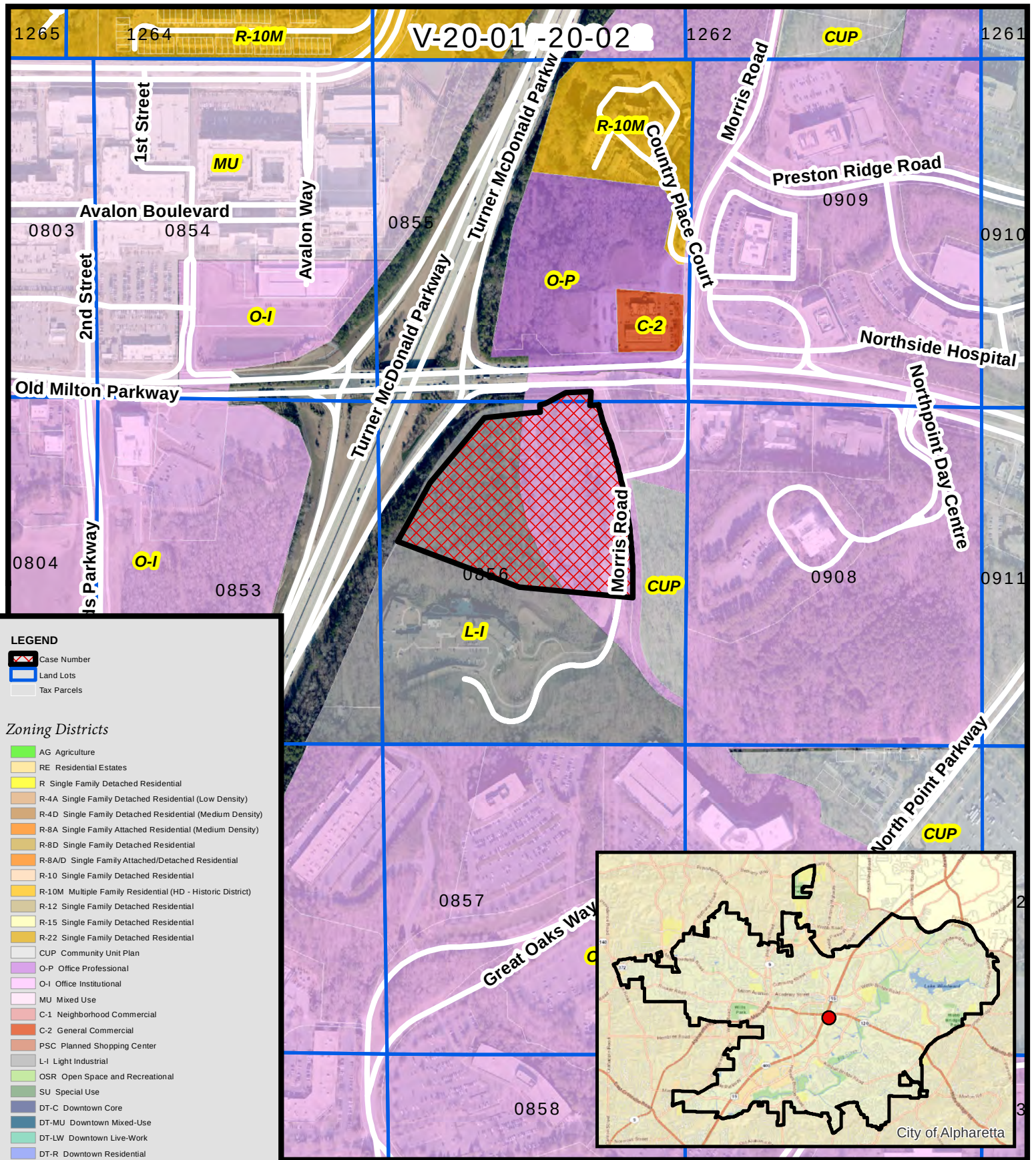
Location Map Provided by:
Community Development - GIS



Future Land Use
Midgard Self Storage- Variance & Exception
11425 Morris Road

V-20-01 / E-20-02
D/LL: 1/2/856
CC: **7/27/20**

Location Map Provided by:
Community Development - GIS

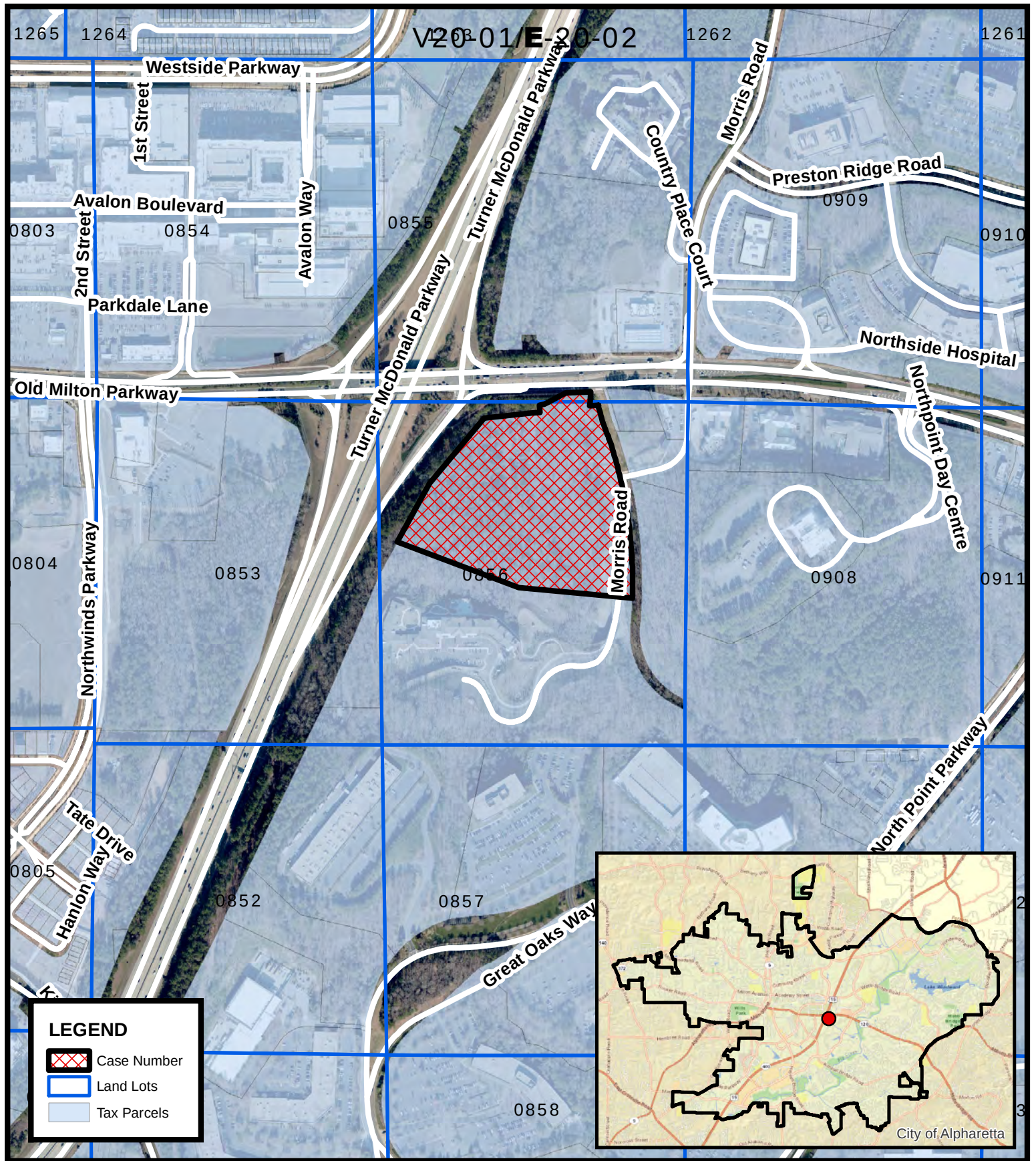


Zoning Map
Midgard Self Storage- Variance & Exception
11425 Morris Road

V-20-01 / E-20-02
D/LL: 1/2/856
CC: 7/27/20



Location Map Provided by:
Community Development - GIS



Location Map
 Midgard Self Storage- Variance & Exception
 11425 Morris Road

V-20-01 / E-20-02
 D/LL: 1/2/856 CC:
7/27/20

Location Map Provided by:
 Community Development - GIS

Midgard Self Storage Variance and Exception

12.11.19

[illegible]

CITIZEN PARTICIPATION FORM - PART B

This form must be completed and submitted to the City of Alpharetta Community Development Department a minimum of twenty (20) working days prior to the scheduled Public Hearing. Failure to do so will result in cancellation of the scheduled hearing.

Public Hearing or Project Name: Midgard Self Storage

Contact Name: Lew Pollack

Telephone: 561.212.5350

Please describe comments and concerns provided by any and all individuals contacted as part of the the Citizen Participation Program. If any individuals provided written correspondence, please attach copies of same to this report.

Of all the surrounding property owners we contacted, we received no response from anyone. We also attended the CZIM and there was no one in attendance that had any concerns with our project.

Method by which these individuals were contacted. Please mark all that apply. *Please provide samples of any and all written communications used to provide notification.*



Letter



Personal Visits



Telephone



Group Meeting



Email



Other (Please Specify)

CZIM

Attach a list of people who have been notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified.

I, the undersigned, as an authorized representative of the applicant and Public Hearing item identified above, do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Citizen Participation Form - Part B and in any and all documents provided in support of this report are true and accurate. I further understand that any false statements provided by representatives of the applicant as part of this report may result in penalties up to and including denial of the subject application.

Signature of Authorized Agent: 

Date: 1/15/2020

Print Form



50 Warm Springs Circle
Roswell, Georgia 30075-4937

Main: 770.641.1942
Fax: 770.998.6924

December 10, 2019

Claire Lee Burson
P.O. BOX 1905
CLAYTON, GA. 30525- 1905

RE: **Public Hearing – Midgard Self Storage
Old Milton Parkway and Ga. 400 (southeast corner)
E-20-02/ V-20-01**

Dear Property Owner:

Midgard Self Storage has filed a variance application for the property located on Old Milton Parkway, 1st District, 2nd Section, LL 853, 856, parcel number 12-297008530351 for the purposes of developing a 3 story self storage facility. The proposed variances are to reduce the required number of parking spaces from 91 to 28 and a minor height increase from 35' to 42'. We have attached a site plan drawing for your reference.

The current hearing date for this application is to be Monday January 27th at 6:30 p.m. and the meetings are held at City Hall, 2 Park Plaza, Alpharetta, Georgia 30009.

If you need any further information or have any questions regarding the application please feel free to contact me at your convenience. I can be reached at (770) 641-1942 or slr@aecatl.com.

Sincerely,
AEC, Inc.

A handwritten signature in black ink, appearing to read 'SLR', written over the company name.

Steven L. Rowe, ASLA
Vice President

SLR/sch
Attachments

M:\2019 JOBS\19-4303 Midgard Storage\SUBMITTALS\VARIANCE\Neighbors letter Midgard.docx

ATLANTA SENIOR CARE SERVICES 2 LLC
8380 BAY PINES BLVD FLOOR 3
SAINT PETERSBURG FL 33709

WAFFLE HOUSE INC
P O BOX 6450
NORCROSS GA 30091 6450

3333 OLD MILTON ALPHARETTA LLC
180 GLASTONBURY BLVD STE 201
GLASTONBURY CT 06033

SAMS REAL ESTATE HOLDINGS GEORGIA LLC
7935 COUNCIL PL SUITE 200
MATTHEWS NC 28105

ALPHARETTA LIFEHOPE LAND SPE LLC
3330 PRESTON RIDGE RD SUITE 380
ALPHARETTA GA 30005

Triad Newcastle LLC
100 CHURCH ST SUITE 100
HUNTSVILLE AL 35801

Abed Mohammed A Trustee Et AL
11500 OLIVE BLVD SUITE 188
SAINT LOUIS MO 63141 7147

Burson Claire Lee
P.O. BOX 1905
CLAYTON GA 30525 1905





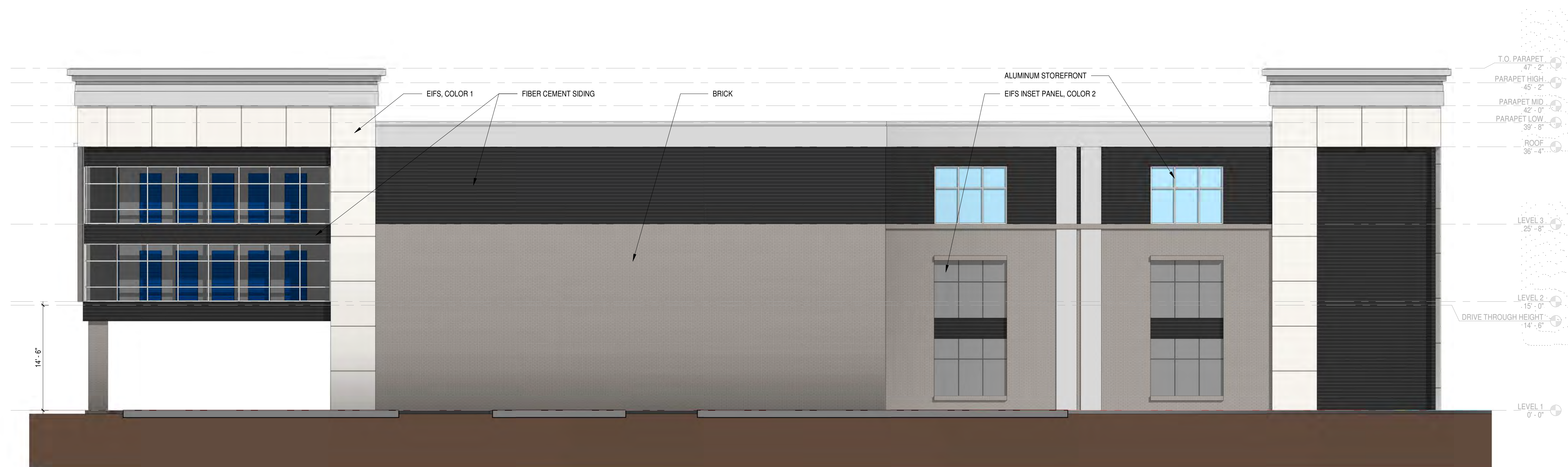








ELEVATION - WEST



ELEVATION - SOUTH



ELEVATION - EAST

SHEET ISSUE:			
NO.	DATE	DESCRIPTION	BY

PRINCIPAL IN CHARGE:
PROJECT ARCHITECT:
DRAWN BY:

RS
WJG
Author

SHEET TITLE:
ELEVATIONS

SHEET NO. PROJ. NO.

P004



ELEVATION - NORTH



PERSPECTIVE VIEW

19-05-20-01 Windward Park Arborist Report Alpharetta

Reference UDC
Alpharetta, Georgia



Location Map

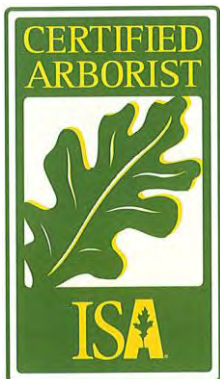


All of the following information is based upon visual field observations and 30 years of practical horticultural experience. No scientific or lab tests have been performed. I certify that all information in this report is true and inclusive to the best of my knowledge and is prepared in good faith.

Outdoor Spaces, LLC

By Scott Hall, Owner

On Site Specimen Evaluation Date: November 5, 6, 2019
Report Date: November 8, 2019
Revised Date:



Outdoor Spaces, LLC
Scott Hall, Owner
RLA, Certified Arborist
Certificate Number: SO-5434A
404-328-6561 Cell
678-965-4784 Fax
scottandcyrena@bellsouth.net

Warranty Disclaimer:

Although, this report will determine whether or not a tree is a specimen; it is provided as best judgment opinion. Ultimately, the governing body's (Gwinnett County) arborist or representative shall determine whether a tree is classified as a specimen or not.

All specimen tree locations shall be approximate. The provided tree locations shall NOT be GPS located and in no manner shall the provided tree location plan be used or represented as a tree survey. It is the sole responsibility of the OWNER to have all tagged specimen trees located by a Certified Land Surveyor.

No warranties express or implied are made with respect to the report of aforementioned specimen trees. It is understood the OWNER makes use of this report by the ARBORIST at OWNER's sole risk and that the report is provided as best judgment opinion. In no manner does this report guarantee the life or imply any length of life span of the trees that are determined to be specimens.

Arborist Note:

Due to certain species and undesirable traits, some trees shall be considered in poor condition if the following is true. Numerous trees grown in a native setting may appear to grow as multi-trunk; however this is not desirable in most trees. Most trees that have multi-trunks at the base are usually created when two separate trees grow together or the tree branches off at an early age and they become Co-Dominate Leaders. Either scenario is an undesirable condition for most trees because they both create weak crotches, included bark and/or a prime place for debris and water to get trapped that will always cause decay. In this case these trees become a life safety issue and can not be considered specimen trees.

Some trees are an exception to this rule, such as, but not limited to:

Crape Myrtles, Birches, Wax Myrtles, Red Buds, Fringe Trees, Dogwoods, Hollies, Cedars, Sourwoods, Sweet Bay Magnolias, Red Bays and Live Oaks.

These are an exception because they naturally create sucker growth from the roots and/or trunk or do not typically have the life safety issues because they are not large growing trees.

Reference: Sinclair, Wayne A., 1936. Diseases of Trees and Shrubs / Wayne A. Sinclair and Howard H. Lyon.-2nd Ed. Published 2005

Smiley, E.. (2003). Does included bark reduce the strength of codominant stems?. Journal of Arboriculture 29.

One of the most common locations for the aboveground portion of a tree to fail is at the junction of two or more codominant stems. Due to the frequency of failures at this point, a study was undertaken to get a better understanding of the mechanical strength of this point and to determine if included bark reduces the strength of the union. Eighty-four codominant stems were removed from 26 felled maple trees. These crotches were securely anchored and split apart using measured force. Breaking force varied from 64 to 2,363 kg. The regression line produced from the comparison of stem diameter and force required for breaking the union when there was no included bark was $\text{Force} = \text{Diameter} * 613 - 1388$, $r^2 = 0.92$. When only those unions with included bark were analyzed, the regression line was $\text{Force} = \text{Diameter} * 537 - 1285$, $r^2 = 0.76$. There

was a significant difference between the regression lines ($p < 0.05$). Codominant stems that have bark trapped in the union are significantly weaker than those that do not have bark included. The differences appear to be greater with smaller-diameter stems than with larger stems.

SECTION 3.2 - TREE CONSERVATION, LANDSCAPE, AND BUFFER REQUIREMENTS (Adopted 05-15-17)

3.2.2 Definitions.

For the purposes of this Section, unless the context indicates otherwise, the following terms shall have the meaning set forth below:

Boundary Tree: Any tree located on adjacent property with a critical root zone that will be impacted by proposed land disturbance activity.

Caliper: A standard of trunk measurement for replacement trees. Caliper inches are measured at the height of 6 inches above the ground for trees up to and including 4 inch caliper and 12 inches above the ground for trees larger than 4 inch caliper.

Conifer Tree: Any tree with needle leaves and a woody cone fruit including, but not limited to, pine, juniper and cedar species.

Critical Root Zone (CRZ): The minimum area beneath a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The Critical Root Zone will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and three-tenths times the number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a twenty (20) inch diameter tree is twenty-six (26) feet.

Dead Tree: Any standing tree which is no longer alive or has the ability to sustain itself through natural processes as determined by a qualified professional.

Diameter Breast-Height (DBH): The standard measure of tree size (for trees existing on a site). The tree trunk is measured at a height of 4 1/2 feet above the ground. If a tree splits into multiple trunks below 4 1/2 feet, the trunk is measured at its most narrow point beneath the split.

Guidance Document: A document maintained by the City of Alpharetta Arborist that includes clarifications to requirements with examples and additional technical standards about tree protection, tree planting, species selection, and other information relevant to the protection and replanting of trees in the City of Alpharetta. The document may be revised by the City Arborist as conditions and technical standards evolve.

Hardwood Tree: Any tree that is not coniferous (cone bearing). This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

International Society of Arboriculture (ISA): A professional organization that promotes the professional practice of arboriculture, sets standards for obtaining professional credentials for arborist, and establishes best practices for tree care, pruning, and protection.

Landscape Tree: A tree or trees that were planted or retained on a developed or previously developed site.

Ornamental Tree: A tree that provides a visual impact in the landscape. The impact may be provided through form, bark, branching structure, leaf color, and / or flower color. Typically a small or medium size tree.

Overstory Tree: Those trees that compose the top layer or canopy of vegetation and will generally reach a mature height greater than 40 feet and typically have a spreading canopy.

Pine Tree: An evergreen coniferous tree that has clusters of needle-shaped leaves.

Pruning (Tree Pruning): To cut away dead, overgrown, or undesirable branches or stems. Pruning of trees to be done in compliance with standard arboricultural practices as outlined in ANSI A300 and shall maintain the trees natural form and structure.

Qualified Professional: An International Society of Arboriculture (ISA) Certified Arborist; an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist, or a Registered Forester.

Shade Tree: Any tree that has a spreading canopy that provides partial to full shade to the ground with a minimum height of 20 feet.

Softwood Tree: Any coniferous (cone bearing) tree. This definition is based on the colloquialism, and does not necessarily reflect any true qualities of the tree.

Specimen Tree: Any tree which qualifies for special consideration for preservation due to its size, type, condition, location or historical significance and which also meets the minimum size criteria set forth below.

Size Criteria:

Pine Trees: 30-inch diameter or larger for trees in the *Pinus* (Pine) genus.

Coniferous Trees: 20" diameter or larger for trees in the *cedrus* (deodar cedar), *Thuja* (Arborvitae), or other ecologically similar trees,

Overstory Trees: 30-inch diameter or larger for trees in the *Liquidambar* (Sweetgum) or *Liriodendron* (Tulip poplar) genus

- 20-inch diameter or larger for trees in the *Fagus* (Beech), *Nyssa* (Tupelo), *Diospyros* (Persimmon), *Sassafras* (Sassafras), or other ecologically similar trees,
- 20-inch diameter or larger for *Magnolia grandiflora* (Southern magnolia) and those cultivars that generally reach a mature height over 40'
- 24-inch (24") diameter or larger for trees in all other genera

Understory Trees: 8-inch (8") diameter or larger.

- 10-inch (10") diameter or larger for *Oxydendron arboretum* (Sourwood).

See additional requirements for Specimen Trees in The Guidance Document

Street/Streetscape Tree: Any tree located or proposed to be located along a public or private street. The actual location will be determined by the specific zoning district or overlay. In situations where there is limited planting space in the right of way and or safety concerns, street trees may be located at the back of the sidewalk or within the landscape strip on private property and the discretion of the Director.

Structural Root Plate: The zone of rapid root taper that provides the tree stability against wind throw. The radius of the structural root plate is equal to 0.5 feet per inch of DBH.

Tree: Any living, self-supporting woody or fibrous plant which normally obtains a diameter breast height of at least three (3) inches and typically has one (1) main stem or trunk and many branches.

Tree Care Plan: A plan developed to provide an impacted tree the best possible chance of survival. A tree care plan should be prepared by a qualified professional and conform to the requirements of ANSI A300 and the Guidance Document

Tree Grouping: A community of trees as determined by the Director to merit special consideration as an ecological feature based upon species composition, form, structure, age, and condition. Specimen trees and trees of quality may be included in tree groupings and every alternative should be evaluated to save these trees. Except as otherwise provided in Section 3.2., Tree Groupings will be treated as specimen trees for preservation credits and every alternative should be evaluated to save these trees.

Tree of Quality: A tree that merits special consideration due to historical significance, ideal shape and structure, or uniqueness of the species as determined by the Director. Except as otherwise provided in Section 3.2., Trees of Quality will be treated as specimen trees for preservation credits and every alternative should be evaluated to save these trees.

Tree Planting List: List of preferred tree species for use in the City of Alpharetta. Species not included on this list may be approved at the discretion of the Director. The Tree Planting List is included in the Arborist Guidance Document.

Tree Protection Area: An area encompassing the critical root zone of a tree that shall remain in a previous state.

Tree Save Area: An area designated for the purpose of meeting tree density requirements, saving natural trees, and/or preserving natural buffers that shall remain in a previous state.

Understory Trees: Those trees that grow beneath the overstory, and will generally reach a mature height less than 40 feet. Understory trees may include coniferous trees that meet these same height characteristics.



Notes:

- All tree locations are approximate and have not been field surveyed. Refer to survey for locations.
- All 20" DBH trees within 30' of property line have been identified and specimen size have been evaluated.



Tree Location



North

Not To Scale

**Specimen
Location Plan**

Specimen Analysis

(General Observations: The site is at the beginning of the Pioneer Phase of Succession; Large portion of the site is wetlands with a stream branching through the center. The primary tree species are River Birch, Pine, Sycamore, Poplar, Maple and inferior species of Oaks. There are few understory trees such as Black Cherry and some Sourwoods. There are larger trees on the site, however most of them are infected with disease and insects such as Pine Borers and different trunk Cankers.)

Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
923	56" Red Maple	Poor	Poor	Non-Specimen	5 Co-Dominate Leaders with weak crotches and included bark. 1 Dead causing decay in trunk. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	1-3	
925	26"(12"-16") Red Maple	Poor	Poor	Non-Specimen	2 Co-Dominate Leaders with weak crotches and included bark. Severe trunk canker. Several main limbs dead/ gone. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	4-5	
924	32"(18"-16") Red Maple	Poor	Poor	Non-Specimen	2 Trees grown together creating 3 Co-Dominate Leaders with 1 dead and fruiting bodies at union. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	6-7	
516	29" Water Oak	Poor	Poor	Non-Specimen	Tree has a 15° lean and several dead limbs. Due to condition tree is not a design consideration.	8-9	
517	31" Water Oak	Fair	Good	Specimen	Minor trunk gall. Due to condition tree is not a design consideration.		
518	29" Sycamore	Good	Good	Specimen	Due to condition, this tree should be taken into design consideration.		
519	12" Sourwood	Poor	Poor	Non-Specimen	Trunk sounds hollow. Trunk has severe 30° lean. Due to condition tree is not a design consideration.	10	
520	36" Tulip Poplar	Poor	Poor	Non-Specimen	2 Co-Dominate Leaders 15' up with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	11	
521	27" Tulip Poplar	Poor	Poor	Boundary Tree	2 Co-Dominate Leaders 30' up with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to the location, this tree is a design consideration.		
522	44"(26"-23") Water Oak	Poor	Poor	Non-Specimen	2 Trees grown together creating 2 Co-Dominate Leaders with weak crotches and included bark. One has severe decay caused by dead limb. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	12-13	

Specimen Analysis

(General Observations: The site is at the beginning of the Pioneer Phase of Succession; Large portion of the site is wetlands with a stream branching through the center. The primary tree species are River Birch, Pine, Sycamore, Poplar, Maple and inferior species of Oaks. There are few understory trees such as Black Cherry and some Sourwoods. There are larger trees on the site, however most of them are infected with disease and insects such as Pine Borers and different trunk Cankers.)

Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
523	26" Red Maple	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders with 1 dead, weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	14	
794	22" Red Maple			Boundary Tree	Possible Boundary Tree		
524	30" Willow Oak	Good	Good	Specimen	Due to condition, this tree should be taken into design consideration.		
795	29" Hickory	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders with a weak crotch. Hollow cavity at leader union holding water. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	15	
525	36" Red Maple	Poor	Poor	Non-Specimen	2 Trees grown together creating 2 Co-Dominate Leaders with Sweet Gum growing in trunk, weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	16	
526	37"(23"-16"-12") Red Maple	Poor	Poor	Non-Specimen	2 Trees grown together creating 3 Co-Dominate Leaders with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	17	
527	29" Sycamore	Good	Fair	Specimen	Poor leader union 40' up with no inclusion. Due to condition, this tree should not be taken into design consideration.	18	
528	34" Tulip Poplar	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders 60' up with weak crotches and included bark. Dead main and minor limbs. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	19	
529	28" Sycamore	Fair	Fair	Specimen	Some missing limbs missing possibly causing decay in trunk. Due to condition tree is not a design consideration.	20	
530	27" Sycamore	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders 20' up with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	21	

Specimen Analysis

(General Observations: The site is at the beginning of the Pioneer Phase of Succession; Large portion of the site is wetlands with a stream branching through the center. The primary tree species are River Birch, Pine, Sycamore, Poplar, Maple and inferior species of Oaks. There are few understory trees such as Black Cherry and some Sourwoods. There are larger trees on the site, however most of them are infected with disease and insects such as Pine Borers and different trunk Cankers.)

Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
531	36" Tulip Poplar	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders 50' up with weak crotches and included bark. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	22	
532	28" Sycamore	Poor	Poor	Non-Specimen	Central leader topped. Due to condition tree is not a design consideration.	23	
533	30" Pine	Poor	Poor	Non-Specimen	Symptoms of Pine Borers with numerous surrounding Pines dead. Due to the condition, this tree is a design consideration.		
515	26" Red Maple	Fair	Poor	Non-Specimen	2 Co-Dominate Leaders with weak crotches and included bark. Decay in trunk from dead limbs. Trunk sounds hollow. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	24	
514	26" Water Oak	Good	Good	Specimen	Wire grown into trunk. Due to condition, this tree should be taken into design consideration.		
513	44"(28"-14") Tulip Poplar	Poor	Poor	Non-Specimen	2 Co-Dominate Leaders with weak crotches and included bark. Deep hollow cavity in trunk. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	25	
796	25" Red Maple	Poor	Poor	Non-Specimen	Was a 2 Co-Dominate tree that has split causing large cavity with decay.	26	
512	28" Red Maple	Poor	Poor	Non-Specimen	Tree has a 20° lean. 3 Co-Dominate Leaders with weak crotches and included bark. The main leaders grown together creating poor union and entry point for insects and disease. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	27-28	
510	46" Tulip Poplar	Poor	Poor	Non-Specimen	3 Co-Dominate Leaders with severe decay in crotch creating hollow trunk. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to condition tree is not a design consideration.	29-30	
509	30" River Birch	Fair	Fair	Specimen	Due to condition tree is a design consideration.		
508	36" Sycamore	Good	Good	Specimen	Due to condition, this tree should be taken into design consideration.		

Specimen Analysis

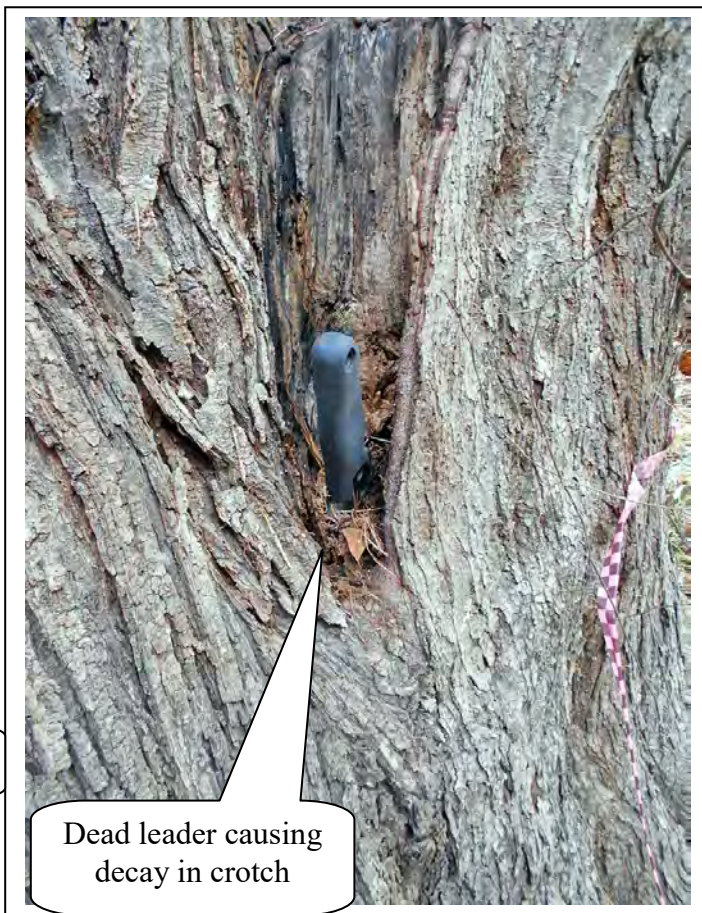
(General Observations: The site is at the beginning of the Pioneer Phase of Succession; Large portion of the site is wetlands with a stream branching through the center. The primary tree species are River Birch, Pine, Sycamore, Poplar, Maple and inferior species of Oaks. There are few understory trees such as Black Cherry and some Sourwoods. There are larger trees on the site, however most of them are infected with disease and insects such as Pine Borers and different trunk Cankers.)

Tree #	Size/ Species	Health Condition	Structural Condition	Classification	Comments	Photo # (See Attached)	City of Alpharetta's Assessment
507	24" River Birch	Fair	Poor	Boundary Tree	Possible Boundary Tree. Several main limbs are dead/ gone. Due to the location, this tree is a design consideration.	31	
506	25" Red Maple	Fair	Fair	Boundary Tree	Possible Boundary Tree. 2 Co-Dominate Leaders with included bark and decay in crotch. Due the species, a multi-stem tree is undesirable and could be a life safety issue. Due to the location, this tree is a design consideration.	32	
505	30" River Birch	Good	Good	Specimen	Due to condition, this tree should be taken into design consideration.		
979	27" Willow	Good	Good	Specimen	Due to species, tree should not be a design consideration.		



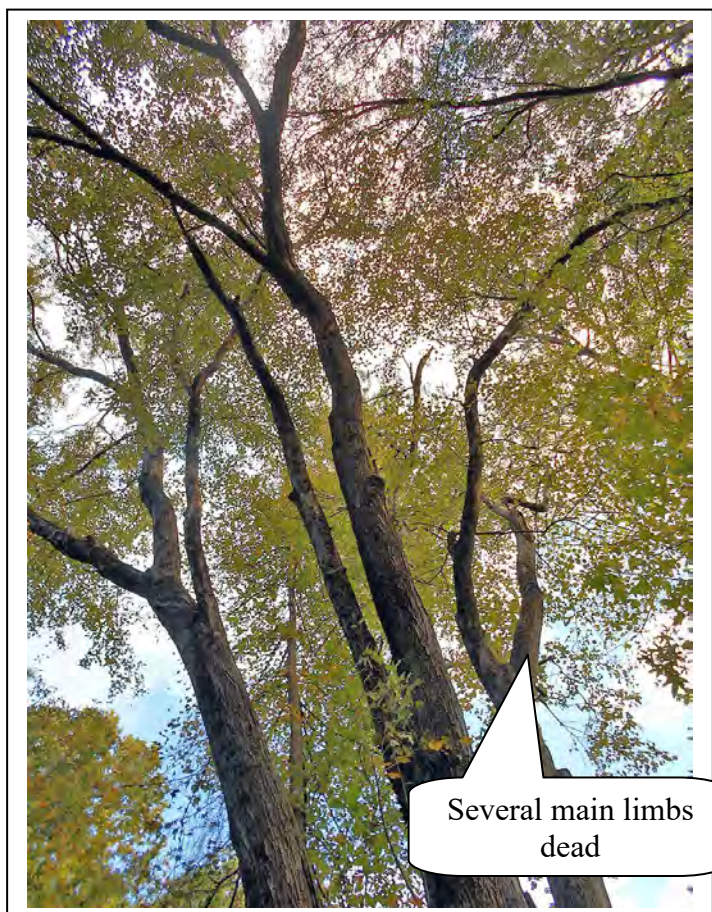
Multiple trees

Photo 1



Dead leader causing
decay in crotch

Photo 2



Several main limbs
dead

Photo 3



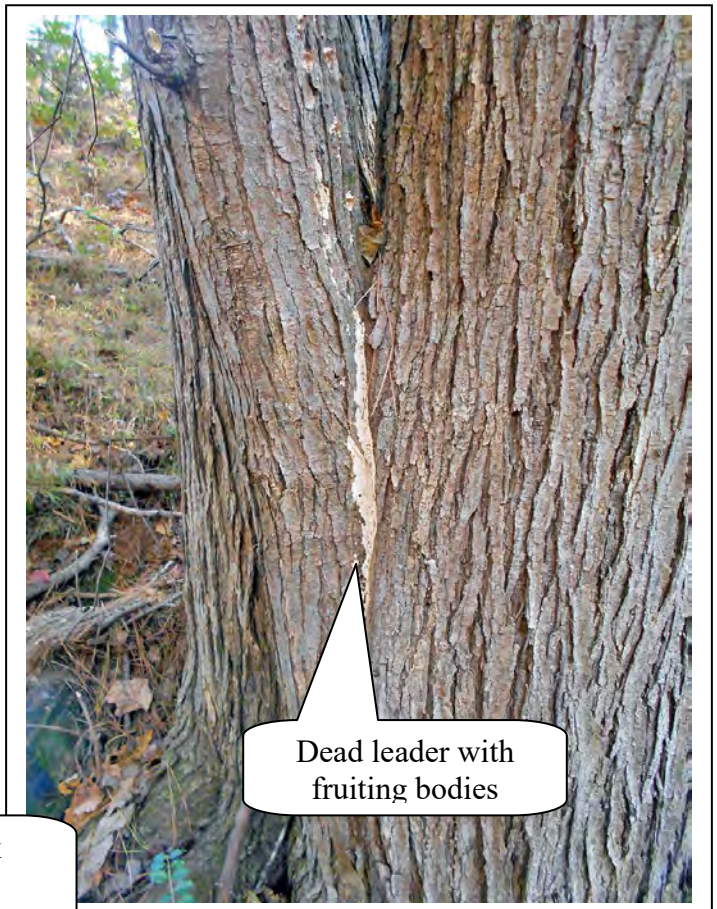
Numerous Trunk
Cankers and Galls

Photo 4



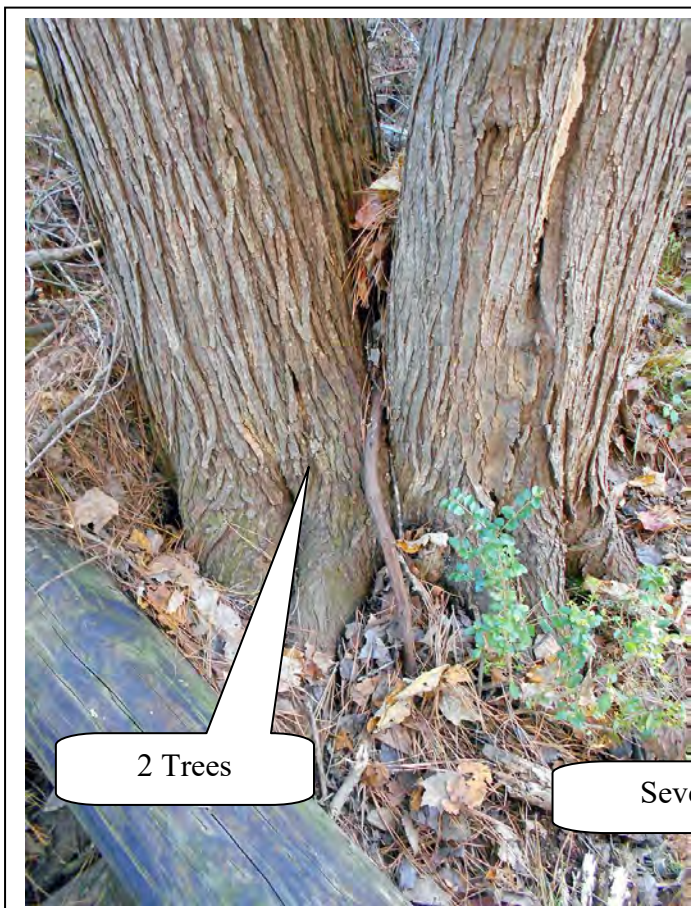
Severe Trunk
Canker

Photo 5



Dead leader with
fruiting bodies

Photo 6



2 Trees

Photo 7



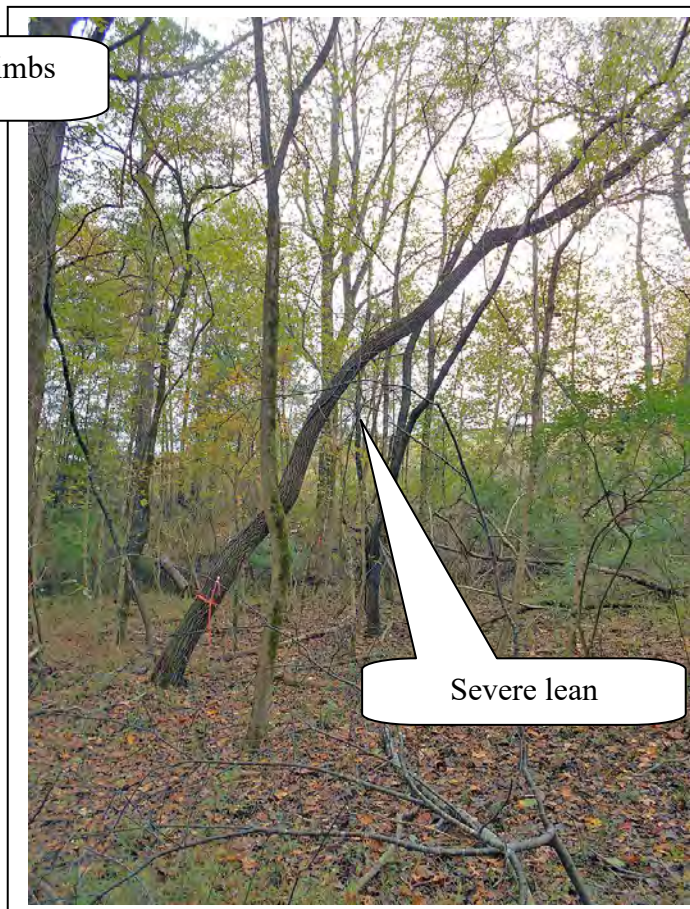
Severe lean

Photo 8



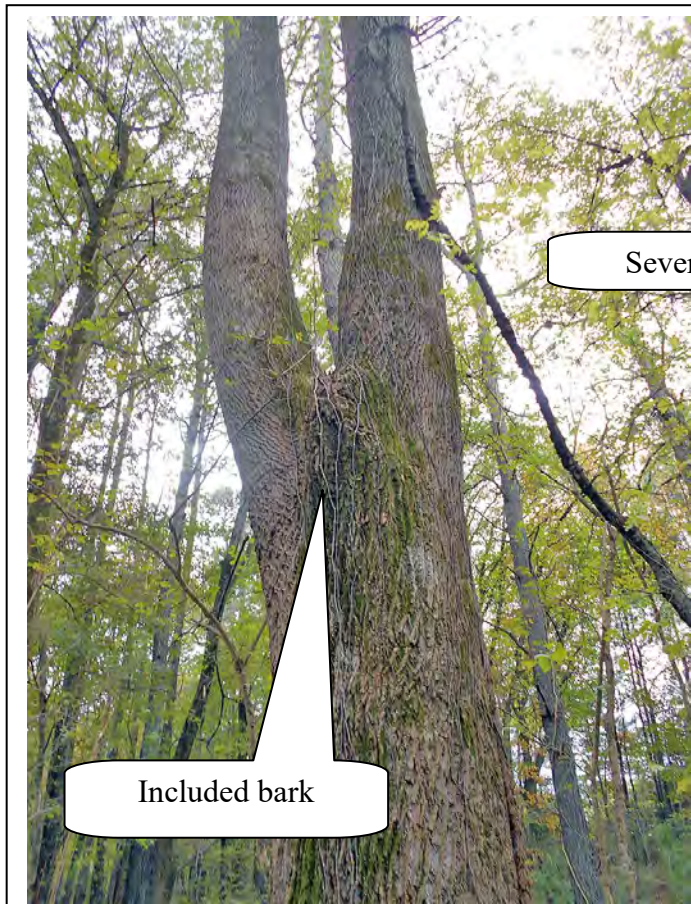
Dead main limbs

Photo 9



Severe lean

Photo 10



Included bark

Photo 11



Severe decay

Photo 12



Photo 13



Photo 14



Photo 15

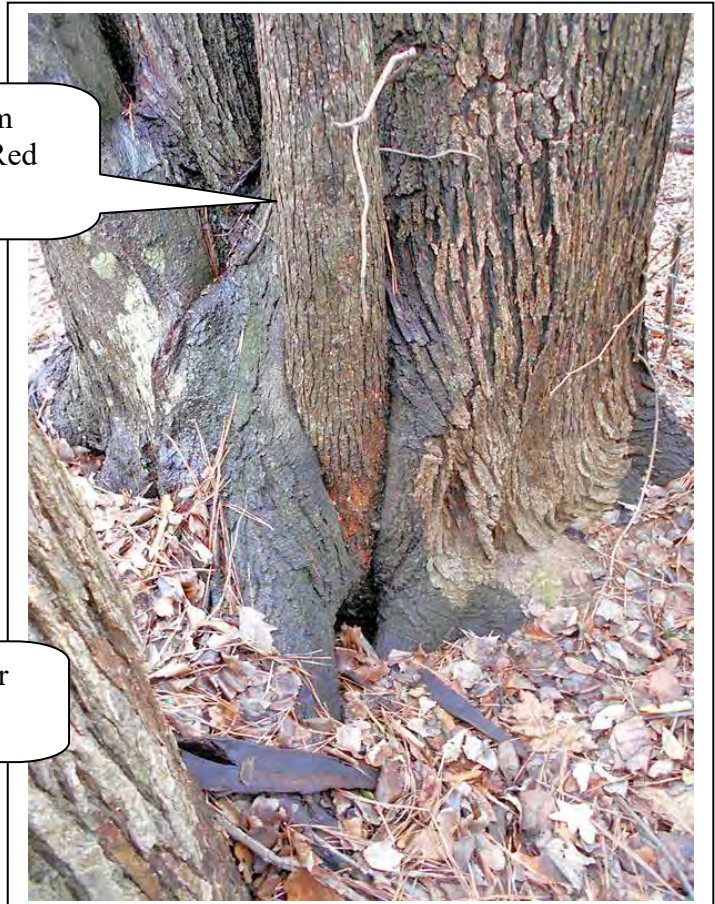


Photo 16



Photo 17

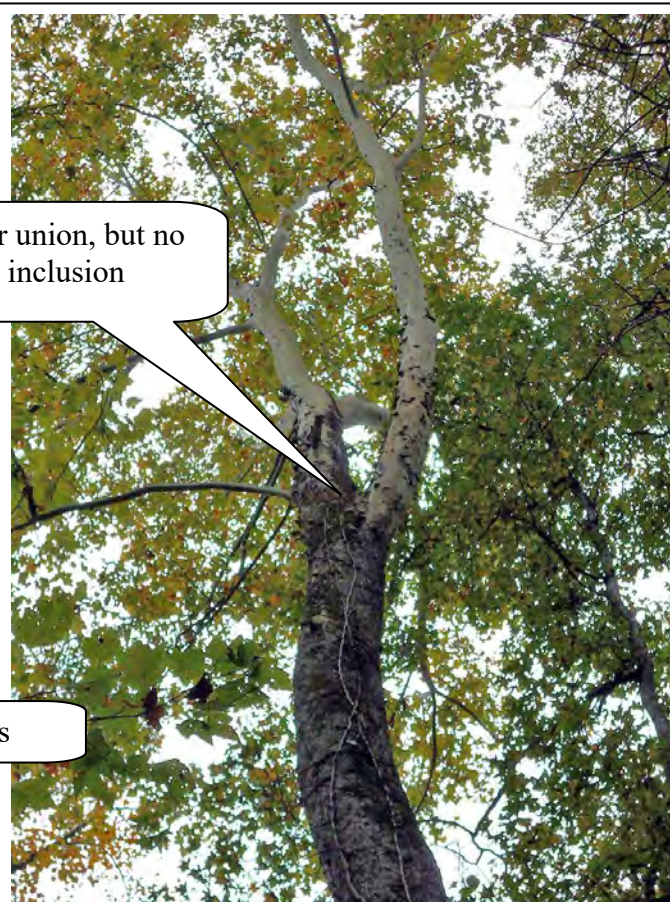


Photo 18

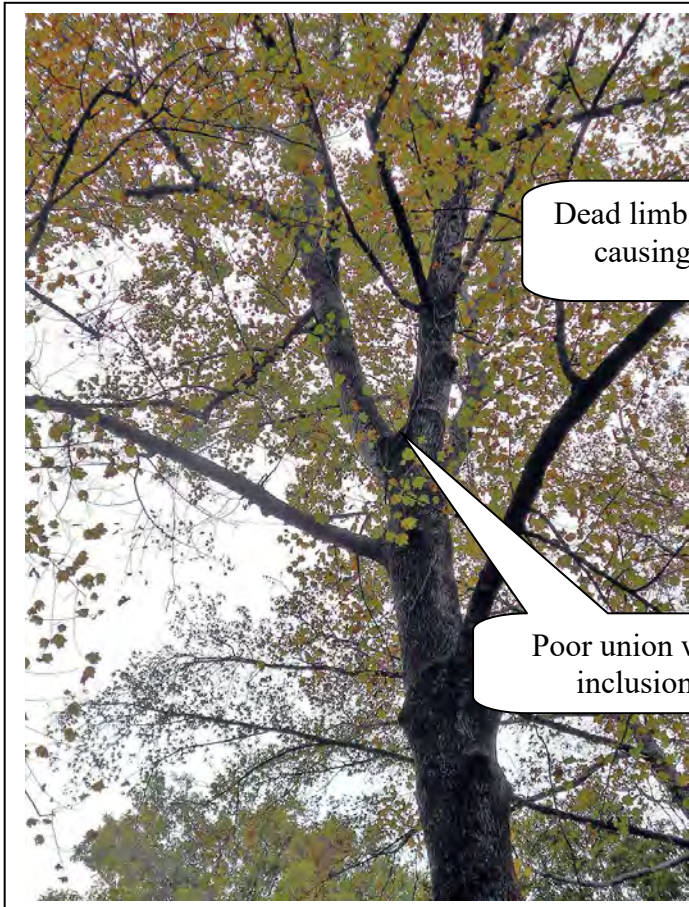


Photo 19



Photo 20

Poor union, but no inclusion

2 Trees

Dead limbs possibly causing decay

Poor union with inclusion

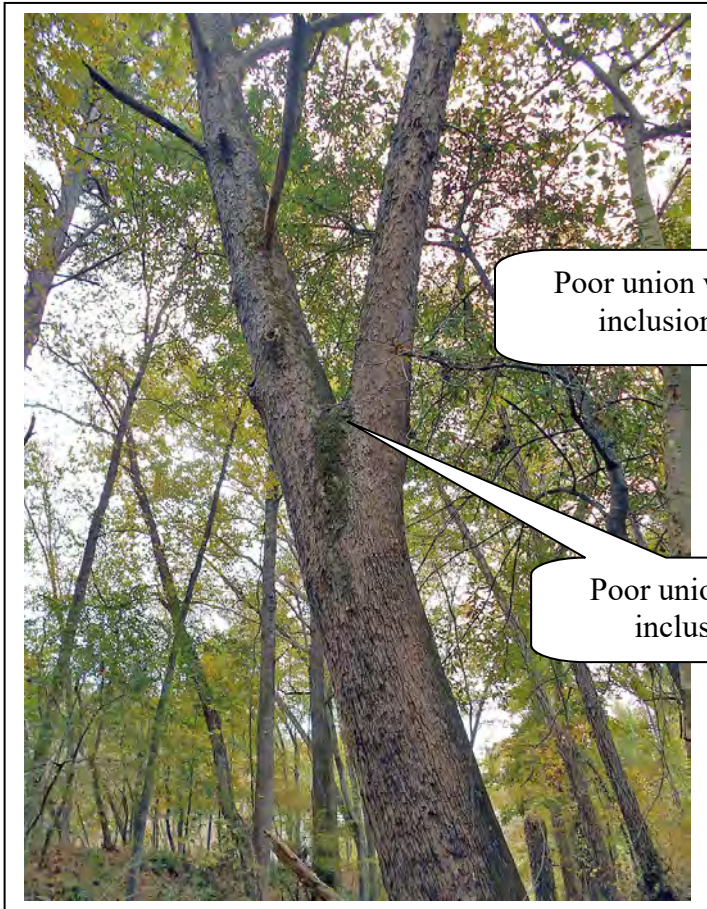


Photo 21

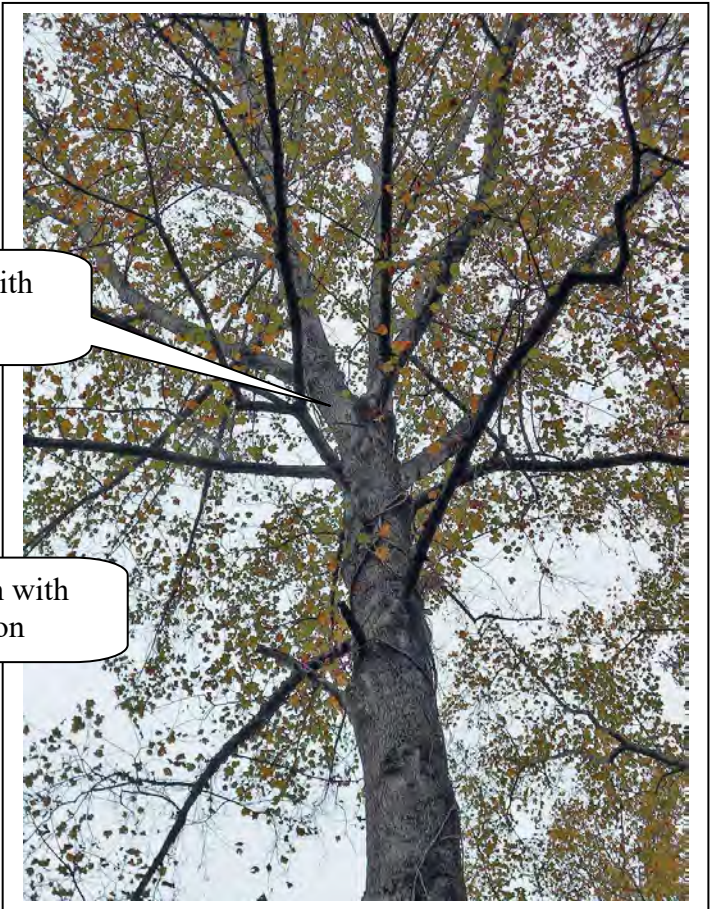


Photo 22

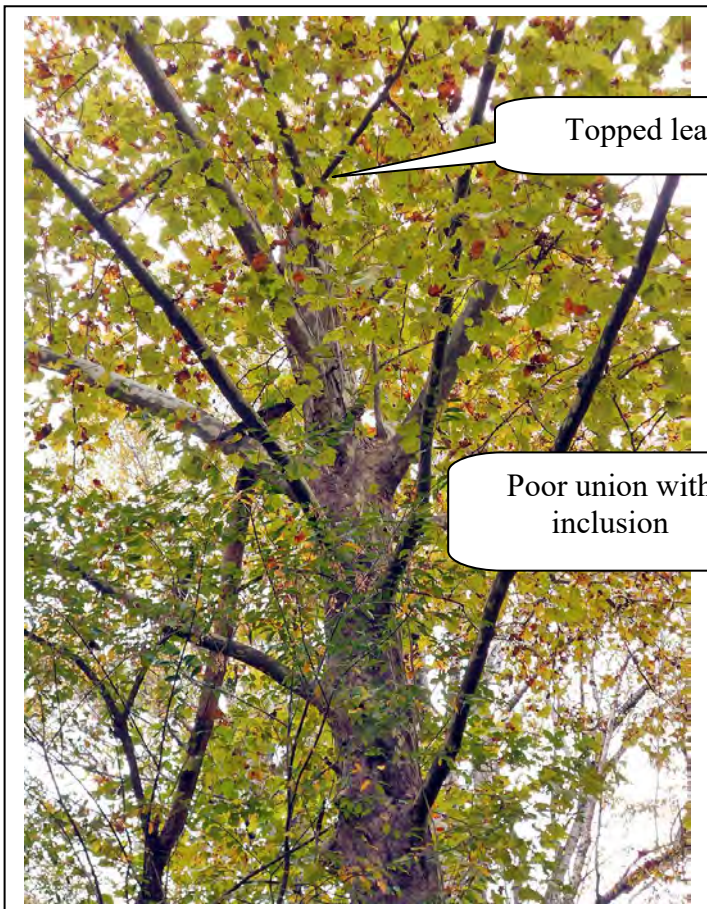
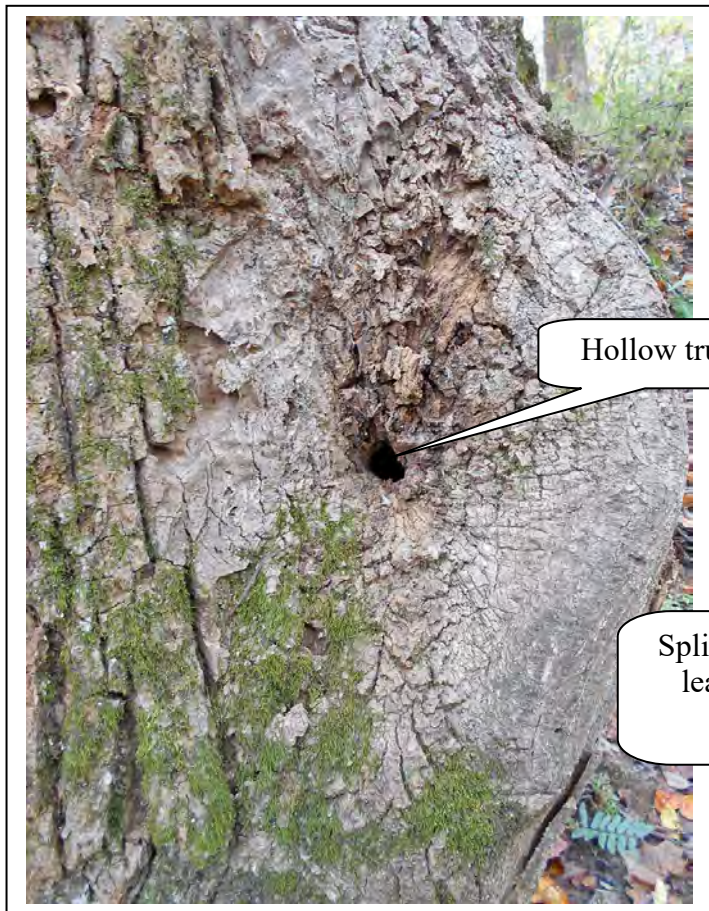


Photo 23



Photo 24



Hollow trunk

Split Co-Dominate
leaders causing
decay

Photo 25

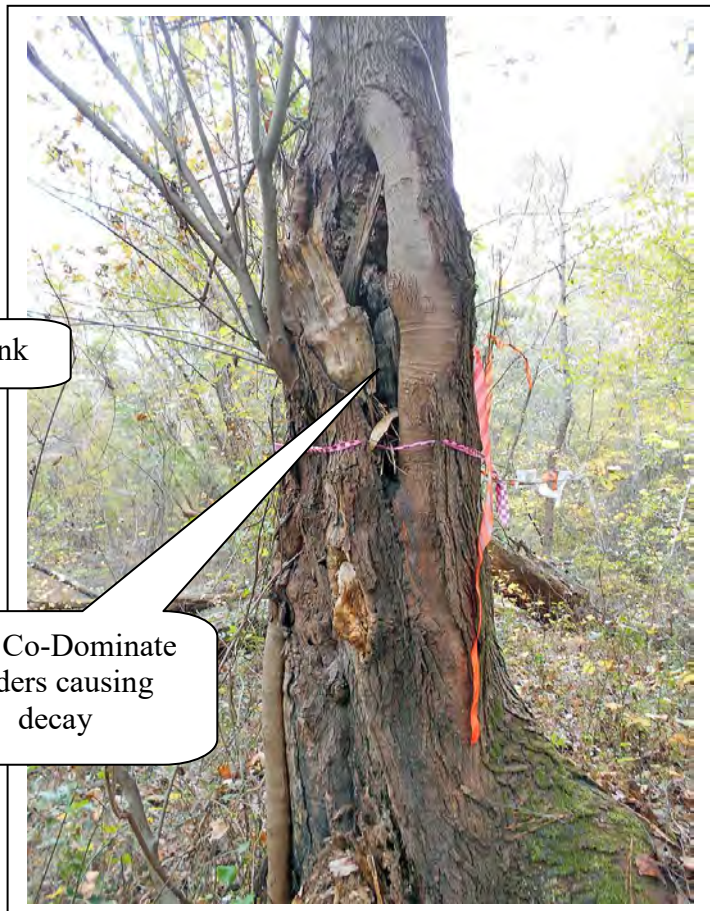
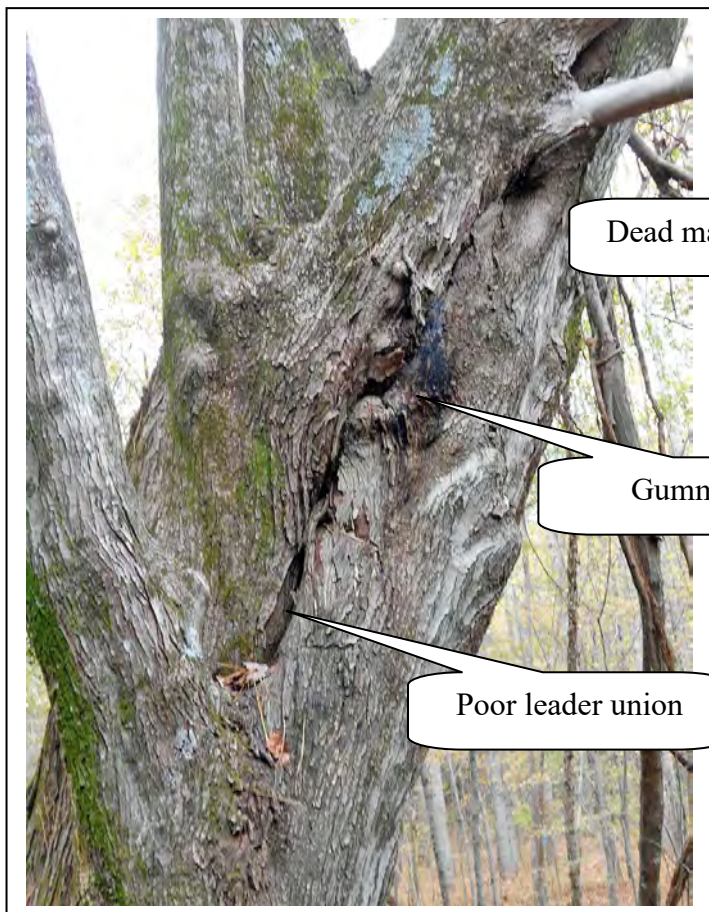


Photo 26



Dead main limbs

Gummosis

Poor leader union

Photo 27

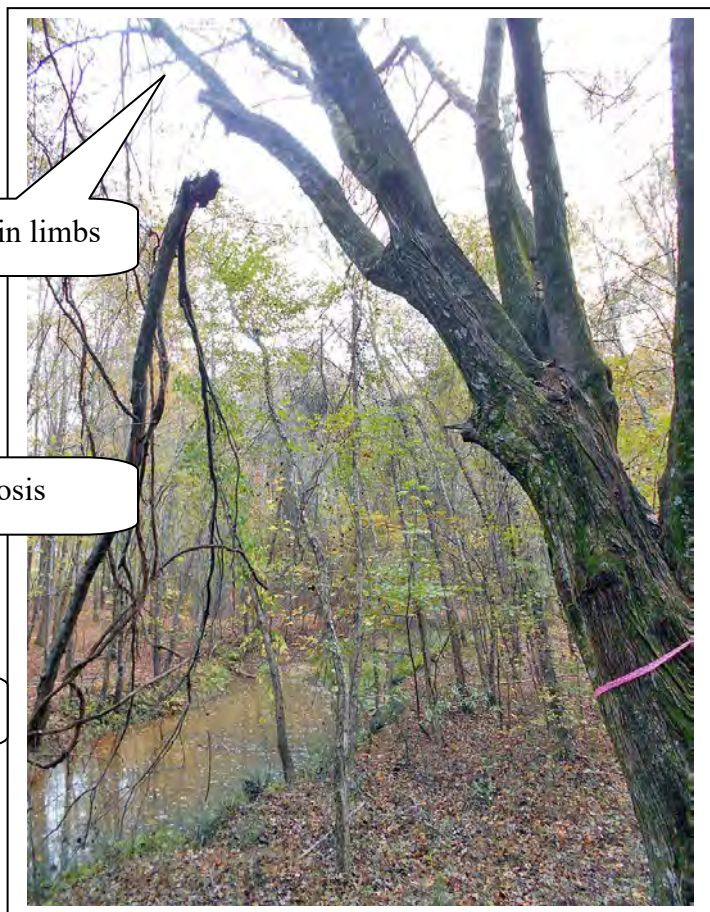


Photo 28



Hollow trunk

Dead leader causing decay in trunk

Photo 29



Photo 30



Dead main limbs

Photo 31



Decay in crotch

Photo 32

7/22/20

AMENDED LETTER OF INTENT

ROLADER & ROLADER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

1865 LOCKEWAY DRIVE, SUITE 601

ALPHARETTA, GEORGIA 30004

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www.roladerandrolader.com

DONALD A. ROLADER
don@roladerandrolader.com

D.W. "Pete" ROLADER
1924 - 2011

July 22, 2020

Mayor and City Council
City of Alpharetta
2 Park Plaza
Alpharetta, GA 30009

RE: Variance Application V-20-01/E-20-02 Midgard Self Storage
Amended Letter of Intent

Dear Mayor and Council:

I represent Reliant Real Estate Management LLC which is the Applicant in the above-referenced Variance Applications. This letter shall serve as the Amended Letter of Intent for this Application. It is provided in addition to the original Letter of Intent filed by AEC, Inc. and the Constitutional Objection Letter filed by AEC, Inc. Please incorporate this letter in the zoning file for this application and make it a part thereof.

Without a variance, a total of 91 parking spaces would be required. This is far more than is necessary for a self-storage building, which is a permitted use under the zoning ordinance. Without a variance, it would be impossible to develop the property for a permitted use, which of course would be unlawful. The City routinely grants parking variances for climate controlled self-storage facilities.

We have attached the following in support of our application for a variance:

Exhibit 1. Attached as Exhibit 1 is a letter dated July 1, 2020 from Steven L. Rowe, ASLA, with the engineering firm of AEC, Inc., in which he opines that 28 spaces are more than sufficient. Mr. Rowe also highlights that more spaces cannot be built on the property due to physical constraints on the property and would necessarily cause a reduction to the building size and hence the project's economic viability.

Exhibit 2. Attached as Exhibit 2 is a financial analysis by Applicant, which has extensive and proven experience in developing and operating self-storage facilities. Applicant has more than 48 self-storage facilities in 6 states. The analysis shows that, in addition to a substantial increase in construction costs, reducing the size of the building due to the extra, unneeded spaces would result in a negative financial return on the property, including a multimillion loss in property value. A modification necessary to meet the City's requirement, without any variance, would force a reduction of 18,150 net rentable square footage, or almost 1/3 of the current net rentable square footage. The

7/22/20

AMENDED LETTER OF INTENT

project would fail to even meet the minimum financial requirements of profitability.

- Projected loss in monthly gross rental (\$27,000)
- Reduction of 5-year project initial rate of return from 19.6% to a negative loss of (-16.2%)
- Reduction of Residual Value from \$15,469,703 to \$10,310,393 (\$5,159,310 Loss after 5 Years)

Exhibit 3. Attached as Exhibit 3 are photos and parking data on every other comparable self-storage facility within a five mile radius of subject property. This market area includes the entire City of Alpharetta and most all of Fulton County north of the Chattahoochee River. You will note that these comparable facilities were permitted to have far fewer parking spaces than ordinance would dictate for subject site. In fact, the most recently permitted self-storage facility, located within City borders, of approximately the same size, opened in 2018 and has 21 spaces. As the recent drone photos demonstrate, even that number of spaces is more than sufficient for the traffic flow generated on the premises. Self-storage facilities simply do not have many visitors at any given time. A parking requirement for the Applicant should be consistent with that afforded to similar facilities. Otherwise, this would put Applicant at a severe competitive disadvantage to other facilities and would be an obstacle to any reasonable economic development of the property for a permitted use. Similarly situated property owners must be similarly treated.

There is no legitimate or compelling basis for requiring 91 spaces for this facility. The extra spaces will never be used, are not necessary for customers, would be very costly to build and would render the property effectively unusable for a permitted use.

Further, we ask your approval for a variance to increase the height of the building by 1.75 feet to allow moving trucks to access the first floor. The building is not obtrusive and the appearance of the building from GA 400 will not be noticeable. On the same intersection, the Avalon development has a ten story office building, an eight story office building and an eight story hotel on the pin corner.

Automobile sales and leasing (trucks, vans, cars and accessories) is a permitted use in the LI zoning district. Applicant intends to provide space to lease up to four moving trucks to serve the needs of its customers. Applicant objects to any condition which restricts a permitted use on the property. Applicant has not requested a change of zoning category.

Sincerely,



Donald A. Rolader
Attorney for Applicant

cc: Lew Pollack

7/22/20

AMENDED LETTER OF INTENT



50 Warm Springs Circle
Roswell, Georgia 30075-4937

Main: 770.641.1942
Fax: 770.998.6924

July 22, 2020

Donald A. Rolader, Esq.
ROLADER & ROLADER, P.C.
1865 Lockeway Drive
Suite 601
Alpharetta, GA 30004

RE: **Midgard, Alpharetta
Parking Requirement**

Dear Don:

AEC, Inc. (AEC) reviewed the Alpharetta Unified Development Code and has determined that 91 parking spaces are required for the proposed Midgard development despite their business model does not require 91 parking spaces. The site plan we are proposing has 28 parking spaces and is sufficient for the proposed self-storage use and given the constraints that exist on the property, meeting the required parking will be impossible without major and costly modifications to the building.

The property is constrained by Flood Plain, Stream Buffers and a required zoning buffer adjacent to Georgia 400. Although the site is almost 15 acres, a majority of the property is not developable and due to the natural constraints, there are no other places to add surface parking (please see the attached exhibit). Our only option would be to significantly impact the building.

To meet the required parking, we would need to eliminate a significant portion of the bottom floor of the building and replace it with parking. This solution would eliminate 15,912 square feet of storage space and convert it to parking spaces under the second and third floors of the building. We have attached this plan option for your reference.

We also reviewed the study prepared by Midgard regarding the existing self-storage facilities within the City of Alpharetta and their actual parking. Of the six (6) facilities studied, the onsite parking ranged from as little as 2 spaces to a maximum of 21 spaces which is consistent with other self-storage facilities we have helped design throughout the metro Atlanta area. After reviewing the study, it is clear that the 91 parking spaces required by the City of Alpharetta is far in excess of what is required to operate the business.

7/22/20

AMENDED LETTER OF INTENT

Meeting the code minimum required parking would be prohibitively costly for the development and more importantly not necessary given the required parking by the self-storage use. It is my professional opinion that the requirement of 91 spaces is excessive and unnecessary for a self-storage use and that the Alpharetta code does not accurately reflect the actual required spaces for self-storage. If you have any questions or need any further information, please feel free to call me at your convenience.

Sincerely,
AEC, Inc.



Steven L. Rowe, ASLA
Vice President

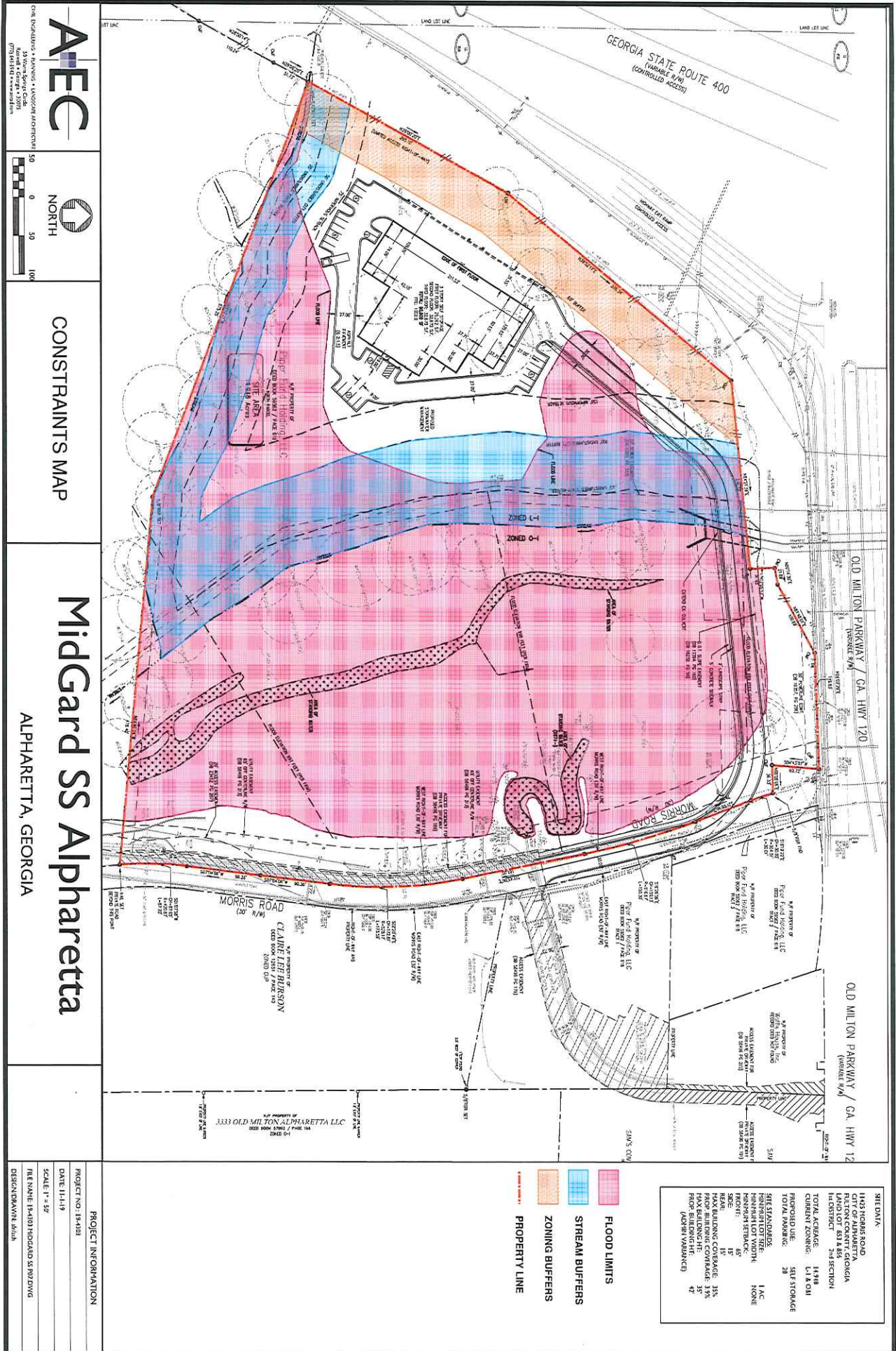
cc: Mr. Lew Pollack (Reliant Real Estate Management, LLC)
Ms. Debbie Hanley (Reliant Real Estate Management, LLC)

SLR/slr
Attachments

M:\2019 JOBS\19-4303 Midgard Storage\DOCS\Midgard-Required Parking Letter (7-1-2020).docx

7/22/20

AMENDED LETTER OF INTENT



7/22/20

AMENDED LETTER OF INTENT



ARCHITECTURAL ENGINEERING CONSULTANTS
200 Peachtree Street, Suite 2000
Atlanta, Georgia 30308
(404) 525-1100 • www.aec.com

**PARKING PLAN EXHIBIT
FOR INDUSTRIAL USE**

Midgard SS Alpharetta

ALPHARETTA, GEORGIA

PROJECT INFORMATION

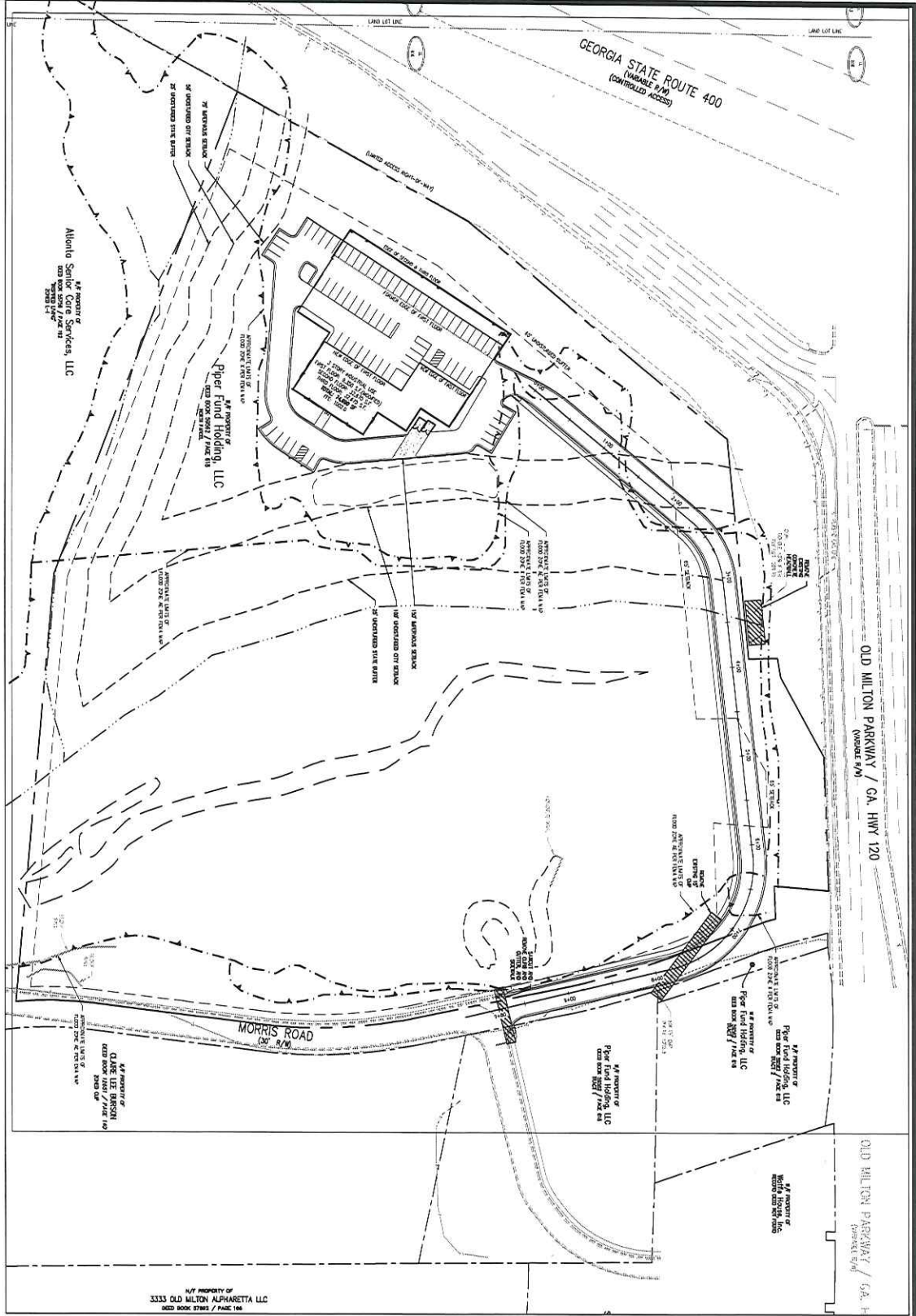
PROJECT NO.: 14-1001

DATE: 4-8-2020

SCALE: 1" = 50'

FILE NAME: 14-1001 COV ALPHARETTA INDUSTRIAL DWG

DESIGNER: AEC



PARKING DATA	
BUILDING SF:	74,000 SF
PARKING REQUIRED:	1,000 SF = 75
PARKING PROVIDED:	77 SPACES

SITE DATA	
11105 MORRIS ROAD	
CITY OF ALPHARETTA	
ALPHARETTA, GEORGIA	
LAND LOT: 83.1.555	
14 DISTRICT: 2-4 SECTION	
TOTAL ACRES: 14.98	
CURRENT ZONING: L-1 B.O.M.	
PROPOSED USE: INDUSTRIAL	
SETBACKS:	
FRONT LOT SETBACK:	15'
REAR LOT SETBACK:	15'
REAR SETBACK:	15'
REAR SETBACK:	15'

Midgard Self Storage V-20-01 / E-20-02

Exhibit 2

Financial analysis shows that, in addition to a substantial increase in construction costs, the reduction in the size of the building due to the extra, unneeded spaces would result in a negative financial return on the property, including a multi-million loss in property value.

Year 5 Return Comparison		Original Plans	Add 90 Parking Spots
Starting Gross Potential Rent		\$104,326.00	\$77,787.00
Net Rentable SF	67,500		49,350
Year 5 Project IRR	19.6%		-16.2%
Year 5 Investor IRR	15.2%		-16.2%
Avg Annual ROI	20.2%		-11.7%
Year 5 Cash on Cash Return	10.1%		0.0%
Residual Value	\$15,469,703		\$10,310,393
Debt Coverage Ratio Year 3	0.9		0.48
DCR Year 4	1.26		0.78
DCR Year 5	1.52		0.96
DCR Year 6	1.63		1.03

AMENDED LETTER OF INTENT

7/22/20

Exhibit 3

Midgard Self Storage Parking Requirements for Comparable Self-Storage Facilities

The required parking ratio of 1:1000 (1 parking space/1,000 square feet), or 91 spaces. This is far greater than is necessary for this facility and far greater than the parking spaces required for comparable projects.

Existing parking requirements for self-storage sites located within the City limits:

SITE NAME	ADDRESS	NET LEASABLE SQ. FT.	VISUAL PARKING COUNT FROM JUNE 2020 AERIALS DURING BUSINESS HOURS
Extra Space Storage	10945 Westside Pkwy	104,841	21
Public Storage	530 State Highway 9	111,000	13
U-Store	4400 Kimball Bridge Rd	30,954	2
Extra Space Storage	855 N Main St	64,361	5
Cubesmart	411 State Highway 9	112,375	18
Public Storage	11455 Maxwell Rd	82,226	5

Note the newest self-storage facility built in 2018, at 10945 Westside Parkway, Alpharetta contains 104,841 square feet with a visual parking count of only 21.

Aerial photos of each comparable, which pertinent date, as attached.

V-20-01 / E-20-02: Midgard Self Storage

Extra Space Storage
10945 Westside Parkway, Alpharetta, GA
 (SITE NO. 1)



Year Built ¹ 2018	Net Rentable Square Feet ¹ 104,841	Striped Parking Spaces in Aerial 21	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

V-20-01 / E-20-02: Midgard Self Storage

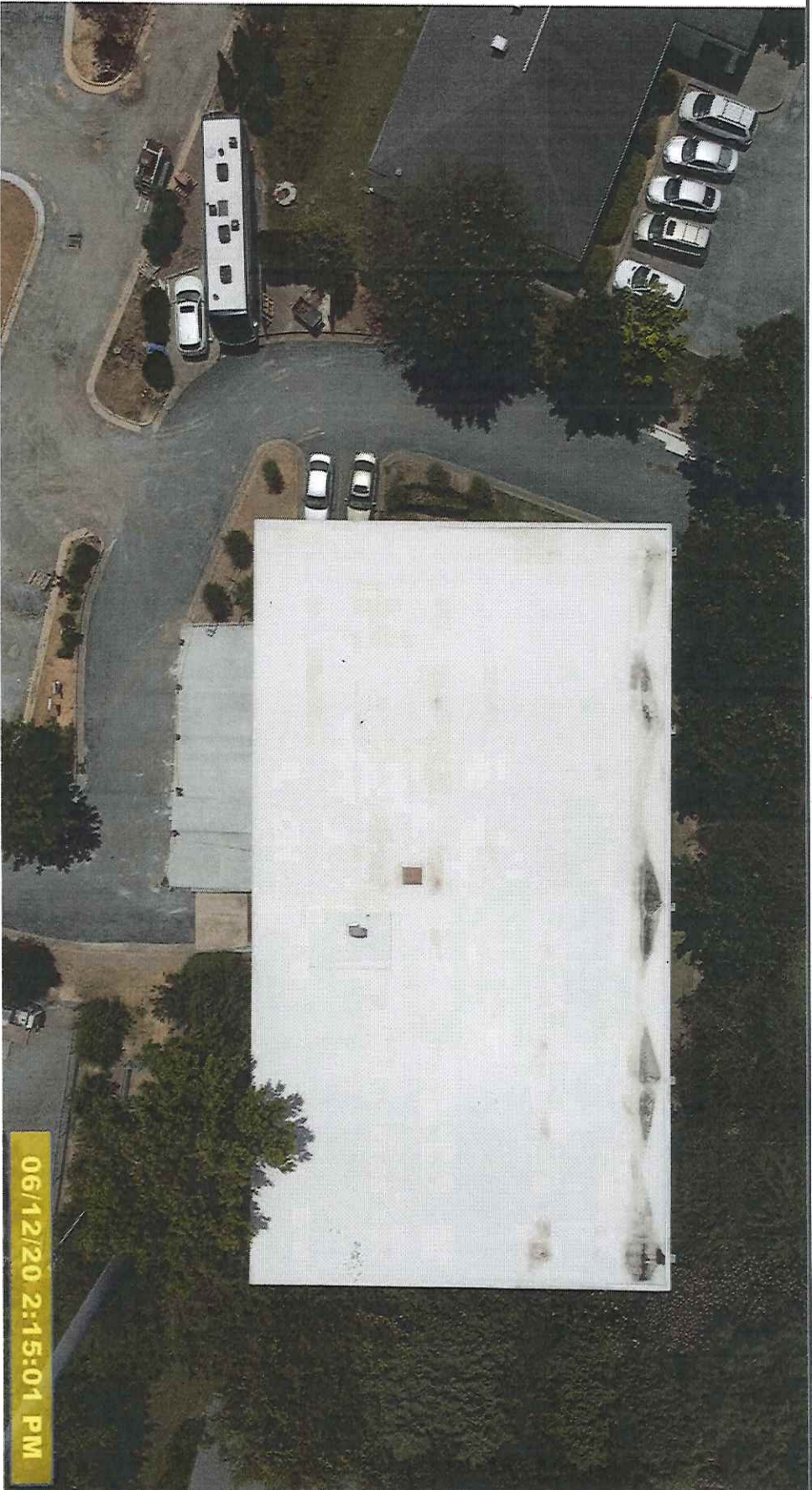
Public Storage
530 State Highway 9 (South Main Street), Alpharetta, GA
(SITE NO. 2)



Year Built ¹ 2004	Net Rentable Square Feet ¹ 111,000	Striped Parking Spaces in Aerial 13	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

U-Store
4400 Kimball Bridge Road, Alpharetta, GA
 (SITE NO. 3)



Year Built ¹ 2001	Net Rentable Square Feet ¹ 30,954	Striped Parking Spaces in Aerial 2	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Extra Space Storage
855 North Main Street, Alpharetta, GA
(SITE NO. 4)



Year Built ¹ 2000	Net Rentable Square Feet ¹ 64,361	Striped Parking Spaces in Aerial 5	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

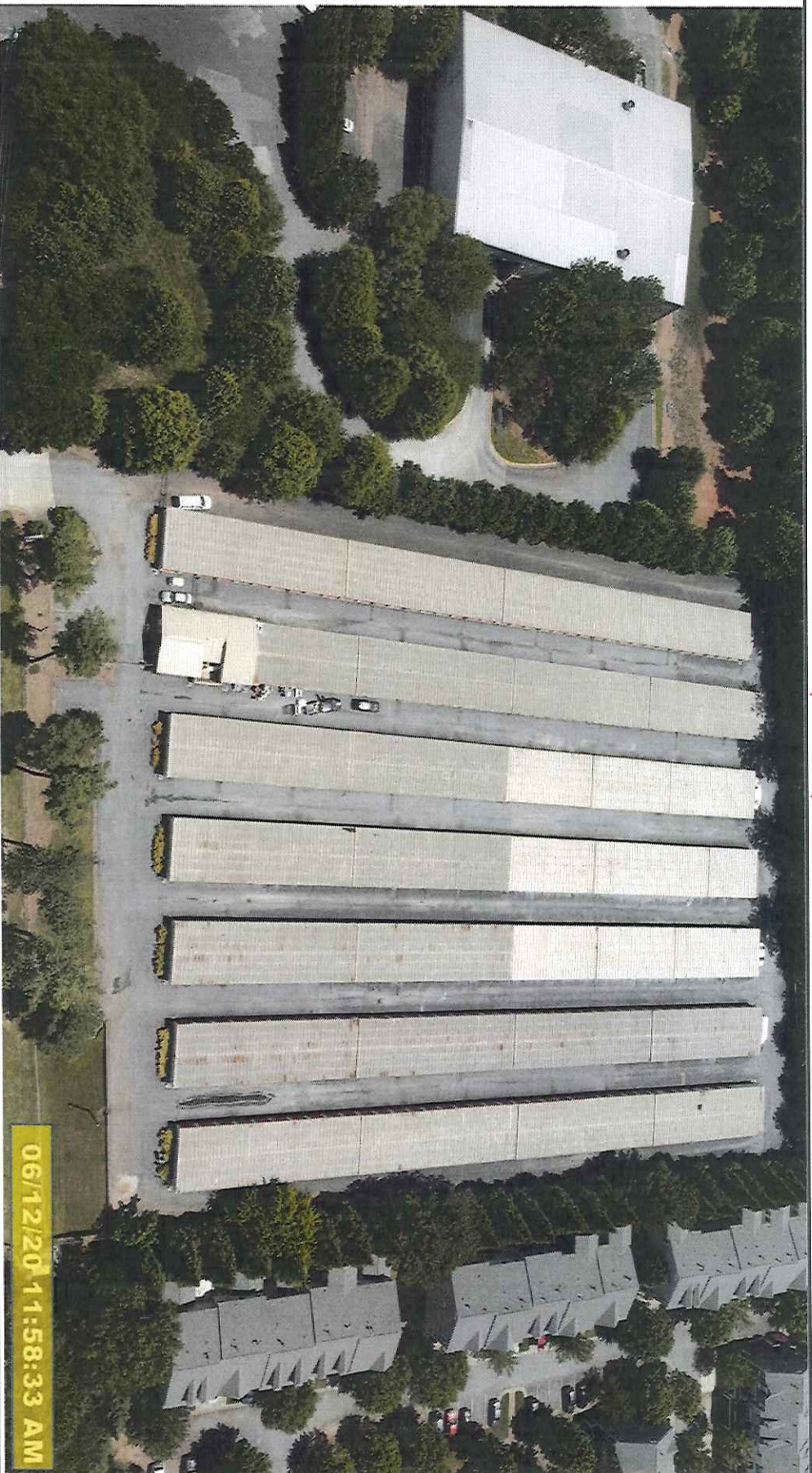
Cubesmart
411 State Highway 9 (South Main Street), Alpharetta, GA
 (SITE NO. 5)



Year Built ¹ 1995, 1997	Net Rentable Square Feet ¹ 112,375	Striped Parking Spaces in Aerial 18	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

Public Storage
11455 Maxwell Road, Alpharetta, GA
(SITE NO. 6)



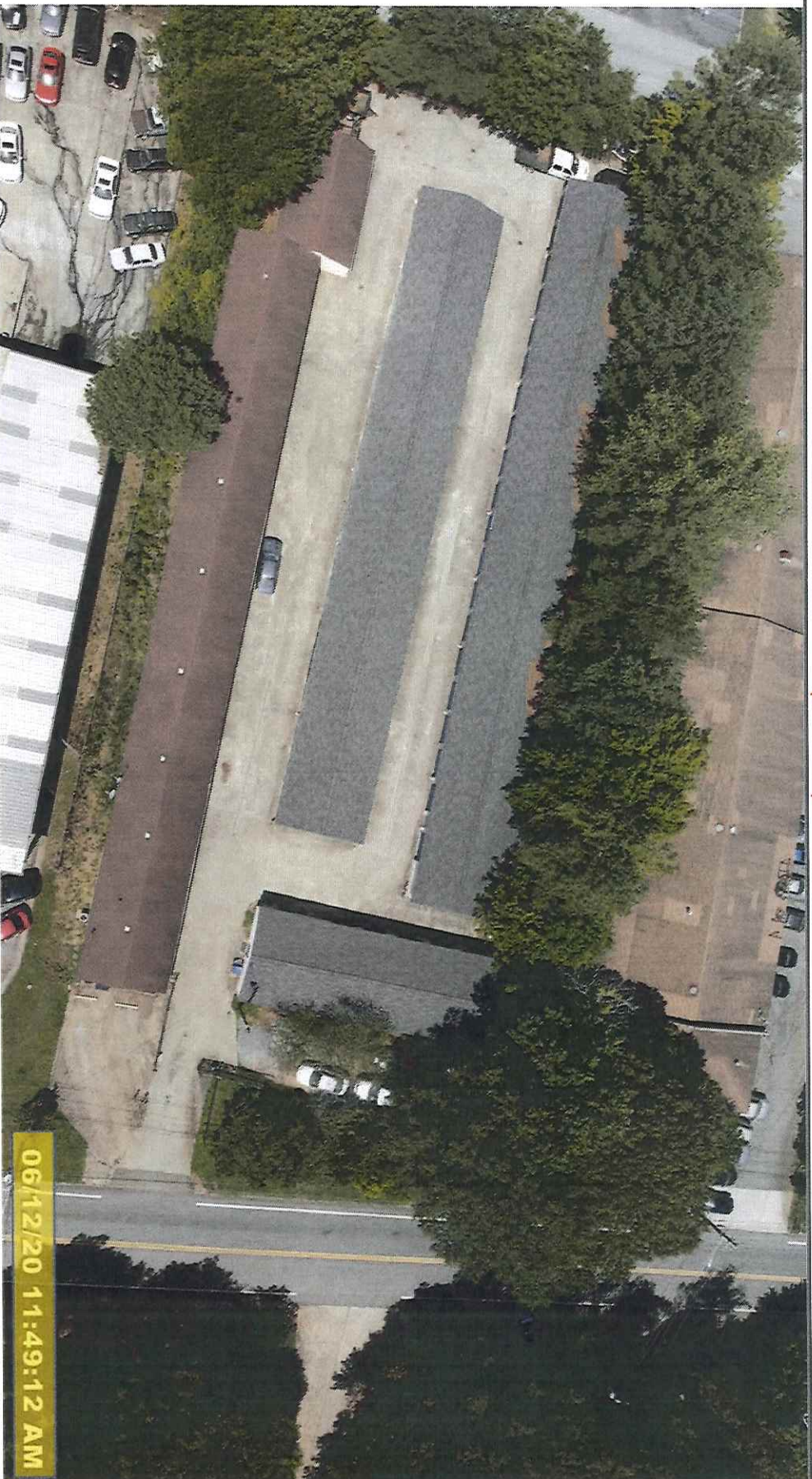
Year Built ¹ 1988	Net Rentable Square Feet ¹ 82,226	Striped Parking Spaces in Aerial 5	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

DNA Self Storage

11500 North Fulton Industrial Boulevard, Alpharetta, GA

(SITE NO. 7)



Year Built ¹ 1980	Net Rentable Square Feet ¹ 15,728	Striped Parking Spaces in Aerial 0	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Extra Space Storage
5635 Atlanta Highway, Alpharetta, GA
(SITE NO. 8)

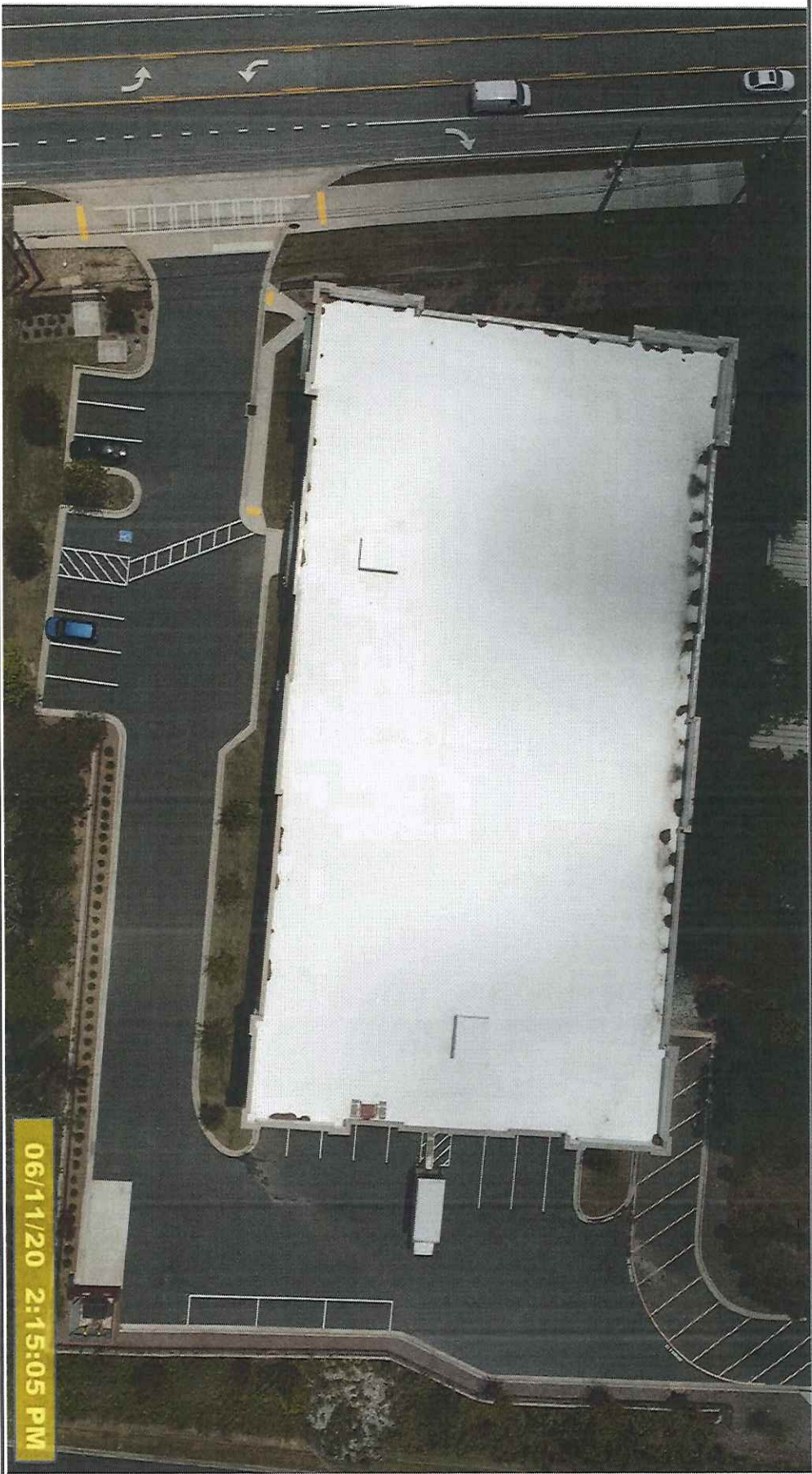


Year Built ² 2019	Net Rentable Square Feet ² 105,243	Striped Parking Spaces in Aerial 18	Truck Rental None
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

V-20-01 / E-20-02: Midgard Self Storage

CubeSmart Self Storage
622 North Main Street, Milton, GA
 (SITE NO. 9)

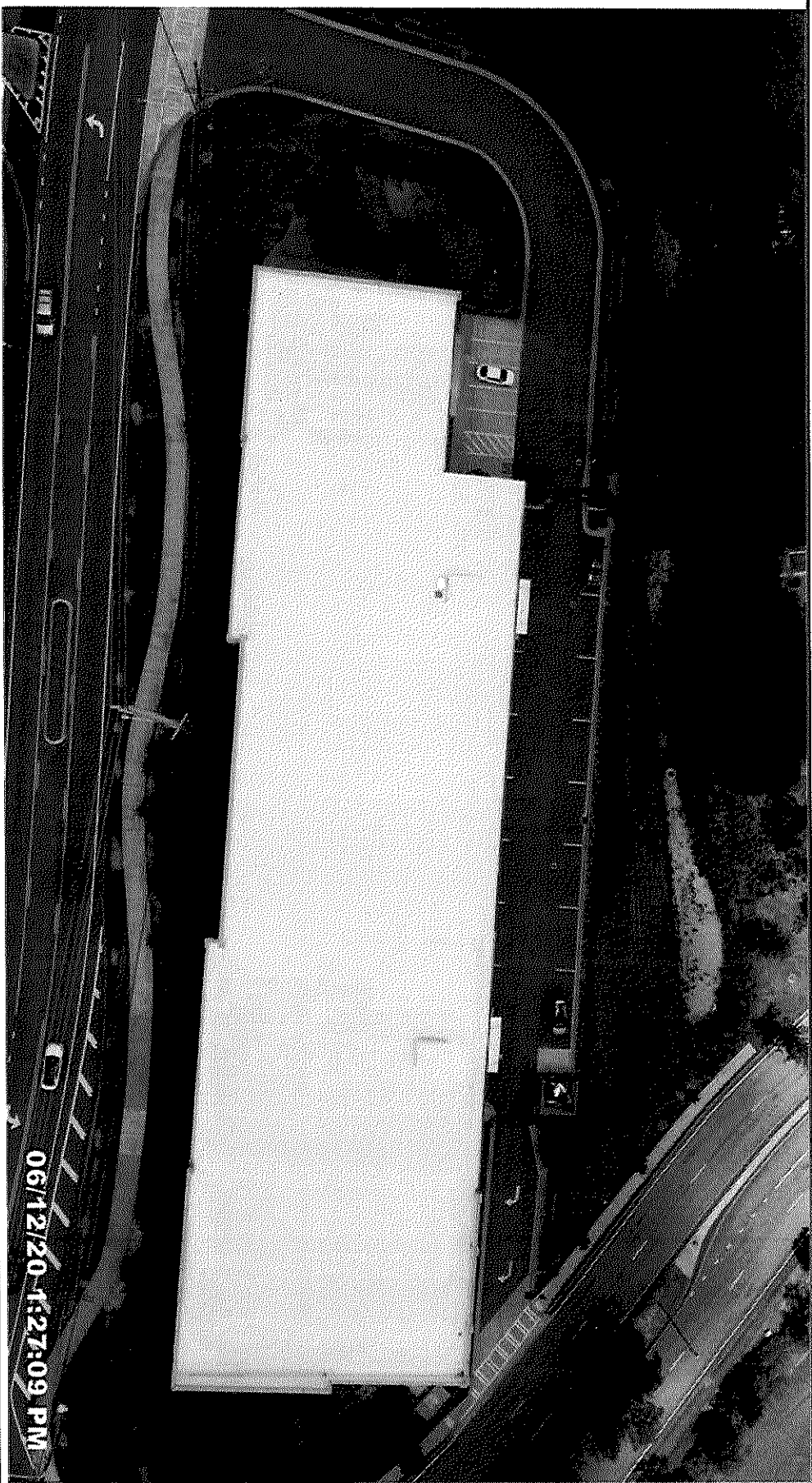


Year Built ¹ 2018	Net Rentable Square Feet ¹ 74,175	Striped Parking Spaces in Aerial 20	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors²Source – Forsyth County Georgia Board of Assessors

V-20-01 / E-20-02: Midgard Self Storage

Extra Space Storage
1605 Old Alabama Road, Roswell, GA
(SITE NO. 10)



Year Built ¹ 2016	Net Rentable Square Feet ¹ 68,800	Striped Parking Spaces in Aerial 20	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

Extra Space Storage
6650 Shiloh Road, Alpharetta, GA
(SITE NO. 11)



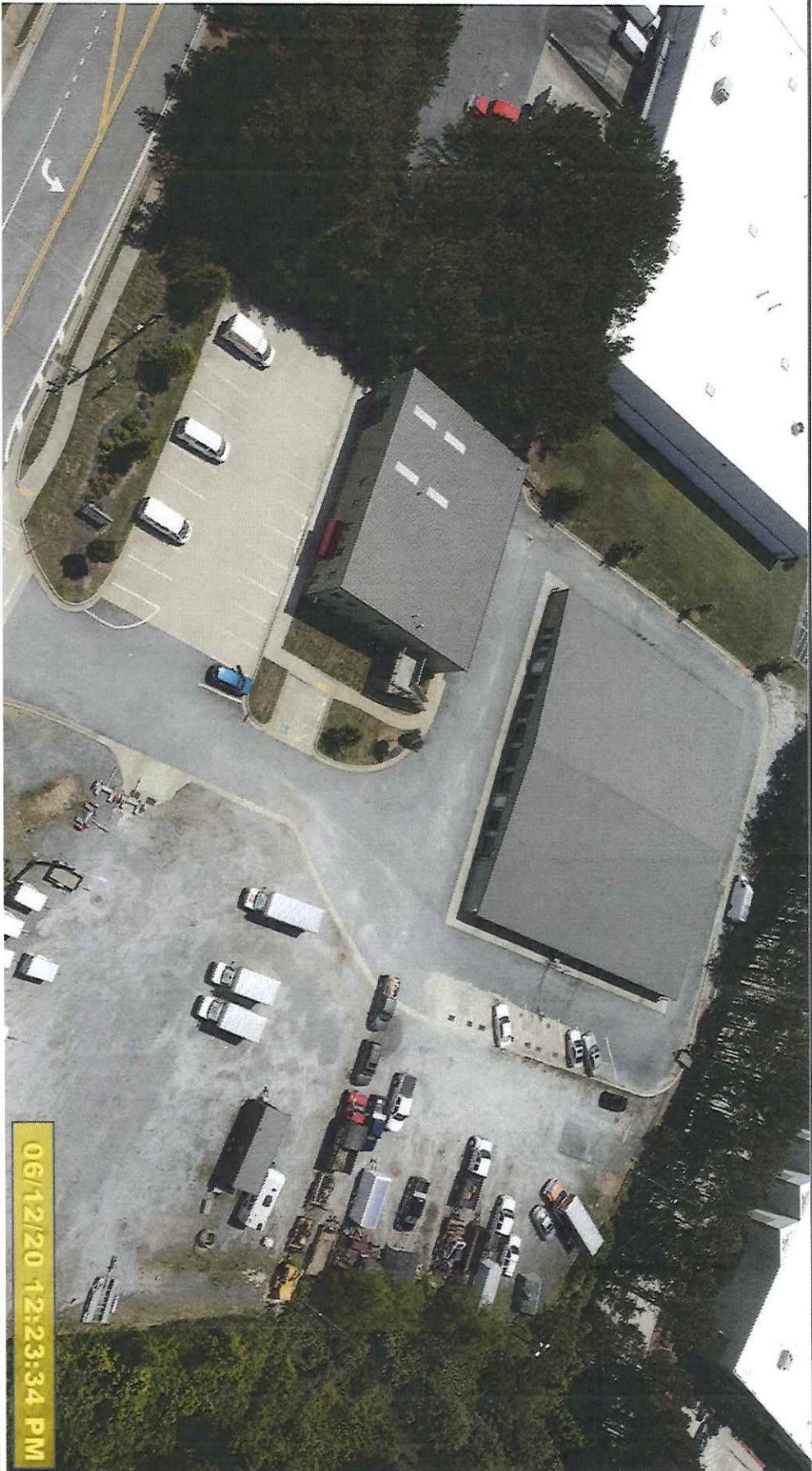
Year Built ² 2016	Net Rentable Square Feet ² 152,896	Striped Parking Spaces in Aerial 14	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors
²Source – Forsyth County Georgia Board of Assessors

V-20-01 / E-20-02: Midgard Self Storage

Old Ellis Self Storage
1205 Old Ellis Road, Roswell, GA

(SITE NO. 12)



Year Built ¹ 2014	Net Rentable Square Feet ¹ 22,380	Striped Parking Spaces in Aerial 34	Truck Rental Yes
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¹Source – Fulton County Georgia Board of Assessors²Source – Forsyth County Georgia Board of Assessors

Cimarron Storage and Leasing, LLC
405 Tidwell Drive, Alpharetta

(SITE NO. 13)



Year Built ² 2007	Net Rentable Square Feet ² 49,780	Striped Parking Spaces in Aerial 31	Truck Rental No
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¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Crooked Creek Storage
 6300 Atlanta Highway, Alpharetta, GA
 (SITE NO. 14)



Year Built ² 2005	Net Rentable Square Feet ² 19,050	Striped Parking Spaces in Aerial 0	Truck Rental No
---------------------------------	---	---------------------------------------	--------------------

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

McFarland-400 Storage
215 McFarland Parkway, Alpharetta, GA
(SITE NO. 15)



Year Built ²	Net Rentable Square Feet ²	Striped Parking Spaces in Aerial	Truck Rental
2000, 2001, 2018	195,149	4	Yes

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

U-Haul Moving & Storage
2840 Holcomb Bridge Road, Roswell, GA

(SITE NO. 16)



Year Built ¹ 2001	Net Rentable Square Feet ¹ 79,755	Striped Parking Spaces in Aerial 28	Truck Rental Yes
---------------------------------	---	--	---------------------

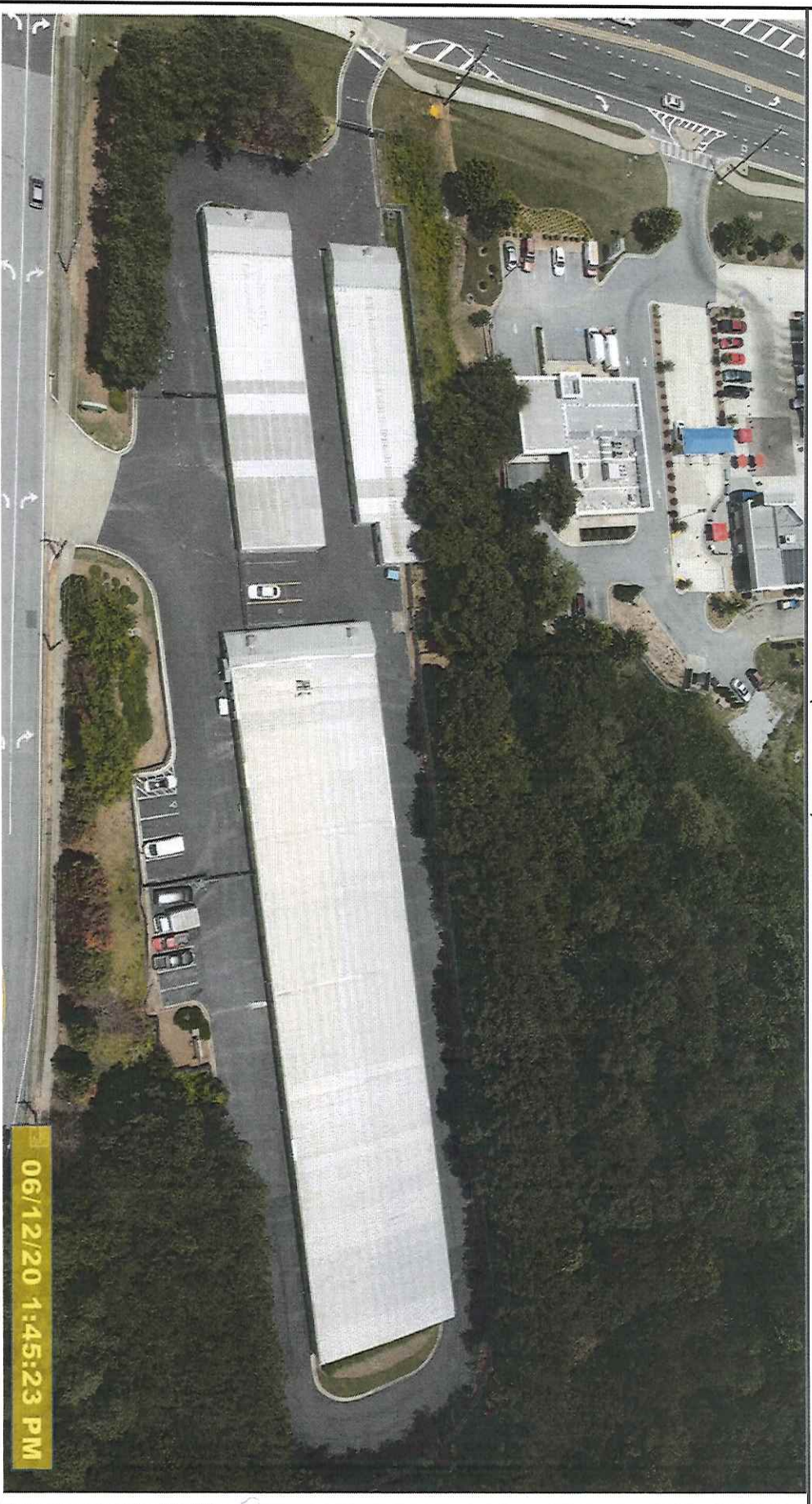
¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Extra Space Storage

2860 Holcomb Bridge Road, Roswell, GA

(SITE NO. 17)

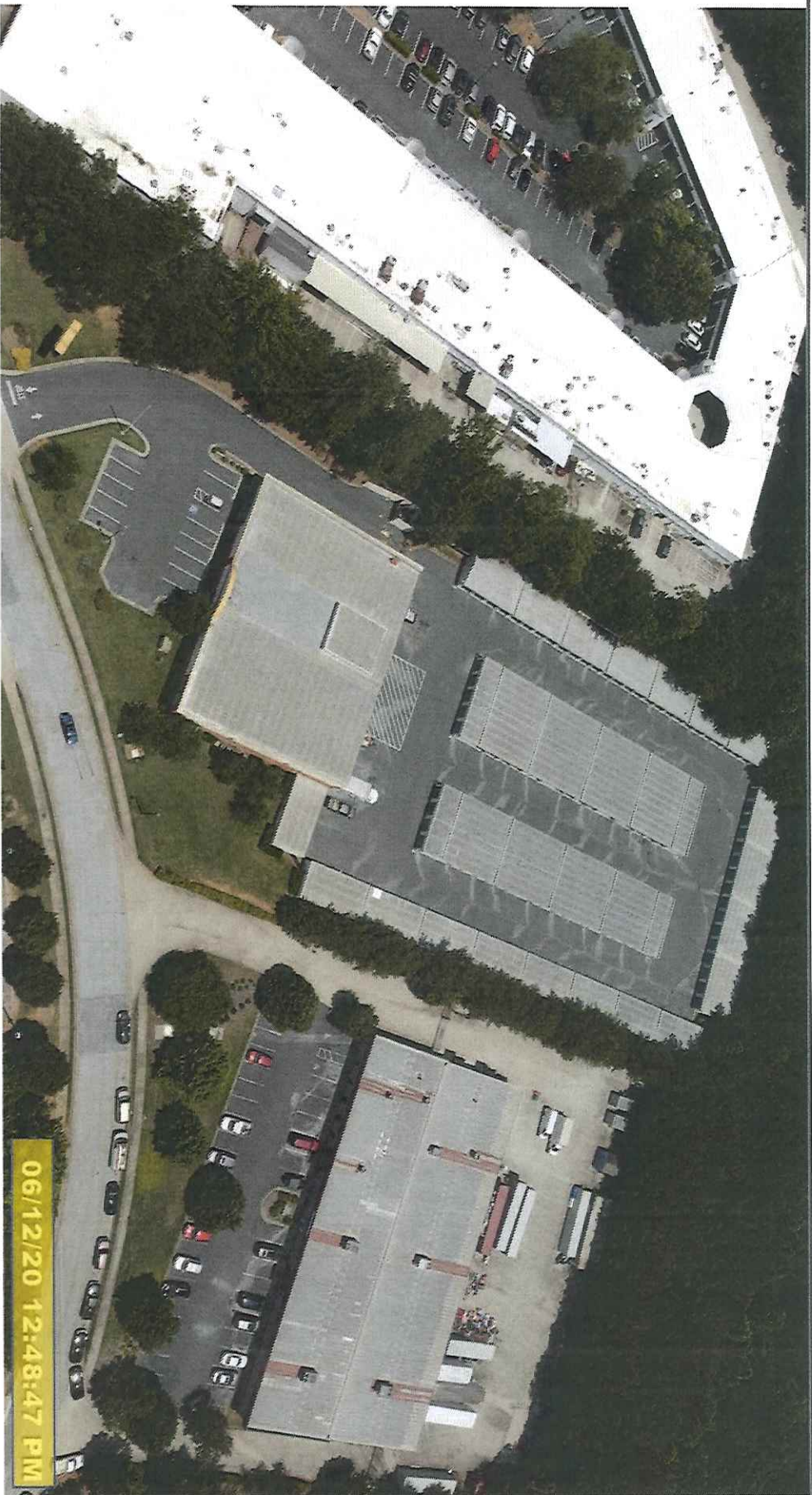


Year Built ¹ 1999	Net Rentable Square Feet ¹ 63,670	Striped Parking Spaces in Aerial 13	Truck Rental No
---------------------------------	---	--	--------------------

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Metro Self Storage
105 Mansell Court, Roswell, GA
 (SITE NO. 18)



Year Built ¹ 1998	Net Rentable Square Feet ¹ 75,000	Striped Parking Spaces in Aerial 12	Truck Rental No
---------------------------------	---	--	--------------------

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Extra Space Storage
12390 Arnold Mill Road, Roswell, GA
(SITE NO. 19)



Year Built ¹ 1997	Net Rentable Square Feet ¹ 61,980	Striped Parking Spaces in Aerial 18	Truck Rental No
---------------------------------	---	--	--------------------

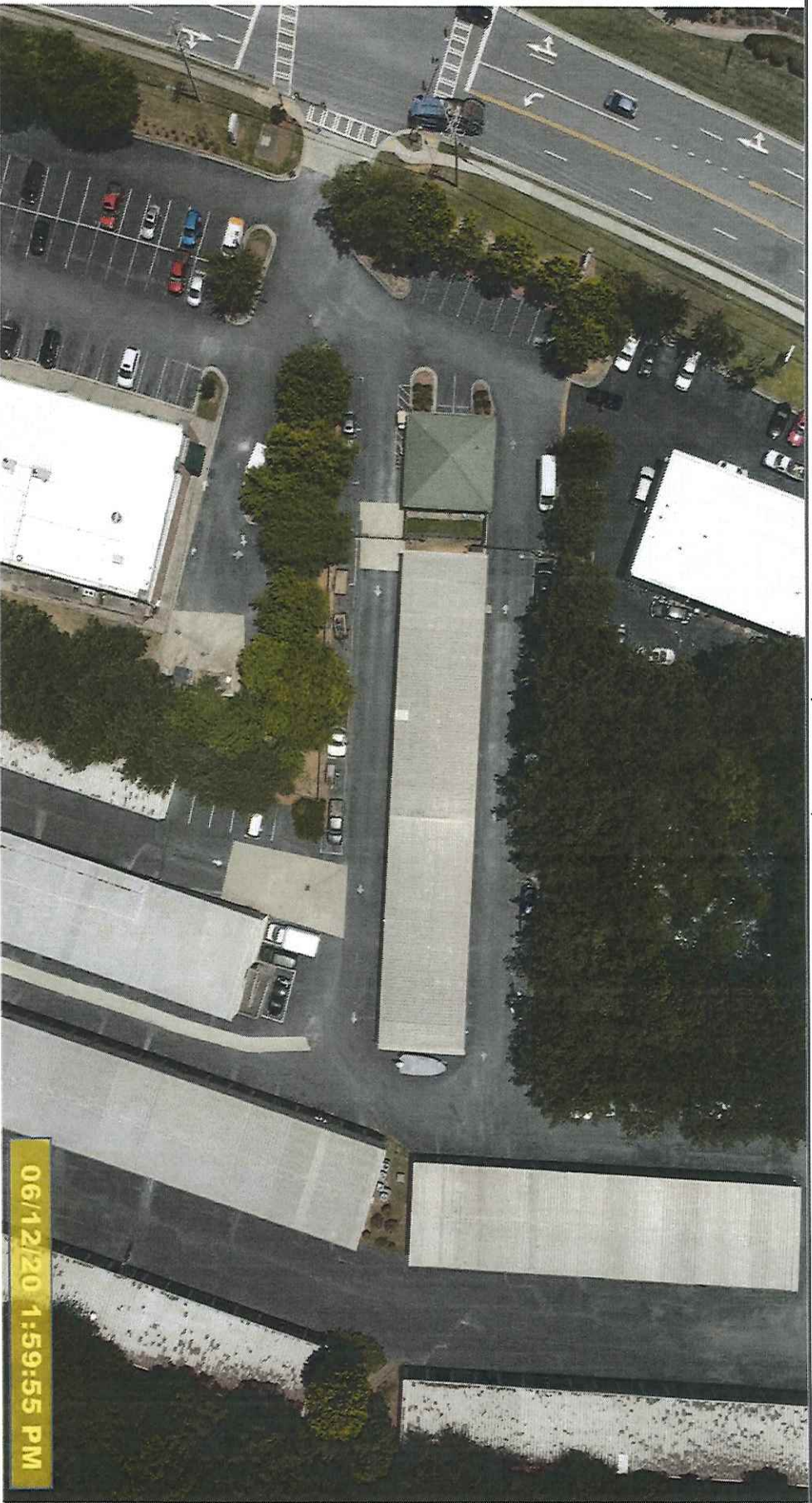
¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Life Storage

9940 Jones Bridge Road, Johns Creek, GA

(SITE NO. 20)



Year Built ¹ 1994	Net Rentable Square Feet ¹ 60,259	Striped Parking Spaces in Aerial 34	Truck Rental Yes
---------------------------------	---	--	---------------------

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors

Midway Self Storage
105 Mauldin Drive, Alpharetta, GA

(SITE NO. 21)



Year Built ² 1970, 1996 1997, 1998	Net Rentable Square Feet ² 45,929	Striped Parking Spaces in Aerial 12	Truck Rental No
--	---	--	--------------------

¹Source – Fulton County Georgia Board of Assessors

²Source – Forsyth County Georgia Board of Assessors



50 Warm Springs Circle
Roswell, Georgia 30075-4937

Main: 770.641.1942
Fax: 770.998.6924

February 14, 2020

The Mayor and City Council
City of Alpharetta
2 Park Plaza
Alpharetta, Georgia 30009

RE: **Midgard Self Storage
Parking Reduction Variance Application Amendment
Constitutional Assertions**

Dear Mayor and Councilpersons:

Midgard Self Storage, the Applicant, seeks a parking reduction variance and a building height variance on approximately 14 ½ acre infill property at the southeast corner of Old Milton Parkway and Georgia would like to amend the application to include their Constitutional Rights.

The applicant respectfully submits that the failure to approve the parking and height variance would be unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the Alpharetta City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal by the Alpharetta City Council to approve the variance application for the Property in accordance with the zoning criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. The application of the City of Alpharetta Unified Development Code, facially and as applied to the Property, which restricts the Property to any zoning classification, uses, or to any zoning classification other than the classification as proposed by the Applicant

is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

For all the foregoing reasons, it is submitted on behalf of the Applicant that the variance application of the applicant meets the requirements of the Alpharetta Unified Development Code. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the City an opportunity to grant the requested variance. If action is not taken by the City Council to grant the variance within a reasonable time, a claim will be filed in the Superior Court of Fulton County demanding just and adequate compensation under Georgia law for the taking of the Property, diminution of value of the Property, attorney's fees and other damages in an amount no less than Ten Million Dollars (\$10,000,000) arising out of the unlawful deprivation of the Applicant's property rights.

We thank you for your consideration in this matter and respectfully request that the parking and height variance be granted as requested. If you have any questions or require further information, please feel free to contact me at your convenience.

Sincerely,
AEC, Inc.



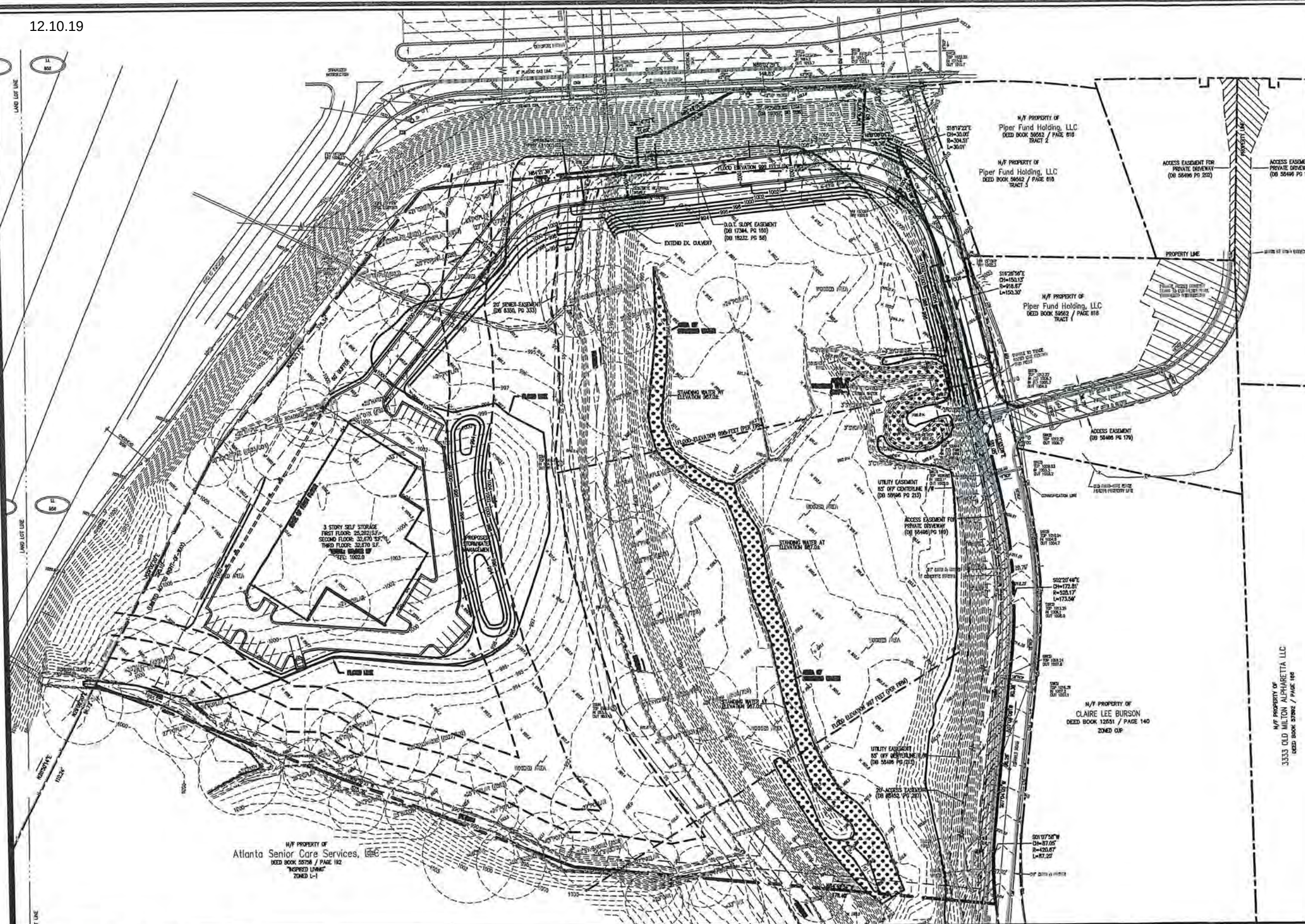
Steven L. Rowe, ASLA
Vice President

SLR/SCH/slr

M:\2019 JOBS\19-4303 Midgard Storage\DOCS\Re-Zoning and Variance Letter of Intent-constitutional assertions.docx

12.10.19

E-20-02/V-20-01
Midgard Self Storage
Parking Exception & Variance



VICINITY MAP - NTS

SITE DATA:

11425 MORRIS ROAD
CITY OF ALPHARETTA
FULTON COUNTY, GEORGIA
LAND LOT 853 & 856
1st DISTRICT 2nd SECTION

TOTAL ACREAGE:	14.948
CURRENT ZONING:	L-1 & O&I
PROPOSED USE:	SELF STORAGE
TOTAL PARKING:	28

SITE STANDARDS:

MINIMUM LOT SIZE:	1 AC
MINIMUM LOT WIDTH:	NONE
MINIMUM SETBACK:	
FRONT:	50' LOCAL STREET
	65' ALL OTHER STREETS
SIDE:	15'
REAR:	15'
MAX BUILDING COVERAGE:	35%
PROP. BUILDING COVERAGE:	3.9%
MAX BUILDING HT:	35'
PROP. BUILDING HT:	42'
(ADMIN VARIANCE)	

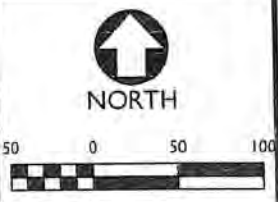
MidGard SS Alpharetta

ALPHARETTA, GEORGIA

PRELIMINARY GRADING PLAN

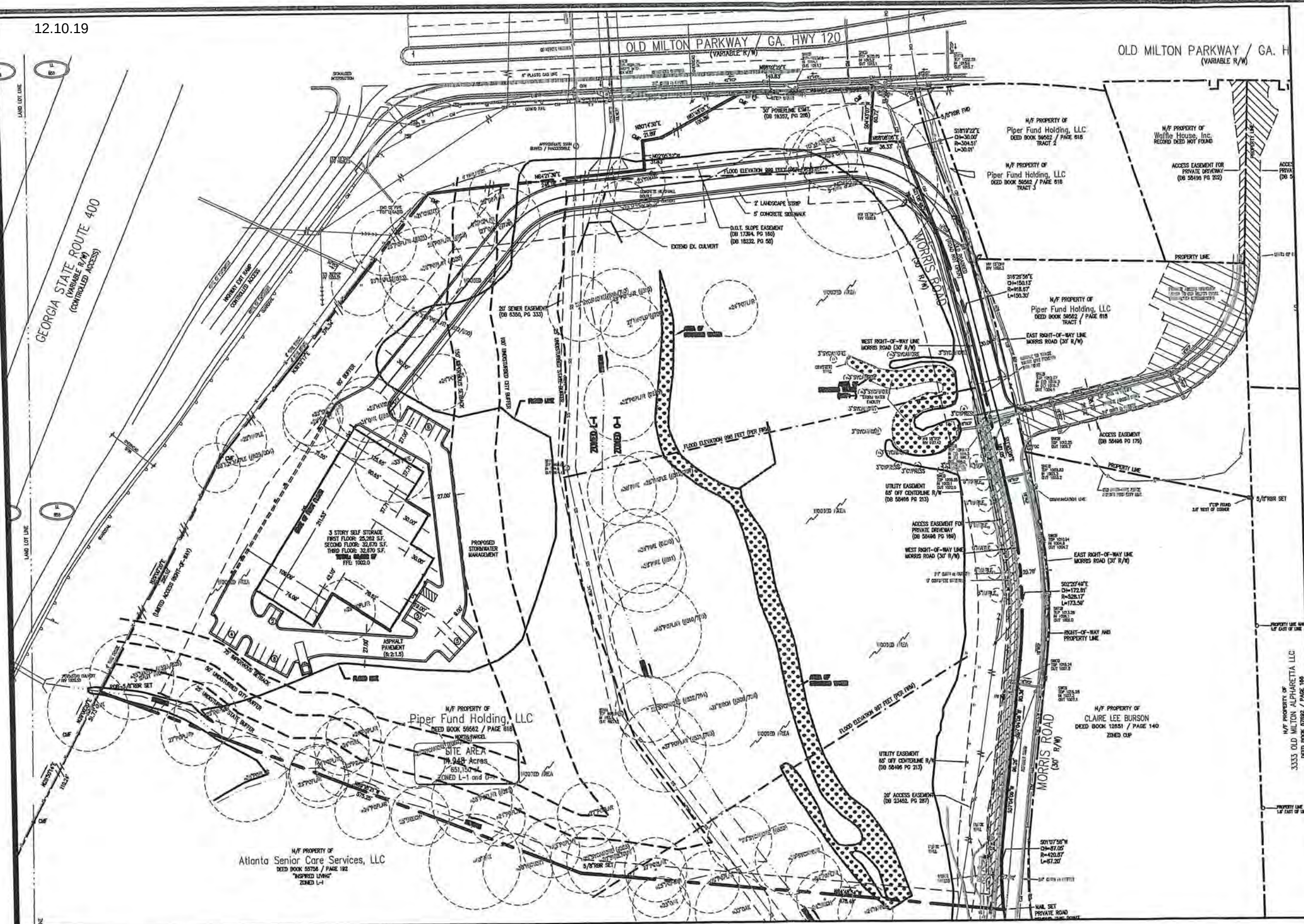
PROJECT INFORMATION

PROJECT NO.:	19-4303
DATE:	11-1-19
SCALE:	1" = 50'
FILE NAME:	19-4303 MIDGARD SS P07.DWG
DESIGN/DRAWN:	slr/sch



12.10.19

E-20-02/V-20-01
Midgard Self Storage
Parking Exception & Variance



VICINITY MAP - NTS

SITE DATA:

11425 MORRIS ROAD
CITY OF ALPHARETTA
FULTON COUNTY, GEORGIA
LAND LOT 853 & 856
1st DISTRICT 2nd SECTION

TOTAL ACREAGE: 14.948
CURRENT ZONING: L-1 & O&I
PROPOSED USE: SELF STORAGE
TOTAL PARKING: 28

SITE STANDARDS:
MINIMUM LOT SIZE: 1 AC
MINIMUM LOT WIDTH: NONE
MINIMUM SETBACK:
FRONT: 50' LOCAL STREET
65' ALL OTHER STREETS
SIDE: 15'
REAR: 15'
MAX BUILDING COVERAGE: 35%
PROP. BUILDING COVERAGE: 3.9%
MAX BUILDING HT: 35'
PROP. BUILDING HT: 42'
(ADMIN VARIANCE)

AEC

CIVIL ENGINEERING • PLANNING • LANDSCAPE ARCHITECTURE
50 Warm Springs Circle
Roswell • Georgia • 30075
(770) 641-1942 • www.aec.com



PRELIMINARY SITE PLAN

MidGard SS Alpharetta

ALPHARETTA, GEORGIA

PROJECT INFORMATION

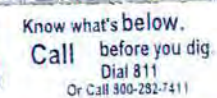
PROJECT NO.: 19-4303

DATE: 11-1-19

SCALE: 1" = 50'

FILE NAME: 19-4303 MIDGARD SS P07.DWG

DESIGN/DRAWN: slr/sch

[illegible]

A REPORT OF THIS PROPERTY IS DATED 17 MAY 1969 0424Z
AREA CODE IS 408 AND THE ZIP CODE IS 95008. THE INSURANCE RATE FOR
THIS AREA IS THE MAP NUMBER FOR THIS AREA IS 1212000000, AND THE
DATE OF SAID MAP IS 08/14/63. THIS DETERMINATION WAS MADE BY
GRAPHICALLY DETERMINING THE POSITION OF THIS SITE ON SAID 90M MAPS
UNLESS OTHERWISE NOTED

THE HORIZONTAL DATUM FOR THIS SURVEY IS BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD83) FROM GPS OBSERVATIONS PERFORMED BY GEOSURVEY, LTD.

THE VERTICAL DATUM FOR THIS SURVEY IS BASED ON THE NORTH AMERICAN DATUM OF 1988 (NAVD88) FROM GPS OBSERVATIONS PERFORMED BY GEOSURVEY LTD.

PLEASE NOTE: GEOSURFEX, LTD. ASSUMES NO LIABILITY REGARDING THE LOCATION OR EXISTENCE OF WEILANDS. NO WEILANDS WERE FOUND OR LOCATED AT THE DATE SHOWN THIS SURVEY.

THE PROPER PERSONNEL IS KNOWN AS PLATON COMPANY FAF HARRIS
12 29 0005560401

NO ZONING REPORT OR ZONING LETTER WAS PROVIDED TO THE SURVEYOR
THE SITE IS ZONED L-1 AND Q-1 PER CITY OF ALPHARETTA ZONING MAP
PLEASE NOTE, ZONING AND SETBACKS SHOULD BE CONFIRMED AND VERIFIED

RIGHT-OF-WAY LINES SHOWN ON THIS SURVEY THAT ARE NOT ACREAL BOUNDARIES

THESE ARE NO BUILDINGS EXISTING ON THIS DATE.

THE FOLLOWING TREES WERE LOCATED FOR THIS SURVEY:
HARDWOOD TREES 24" DBH AND GREATER
PINE TREES 30" DBH AND GREATER

UNDER-STORY TREES 8" DBH AND GREATER
(TAG NUMBERS ARE REPORTED FOR PACKED TREES)

15 ALTA/POSSE LAND TITLE SURVEY FOR 4440 INVESTMENTS, INC. PREPARED BY GEOSURVEY, LTD. DATED 11/17/1997, AND LAST REVISED 02/16/1998

IN ALTA/ACSW LAND TITLE SURVEY (21,256 ACRES) FOR ATLANTA SENIOR CARE SERVICES, LLC and GRAY PUBLIC FINANCE, LLC, PREPARED BY GEORGEWYSE, L.P. DATED 09/29/2013, AND LAST REVISED 01/07/2016

15 SECONDARY AND PROGRAMATIC SURVEY, 24,749 ACRES, FOR ATLANTA
SENIOR CARE SERVICES 2, LLC. PREPARED BY GEOSURVEY, LTD. 04 TO
24/26/2018

3) ALTA/MAPS LAND BULK SURVEY FOR CLAPE LEE SURVEY PREPARED BY GEORGE LEE, DATED 31/12/2018

CLOSURE STATEMENT

THE (RED) DISCARDER UPON WHICH THIS PLANT IS BASED HAS A CLOSING PRECISION OF ONE FOOT W/ 67.3% AND WAS ANALYZED USING THE LEAST SQUARES METHOD. A MINIMUM ONE-MINUTE STATION AND DRINKABLE USE-A DATA COLLECTION WERE USED TO COLLECT THIS DATA.

THIS DATA HAS BEEN CALCULATED FOR CLOSURE AND WAS FOUND TO BE ACCURATE
WITHIN ONE FOOT IN 2500 FEET. PVT. JAC. MIT



Good Surveying • 3D Laser Scanning
1880 Barnes Mill Road
Marietta, Georgia 30062
Phone: (770) 795-9900
Fax: (770) 795-8850
www.godsurvey.com
EMAIL: info@godsurvey.com
Jennifer W. Anderson, PLS (2005)

Midgard Self Storage Alpharetta GA, LLC
Reliant Real Estate Management, LLC
Piper Fund Holding, LLC

AS JOB NO.	870153	DRAINAGE SCALE	1" = 50'	STATION DATE	08/16/2019
FIELD WORK	TD	SITE ALPHABETICALLY	SITE SA	REMARKS	
FIELD WORK	EDC	COUNTY	FULTON	No. Date Description	
REVISIONS		NO.	OF	856	
DATE	12/14/16	BY	NSD	EXT.	SECTION

11/20/19

CITY OF ALPHARETTA

PUBLIC HEARING APPLICATION

E-20-02/V-20-01

Midgard Self Storage Exception

Case #: _____

☐ Fee Paid Initial: _____

COMMUNITY DEVELOPMENT DEPARTMENT

2 PARK PLAZA

ALPHARETTA, GA 30009

1. This page should be the first page in each of your completed application packets.
2. It is preferred that all responses be typed. Illegible applications will not be accepted.
3. Prior to signing and submitting your application, please check all information supplied on the following pages to ensure that all responses are complete and accurate. Incomplete applications will not be accepted.
4. Payment of all applicable fees must be made at the time of application. Payment may be made via cash, credit card (American Express, Master Card or Visa), or check made payable to "City of Alpharetta."
5. Applications will be accepted only on the designated submittal dates between the hours of 8:30 AM and 3:30 PM.
6. If you have any questions regarding this form, please contact the Community Development Department by calling 678-297-6070.

Contact Information:

Contact Name: Midgard Self Storage - c/o Reliant Real Estate Management, LLC

Telephone: 770.609.8276

Address: 1146 Canton Street

Suite: _____

City: Roswell

State: GA

Zip: 30075

Fax: _____

Mobile Tel: 561.212.5350

Email: lpollack@reliant-mgmt.com

Subject Property Information:

Address: 11425 Morris Road

Current Zoning: L-I, O&I

District: 1ST

Section: 2ND

Land Lot: 853,856

Parcel ID: 12-2970-0856-048-1

Proposed Zoning: n/a

Current Use: VACANT

This Application For (Check All That Apply):

☐ Conditional Use

☐ Rezoning

☒ Variance

☐ Comprehensive Plan Amendment

☐ Master Plan Amendment

☐ Master Plan Review

☐ Public Hearing

☐ Other (Specify): _____

☐ Exception

11/20/19

~~E 20-02/V-20-01~~
~~Midgard Self Storage Exception~~
APPLICANT REQUEST AND INTENT

What is the proposed use(s) of the property?

Self Storage Facility

Applicant's Request (Please itemize the proposal):

We are requesting 2 variances in in order to develop the site.

1. We are requesting the reduction of the required parking from 91 spaces to 28 spaces. Given the nature of the proposed business, the requirement of 91 spaces is far in excess of the spaces needed to successfully operate a self storage facility.
2. We are requesting a small height variance from 35' to 42' (20% variance) to be able to construct the self storage facility.

Applicant's Intent *(Please describe what the proposal would facilitate):*

Please see Letter of Intent

11/20/19

PROPERTY OWNER AUTHORIZATION

E-20-02/V-20-01

Storage Exception

Property Owner Information:Contact Name: Lew PollackTelephone: 561.212.5350Address: 1146 Canton Street

Suite: _____

City RoswellState: GaZip: 30075Authorization:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that I am the legal owner, as reflected in the records of Fulton County, Georgia, of the property identified below, which is the subject of the attached Application for Public Hearing before the City of Alpharetta, Georgia.

As the legal owner of record of the subject property, I hereby authorize the individual named below to act as the applicant in the pursuit of the Application for Public Hearing in request of the items indicated below.

- | | |
|---|--|
| ☐ Annexation | ☐ Special Use |
| ☐ Rezoning | ☐ Conditional Use |
| ☒ Variance | ☐ Master Plan |
| ☐ Land Use Application | ☐ Other |

Identify Authorized Applicant:Name of Authorized Applicant: Steve RoweTelephone: 770.641.1942Address: 50 Warm Springs Cir

Suite: _____

City RoswellState: GAZip: 30075So Sworn and Attested:Owner Signature: Lew PollackDate: 11/8/2019

Notary:

Notary Signature: [Signature]Date: 11-08-19

11/20/19

DISCLOSURE FORM

Midgard Self Storage Exception

The Official Code of Georgia Annotated requires disclosure of campaign contributions to government officials by an applicant or opponent of a rezoning or public hearing petition (O.C.G.A. 36-67 A-1).

Applicants must file this form with the City of Alpharetta Community Development Department within ten (10) days after filing for rezoning or public hearing. Opponents to a rezoning or public hearing petition must file this form five (5) days prior to the Planning Commission meeting at which the subject rezoning or public hearing petition is scheduled to be heard.

Name of Applicant or Opponent: **Low Pollack**

Subject Public Hearing Case: **Midgard Self Storage- Parking Variance**

Campaign Contribution Information:

Please provide the requested information for each contribution with a dollar amount or value of \$250 or more made within the past two (2) years to an Alpharetta Official by the individual identified above. Please use a separate form for each Alpharetta Official to whom such a contribution has been made.

If the individual identified above has made no such contributions to an Alpharetta Official within the past two (2) years, please indicate this by entering "N/A" on the appropriate lines below.

Name of Official: _____ Position: _____

Description of Contribution: N/A Value: _____

Description of Contribution: N/A Value: _____

Description of Contribution: N/A Value: _____

Description of Contribution: N/A Value: _____

Description of Contribution: N/A Value: _____

Campaign Contribution Information:

I do solemnly swear and attest, subject to criminal penalties for false swearing, that the information provided in this Disclosure Form is true and accurate and that I have disclosed herein any and all campaign contributions made to an Official of the City of Alpharetta, Georgia in accordance with O.C.G.A. 36-67 A-1.

Signature: Low Pollack

Date: 11/8/2019

Please respond to the following ONLY if you are applying for a zoning variance.

Are there extraordinary and exceptional conditions pertaining to the subject property because of its size, shape, or topography? Please describe them.

Parking: The property is currently limited by stream buffers, flood plain and topography but that is not the reason for the parking reduction variance. The required 91 spaces is far in excess of the actual parking needed to successfully operate the business. Based upon historical of similar facilities, 28 spaces will be more than adequate to serve the needs to the facility.

Height: The property is currently limited by stream buffers, flood plain and topography and the area to develop is limited. The additional height will allow us to add a story to the building and be able to better utilize the site.

Would the application of the Zoning Code standards as they relate to the subject property create an unnecessary hardship? Please explain.

Parking: Yes, we would need to build and pave an additional 63 parking spaces that would never be needed or used.

Height: Yes, given the constraints of the property, the height limit of 35' will make the site un-developable given the high cost to develop.

Are there conditions that are peculiar to the subject property? Please describe them in detail.

Parking: The nature of the proposed use of the building, Self Storage, does not require the 91 spaces as called for in the required parking for Industrial uses.

Height: The property is currently limited by stream buffers, flood plain and topography and the area to develop is limited.

Would relief, if granted, cause substantial detriment to the public good or impair the purpose and intent of the Zoning Code? Please defend your response.

Parking: No, the proposed 28 spaces is all the parking the business need to successfully operate and serve it's customers.

Height: No, the site sits down in grade from all of the existing roads and the additional height would not be able to be seen by the public.

On a separate sheet or sheets, please provide any information or evidence that supports your request and the statements that you have provided in this application.

11/20/19

E-20-02/V-20-01

CITIZEN PARTICIPATION FORM - PART A

Midgard Self Storage Exception

This form must be completed and submitted with the applicant's completed Public Hearing Application. Applications submitted to the City of Alpharetta without a completed Citizen Participation Form - Part A will not be accepted.

Public Hearing or Project Name: Midgard Self Storage

Contact Name: Lew Pollack

Telephone: 561.212.5350

The following people will be notified of this application and provided information describing the subject proposal. Please note that ALL adjoining property owners MUST be notified. Use additional pages as needed.

(see attached list)

Method by which these individuals will be contacted. Please mark all that apply. *If you select "Other," please provide a description of the method of contact that will be used.*

- | | |
|--|---|
| ☒ Letter | ☐ Personal Visits |
| ☐ Telephone | ☐ Group Meeting |
| ☐ Email | ☐ Other (Please Specify) |

Please describe the method(s) by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.

We will send out a letter detailing our proposed variance and will be available to respond to questions and concerns via e-mail, telephone and in person meetings if necessary.

11/20/19

E-20-02/V-20-01
Midgard Self Storage
Parking Exception & Variance

ATLANTA SENIOR CARE SERVICES 2 LLC
8380 BAY PINES BLVD FLOOR 3
SAINT PETERSBURG FL 33709

WAFFLE HOUSE INC
P O BOX 6450
NORCROSS GA 30091 6450

3333 OLD MILTON ALPHARETTA LLC
180 GLASTONBURY BLVD STE 201
GLASTONBURY CT 06033

SAMS REAL ESTATE HOLDINGS GEORGIA LLC
7935 COUNCIL PL SUITE 200
MATTHEWS NC 28105

ALPHARETTA LIFEHOPE LAND SPE LLC
3330 PRESTON RIDGE RD SUITE 380
ALPHARETTA GA 30005

Triad Newcastle LLC
100 CHURCH ST SUITE 100
HUNTSVILLE AL 35801

Abed Mohammed A Trustee Et AL
11500 OLIVE BLVD SUITE 188
SAINT LOUIS MO 63141 7147

Burson Claire Lee
P.O. BOX 1905
CLAYTON GA 30525 1905

50 Warm Springs Circle
Roswell, Georgia 30075-4937Main: 770.641.1942
Fax: 770.998.6924

November 20, 2019

The Mayor and City Council
City of Alpharetta
2 Park Plaza
Alpharetta, Georgia 30009

RE: **Midgard Self Storage
Parking Reduction Variance Application
Letter of Intent**

Dear Mayor and Councilpersons:

Midgard Self Storage, the Applicant, seeks a parking reduction variance and a building height variance on approximately 14 ½ acre infill property at the southeast corner of Old Milton Parkway and Georgia. The property is currently vacant, currently zoned LI and O&I and is surrounded by existing creeks, floodplain and the City's Georgia 400 buffer.

Under the City's Unified Development Code, the closest match to calculate the required parking is a General Industrial Use that requires 1 parking space per 1000 s.f. Given that our proposed use is a +/- 91,000 s.f. self-storage facility, the requirement for 91 parking spaces is far in excess of the parking required to serve the needs of the facility. The applicant has built and currently operates several similar storage facilities and has concluded that the proposed 28 parking spaces will be more that adequate to serve the needs of the proposed facility. To build the additional 63 parking spaces would be unnecessary and add more impervious surface.

Under the current zoning the building height is limited to 35' and given much of the site is undevelopable, we are requesting a 20% height increase to 42'. A majority of the site is located in flood plain, stream buffers and zoning buffers, leaving a very small area available for development. The slight increase in height will allow us to add an additional floor to the building and better allow us to afford the high cost of development for a very difficult site. In addition, the site elevation sits well below all of the surrounding existing roads and the additional height will not be detectable to the surrounding public.

To the east of the property are parcels zoned CUP that have been developed for retail and restaurant uses. To the north, across Old Milton Parkway, is vacant property zoned for Office Professional use, along with an existing Quick Trip convenience store zoned Commercial General and the Country Place condominium development zoned High Density Residential (R-10M). Adjacent to the South of this property is the newly opened *Inspired*

11/20/19

Midgard Self Storage Exception

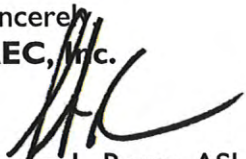
Mayor and City Council
November 20, 2019

Page 2

Living senior housing facility developed by the Applicant's principals, and to the west is the Georgia 400 Highway.

We thank you for your consideration in this matter and respectfully request that the parking variance be granted as requested. If you have any questions or require further information, please feel free to contact me at your convenience.

Sincerely,
AEC, Inc.



Steven L. Rowe, ASLA
Vice President

SLR/SCH/slr

M:\2019 JOBS\19-4303 Midgard Storage\DOCS\Re-Zoning and Variance Letter of Intent.docx



CITY COUNCIL MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: PH-19-07 UNIFIED DEVELOPMENT CODE TEXT AMENDMENTS – SIGN CODE

CITY COUNCIL:

JULY 27, 2020

This item was considered at the March 5, 2020 Planning Commission meeting. There were no public comments. After discussion, the Planning Commission recommended to approve the item. Vote (7-0)

II. RECOMMENDATION:

Approve amendments to the Unified Development Code as it relates to the Sign Code.

III. REPORT IN BRIEF:

Consideration of text amendments to Unified Development Code (UDC) Sections 2.6 Signs and 2.10 North Point Overlay.

The following text amendments are proposed to the Sign Code:

1. Subsection 2.6.4 (A) Permit Required. Change to require any change to an existing sign, including only a face change, obtain a permit.
2. Subsection 2.6.8 (26) Prohibited signs and devices. Reduce the maximum height of a monument sign from 15' to 10'.
3. Subsection 2.6.8 (29) Prohibited signs and devices. Prohibit neon signs with exposed neon lighting and any illumination used to create a neon tube look.
4. Subsection 2.6.11 (B)(6) Illumination of Signs. Prohibit the use of neon to illuminate signs.
5. Subsection 2.6.12 (A)(2) and Subsection 2.6.12 (B)(2)(d) Requirements for non-residential zoning districts. Allow unused sign area for wall and perpendicular signs to be aggregated and distributed to a certain building elevation but limited to no more than 2 wall signs and 1 perpendicular sign on the same building elevation and not internally-illuminated.
6. Subsection 2.6.12 (A)(3) Requirements for non-residential zoning districts. Allow rear entrance wall sign to be a maximum 50% of the allowed front facing wall sign. This is to address buildings that have front and rear pedestrian entrances, and those with access from the Big Creek Greenway and future Alpha Loop.
7. Subsection 2.6.12 (B)(1) Reduce the maximum height of a monument sign to 10' or less. Remove subsection (1)(g) which allowed increased copy area when one or more of the monument signs otherwise permitted are foregone. Allow rear entrance wall sign to be a maximum 50% of the allowed front facing wall sign.
8. Subsection 2.6.12 (C)(1) Signs Permitted in Industrial and Office Parks. Reduce the maximum height of a monument sign from 15' to 10' and reduce the permitted copy area of a monument sign from 150 square feet to 75 square feet.
9. Subsection 2.6.12 (C)(2) Signs Permitted in Industrial and Office Parks. Allow a blade sign in lieu of a wall sign with a sign area not to exceed 50% of the allowable wall sign area.
10. Subsection 2.6.12 (D)(1) Add "no digital copy is allowed" for clarification.
11. Subsection 2.6.12 (E)(6) Change buildings of 3 stories to 2 stories are permitted a wall sign at top of the free-standing commercial building.
12. Subsection 2.6.12 (G) Add maximum height of a monument sign not to exceed 6' and remove last sentence, which states the regulation does not apply if only changing sign face.
13. Subsection 2.10.9 North Point Overlay, Signs. Delete subsection (C) regarding rear wall signs.

IV. ATTACHMENTS:

- UDC Strike Through and Underline Edits





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UDC Changes to Sign Ordinance

CZIM

11.13.19

NAME	ADDRESS	Comments
	NO	
	Comments	

Please Sign-In If you wish to Speak on Public Hearing Item

UDC Changes to Sign Ordinance

9.11.19

[illegible]

SECTION 2.6 - SIGNS^[2]

2.6.1 Findings, purpose and intent.

A. *Findings.*

1. The City of Alpharetta finds that signs are a proper use of private property, are a means of personal free expression and a necessary component of a commercial environment. As such, signs are entitled to the protection of the law. In the absence of regulation, however, the number of such signs tends to proliferate, with property owners' desiring ever increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted thoroughfares and properties. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises.
2. The City further finds that the size, height, number, design characteristics, spacing and location of signs in the City directly affect the public health, safety and welfare and property values.
3. The City further finds that the regulation of the size, height, number, design characteristics, spacing and location of signs is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the City, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of both advertising and non-commercial messages for the benefit of all the City's citizens.
4. The City further finds that there is a substantial difference between signs erected by public authority and signs erected by private citizens or businesses. Signs erected by public authority are virtually all erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type signage as street signs which enable the traveling public to know where they are located and to find where they are going. As such, with the exception of limited signs serving other purely public purposes, such as identifying government buildings or conveying government speech, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public. The City finds that public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, those signs are marked primarily for the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power.
5. The City further finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through adoption of the following regulations.

B. *Purpose and Intent.* The purpose and intent of the governing authority of the City of Alpharetta in enacting this Ordinance includes, are as follows:

1. To protect the health, safety, general welfare and property values of the citizens of the City, and to implement the policies and objectives of the Comprehensive Plan of the City through enactment of a comprehensive set of regulations governing signs in the City;
2. To regulate the erection and placement of signs within the City in order to provide safe operating conditions for pedestrian and vehicular traffic without unnecessary and unsafe distractions to drivers and pedestrians;
3. To preserve the value of property on which signs are located and from which signs may be viewed;

4. To maintain an aesthetically attractive city in which signs are compatible with the surrounding area;
5. To maintain for the City's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interests of the City;
6. To prevent the destruction of the natural beauty and environment of the City and maintain and maximize tree coverage within the City;
7. To establish comprehensive sign regulations which effectively balance the protection of legitimate business and development needs and the rights of individuals and businesses to convey their messages through signs with the promotion of a safe and aesthetically attractive environment for residents, workers and visitors to the City and the protection of the public health, safety, and general welfare;
8. To ensure the protection of free speech rights under the State and United States Constitution within the City;
9. To promote economic development;
10. To establish a permit system to allow specific types of signs in zoning districts consistent with the uses, intent and aesthetic characteristics of the areas where the signs are to be located;
11. To provide temporary signs in limited circumstances;
12. To place reasonable controls on non-conforming signs that are by definition contrary to the public health, safety and welfare while protecting the constitutional rights of the owners of said non-conforming signs;
13. To provide for the maintenance of signs;
14. To avoid the harmful aspects of the unrestricted proliferation of signs; and
15. To ensure the fair and consistent enforcement of sign regulations.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.2 Scope of regulations.

- A. The provisions and standards of this Ordinance shall apply to all signs located or erected within the corporate limits of the City.
- B. Protected non-commercial speech shall be permitted in any place commercial speech is permitted under this Ordinance. Any sign provided for in any zoning district may contain non-commercial messages. To the extent any conflict arises between this provision and any other language found in this Ordinance, this provision shall control.
- C. Nothing herein shall be construed to permit display of any message which is obscene, illegal or speech which is otherwise unprotected under the First Amendment of the United States Constitution. Nothing herein shall be construed to prohibit a prosecution for violation of a criminal statute by the City or other duly constituted government authority or a civil action by the City or other private person or entity.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.3 Definitions.

As used in this Ordinance, unless the context indicates otherwise, the following terms shall have the meaning set forth below:

Abandoned Sign. Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or deteriorated copy through lack of maintenance, or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility.

Animated Sign. Any sign, or part of a sign, that uses any movement or change of lighting or color to depict action or create a special effect or scene, changes colors or physical position by movement or rotation, or which gives the visual impression of such movement or rotation. This includes signs that flash, blink, scroll, fade or rotate/revolve to display a message in more than one direction, and tri-vision signs, but does not include flags, banners, or canopies.

Background Area. The area of a sign face on which copy could be placed, as opposed to the copy area, where copy is in fact posted or painted. See also, "Face of Sign" (or "Sign Face").

Banner. Any sign of lightweight fabric, plastic or similar material that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Beacon. Any light with one (1) or more beams which rotate, move or which are directed into the atmosphere or at one (1) or more points not on the same lot as the light source.

Canopy (or Marquee). A permanent roof-like shelter extending from part or all of a building face and constructed of some durable material such as fabric, metal, glass or plastic.

Canopy Sign. Any sign attached to or constructed in or on a canopy. For purposes of this Ordinance, this term includes Marquee Sign.

Changeable Copy Board. Any sign or part of a sign face that incorporates changeable board or panels, each of which contain a number, letter, character, graphic, symbol or image, to form a sign message or messages ("changeable copy"), whether the changing of such panels or boards are accomplished electronically or manually. A tenant panel is not considered changeable copy.

City. The City of Alpharetta, Georgia.

Copy. The characters, symbols, graphics, images, letters, words, writing, and/or information or advertising display on a sign surface.

Copy Area. The area in square feet of the smallest rectangle enclosing the actual copy of a sign.

Directory Sign. A single, permanent free-standing sign for multiple businesses, offices, professionals, industries or other entities located within a planned center.

Double-Faced Sign. A sign which has two (2) display areas against each other or where the interior angle formed by the display areas is sixty degrees (60°) or less, where one (1) face is designed to be seen from one (1) direction and the other face from another direction.

Electronic sign. Any sign, or portion of a sign, whose message may be changed at intervals by electronic process or by remote control, including signs such as a tri-vision sign, LCD sign or LED sign.

Facade. The exterior front of a building or structure exposed to public view.

Face of Sign or Sign Face. That part of a sign that is or can be used to announce, direct attention to, identify, advertise or otherwise communicate information. The entire area of sign on which copy could be placed. See also, "Background Area." The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Feather Sign. A temporary sign or device made of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a single rod, stake or staff for support, and designed to move in the wind.

Flags. Any fabric, bunting or similar material containing distinctive colors, patterns, or symbols.

Flashing Sign. A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects.

Free-standing Sign. Any sign erected on a free-standing base, foundation, or frame, or otherwise supported by structures, supports or posts that are attached to, placed on, or anchored in the ground, and which are independent from and not attached to any building or other structure. All permanent free-standing signs shall be self-supporting structures erected on and permanently attached to solid bases or foundations.

Illuminated Sign, External. Any sign illuminated by an external light source. Such source cannot be a device that changes color, flashes or alternates.

Illuminated Sign, Internal. Any sign illuminated by an internal light source. Such source cannot be a device that changes color, flashes or alternates.

Lot or Parcel. A designed parcel, tract or area of land legally established by plat, subdivision or as otherwise permitted by law, to be separately owned, used, developed or built upon.

Monument Sign. A type of permanent free-standing sign that consists of a sign face attached on a solid base or foundation, designed in a manner such that the bottom (base) of the sign face is flush with the supporting solid base, which is directly mounted on and flush with the ground. The supporting base shall be at least as wide as the sign face and shall be constructed of brick, stone, or other architectural material as set forth herein. Also referred to as a "ground sign."

Non-conforming Sign. A sign erected or otherwise in use prior to the effective date of this Ordinance which fails in one or more respects to comply with all provisions of this Ordinance.

Obscene. Any form of speech which, taken as a whole, appeals to the prurient interest in sex, portrays sexual conduct in a patently offensive way, and which, taken as a whole, does not have serious literary, artistic, political, or scientific value. See *Miller v. California*, 413 U.S. 15, 93 S. Ct. 2607 (1973).

Outparcel. A portion of a larger parcel of land generally designed as a site for a separate structure and business from that of the larger main tract. To be recognized as an outparcel, the parcel must abut and be external to the larger main tract, have street frontage, and at the time of approval of the site plan for the larger main parcel be identified and delineated as a separate building site from that of the larger main parcel.

Pennant or Streamer. A temporary sign or device made of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Permanent Sign. Any sign affixed in manner that enables the sign and its copy to resist environment loads and precludes ready removal or movement of the sign, which is designed and constructed in a manner such that its intended use appears to be indefinite, and which, when installed, is intended for permanent use.

Perpendicular Sign. A sign that is placed perpendicular to the face of a wall and can be read on both sides. Such signs can be mounted to a wall or attached to the underside of an awning.

Portable Sign. Any sign which is designed to be transported, including, but not limited to, signs transported by trailer or its own wheels, even though the wheels of such sign may be removed and remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground. Portable sign also means a sign carried by a person when that person's function is to display or convey a message as a pedestrian. Portable sign also means and includes a sign attached to, mounted on, posted on, painted or drawn on a motorized or drawn vehicle, when such vehicle is parked or placed in such a manner as to serve the purpose of an advertising device, or routinely parked at a location other than the location generally associated with the message conveyed or identified thereon, or when the primary purpose or function of such vehicle is to transport the message or messages conveyed or identified thereon. Portable signs shall not be deemed to include standard bumper stickers on vehicles, license plates, or signs that may be reflected on hats or other articles of clothing.

Roof Line. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Roof Sign. Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

Rotating Sign. Any sign or portion of a sign that moves in a revolving or similar manner.

Sidewalk or Sandwich Board Sign. A movable sign not secured or attached to the ground or surface upon which it is located.

Sign. Any identification, description, illustration, device, fixture, structure, display or visual representation, which is visible from any public place and affixed to, or supported or suspended by, a stationary object, structure, building or the ground that uses any color, form, character, symbol, graphic, image, illumination, or writing to announce, direct attention to, identify, or advertise an object, idea, location, place, person, institution, organization, business, product, service, activity or event or to otherwise visually communicate information, ideas or messages of any kind to the public. "Sign" includes the sign face and sign structure..

Sign Structure. Any structure, other than a building, which supports, has supported or is designed to support a sign. A decorative cover is part of a sign structure.

Site Plan. A scaled, legible drawing representing the parcel of land on which a sign is to be located showing at least the property lines, public street rights-of-way, drive entrances, buildings and the location of existing free-standing signs.

Standard Informational Sign. A non-illuminated, temporary free-standing sign, which shall contain no reflecting elements, flags, projections or unpainted wooden surfaces, mounted on a post, stake or metal frame (with a thickness or diameter not greater than three and one-half inches) that is attached to, or anchored in, the ground. Standard informational signs are limited per lot to either one (1) sign that is twelve (12) square feet in area or up to four (4) signs not to exceed an aggregate of twelve (12) square feet in area. In addition, each sign shall not exceed a height of five (5) feet. These signs shall be set back not less than ten (10) feet from public right-of-way or ten (10) feet from the back of curb of a private roadway. Standard informational signs do not require a permit.

Strip Shopping Center. A multi-tenant retail center with less than fifty thousand square feet (50,000 sq. ft.) of enclosed, leasable space.

Subdivision Sign. A monument sign located at the vehicular entrance or exit of a platted residential subdivision.

Substandard Lot or Parcel. A lot or parcel that does not meet the lot area, width or public street frontage and access requirements of this Code.

Swinging Sign. A hinged sign installed on an arm or spar, and which is not also permanently fastened to an adjacent wall, ceiling or upright pole or support.

Temporary Sign. Any sign that is not a permanent sign.

Tenant Frontage or Tenant Space Frontage. The horizontal distance in feet between the left side wall and the right side wall or building end wall of a tenant space fronting on a street.

Tenant panel. A physically removable panel on a sign face that may be changed for different like-sized panels and which is at least two (2) square feet in area. Tenant panels do not include electronic signs, reader boards or changeable copy.

Tenant Space. The physical location within a building designed and intended to serve as the separate and exclusive premises for the operations of a business or entity, which has its own exclusive public entrance/exit from the exterior of the building, and which is occupied by a business or entity legally operating pursuant to all Federal, State, City or other applicable laws and regulations. The use of any such physical location by more than one (1) legally operating business or entity shall only constitute a single tenant space. In the event such a physical location is used or occupied by more than one (1) business or entity, in order for such physical location to constitute a "tenant space", all businesses and/or entities operating therein must be operating pursuant to all Federal, State, City or other applicable laws and regulations.

Under-canopy Sign. A sign suspended below the ceiling or roof of a canopy or marquee and perpendicular to the face of the building. For the purposes of this Ordinance, this term includes Under-marquee Sign.

Variable Message Board. A programmable sign that provides changing information.

Wall Sign. A sign attached to or erected against the outside wall of a building, with the face parallel to the building wall and extending not more than 1 foot (1 ft.) therefrom, and which displays only one sign face.

Window Sign. A sign installed on or inside a window for purposes of viewing from outside the building. This term does not include merchandise located in window or similar window displays.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.4 Permits and applications.

- A. PERMIT REQUIRED. Except as specifically exempted from the provisions of this Ordinance, it shall be unlawful for any person to post, display, ~~materially~~ change, or erect a sign in the City without first having obtained a sign permit. Notwithstanding the foregoing, signs which are not visible from a public right-of-way or from neighboring properties shall not be subject to the standards of this Ordinance. ~~A change in only the copy of a sign shall not constitute a material change.~~
- B. APPLICATION CONTENTS. Applications for sign permits shall be made on application forms prepared by the Director and filed by the sign owner or its agent with the Director. The application shall include a detailed description of the subject sign and such other information and documents as required by the subject application form, including the following:
1. The street address of the property upon which the subject sign is to be located and a site plan of the property which bears the scaled and labeled proposed location of the sign.
 2. The aggregate area and copy area for all signs on the parcel.
 3. The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located.
 4. Name, address, telephone number, business license number and signature of the business owner authorizing placement of the sign.
 5. Name, address, telephone number, fax number, business license number and signature of the sign contractor.
 6. The type of sign to be erected, the area and copy area of the sign, the height of the sign (if free-standing), the shape of the sign, the color(s) of the sign, the material of the sign and details showing how the sign will be mounted, installed or erected.
 7. For permanent free-standing, ground and monument signs only, show dimensioned sign location on site plan and include structural foundation and mounting details. Indicate the location and size of all existing permanent free-standing, ground and monument signs on the property.
 8. The cost of the sign (materials and installation).
 9. All applicants for signs which incorporate electricity must obtain an electrical permit or, if previously issued, a copy of the electrical permit. Signs connected to an approved, existing wired outlet or junction box do not require electrical permits.
 10. If the proposed sign is subject to the design standards or other requirements set forth in the Design Review Board Ordinance (codified as §§ 16-37—16-46 of The Code of the City of Alpharetta, Georgia), the applicant must also submit such additional forms, information and/or documents as may be required by the provisions of said ordinance.

11. Such other information as the City shall require to show full compliance with this and other ordinances of the City.

C. REVIEW AND CONSIDERATION OF APPLICATIONS; DECISION; APPEALS.

1. No permit shall be issued until the appropriate application has been filed with, and approved by, the Director and fees have been paid. Fees and any required deposits shall be established from time to time by resolution of the City Council. No application shall be deemed to be accepted by the Director unless and until all fees and deposits are paid and all information reasonably required by the Director is provided by the applicant. When a sign sought pursuant to an application for a permit is located or proposed to be located within the Downtown Overlay or design review for compliance with design standards is delegated and referred to the Design Review Board by the Director as authorized under the Design Review Board Ordinance, the application shall also be subject to design review by the Design Review Board in accordance with the Design Review Board Ordinance. Where design review of a sign by the Design Review Board is required in accordance with the foregoing provisions, a condition of zoning or conditional use approval, or any other applicable City code, ordinance, resolution or regulation, no permit for any such sign shall be issued without the prior grant of design approval by the Design Review Board. The decision of the Design Review Board to grant or deny design approval shall be final.
2. The Director shall reject any application that is incomplete or does not conform to the City's application requirements, contains a false material statement or omission, or is for a prohibited sign under Subsection 2.6.8. Any such application may be rejected by either returning the application to the applicant or providing written notice of rejection of the application at any time prior to the expiration of (45) business days of receipt of said application. An application which is resubmitted must meet all the standards applicable to an original application. A rejected application that is later resubmitted in conformity with this Section 2.6 shall be deemed to have been submitted on the date of resubmission, instead of the original submission date. The Director is further authorized and empowered to revoke any sign permit issued pursuant to an application containing a false material statement or omission. The rejection or revocation of a permit pursuant to the provisions of this subparagraph may be appealed to the Board of Appeals by filing a notice of appeal with the Director within fifteen (15) days of written notice of the revocation, which must state the reason(s) for the appeal. Any such appeal shall be heard in accordance with the provisions for appeal set forth in subparagraph 5 below.
3. A sign permit shall become null and void if the sign for which the permit was issued has not been completed and erected within the time frame specified by the permit or six (6) months after the date of issuance.
4. A complete application for a sign permit shall be approved or denied by the Director within forty-five (45) business days of its receipt by the Director and the applicant's payment of the appropriate deposit(s) and fee(s) to the City. The Director shall give written notice to the applicant of the Director's decision within such forty-five (45) business day period. If it is determined that the application fully complies with the provisions of this Section 2.6 and all other applicable laws, ordinances, codes, resolutions and regulations of the City, the application shall be approved by the Director and a sign permit shall be issued. If it is determined that the application or proposed sign does not fully comply with the provisions of this Section 2.6 and all other applicable laws, ordinances, codes, resolutions and regulations of the City, the Director shall deny the application. If the decision of the Director is to deny the application, the notice shall state the reasons for denial of the permit. The Director shall give such notice in writing by hand-delivery, certified mail, statutory overnight delivery, or e-mail using the contact information provided in the application. If the notice is sent by certified mail, overnight statutory delivery or e-mail, the notice shall be deemed to have been given on the date the notice is mailed or e-mailed by the City as indicated by the postmark or date stamp associated therewith. If the City fails to act within the forty-five (45) business day period, the permit shall be deemed to have been granted.

5. Except as provided in Paragraph 6 below, when an application for a sign permit is denied by the Director, the applicant may appeal such denial to the Board of Appeals by filing a written notice of appeal with the Director within fifteen (15) days of the written notice of permit denial. The notice of appeal shall specify the grounds thereof. The Board of Appeals shall take final action on the appeal within sixty (60) days of the filing of the notice of appeal. If the Board of Appeals fails to act within said 60-day period, the permit shall be deemed to have been granted. Should the Board of Appeals vote to uphold the decision of the Director, the Board of Appeals shall issue a written decision indicating the reason(s) therefor to the applicant. Appeal from the decision of the Board of Appeals is by writ of certiorari to the Fulton County Superior Court and must be filed within 30 days of the date of the Board's decision.
6. Notwithstanding the provisions of the foregoing Paragraph, when (a) a sign is subject to design review and approval by the Director for compliance with design standards and other requirements pursuant to the Design Review Board Ordinance (See Chapter 16 of The Code of the City of Alpharetta, Georgia) and (b) an application for a sign permit is denied by the Director solely on the grounds that the proposed sign does not comply with such design standards or requirements (i.e., design approval is denied by the Director), the applicant may appeal such denial to the Design Review Board by filing a written notice of appeal specifying the grounds thereof with the Director within fifteen (15) days of the written notice of permit denial. When the Director's denial of design approval under the Design Review Board Ordinance serves as the sole basis for the denial of an application for a sign permit, such permit denial shall only be appealable to the Design Review Board. The Design Review Board shall take final action on the appeal within 60 days of the filing of the notice of appeal. If the Design Review Board fails to act within said 60-day period, design approval of the proposed sign shall be deemed to have been granted. Should the Design Review Board vote to uphold the denial, the Design Review Board shall issue a written decision indicating the reason(s) therefor to the applicant. Appeal from the decision of the Design Review Board is by writ of certiorari to the Fulton County Superior Court and must be filed within thirty (30) days of the date of the Design Review Board's decision.
7. The Director may inspect all existing signs in the City to determine if such signs conform to the provisions of the Ordinance. The Director is authorized and empowered to suspend or revoke any sign permit issued upon failure of the holder thereof to comply with any provision of this Sign Ordinance or any other ordinance of the City applicable to the subject sign. The suspension or revocation of the permit shall not preclude the Director or City from taking any other action authorized by this Code or by law to enforce the provisions hereof, assure correction of violations or for any other lawful purpose. No permit shall be suspended or revoked until after the permittee is granted a public hearing before the Board of Appeals. The permittee shall be given fifteen (15) days' written notice of the time, place, and purpose of the hearing, with a statement of the reason(s) for the suspension or revocation of such permit. A finding that the permittee has violated a provision of this Sign Ordinance or any other ordinance of the City applicable to the subject sign shall be due cause for the suspension or revocation of the sign permit.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016; [Ord. No. 751](#) , § 1(Exh. A), 10-16-2017)

Editor's note— [Ord. No. 751](#) , § 1(Exh. A), adopted Oct. 16, 2017, changed the title of § 2.6.4 from "Permits and labels" to read as herein set out.

2.6.5 Variances.

- A. Where a literal application of terms of this Ordinance, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted pursuant to procedures set forth in this Code where all the following conditions exist:

1. a. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape or topography, which are not applicable to other lands or structures in the area; or
 - b. The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the lot, impairs the visibility of the sign such that it cannot be seen;
2. The applicant would be deprived of rights that are commonly enjoyed by others similarly situated;
3. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;
4. The exceptional circumstances are not the result of action by the applicant;
5. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;
6. Granting of the variance would not violate more than one standard of this Ordinance; and
7. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.

Notwithstanding the foregoing, no variance shall be granted for any sign that is a prohibited sign under Subsection 2.6.8.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.6 Non-conforming signs.

It is the policy of the City to encourage that all signs within the City be brought into compliance with the terms and requirements of this Ordinance.

- A. The City finds that non-conforming signs may adversely affect the public health, safety and welfare. Such signs adversely affect the aesthetic characteristics of the city and may adversely affect public safety due to the visual impact of said signs on motorists and the structural characteristics of said signs. Accordingly, the following registration requirements are found to be necessary in order to minimize these possible adverse effects through annual inspections and maintenance and allow the City to remain cognizant of the locations and maintenance of said signs.
- B. The owner(s) or authorized agent(s) of each non-conforming sign located within the City shall register said non-conforming sign with the Director no later than 90 days after the effective date of this Ordinance and shall renew this registration annually thereafter. Any non-conforming sign that does not comply with the registration requirements herein shall be deemed to be an illegal sign and shall be subject to the regulations applicable to illegal signs and all other enforcement provisions of this Ordinance. The Director shall promulgate a form for the registration of non-conforming signs and shall annually inspect said signs to assure that they continue in all other respects in conformity with all other provisions of this Ordinance and any other applicable ordinance or regulation of the City.
- C. The Director may inspect existing signs in the City from time to time to determine if such signs conform to the provisions of this Ordinance.
- D. Any non-conforming sign which is not used or leased for a continuous period of 1 year shall not be reused for sign purposes unless and until it fully conforms with the terms and requirements of this Ordinance.
- E. No change in shape, size or design, shall be permitted except to make a non-confirming sign comply with all requirements of this Ordinance.
- F. A non-conforming sign may not be replaced by another non-conforming sign.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

2.6.7 Exemptions from permit requirements.

The following signs shall be exempt from the permit requirements of Section 2.6.4, provided all standards set forth in this Ordinance are met, including, but not limited to, the standards set forth below:

- A. Standard informational signs.
- B. Address numerals, not exceeding six (6) inches in height in residential districts and twelve (12) inches in height in non-residential districts, for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law.
- C. Flags provided that the height of a flag pole shall not exceed the allowed height provided for a structure or a building in the applicable zoning district, or sixty (60) ft., whichever is less, and in residential districts shall not exceed twenty-five (25) ft. in height or the height of the primary structure on the lot, whichever is less. In addition, the maximum dimensions of any flag shall be proportional to the flag pole height and the hoist side of the flag shall not exceed twenty percent (20%) of the vertical height of the flag pole. Each lot shall be allowed a maximum of three (3) flag poles unless a special land use permit or variance is obtained. A maximum of 2 flags per pole is allowed.
- D. Non-governmental traffic control devices in or adjacent to internal parking areas and driveways in private developments, located so as not to interfere with, or detract from, official traffic control devices, and which conform to MUTCD (current edition) standards, including, but not limited to, standards regarding size, height, design and location.
- E. Window signs meeting the standards of this Ordinance.
- F. Legally authorized public notices when posted by a government officer in the performance of his or her duties.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

2.6.8 Prohibited signs and devices.

Except as otherwise provided, the following types of signs or attention-getting devices are prohibited in all zoning districts of the City:

- 1. Balloons, pennants, streamers, feather signs, air or gas filled figures, or similar attention-getting devices or wind-activated devices, excluding flags.
- 2. Swinging signs.
- 3. Rotating signs.
- 4. Animated signs, flashing signs, and intensely lighted signs.
- 5. Beacons, search lights or laser lights or images.
- 6. Variable message boards used for purposes other than traffic management.
- 7. Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal.
- 8. Window signs which, in aggregate, exceed 20% of the window area or otherwise fail to meet the standards of this Ordinance.
- 9. A-frame signs, sandwich board, sidewalk or curb signs are prohibited except when placed within 5 ft. of the front door of a building.
- 10. Signs painted on or attached to utility poles, trees, rocks or other similar objects, except signs lawfully placed on utility poles by a government, public authority or public utility.

11. Signs which obstruct a fire escape, required exit, window or door opening used as a means of ingress or egress, or which interfere with any opening required for ventilation, or which violate any code of the City, including the Life Safety Code and the Fire Prevention Code.
12. Signs occupying a parking space required under the minimum parking requirements of this Ordinance, other than signs designating the space as reserved for handicapped or other use.
13. Signs which do not conform to City-adopted building and electrical codes.
14. Signs which emit audible sound, odor or visible matter.
15. Portable signs.
16. [Reserved].
17. [Reserved].
18. Signs attached to any street signs or traffic control devices, or to any pole supporting same, or any sign attached to any utility pole, other than those signs lawfully placed by a government, public agency, or public utility.
19. Signs projected on a building.
20. Signs in a public right-of-way other than publicly owned or maintained signs.
21. Signs which are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted.
22. Signs located on any substandard lot.
23. Abandoned signs.
24. Any sign that is structurally unsound, or is a hazard to traffic or pedestrians.
25. Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy.
26. Signs exceeding 156 sq. ft. in copy area if located on a commercial building, signs exceeding 240 sq. ft. in copy area if located on an industrial or office park building and/or signs and sign structures in excess of ~~15~~ 10 ft. in height (measured from the ground to the highest point of the structure).
27. Signs in any area designated as an undisturbed buffer pursuant to a federal, state or local law, a condition of zoning, or approved plat.
28. Internally illuminated window signs, including neon or LED signs (except as otherwise permitted herein). Additionally, LED, string or similar lighting outlining the windows, doors or other similar building features shall be prohibited.
29. LED or any other illumination shall not be used to create the look of neon tubes.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016; [Ord. No. 736](#) , § 1, 3-20-2017)

2.6.9 Remedies.

In case any sign covered by this Ordinance is or is proposed to be erected, constructed, altered, converted or used in violation of any provision of this Ordinance, the Director may, in addition to other remedies, and after due notice to the appropriate person(s), issue a citation for violation of this Ordinance requiring the presence of the violator in the municipal court or the Alpharetta Code Enforcement Board, or

institute injunctive or other appropriate legal or administrative proceedings to prevent such unlawful erection, construction, alteration, conversion or use or to correct or abate such violation.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.10 Severability.

In the event that any section, subsection, sentence or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect as if such portion so declared or adjudged unconstitutional were not originally part of this Ordinance, even if the surviving parts of this Ordinance result in greater restrictions after any unconstitutional provisions are stricken. The Mayor and Council declare that they would have enacted the remaining parts of this Ordinance if they had known such portions thereof would be declared or adjudged unconstitutional or invalid. The Mayor and Council declare their intent that should this Ordinance be declared invalid, in whole or in part, signs are to continue to be subject to regulations applicable to "structures" contained in other city ordinances, including other sections of this Code.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.11 General provisions.

Except as otherwise provided in this Ordinance, the following general regulations apply to all zoning districts in the City:

A. MAINTENANCE AND APPEARANCE OF SIGNS.

1. All signs shall be maintained in good condition and present a neat and orderly appearance. Any sign showing gross neglect, or which becomes dilapidated, or which is surrounded by an unmaintained ground area, or due to its condition which may pose a threat to the safety of the public may be required to be repaired or removed as set forth below.
2. The Director, upon finding any of the above conditions, will give the owner written notice which may be up to 10 days to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the Director may issue a citation under the enforcement provisions of this Ordinance.

B. ILLUMINATION OF SIGNS.

1. The light from any illuminated sign shall not be of an intensity or brightness which will interfere with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent properties.
2. No sign shall have blinking, flashing, or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color.
3. No color lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
4. Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.
5. Lighting for free-standing signs shall be located above the sign and aimed downward in order to minimize the brightness added to the night sky.

6. Neon shall not be used.

C. MEASUREMENT OF SIGN AREA.

1. *Generally.* Except as otherwise provided herein, the area of a sign shall be computed as the area within the smallest rectangle enclosing the limits of a sign face, together with any sign face cabinet, frame, material, texture, or color forming an integral part of the sign face used to differentiate the sign face from the structure upon which it is placed. The computation of the area of a sign face shall not include the structure, supports, or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any copy or serve background, but rather are purely structural or architectural in nature, except as provided above.
2. *Double-Faced Signs.* For double-faced signs, when the sign face surfaces are parallel and are back to back, or where the interior angle formed by the faces is sixty (60) degrees or less, the area of the sign shall be taken as the areas on the largest side. For all other multi-faced signs, the area of the sign shall be the total area on all sides that can be viewed from any angle.
3. *Monument Signs.*
 - a. *Area of Sign.* For monument signs, the "sign area" or "area of the sign" shall mean the total area of the visible surface of the sign, including the base, sign structure, and sign face of the sign. The computation of the sign area of a monument sign shall include the entire surface of the base, sign structure and sign face, as measured from top to bottom and side to side. For monument signs that are double-faced, when the sign face surfaces are parallel and are back to back, or where the interior angle formed by the faces is sixty (60) degrees or less, the area of the sign shall be taken as the areas on the largest side.
 - b. *Sign Face.* For monument signs, the area of the sign face shall be measured in the same manner as provided for the measurement of the area of sign for all other signs.
 - c. *Copy Area.* For monument signs, the copy area shall be measured in the manner provided in the definition of "copy area."
 - d. *Tenant Panels and Changeable Copy Board.* If a portion of a monument sign includes a sign face with tenant panels or changeable copy board, which is separated from another copy area on the sign by portions of a sign structure that are not intended to contain any copy, but rather are purely structural or architectural in nature, the portion of the sign containing tenant panels or changeable copy board shall be measured separately from the other copy area of the sign (i.e., the copy area of the monument sign is the total of (i) the area within the smallest rectangle enclosing the limits of the sign face comprised of tenant panels or changeable copy and (ii) the other (separated) copy area.

D. STANDARDS FOR MONUMENT SIGNS.

1. The base of a monument sign shall be at least as wide as the sign face. Unless otherwise specified in a Master Sign Plan or a condition of zoning approval, the base and structure of a monument sign shall be constructed of brick, stone, or other architectural materials matching the principal building's materials and color. Any poles or columns utilized for structural purposes shall be fabricated or covered so that they may not be detected visually. Foundations shall be designed to carry weight and wind load of the sign, in soil which it is placed.
2. Any tenant panels or changeable copy on a monument sign shall have a uniform background color and material.
3. All monument signs shall display the property address in numbers at least six (6) inches in height. The numerical address shall not be considered part of the sign face and shall not count against the allowable sign square footage provided such numbers are not more than twelve (12) inches in height.

4. Except for subdivision signs, monument signs may not be constructed before the principal building is on a lot.
- E. **BANNERS.** Banners require a permit and are permitted in all zoning districts pursuant to the following standards:
1. Banners shall be permitted for either one (1) fourteen (14) day period per calendar year per lot or two (2) seven (7) day periods per calendar year per lot. An individual banner permit may be divided into two (2) non-consecutive seven (7) day periods provided the dates are stated on the permit. However, in the case of lots which contain a shopping center (or strip shopping center) with multiple tenant spaces, each tenant space shall be allowed to erect or place a banner for either one (1) fourteen (14) day period per calendar year or two (2) seven (7) day periods per calendar year.
 2. In addition to the foregoing, banners shall be allowed on private property during an approved temporary use, as defined in Section 2.3.2 of the U.D.C., for the approved period of such temporary use, but not to exceed forty-five (45) days; provided, however, the placement of banners on lots during approved temporary uses shall not be permitted more than two (2) times per calendar year per lot. Any such banners shall be removed upon termination of the temporary use or within forty-five (45) days from the date it is first placed on the lot, whichever is first to occur. Upon removal, no banner shall be placed on the same lot for a period of sixty (60) days.
 3. Banners shall not exceed 24 sq. ft. total area in size.
 4. Banners must either be free-standing or mounted to the wall of a tenant space or the lot's existing monument sign. If free-standing, the height of the banner shall not exceed five (5) [feet] above grade. If mounted to the wall of a tenant space, the width of the banner shall not exceed tenant frontage and shall not extend above the horizontal plane of the roof where the building wall and roof meet. If mounted to the lot's existing monument sign, the banner shall not extend beyond the sign face of the monument sign.
 5. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.
- F. **PLACEMENT OF SIGNS.** Except within the Central Business District, all free-standing signs must be set back at least ten (10) ft. from the public right-of-way. Within the Central Business District, all free standing signs must be set back at least five (5) feet from the public right-of-way.
- G. **CHANGEABLE COPY.** Any monument sign permitted under this Ordinance may contain up to sixty-five percent (65%) changeable copy if the sign is located on a lot zoned and used (as its principal existing use) for an institutional, public or semi-public use and which includes an indoor public assembly place accommodating one hundred (100) or more persons.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.12 Requirements for non-residential zoning districts.

- A. *Signs Permitted in Strip Shopping Centers (less than 50,000 sq. ft. enclosed leasable space).*
1. *Primary Free-standing Sign (Monument Sign).* One (1) primary monument sign no greater than ten (10) ft. in height with no more than forty-two (42) sq. ft. of copy area shall be permitted in a strip shopping center. The monument sign may have up to four (4) tenant panels, which shall be calculated as part of the copy area. This sign shall be set back 20 ft. from the public right-of-way.
 2. *Wall Signs.* One wall sign per road frontage for each tenant space no greater than one (1) sq. ft. of sign area per one (1) ln. ft. of tenant space frontage shall be permitted; provided, however, no more than two (2) wall signs shall be allowed for a tenant space (i.e. Corner tenants within strip

shopping centers may have a wall sign on the end of the building in addition to the wall sign on the front of the building for a maximum of two (2) wall signs). Up to 50% of unused tenant sign area for wall and perpendicular signs shall be permitted to be aggregated and distributed to a particular building elevation; provided, however, no more than two (2) wall sign and one (1) perpendicular sign (not greater than 8 square feet) shall be allowed on the same building elevation and additional signs shall not be internally-illuminated.

3. **Rear Entrance Sign.** ~~One (1) rear entrance sign is allowed for each tenant space within the strip shopping center. Rear entrance signs shall be located on the tenant space's rear entrance door and shall not exceed two (2) sq. ft. in area. Rear entrance signs shall not require a permit from the Director.~~

- a. **Applicability.** Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign.
- b. **Location.** Rear entrance signs shall be located near the tenant space's rear door facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.
- c. **Size.** The area of rear entrance signs shall not exceed 50% of the front facing sign area allowed for the same tenant.

4. **Window Signs.** Window signs, as defined in this Ordinance, are permitted for each tenant space in a shopping center. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area of the subject tenant space. One (1) illuminated window sign is permitted for each tenant space provided that such sign does exceed a maximum of four (4) sq. ft. in area. Illuminated window signs shall be included in the maximum aggregate window sign area calculation. Any illuminated window sign shall be constant in its light emission, shall not be animated, and shall not be so large or of character to obscure vision into the premises from the outside. Window signs shall not require a permit from the Director. However, each tenant shall immediately remove any window sign upon receipt of written notification from the Director stating that such window sign obscures the vision of police or other security or safety personnel into the premises in a manner that endangers public safety.

5. **Under-Canopy Sign.** One (1) under-canopy sign is permitted for each tenant space within a strip shopping center, which shall not exceed 8 sq. ft. in area.

6. **Sign During Construction.** One (1) temporary free-standing sign per strip shopping center project shall be permitted during the construction of the strip shopping center or the principal building of any outparcel. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, installation of a permanent sign, or expiration/termination of the land development permit, whichever is first to occur. The sign shall not exceed ten (10) ft. in height, thirty-two (32) sq. ft. in area, and must be set back ten (10) ft. from the public right-of-way (five (5) ft. in the Central Business District). Further, the location of the sign be confined to the site of construction, and only one (1) such sign may be permitted per project.

7. **Standard Informational Signs.** Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.

B. Signs Permitted in Shopping Centers (more than 50,000 sq. ft. enclosed leasable space).

1. **Primary Free-standing Signs (Monument Signs).**

- a. The maximum number of primary monument signs permitted in a shopping center is as follows:

Size of Center (enclosed leasable space)	Total Number of Signs
--	-----------------------

50,000 sq. ft. to 150,000 sq. ft.	2
Over 150,000 sq. ft. to 200,000 sq. ft.	3
Over 200,000 sq. ft.	4

- b. The monument sign may have up to four (4) tenant panels, which shall be calculated as part of the copy area.
- c. No such sign shall be located within twenty (20) ft. of the public right-of-way of the street which affords the principal means of access to the shopping center. The sight distance of each sign shall conform to City standards, and evidence of conformity shall be provided to the Director.
- d. The maximum height of any such sign shall be twelve (12) ft. and the maximum area permitted for any such sign is as follows:

Height	Area of Sign	Copy Area
10 feet or less	420 sq. ft.	78 sq. ft.
Over 10 ft. but not more than 12 ft.	360 sq. ft.	64 sq. ft.

- f. The name and street number of the shopping center may be set forth on the monument sign. The calculation of the permitted copy area shall not include the street number.
 - g. ~~The owner or developer of a shopping center which exceeds 150,000 sq. ft. may elect to forego one or more of the monument signs otherwise permitted under this subsection. For each sign that is foregone, the owner or developer may elect to increase the copy area of one remaining sign up to 100% of the square footage that is otherwise permitted under this subsection, or, in the event there is more than one remaining sign, this percentage may be allocated among the remaining signs. In no event shall the copy area of any sign be increased by more than 100%. By way of illustration, if an owner of a shopping center exceeding 200,000 sq. ft. elects to forego one of the four permitted monument signs, he might elect to increase the copy area of one of the remaining signs by 100%, or he might elect to increase the copy area of one remaining sign by 50% and the two other signs by 25% each, etc.~~
 - h. In addition to the monument signs permitted above, one (1) monument sign not exceeding 10 ft. in height and 32 sq. ft. in copy area is permitted for each out-parcel; provided, however, if the out-parcel is a corner lot, one (1) sign for each street frontage is permitted.
2. *Canopy Signs and Wall Signs.*
- a. One canopy sign or wall sign is permitted for each tenant space in the shopping center.
 - b. No wall sign or canopy sign shall be located so that any part of the sign or its support extends above the top of the wall or canopy, and no copy shall be located within five (5) in. of the top of the sign.

- c. The area of a wall sign or canopy sign shall not exceed one (1) sq. ft. for each linear foot of tenant space frontage.
 - d. Up to 50% of unused tenant sign area for wall and perpendicular signs shall be permitted to be aggregated and distributed to a particular building elevation; provided, however, no more than two (2) wall sign and one (1) perpendicular sign (not greater than 8 square feet) shall be allowed on the same building elevation and additional signs shall not be internally-illuminated.
3. *Under-Canopy Signs.*
- a. One (1) under-canopy sign is permitted for each tenant space within a shopping center.
 - b. Under-canopy signs shall extend perpendicular to the wall of the tenant space, shall not exceed 8 sq. ft. in area, and shall be attached at a uniform height sufficient to assure the safety of pedestrians. Under-canopy signs shall match the wall or canopy signage for the subject tenant space unless otherwise approved by the Director.
4. *Rear Entrance Sign.*
- a. *Applicability.* Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign. ~~One rear entrance sign is permitted for each tenant space within the shopping center. The developer or owner of the shopping center shall be responsible to the City for proper rear entrance signage of tenant spaces, including proper maintenance.~~
 - b. *Location.* Rear entrance signs shall be located ~~on~~ near the tenant space's rear door facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.
 - c. *Size.* The area of rear entrance signs shall not exceed ~~8 sq. ft.; however, the sign may not be less than 18 in. wide and 12 in. high.~~ 50% of the front facing sign area allowed for the same tenant.
5. *Signs During Construction.*
- a. One (1) temporary free-standing sign per shopping center project shall be permitted during the construction of the shopping center or the principal building of any outparcel. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development permit, whichever is first to occur.
 - b. The size of the sign shall not exceed thirty-two square feet (32 sq. ft.) in area and the height of such sign shall not exceed ten feet (10 ft.). Further, the location of the sign shall be confined to the site of construction, and only one (1) such sign may be permitted per project.
7. *Window Signs.*
- a. Window signs, as defined in this Ordinance, are permitted for each tenant space in a shopping center. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area of the subject tenant space.
 - b. One (1) illuminated window sign is permitted for each tenant space provided that such sign does not exceed four (4) sq. ft. in area. Illuminated window signs shall be included in the maximum aggregate window sign area calculation. Any illuminated window sign shall be constant in its light emission, shall not be animated, and shall not be so large or of a character to obscure vision into the premises from the outside.
 - c. Window signs shall not require a permit from the Director. However, each tenant shall immediately remove any window sign upon receipt of written notification from the Director

stating that such window sign obscures the vision of police or other security or safety personnel into the premises in such a manner that endangers public safety.

8. *Reserved.*

9. *Signs Permitted for Cinema Complexes.*

- a. In addition to the primary monument signs permitted for the shopping center, one (1) monument sign, which may include changeable copy board, shall be permitted for a lot containing a cinema complex; provided, however, if the cinema complex is located on an outparcel, any cinema monument signs erected shall be in lieu of the monument sign that is otherwise permitted for the outparcel pursuant to this subsection. If the cinema complex is on a corner lot, one (1) cinema monument sign for each street frontage is permitted.
- b. The changeable copy board shall be constructed in such a fashion to prevent wind, rain or other elements from altering the position of the copy.
- c. The height of a monument sign for a cinema complex shall not exceed ~~fifteen~~-ten (15 10) ft.
- d. *Reserved.*
- e. The copy area of a monument sign for a cinema complex shall not exceed one-hundred-and-twenty (120) sq. ft.
- f. One (1) wall sign, which may include changeable copy board, or canopy sign shall be permitted for a cinema complex; provided, however, if theaters are contained within separate buildings then one such sign shall be permitted for each building. Signage for each building shall be treated as a separate sign. The aggregate area of wall signs or canopy signs for a cinema complex shall not exceed 1 sq. ft. for each linear foot of building frontage.
- g. No wall sign or canopy sign shall be located so that any part of the sign or its support extends above the top of the wall or canopy, and no copy shall be located within five (5) in. of the top of the sign. The provisions of this subsection pertaining to signage in cinema complexes shall also apply to cinemas not located within a shopping center.

10. *Entry Wall Signs.* A sign of up to three (3) sq. ft. is permitted on the wall above or adjacent to the entry of a tenant space located in a building without a common front entry.

11. *Standard Informational Signs.* Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.

C. *Signs Permitted in Industrial and Office Parks.*

1. *Free-Standing Signs.*

- a. *Primary Free-Standing (Monument) Signs.* A maximum of two (2) primary monument signs are permitted in an industrial or office park. No primary monument sign shall exceed ~~15~~ 10 ft. in height. A changeable copy board is not permitted on an industrial or office park sign. No primary monument sign shall be located within 20 ft. of the public right-of-way of the street which affords the principal means of access to the industrial or office park. The permitted area for primary free-standing signs is as follows:

Frontage	Area	Copy Area
Up to 500 feet	75 square feet	60 sq. ft.
501— 1,000 and more feet	100 square feet	75 sq. ft.

1,001—1,500 feet	150-square feet	100-sq. ft.
Over 1,500 feet	200-square feet	150-sq. ft.

- b. **Secondary Free-Standing (Monument) Signs.** One secondary monument sign shall be permitted for each building in the industrial or office park, not to exceed 32 sq. ft. in area. The height of a secondary monument sign shall not exceed 10 ft.
2. **Wall Signs.** Buildings of two (2) stories or greater may have a wall sign located at the top of the building. The maximum area of such sign shall not exceed 20 sq. ft. per floor or story above road grade, not to exceed 240 sq. ft. Wall signs shall not be internally illuminated. *In lieu of a wall sign, up to 50% of the wall sign area allowance may be used for a blade sign.*
 3. **Door or Wall Sign.** One (1) sign of up to three square feet (3 sq. ft.) is permitted for each tenant space within a building. Such signs shall be located on the door of the suite, or on a wall immediately adjacent to the door of the suite for business establishments located in a building without a common front entry.
 4. **Directory Signs.** Directory signs are permitted in industrial or office parks. Each exterior directory sign shall be a monument sign. Height of a directory sign shall not exceed ten feet (10 ft.).
 5. **Reserved.**
 6. **Rear, Secondary or Delivery Entrance Signs.** Rear, secondary or delivery entrance signs are permitted at appropriate locations within an industrial or office park. All such signs shall be free-standing and shall not exceed eight square feet (8 sq. ft.) in size and ten feet (10 ft.) in height.
 7. **Signs During Construction.** One (1) temporary free-standing sign for each subdivided tract within an industrial or office park is permitted during construction. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development permit, whichever is first to occur.

The size of such sign shall not exceed thirty-two square feet (32 sq. ft.) and the maximum height of such sign shall be ten feet (10 ft.). Further, the location of the sign shall be confined to the site of construction.
 8. **Standard Informational Signs.** Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- D. **Signs Permitted for Convenience Centers with Gasoline Pumps.**
1. One monument sign per road frontage not to exceed ten feet (10 ft.) in height and thirty-two square feet (32 sq. ft.) in area. The monument sign may include changeable copy board, not to exceed four (4) square feet in area, which shall be calculated as part of the copy area *no digital copy is allowed.*
 2. Wall signage for convenience store and accessory buildings shall not exceed an aggregate area of eighty square feet (80 sq. ft.).
 3. One canopy sign per road frontage not to exceed twenty square feet (20 sq. ft.) per sign.
 4. Signs on pumps shall not exceed three square feet (3 sq. ft.) per pump.
 5. Window signs, as defined in this Ordinance, are permitted. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area

of the subject building or tenant space. One (1) illuminated window sign is permitted for each tenant space provided that such sign does not exceed four (4) sq. ft. in area.

6. Standard Informational Signs. Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- E. *Signs Permitted for Free-Standing Commercial Establishments not Located within a Shopping Center, Office Park or Industrial Park.*
1. One (1) monument sign per road frontage no greater than ten feet (10 ft.) in height with no more than thirty-two square feet (32 sq. ft.) of area. Each sign shall be set back not less than ten feet (10 ft.) from the public right-of-way, except in the Central Business District where the setback shall be not less than five feet (5 ft.) from the public right-of-way.
 2. One (1) wall sign per road frontage for each tenant space no greater than one square foot (1 sq. ft.) of area per one linear foot (1 ln. ft.) of tenant frontage; provided, however, no more than 2 wall signs shall be allowed for a tenant space.
 3. One (1) rear door sign not to exceed three square feet (3 sq. ft.) in area.
 4. Window signs not exceeding twenty percent (20%) of the glass area.
 5. One (1) sign no greater than three square feet (3 sq. ft.) located on the front door or on a wall immediately adjacent to the front door.
 6. Buildings of ~~three~~ **two (32)** stories or greater may have a wall sign located at the top of the building and is not greater than ~~forty-eight square feet (48 sq. ft.)~~ **20 sq. ft. per story (of building)**, in area.
 7. One (1) temporary free-standing sign shall be permitted during the construction of the principal building for the lot. Such sign shall be allowed upon the commencement of construction for which a land disturbance or building permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development or building permit, whichever is first to occur. The sign shall not exceed ten feet (10 ft.) in height, thirty-two square feet (32 sq. ft.) in area, and must be set back ten feet (10 ft.) from the public right-of-way (five feet (5 ft.) in the Central Business District).
 8. Standard Informational Signs. Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- F. *Signs permitted within the Downtown Overlay and MU zoned properties.* In addition to the signs authorized under a designated category, each business in the Downtown Overlay and within MU zoned properties may utilize the following additional signage:
1. Each located on the ground floor of a building shall be permitted one (1) perpendicular sign which shall not exceed eight (8) square feet in size and shall be placed at least eight (8) feet, but no more than twelve (12) feet above sidewalk. In order to foster originality, the shape of the sign may not incorporate more than one set of parallel edges and words may only comprise up to 50% of the sign face area. The remaining sign face area must incorporate some form of graphic design. In addition, signs must be mounted on decorative black brackets.
 2. Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign up to twenty-four (24) square feet in size. This additional wall sign shall be located on the back of the building facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.
- G. Building Ground Signs (monument signs) within the Downtown Overlay shall not be internally illuminated. Where illumination is needed, lighting fixtures may be placed at the top of the sign and aimed downward or may be placed on the ground and aimed in such a way as to illuminate the sign without creating spillover into the night sky. **Maximum height shall not exceed 6 feet. This regulation shall apply only to new signs. The changing of a sign face or panel shall not constitute a new sign.**

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016; [Ord. No. 736](#) , § 2, 3-20-2017)

2.6.13 Requirements for residential zoning districts.

- A. *Standard Informational Signs.* Each lot located in a residential district may display standard informational signs, as defined in this Ordinance. No single sign shall exceed four feet (4 ft.) in height. No sign shall be illuminated. All signs must be set back at least ten feet (10 ft.) from the right-of-way.
- B. *Subdivision Signs.* A maximum of two (2) subdivision signs per platted residential subdivision entrance are permitted, which may be erected while the subdivision is under construction and being actively marketed 'For-Sale'.. These signs shall be single-faced, not exceed ten feet (10 ft.) in height or thirty-two square feet (32 sq. ft.) in area, and be set back at least ten feet (10 ft.) from the right-of-way. Subdivision signs shall not be included in the calculation of aggregate sign area for any lot. A subdivision sign shall not be internally illuminated.
- C. *'For-Rent' Dwelling Developments.* One (1) monument sign shall be permitted for a planned 'for-rent' dwelling development. Such sign shall not exceed ten feet (10 ft.) in height or thirty-two square feet (32 sq. ft.) in area, and be set back at least ten feet (10 ft.) from the right-of-way. The sign shall not be internally illuminated.
- D. *CUP Districts.* Within CUP zoning districts, 'For-Rent' dwelling developments shall also be permitted one permanent, free-standing, directional sign. Such sign shall be a monument sign and shall match the appearance of the primary sign on the site, be setback at least ten feet (10 ft.) from the public right-of-way, and shall be no greater than thirty-two square feet (32 sq. ft.) in area.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

Footnotes:

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Editor's note— [Ord. No. 720](#) , § 2(Exh. A), adopted 2-22-2016, repealed former § 2.6 (2.6.1—2.6.14), and enacted a new § 2.6 as set out herein. The former § 2.6 pertained to similar subject matter and derived from the original codification and [Ord. No. 713](#) , §§ 1—8, adopted Sept. 28, 2015.

SECTION 2.10 - NORTH POINT OVERLAY

2.10.9. Signs.

A. Materials. Signage must be finished in the same exterior materials as the principal structure.

B. Monument Sign.

1. A minimum 2 feet wide planting area must be provided around the base of all monument signs.

2. Shrubs, groundcover, or mulch must be installed in the tree area identified in "1" immediately above.

~~C. Additional Walls Signs. One additional wall sign is permitted in excess of the sign allowances of UDC Sec. 2.6—Signs. If an additional wall sign is installed, it is subject to the following:~~

~~1. The sign may be up to 24 square feet in size.~~

~~2. The sign must be located on the back or side of the building facing a parking lot, alley, or open space.~~

([Ord. No. 767](#) , § 5(Exh. B), 10-22-2018)

EXHIBIT B

SECTION 2.10 - NORTH POINT OVERLAY

2.10.9. Signs.

A. Materials. Signage must be finished in the same exterior materials as the principal structure.

B. Monument Sign.

1. A minimum 2 feet wide planting area must be provided around the base of all monument signs.
2. Shrubs, groundcover, or mulch must be installed in the tree area identified in "1" immediately above.

~~C. Additional Walls Signs. One additional wall sign is permitted in excess of the sign allowances of UDC Sec. 2.6 -- Signs. If an additional wall sign is installed, it is subject to the following:~~

- ~~1. The sign may be up to 24 square feet in size.~~
- ~~2. The sign must be located on the back or side of the building facing a parking lot, alley, or open space.~~

([Ord. No. 767](#) , § 5(Exh. B), 10-22-2018)

AN ORDINANCE TO AMEND ARTICLE II OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA; TO AMEND SECTION 2.6 SIGNS AS IT RELATES TO VARIOUS SIGN REGULATIONS; TO AMEND THE NORTH POINT OVERLAY AS IT RELATES TO SIGNS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, on or about May 21, 2001, the City of Alpharetta (the “City”) adopted a comprehensive zoning ordinance known and cited as the Unified Development Code of the City of Alpharetta, Georgia, which has subsequently been amended from time to time (the “Unified Development Code”); and

WHEREAS, the Mayor and Council of the City of Alpharetta (the “City Council” or “Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta; and

WHEREAS, the Unified Development Code was designed to be amended from time to time when circumstances warrant that modifications be made in order to make said Codes more responsive to community needs; and

WHEREAS, the City Council finds that ordinances and regulations governing the uses of land and development of land within the City, as well as the City’s operations, should be continually improved from time to time and modified as necessary to better protect and promote the public health, safety and welfare of the residents and businesses of the City of Alpharetta; and

WHEREAS, the City Council desires to amend Articles I and II of the Unified Development Code for the foregoing purposes; and

WHEREAS, the City Council finds that the following amendments to the Unified Development Code promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the City of Alpharetta;

NOW THEREFORE, The Council of the City of Alpharetta hereby ordains, as follows:

Section 1: Article I, Section 2.6 titled “Signs” of the Unified Development Code is hereby amended by revising same as set forth in Exhibit “A” attached hereto as if fully set forth herein; and

Section 2: Article II, Subsection 2.10.9 titled “Signs” of the Unified Development Code is hereby amended by revising same as set forth in Exhibit “B” attached hereto as if fully set forth herein; and

Section 3: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 4: This Ordinance shall be effective immediately upon its adoption by the City Council and the amendments made herein shall be incorporated into the Unified Development Code of the

City of Alpharetta, Georgia, as applicable. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED this the _____ day of _____, 2020.

Approved:

Jim Gilvin, Mayor

Attest:

COUNCILMEMBERS

Erin Cobb, City Clerk
(Seal)

Approved as to Form:

C. Sam Thomas, City Attorney

Exhibit “A”

SECTION 2.6 - SIGNS^[2]

2.6.1 Findings, purpose and intent.

A. *Findings.*

1. The City of Alpharetta finds that signs are a proper use of private property, are a means of personal free expression and a necessary component of a commercial environment. As such, signs are entitled to the protection of the law. In the absence of regulation, however, the number of such signs tends to proliferate, with property owners' desiring ever increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted thoroughfares and properties. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises.
2. The City further finds that the size, height, number, design characteristics, spacing and location of signs in the City directly affect the public health, safety and welfare and property values.
3. The City further finds that the regulation of the size, height, number, design characteristics, spacing and location of signs is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the City, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of both advertising and non-commercial messages for the benefit of all the City's citizens.
4. The City further finds that there is a substantial difference between signs erected by public authority and signs erected by private citizens or businesses. Signs erected by public authority are virtually all erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type signage as street signs which enable the traveling public to know where they are located and to find where they are going. As such, with the exception of limited signs serving other purely public purposes, such as identifying government buildings or conveying government speech, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public. The City finds that public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, those signs are marked primarily for the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power.
5. The City further finds that there is a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through adoption of the following regulations.

B. *Purpose and Intent.* The purpose and intent of the governing authority of the City of Alpharetta in enacting this Ordinance includes, are as follows:

1. To protect the health, safety, general welfare and property values of the citizens of the City, and to implement the policies and objectives of the Comprehensive Plan of the City through enactment of a comprehensive set of regulations governing signs in the City;
2. To regulate the erection and placement of signs within the City in order to provide safe operating conditions for pedestrian and vehicular traffic without unnecessary and unsafe distractions to drivers and pedestrians;

3. To preserve the value of property on which signs are located and from which signs may be viewed;
4. To maintain an aesthetically attractive city in which signs are compatible with the surrounding area;
5. To maintain for the City's residents, workers and visitors a safe and aesthetically attractive environment and to advance the aesthetic interests of the City;
6. To prevent the destruction of the natural beauty and environment of the City and maintain and maximize tree coverage within the City;
7. To establish comprehensive sign regulations which effectively balance the protection of legitimate business and development needs and the rights of individuals and businesses to convey their messages through signs with the promotion of a safe and aesthetically attractive environment for residents, workers and visitors to the City and the protection of the public health, safety, and general welfare;
8. To ensure the protection of free speech rights under the State and United States Constitution within the City;
9. To promote economic development;
10. To establish a permit system to allow specific types of signs in zoning districts consistent with the uses, intent and aesthetic characteristics of the areas where the signs are to be located;
11. To provide temporary signs in limited circumstances;
12. To place reasonable controls on non-conforming signs that are by definition contrary to the public health, safety and welfare while protecting the constitutional rights of the owners of said non-conforming signs;
13. To provide for the maintenance of signs;
14. To avoid the harmful aspects of the unrestricted proliferation of signs; and
15. To ensure the fair and consistent enforcement of sign regulations.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.2 Scope of regulations.

- A. The provisions and standards of this Ordinance shall apply to all signs located or erected within the corporate limits of the City.
- B. Protected non-commercial speech shall be permitted in any place commercial speech is permitted under this Ordinance. Any sign provided for in any zoning district may contain non-commercial messages. To the extent any conflict arises between this provision and any other language found in this Ordinance, this provision shall control.
- C. Nothing herein shall be construed to permit display of any message which is obscene, illegal or speech which is otherwise unprotected under the First Amendment of the United States Constitution. Nothing herein shall be construed to prohibit a prosecution for violation of a criminal statute by the City or other duly constituted government authority or a civil action by the City or other private person or entity.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.3 Definitions.

As used in this Ordinance, unless the context indicates otherwise, the following terms shall have the meaning set forth below:

Abandoned Sign. Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or deteriorated copy through lack of maintenance, or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility.

Animated Sign. Any sign, or part of a sign, that uses any movement or change of lighting or color to depict action or create a special effect or scene, changes colors or physical position by movement or rotation, or which gives the visual impression of such movement or rotation. This includes signs that flash, blink, scroll, fade or rotate/revolve to display a message in more than one direction, and tri-vision signs, but does not include flags, banners, or canopies.

Background Area. The area of a sign face on which copy could be placed, as opposed to the copy area, where copy is in fact posted or painted. See also, "Face of Sign" (or "Sign Face").

Banner. Any sign of lightweight fabric, plastic or similar material that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Beacon. Any light with one (1) or more beams which rotate, move or which are directed into the atmosphere or at one (1) or more points not on the same lot as the light source.

Canopy (or Marquee). A permanent roof-like shelter extending from part or all of a building face and constructed of some durable material such as fabric, metal, glass or plastic.

Canopy Sign. Any sign attached to or constructed in or on a canopy. For purposes of this Ordinance, this term includes Marquee Sign.

Changeable Copy Board. Any sign or part of a sign face that incorporates changeable board or panels, each of which contain a number, letter, character, graphic, symbol or image, to form a sign message or messages ("changeable copy"), whether the changing of such panels or boards are accomplished electronically or manually. A tenant panel is not considered changeable copy.

City. The City of Alpharetta, Georgia.

Copy. The characters, symbols, graphics, images, letters, words, writing, and/or information or advertising display on a sign surface.

Copy Area. The area in square feet of the smallest rectangle enclosing the actual copy of a sign.

Directory Sign. A single, permanent free-standing sign for multiple businesses, offices, professionals, industries or other entities located within a planned center.

Double-Faced Sign. A sign which has two (2) display areas against each other or where the interior angle formed by the display areas is sixty degrees (60°) or less, where one (1) face is designed to be seen from one (1) direction and the other face from another direction.

Electronic sign. Any sign, or portion of a sign, whose message may be changed at intervals by electronic process or by remote control, including signs such as a tri-vision sign, LCD sign or LED sign.

Facade. The exterior front of a building or structure exposed to public view.

Face of Sign or Sign Face. That part of a sign that is or can be used to announce, direct attention to, identify, advertise or otherwise communicate information. The entire area of sign on which copy could be placed. See also, "Background Area." The sign face may be composed of two or more modules on the same surface that are separated or surrounded by portions of a sign structure not intended to contain any advertising message or idea and are purely structural or decorative in nature.

Feather Sign. A temporary sign or device made of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, attached to a single rod, stake or staff for support, and designed to move in the wind.

Flags. Any fabric, bunting or similar material containing distinctive colors, patterns, or symbols.

Flashing Sign. A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects.

Free-standing Sign. Any sign erected on a free-standing base, foundation, or frame, or otherwise supported by structures, supports or posts that are attached to, placed on, or anchored in the ground, and which are independent from and not attached to any building or other structure. All permanent free-standing signs shall be self-supporting structures erected on and permanently attached to solid bases or foundations.

Illuminated Sign, External. Any sign illuminated by an external light source. Such source cannot be a device that changes color, flashes or alternates.

Illuminated Sign, Internal. Any sign illuminated by an internal light source. Such source cannot be a device that changes color, flashes or alternates.

Lot or Parcel. A designed parcel, tract or area of land legally established by plat, subdivision or as otherwise permitted by law, to be separately owned, used, developed or built upon.

Monument Sign. A type of permanent free-standing sign that consists of a sign face attached on a solid base or foundation, designed in a manner such that the bottom (base) of the sign face is flush with the supporting solid base, which is directly mounted on and flush with the ground. The supporting base shall be at least as wide as the sign face and shall be constructed of brick, stone, or other architectural material as set forth herein. Also referred to as a "ground sign."

Non-conforming Sign. A sign erected or otherwise in use prior to the effective date of this Ordinance which fails in one or more respects to comply with all provisions of this Ordinance.

Obscene. Any form of speech which, taken as a whole, appeals to the prurient interest in sex, portrays sexual conduct in a patently offensive way, and which, taken as a whole, does not have serious literary, artistic, political, or scientific value. See *Miller v. California*, 413 U.S. 15, 93 S. Ct. 2607 (1973).

Outparcel. A portion of a larger parcel of land generally designed as a site for a separate structure and business from that of the larger main tract. To be recognized as an outparcel, the parcel must abut and be external to the larger main tract, have street frontage, and at the time of approval of the site plan for the larger main parcel be identified and delineated as a separate building site from that of the larger main parcel.

Pennant or Streamer. A temporary sign or device made of lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Permanent Sign. Any sign affixed in manner that enables the sign and its copy to resist environment loads and precludes ready removal or movement of the sign, which is designed and constructed in a manner such that its intended use appears to be indefinite, and which, when installed, is intended for permanent use.

Perpendicular Sign. A sign that is placed perpendicular to the face of a wall and can be read on both sides. Such signs can be mounted to a wall or attached to the underside of an awning.

Portable Sign. Any sign which is designed to be transported, including, but not limited to, signs transported by trailer or its own wheels, even though the wheels of such sign may be removed and remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground. Portable sign also means a sign carried by a person when that person's function is to display or convey a message as a pedestrian. Portable sign also means and includes a sign attached to, mounted on, posted on, painted or drawn on a motorized or drawn vehicle, when such vehicle is parked or placed in such a manner as to serve the purpose of an advertising device, or routinely parked at a location other than the location generally associated with the message conveyed or identified thereon, or when the primary purpose or function of such vehicle is to transport the message or messages conveyed or identified thereon. Portable signs shall not be deemed to include standard bumper stickers on vehicles, license plates, or signs that may be reflected on hats or other articles of clothing.

Roof Line. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Roof Sign. Any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

Rotating Sign. Any sign or portion of a sign that moves in a revolving or similar manner.

Sidewalk or Sandwich Board Sign. A movable sign not secured or attached to the ground or surface upon which it is located.

Sign. Any identification, description, illustration, device, fixture, structure, display or visual representation, which is visible from any public place and affixed to, or supported or suspended by, a stationary object, structure, building or the ground that uses any color, form, character, symbol, graphic, image, illumination, or writing to announce, direct attention to, identify, or advertise an object, idea, location, place, person, institution, organization, business, product, service, activity or event or to otherwise visually communicate information, ideas or messages of any kind to the public. "Sign" includes the sign face and sign structure..

Sign Structure. Any structure, other than a building, which supports, has supported or is designed to support a sign. A decorative cover is part of a sign structure.

Site Plan. A scaled, legible drawing representing the parcel of land on which a sign is to be located showing at least the property lines, public street rights-of-way, drive entrances, buildings and the location of existing free-standing signs.

Standard Informational Sign. A non-illuminated, temporary free-standing sign, which shall contain no reflecting elements, flags, projections or unpainted wooden surfaces, mounted on a post, stake or metal frame (with a thickness or diameter not greater than three and one-half inches) that is attached to, or anchored in, the ground. Standard informational signs are limited per lot to either one (1) sign that is twelve (12) square feet in area or up to four (4) signs not to exceed an aggregate of twelve (12) square feet in area. In addition, each sign shall not exceed a height of five (5) feet. These signs shall be set back not less than ten (10) feet from public right-of-way or ten (10) feet from the back of curb of a private roadway. Standard informational signs do not require a permit.

Strip Shopping Center. A multi-tenant retail center with less than fifty thousand square feet (50,000 sq. ft.) of enclosed, leasable space.

Subdivision Sign. A monument sign located at the vehicular entrance or exit of a platted residential subdivision.

Substandard Lot or Parcel. A lot or parcel that does not meet the lot area, width or public street frontage and access requirements of this Code.

Swinging Sign. A hinged sign installed on an arm or spar, and which is not also permanently fastened to an adjacent wall, ceiling or upright pole or support.

Temporary Sign. Any sign that is not a permanent sign.

Tenant Frontage or Tenant Space Frontage. The horizontal distance in feet between the left side wall and the right side wall or building end wall of a tenant space fronting on a street.

Tenant panel. A physically removable panel on a sign face that may be changed for different like-sized panels and which is at least two (2) square feet in area. Tenant panels do not include electronic signs, reader boards or changeable copy.

Tenant Space. The physical location within a building designed and intended to serve as the separate and exclusive premises for the operations of a business or entity, which has its own exclusive public entrance/exit from the exterior of the building, and which is occupied by a business or entity legally operating pursuant to all Federal, State, City or other applicable laws and regulations. The use of any such physical location by more than one (1) legally operating business or entity shall only constitute a single tenant space. In the event such a physical location is used or occupied by more than one (1) business or entity, in order for such physical location to constitute a "tenant space", all businesses and/or entities operating therein must be operating pursuant to all Federal, State, City or other applicable laws and regulations.

Under-canopy Sign. A sign suspended below the ceiling or roof of a canopy or marquee and perpendicular to the face of the building. For the purposes of this Ordinance, this term includes Under-marquee Sign.

Variable Message Board. A programmable sign that provides changing information.

Wall Sign. A sign attached to or erected against the outside wall of a building, with the face parallel to the building wall and extending not more than 1 foot (1 ft.) therefrom, and which displays only one sign face.

Window Sign. A sign installed on or inside a window for purposes of viewing from outside the building. This term does not include merchandise located in window or similar window displays.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

2.6.4 Permits and applications.

- A. PERMIT REQUIRED. Except as specifically exempted from the provisions of this Ordinance, it shall be unlawful for any person to post, display, materially change, or erect a sign in the City without first having obtained a sign permit. Notwithstanding the foregoing, signs which are not visible from a public right-of-way or from neighboring properties shall not be subject to the standards of this Ordinance. ~~A change in only the copy of a sign shall not constitute a material change.~~
- B. APPLICATION CONTENTS. Applications for sign permits shall be made on application forms prepared by the Director and filed by the sign owner or its agent with the Director. The application shall include a detailed description of the subject sign and such other information and documents as required by the subject application form, including the following:
1. The street address of the property upon which the subject sign is to be located and a site plan of the property which bears the scaled and labeled proposed location of the sign.
 2. The aggregate area and copy area for all signs on the parcel.
 3. The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located.
 4. Name, address, telephone number, business license number and signature of the business owner authorizing placement of the sign.
 5. Name, address, telephone number, fax number, business license number and signature of the sign contractor.
 6. The type of sign to be erected, the area and copy area of the sign, the height of the sign (if free-standing), the shape of the sign, the color(s) of the sign, the material of the sign and details showing how the sign will be mounted, installed or erected.
 7. For permanent free-standing, ground and monument signs only, show dimensioned sign location on site plan and include structural foundation and mounting details. Indicate the location and size of all existing permanent free-standing, ground and monument signs on the property.
 8. The cost of the sign (materials and installation).
 9. All applicants for signs which incorporate electricity must obtain an electrical permit or, if previously issued, a copy of the electrical permit. Signs connected to an approved, existing wired outlet or junction box do not require electrical permits.
 10. If the proposed sign is subject to the design standards or other requirements set forth in the Design Review Board Ordinance (codified as §§ 16-37—16-46 of The Code of the City of Alpharetta, Georgia), the applicant must also submit such additional forms, information and/or documents as may be required by the provisions of said ordinance.
 11. Such other information as the City shall require to show full compliance with this and other ordinances of the City.
- C. REVIEW AND CONSIDERATION OF APPLICATIONS; DECISION; APPEALS.
1. No permit shall be issued until the appropriate application has been filed with, and approved by, the Director and fees have been paid. Fees and any required deposits shall be established from

time to time by resolution of the City Council. No application shall be deemed to be accepted by the Director unless and until all fees and deposits are paid and all information reasonably required by the Director is provided by the applicant. When a sign sought pursuant to an application for a permit is located or proposed to be located within the Downtown Overlay or design review for compliance with design standards is delegated and referred to the Design Review Board by the Director as authorized under the Design Review Board Ordinance, the application shall also be subject to design review by the Design Review Board in accordance with the Design Review Board Ordinance. Where design review of a sign by the Design Review Board is required in accordance with the foregoing provisions, a condition of zoning or conditional use approval, or any other applicable City code, ordinance, resolution or regulation, no permit for any such sign shall be issued without the prior grant of design approval by the Design Review Board. The decision of the Design Review Board to grant or deny design approval shall be final.

2. The Director shall reject any application that is incomplete or does not conform to the City's application requirements, contains a false material statement or omission, or is for a prohibited sign under Subsection 2.6.8. Any such application may be rejected by either returning the application to the applicant or providing written notice of rejection of the application at any time prior to the expiration of (45) business days of receipt of said application. An application which is resubmitted must meet all the standards applicable to an original application. A rejected application that is later resubmitted in conformity with this Section 2.6 shall be deemed to have been submitted on the date of resubmission, instead of the original submission date. The Director is further authorized and empowered to revoke any sign permit issued pursuant to an application containing a false material statement or omission. The rejection or revocation of a permit pursuant to the provisions of this subparagraph may be appealed to the Board of Appeals by filing a notice of appeal with the Director within fifteen (15) days of written notice of the revocation, which must state the reason(s) for the appeal. Any such appeal shall be heard in accordance with the provisions for appeal set forth in subparagraph 5 below.
3. A sign permit shall become null and void if the sign for which the permit was issued has not been completed and erected within the time frame specified by the permit or six (6) months after the date of issuance.
4. A complete application for a sign permit shall be approved or denied by the Director within forty-five (45) business days of its receipt by the Director and the applicant's payment of the appropriate deposit(s) and fee(s) to the City. The Director shall give written notice to the applicant of the Director's decision within such forty-five (45) business day period. If it is determined that the application fully complies with the provisions of this Section 2.6 and all other applicable laws, ordinances, codes, resolutions and regulations of the City, the application shall be approved by the Director and a sign permit shall be issued. If it is determined that the application or proposed sign does not fully comply with the provisions of this Section 2.6 and all other applicable laws, ordinances, codes, resolutions and regulations of the City, the Director shall deny the application. If the decision of the Director is to deny the application, the notice shall state the reasons for denial of the permit. The Director shall give such notice in writing by hand-delivery, certified mail, statutory overnight delivery, or e-mail using the contact information provided in the application. If the notice is sent by certified mail, overnight statutory delivery or e-mail, the notice shall be deemed to have been given on the date the notice is mailed or e-mailed by the City as indicated by the postmark or date stamp associated therewith. If the City fails to act within the forty-five (45) business day period, the permit shall be deemed to have been granted.
5. Except as provided in Paragraph 6 below, when an application for a sign permit is denied by the Director, the applicant may appeal such denial to the Board of Appeals by filing a written notice of appeal with the Director within fifteen (15) days of the written notice of permit denial. The notice of appeal shall specify the grounds thereof. The Board of Appeals shall take final action on the appeal within sixty (60) days of the filing of the notice of appeal. If the Board of Appeals fails to act within said 60-day period, the permit shall be deemed to have been granted. Should the Board of Appeals vote to uphold the decision of the Director, the Board of Appeals shall issue a written decision indicating the reason(s) therefor to the applicant. Appeal from the decision of the Board

of Appeals is by writ of certiorari to the Fulton County Superior Court and must be filed within 30 days of the date of the Board's decision.

6. Notwithstanding the provisions of the foregoing Paragraph, when (a) a sign is subject to design review and approval by the Director for compliance with design standards and other requirements pursuant to the Design Review Board Ordinance (See Chapter 16 of The Code of the City of Alpharetta, Georgia) and (b) an application for a sign permit is denied by the Director solely on the grounds that the proposed sign does not comply with such design standards or requirements (i.e., design approval is denied by the Director), the applicant may appeal such denial to the Design Review Board by filing a written notice of appeal specifying the grounds thereof with the Director within fifteen (15) days of the written notice of permit denial. When the Director's denial of design approval under the Design Review Board Ordinance serves as the sole basis for the denial of an application for a sign permit, such permit denial shall only be appealable to the Design Review Board. The Design Review Board shall take final action on the appeal within 60 days of the filing of the notice of appeal. If the Design Review Board fails to act within said 60-day period, design approval of the proposed sign shall be deemed to have been granted. Should the Design Review Board vote to uphold the denial, the Design Review Board shall issue a written decision indicating the reason(s) therefor to the applicant. Appeal from the decision of the Design Review Board is by writ of certiorari to the Fulton County Superior Court and must be filed within thirty (30) days of the date of the Design Review Board's decision.
7. The Director may inspect all existing signs in the City to determine if such signs conform to the provisions of the Ordinance. The Director is authorized and empowered to suspend or revoke any sign permit issued upon failure of the holder thereof to comply with any provision of this Sign Ordinance or any other ordinance of the City applicable to the subject sign. The suspension or revocation of the permit shall not preclude the Director or City from taking any other action authorized by this Code or by law to enforce the provisions hereof, assure correction of violations or for any other lawful purpose. No permit shall be suspended or revoked until after the permittee is granted a public hearing before the Board of Appeals. The permittee shall be given fifteen (15) days' written notice of the time, place, and purpose of the hearing, with a statement of the reason(s) for the suspension or revocation of such permit. A finding that the permittee has violated a provision of this Sign Ordinance or any other ordinance of the City applicable to the subject sign shall be due cause for the suspension or revocation of the sign permit.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016; [Ord. No. 751](#), § 1(Exh. A), 10-16-2017)

Editor's note— [Ord. No. 751](#), § 1(Exh. A), adopted Oct. 16, 2017, changed the title of § 2.6.4 from "Permits and labels" to read as herein set out.

2.6.5 Variances.

- A. Where a literal application of terms of this Ordinance, due to special circumstances, would result in an unusual hardship in an individual case, a variance may be granted pursuant to procedures set forth in this Code where all the following conditions exist:
 1. a. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape or topography, which are not applicable to other lands or structures in the area; or
 - b. The natural features of the lot on which the sign is located or to be located, or of the land immediately adjacent to the lot, impairs the visibility of the sign such that it cannot be seen;
 2. The applicant would be deprived of rights that are commonly enjoyed by others similarly situated;
 3. Granting the variance would not confer on the applicant any significant privileges which are denied to others similarly situated;
 4. The exceptional circumstances are not the result of action by the applicant;

5. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated;
6. Granting of the variance would not violate more than one standard of this Ordinance; and
7. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic.

Notwithstanding the foregoing, no variance shall be granted for any sign that is a prohibited sign under Subsection 2.6.8.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.6 Non-conforming signs.

It is the policy of the City to encourage that all signs within the City be brought into compliance with the terms and requirements of this Ordinance.

- A. The City finds that non-conforming signs may adversely affect the public health, safety and welfare. Such signs adversely affect the aesthetic characteristics of the city and may adversely affect public safety due to the visual impact of said signs on motorists and the structural characteristics of said signs. Accordingly, the following registration requirements are found to be necessary in order to minimize these possible adverse effects through annual inspections and maintenance and allow the City to remain cognizant of the locations and maintenance of said signs.
- B. The owner(s) or authorized agent(s) of each non-conforming sign located within the City shall register said non-conforming sign with the Director no later than 90 days after the effective date of this Ordinance and shall renew this registration annually thereafter. Any non-conforming sign that does not comply with the registration requirements herein shall be deemed to be an illegal sign and shall be subject to the regulations applicable to illegal signs and all other enforcement provisions of this Ordinance. The Director shall promulgate a form for the registration of non-conforming signs and shall annually inspect said signs to assure that they continue in all other respects in conformity with all other provisions of this Ordinance and any other applicable ordinance or regulation of the City.
- C. The Director may inspect existing signs in the City from time to time to determine if such signs conform to the provisions of this Ordinance.
- D. Any non-conforming sign which is not used or leased for a continuous period of 1 year shall not be reused for sign purposes unless and until it fully conforms with the terms and requirements of this Ordinance.
- E. No change in shape, size or design, shall be permitted except to make a non-confirming sign comply with all requirements of this Ordinance.
- F. A non-conforming sign may not be replaced by another non-conforming sign.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.7 Exemptions from permit requirements.

The following signs shall be exempt from the permit requirements of Section 2.6.4, provided all standards set forth in this Ordinance are met, including, but not limited to, the standards set forth below:

- A. Standard informational signs.
- B. Address numerals, not exceeding six (6) inches in height in residential districts and twelve (12) inches in height in non-residential districts, for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law.

- C. Flags provided that the height of a flag pole shall not exceed the allowed height provided for a structure or a building in the applicable zoning district, or sixty (60) ft., whichever is less, and in residential districts shall not exceed twenty-five (25) ft. in height or the height of the primary structure on the lot, whichever is less. In addition, the maximum dimensions of any flag shall be proportional to the flag pole height and the hoist side of the flag shall not exceed twenty percent (20%) of the vertical height of the flag pole. Each lot shall be allowed a maximum of three (3) flag poles unless a special land use permit or variance is obtained. A maximum of 2 flags per pole is allowed.
- D. Non-governmental traffic control devices in or adjacent to internal parking areas and driveways in private developments, located so as not to interfere with, or detract from, official traffic control devices, and which conform to MUTCD (current edition) standards, including, but not limited to, standards regarding size, height, design and location.
- E. Window signs meeting the standards of this Ordinance.
- F. Legally authorized public notices when posted by a government officer in the performance of his or her duties.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

2.6.8 Prohibited signs and devices.

Except as otherwise provided, the following types of signs or attention-getting devices are prohibited in all zoning districts of the City:

1. Balloons, pennants, streamers, feather signs, air or gas filled figures, or similar attention-getting devices or wind-activated devices, excluding flags.
2. Swinging signs.
3. Rotating signs.
4. Animated signs, flashing signs, and intensely lighted signs.
5. Beacons, search lights or laser lights or images.
6. Variable message boards used for purposes other than traffic management.
7. Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal.
8. Window signs which, in aggregate, exceed 20% of the window area or otherwise fail to meet the standards of this Ordinance.
9. A-frame signs, sandwich board, sidewalk or curb signs are prohibited except when placed within 5 ft. of the front door of a building.
10. Signs painted on or attached to utility poles, trees, rocks or other similar objects, except signs lawfully placed on utility poles by a government, public authority or public utility.
11. Signs which obstruct a fire escape, required exit, window or door opening used as a means of ingress or egress, or which interfere with any opening required for ventilation, or which violate any code of the City, including the Life Safety Code and the Fire Prevention Code.
12. Signs occupying a parking space required under the minimum parking requirements of this Ordinance, other than signs designating the space as reserved for handicapped or other use.
13. Signs which do not conform to City-adopted building and electrical codes.
14. Signs which emit audible sound, odor or visible matter.
15. Portable signs.
16. [Reserved].

17. [Reserved].
18. Signs attached to any street signs or traffic control devices, or to any pole supporting same, or any sign attached to any utility pole, other than those signs lawfully placed by a government, public agency, or public utility.
19. Signs projected on a building.
20. Signs in a public right-of-way other than publicly owned or maintained signs.
21. Signs which are in violation of the rules and regulations of any zoning overlay district presently existing or as may later be enacted.
22. Signs located on any substandard lot.
23. Abandoned signs.
24. Any sign that is structurally unsound, or is a hazard to traffic or pedestrians.
25. Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy.
26. Signs exceeding 156 sq. ft. in copy area if located on a commercial building, signs exceeding 240 sq. ft. in copy area if located on an industrial or office park building and/or signs and sign structures in excess of ~~15~~ 10 ft. in height (measured from the ground to the highest point of the structure).
27. Signs in any area designated as an undisturbed buffer pursuant to a federal, state or local law, a condition of zoning, or approved plat.
28. Internally illuminated window signs, including neon or LED signs (except as otherwise permitted herein). Additionally, LED, string or similar lighting outlining the windows, doors or other similar building features shall be prohibited.

29. LED or any other illumination shall not be used to create the look of neon tubes.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016; [Ord. No. 736](#), § 1, 3-20-2017)

2.6.9 Remedies.

In case any sign covered by this Ordinance is or is proposed to be erected, constructed, altered, converted or used in violation of any provision of this Ordinance, the Director may, in addition to other remedies, and after due notice to the appropriate person(s), issue a citation for violation of this Ordinance requiring the presence of the violator in the municipal court or the Alpharetta Code Enforcement Board, or institute injunctive or other appropriate legal or administrative proceedings to prevent such unlawful erection, construction, alteration, conversion or use or to correct or abate such violation.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.10 Severability.

In the event that any section, subsection, sentence or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect as if such portion so declared or adjudged unconstitutional were not originally part of this Ordinance, even if the surviving parts of this Ordinance result in greater restrictions after any unconstitutional provisions are stricken. The Mayor and Council declare that they would have enacted the remaining parts of this Ordinance if they had known such portions thereof

would be declared or adjudged unconstitutional or invalid. The Mayor and Council declare their intent that should this Ordinance be declared invalid, in whole or in part, signs are to continue to be subject to regulations applicable to "structures" contained in other city ordinances, including other sections of this Code.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

2.6.11 General provisions.

Except as otherwise provided in this Ordinance, the following general regulations apply to all zoning districts in the City:

A. MAINTENANCE AND APPEARANCE OF SIGNS.

1. All signs shall be maintained in good condition and present a neat and orderly appearance. Any sign showing gross neglect, or which becomes dilapidated, or which is surrounded by an unmaintained ground area, or due to its condition which may pose a threat to the safety of the public may be required to be repaired or removed as set forth below.
2. The Director, upon finding any of the above conditions, will give the owner written notice which may be up to 10 days to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the Director may issue a citation under the enforcement provisions of this Ordinance.

B. ILLUMINATION OF SIGNS.

1. The light from any illuminated sign shall not be of an intensity or brightness which will interfere with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent properties.
2. No sign shall have blinking, flashing, or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color.
3. No color lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
4. Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.
5. Lighting for free-standing signs shall be located above the sign and aimed downward in order to minimize the brightness added to the night sky.

6. Neon shall not be used.

C. MEASUREMENT OF SIGN AREA.

1. *Generally.* Except as otherwise provided herein, the area of a sign shall be computed as the area within the smallest rectangle enclosing the limits of a sign face, together with any sign face cabinet, frame, material, texture, or color forming an integral part of the sign face used to differentiate the sign face from the structure upon which it is placed. The computation of the area of a sign face shall not include the structure, supports, or uprights on which the sign face is placed or any portions of a sign structure that are not intended to contain any copy or serve background, but rather are purely structural or architectural in nature, except as provided above.
2. *Double-Faced Signs.* For double-faced signs, when the sign face surfaces are parallel and are back to back, or where the interior angle formed by the faces is sixty (60) degrees or less, the area of the sign shall be taken as the areas on the largest side. For all other multi-faced signs, the area of the sign shall be the total area on all sides that can be viewed from any angle.

3. *Monument Signs.*

- a. *Area of Sign.* For monument signs, the "sign area" or "area of the sign" shall mean the total area of the visible surface of the sign, including the base, sign structure, and sign face of the sign. The computation of the sign area of a monument sign shall include the entire surface of the base, sign structure and sign face, as measured from top to bottom and side to side. For monument signs that are double-faced, when the sign face surfaces are parallel and are back to back, or where the interior angle formed by the faces is sixty (60) degrees or less, the area of the sign shall be taken as the areas on the largest side.
- b. *Sign Face.* For monument signs, the area of the sign face shall be measured in the same manner as provided for the measurement of the area of sign for all other signs.
- c. *Copy Area.* For monument signs, the copy area shall be measured in the manner provided in the definition of "copy area."
- d. *Tenant Panels and Changeable Copy Board.* If a portion of a monument sign includes a sign face with tenant panels or changeable copy board, which is separated from another copy area on the sign by portions of a sign structure that are not intended to contain any copy, but rather are purely structural or architectural in nature, the portion of the sign containing tenant panels or changeable copy board shall be measured separately from the other copy area of the sign (i.e., the copy area of the monument sign is the total of (i) the area within the smallest rectangle enclosing the limits of the sign face comprised of tenant panels or changeable copy and (ii) the other (separated) copy area.

D. STANDARDS FOR MONUMENT SIGNS.

1. The base of a monument sign shall be at least as wide as the sign face. Unless otherwise specified in a Master Sign Plan or a condition of zoning approval, the base and structure of a monument sign shall be constructed of brick, stone, or other architectural materials matching the principal building's materials and color. Any poles or columns utilized for structural purposes shall be fabricated or covered so that they may not be detected visually. Foundations shall be designed to carry weight and wind load of the sign, in soil which it is placed.
2. Any tenant panels or changeable copy on a monument sign shall have a uniform background color and material.
3. All monument signs shall display the property address in numbers at least six (6) inches in height. The numerical address shall not be considered part of the sign face and shall not count against the allowable sign square footage provided such numbers are not more than twelve (12) inches in height.
4. Except for subdivision signs, monument signs may not be constructed before the principal building is on a lot.

E. BANNERS. Banners require a permit and are permitted in all zoning districts pursuant to the following standards:

1. Banners shall be permitted for either one (1) fourteen (14) day period per calendar year per lot or two (2) seven (7) day periods per calendar year per lot. An individual banner permit may be divided into two (2) non-consecutive seven (7) day periods provided the dates are stated on the permit. However, in the case of lots which contain a shopping center (or strip shopping center) with multiple tenant spaces, each tenant space shall be allowed to erect or place a banner for either one (1) fourteen (14) day period per calendar year or two (2) seven (7) day periods per calendar year.
2. In addition to the foregoing, banners shall be allowed on private property during an approved temporary use, as defined in Section 2.3.2 of the U.D.C., for the approved period of such temporary use, but not to exceed forty-five (45) days; provided, however, the placement of

banners on lots during approved temporary uses shall not be permitted more than two (2) times per calendar year per lot. Any such banners shall be removed upon termination of the temporary use or within forty-five (45) days from the date it is first placed on the lot, whichever is first to occur. Upon removal, no banner shall be placed on the same lot for a period of sixty (60) days.

3. Banners shall not exceed 24 sq. ft. total area in size.
 4. Banners must either be free-standing or mounted to the wall of a tenant space or the lot's existing monument sign. If free-standing, the height of the banner shall not exceed five (5) [feet] above grade. If mounted to the wall of a tenant space, the width of the banner shall not exceed tenant frontage and shall not extend above the horizontal plane of the roof where the building wall and roof meet. If mounted to the lot's existing monument sign, the banner shall not extend beyond the sign face of the monument sign.
 5. Banners shall be erected with supports or other means so that they do not sag or become dilapidated.
- F. **PLACEMENT OF SIGNS.** Except within the Central Business District, all free-standing signs must be set back at least ten (10) ft. from the public right-of-way. Within the Central Business District, all free standing signs must be set back at least five (5) feet from the public right-of-way.
- G. **CHANGEABLE COPY.** Any monument sign permitted under this Ordinance may contain up to sixty-five percent (65%) changeable copy if the sign is located on a lot zoned and used (as its principal existing use) for an institutional, public or semi-public use and which includes an indoor public assembly place accommodating one hundred (100) or more persons.

([Ord. No. 720](#), § 2(Exh. A), 2-22-2016)

2.6.12 Requirements for non-residential zoning districts.

A. *Signs Permitted in Strip Shopping Centers (less than 50,000 sq. ft. enclosed leasable space).*

1. **Primary Free-standing Sign (Monument Sign).** One (1) primary monument sign no greater than ten (10) ft. in height with no more than forty-two (42) sq. ft. of copy area shall be permitted in a strip shopping center. The monument sign may have up to four (4) tenant panels, which shall be calculated as part of the copy area. This sign shall be set back 20 ft. from the public right-of-way.
2. **Wall Signs.** One wall sign per road frontage for each tenant space no greater than one (1) sq. ft. of sign area per one (1) ln. ft. of tenant space frontage shall be permitted; provided, however, no more than two (2) wall signs shall be allowed for a tenant space (i.e. Corner tenants within strip shopping centers may have a wall sign on the end of the building in addition to the wall sign on the front of the building for a maximum of two (2) wall signs). Up to 50% of unused tenant sign area for wall and perpendicular signs shall be permitted to be aggregated and distributed to a particular building elevation; provided, however, no more than two (2) wall sign and one (1) perpendicular sign (not greater than 8 square feet) shall be allowed on the same building elevation and additional signs shall not be internally-illuminated.
3. **Rear Entrance Sign.** ~~One (1) rear entrance sign is allowed for each tenant space within the strip shopping center. Rear entrance signs shall be located on the tenant space's rear entrance door and shall not exceed two (2) sq. ft. in area. Rear entrance signs shall not require a permit from the Director.~~
 - a. **Applicability.** Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign.
 - b. **Location.** Rear entrance signs shall be located near the tenant space's rear door facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.

- c. **Size.** The area of rear entrance signs shall not exceed 50% of the front facing sign area allowed for the same tenant.
4. **Window Signs.** Window signs, as defined in this Ordinance, are permitted for each tenant space in a shopping center. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area of the subject tenant space. One (1) illuminated window sign is permitted for each tenant space provided that such sign does exceed a maximum of four (4) sq. ft. in area. Illuminated window signs shall be included in the maximum aggregate window sign area calculation. Any illuminated window sign shall be constant in its light emission, shall not be animated, and shall not be so large or of character to obscure vision into the premises from the outside. Window signs shall not require a permit from the Director. However, each tenant shall immediately remove any window sign upon receipt of written notification from the Director stating that such window sign obscures the vision of police or other security or safety personnel into the premises in a manner that endangers public safety.
5. **Under-Canopy Sign.** One (1) under-canopy sign is permitted for each tenant space within a strip shopping center, which shall not exceed 8 sq. ft. in area.
6. **Sign During Construction.** One (1) temporary free-standing sign per strip shopping center project shall be permitted during the construction of the strip shopping center or the principal building of any outparcel. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, installation of a permanent sign, or expiration/termination of the land development permit, whichever is first to occur. The sign shall not exceed ten (10) ft. in height, thirty-two (32) sq. ft. in area, and must be set back ten (10) ft. from the public right-of-way (five (5) ft. in the Central Business District). Further, the location of the sign be confined to the site of construction, and only one (1) such sign may be permitted per project.
7. **Standard Informational Signs.** Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- B. **Signs Permitted in Shopping Centers (more than 50,000 sq. ft. enclosed leasable space).**
1. **Primary Free-standing Signs (Monument Signs).**
- a. The maximum number of primary monument signs permitted in a shopping center is as follows:

Size of Center (enclosed leasable space)	Total Number of Signs
50,000 sq. ft. to 150,000 sq. ft.	2
Over 150,000 sq. ft. to 200,000 sq. ft.	3
Over 200,000 sq. ft.	4

- b. The monument sign may have up to four (4) tenant panels, which shall be calculated as part of the copy area.
- c. No such sign shall be located within twenty (20) ft. of the public right-of-way of the street which affords the principal means of access to the shopping center. The sight distance of each sign shall conform to City standards, and evidence of conformity shall be provided to the Director.

- d. The maximum height of any such sign shall be twelve (12) ft. and the maximum area permitted for any such sign is as follows:

Height	Area of Sign	Copy Area
10 feet or less	420 sq. ft.	78 sq. ft.
Over 10 ft. but not more than 12 ft.	360 sq. ft.	64 sq. ft.

- f. The name and street number of the shopping center may be set forth on the monument sign. The calculation of the permitted copy area shall not include the street number.
- g. ~~The owner or developer of a shopping center which exceeds 150,000 sq. ft. may elect to forego one or more of the monument signs otherwise permitted under this subsection. For each sign that is foregone, the owner or developer may elect to increase the copy area of one remaining sign up to 100% of the square footage that is otherwise permitted under this subsection, or, in the event there is more than one remaining sign, this percentage may be allocated among the remaining signs. In no event shall the copy area of any sign be increased by more than 100%. By way of illustration, if an owner of a shopping center exceeding 200,000 sq. ft. elects to forego one of the four permitted monument signs, he might elect to increase the copy area of one of the remaining signs by 100%, or he might elect to increase the copy area of one remaining sign by 50% and the two other signs by 25% each, etc.~~
- h. In addition to the monument signs permitted above, one (1) monument sign not exceeding 10 ft. in height and 32 sq. ft. in copy area is permitted for each out-parcel; provided, however, if the out-parcel is a corner lot, one (1) sign for each street frontage is permitted.
2. *Canopy Signs and Wall Signs.*
- One canopy sign or wall sign is permitted for each tenant space in the shopping center.
 - No wall sign or canopy sign shall be located so that any part of the sign or its support extends above the top of the wall or canopy, and no copy shall be located within five (5) in. of the top of the sign.
 - The area of a wall sign or canopy sign shall not exceed one (1) sq. ft. for each linear foot of tenant space frontage.
 - Up to 50% of unused tenant sign area for wall and perpendicular signs shall be permitted to be aggregated and distributed to a particular building elevation; provided, however, no more than two (2) wall sign and one (1) perpendicular sign (not greater than 8 square feet) shall be allowed on the same building elevation and additional signs shall not be internally-illuminated.
3. *Under-Canopy Signs.*
- One (1) under-canopy sign is permitted for each tenant space within a shopping center.
 - Under-canopy signs shall extend perpendicular to the wall of the tenant space, shall not exceed 8 sq. ft. in area, and shall be attached at a uniform height sufficient to assure the safety of pedestrians. Under-canopy signs shall match the wall or canopy signage for the subject tenant space unless otherwise approved by the Director.
4. *Rear Entrance Sign.*

- a. **Applicability.** Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign. ~~One rear entrance sign is permitted for each tenant space within the shopping center. The developer or owner of the shopping center shall be responsible to the City for proper rear entrance signage of tenant spaces, including proper maintenance.~~
 - b. **Location.** Rear entrance signs shall be located ~~on~~ near the tenant space's rear door facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.
 - c. **Size.** The area of rear entrance signs shall not exceed ~~8 sq. ft.; however, the sign may not be less than 18 in. wide and 12 in. high.~~ 50% of the front facing sign area allowed for the same tenant.
5. *Signs During Construction.*
 - a. One (1) temporary free-standing sign per shopping center project shall be permitted during the construction of the shopping center or the principal building of any outparcel. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development permit, whichever is first to occur.
 - b. The size of the sign shall not exceed thirty-two square feet (32 sq. ft.) in area and the height of such sign shall not exceed ten feet (10 ft.). Further, the location of the sign shall be confined to the site of construction, and only one (1) such sign may be permitted per project.
7. *Window Signs.*
 - a. Window signs, as defined in this Ordinance, are permitted for each tenant space in a shopping center. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area of the subject tenant space.
 - b. One (1) illuminated window sign is permitted for each tenant space provided that such sign does not exceed four (4) sq. ft. in area. Illuminated window signs shall be included in the maximum aggregate window sign area calculation. Any illuminated window sign shall be constant in its light emission, shall not be animated, and shall not be so large or of a character to obscure vision into the premises from the outside.
 - c. Window signs shall not require a permit from the Director. However, each tenant shall immediately remove any window sign upon receipt of written notification from the Director stating that such window sign obscures the vision of police or other security or safety personnel into the premises in such a manner that endangers public safety.
8. *Reserved.*
9. *Signs Permitted for Cinema Complexes.*
 - a. In addition to the primary monument signs permitted for the shopping center, one (1) monument sign, which may include changeable copy board, shall be permitted for a lot containing a cinema complex; provided, however, if the cinema complex is located on an outparcel, any cinema monument signs erected shall be in lieu of the monument sign that is otherwise permitted for the outparcel pursuant to this subsection. If the cinema complex is on a corner lot, one (1) cinema monument sign for each street frontage is permitted.
 - b. The changeable copy board shall be constructed in such a fashion to prevent wind, rain or other elements from altering the position of the copy.
 - c. The height of a monument sign for a cinema complex shall not exceed ~~fifteen~~ ~~ten~~ (15 10) ft.
 - d. Reserved.
 - e. The copy area of a monument sign for a cinema complex shall not exceed one-hundred-and-twenty (120) sq. ft.

- f. One (1) wall sign, which may include changeable copy board, or canopy sign shall be permitted for a cinema complex; provided, however, if theaters are contained within separate buildings then one such sign shall be permitted for each building. Signage for each building shall be treated as a separate sign. The aggregate area of wall signs or canopy signs for a cinema complex shall not exceed 1 sq. ft. for each linear foot of building frontage.
 - g. No wall sign or canopy sign shall be located so that any part of the sign or its support extends above the top of the wall or canopy, and no copy shall be located within five (5) in. of the top of the sign. The provisions of this subsection pertaining to signage in cinema complexes shall also apply to cinemas not located within a shopping center.
10. *Entry Wall Signs.* A sign of up to three (3) sq. ft. is permitted on the wall above or adjacent to the entry of a tenant space located in a building without a common front entry.
 11. *Standard Informational Signs.* Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- C. *Signs Permitted in Industrial and Office Parks.*
1. *Free-Standing Signs.*

- a. *Primary Free-Standing (Monument) Signs.* A maximum of two (2) primary monument signs are permitted in an industrial or office park. No primary monument sign shall exceed ~~15~~ 10 ft. in height. A changeable copy board is not permitted on an industrial or office park sign. No primary monument sign shall be located within 20 ft. of the public right-of-way of the street which affords the principal means of access to the industrial or office park. The permitted area for primary free-standing signs is as follows:

Frontage	Area	Copy Area
Up to 500 feet	75 square feet	60 sq. ft.
501— 1,000 and more feet	100 square feet	75 sq. ft.
1,001—1,500 feet	150 square feet	100 sq. ft.
Over 1,500 feet	200 square feet	150 sq. ft.

- b. *Secondary Free-Standing (Monument) Signs.* One secondary monument sign shall be permitted for each building in the industrial or office park, not to exceed 32 sq. ft. in area. The height of a secondary monument sign shall not exceed 10 ft.
2. *Wall Signs.* Buildings of two (2) stories or greater may have a wall sign located at the top of the building. The maximum area of such sign shall not exceed 20 sq. ft. per floor or story above road grade, not to exceed 240 sq. ft. Wall signs shall not be internally illuminated. ~~In lieu of a wall sign, up to 50% of the wall sign area allowance may be used for a blade sign.~~
 3. *Door or Wall Sign.* One (1) sign of up to three square feet (3 sq. ft.) is permitted for each tenant space within a building. Such signs shall be located on the door of the suite, or on a wall immediately adjacent to the door of the suite for business establishments located in a building without a common front entry.

4. *Directory Signs.* Directory signs are permitted in industrial or office parks. Each exterior directory sign shall be a monument sign. Height of a directory sign shall not exceed ten feet (10 ft.).
5. *Reserved.*
6. *Rear, Secondary or Delivery Entrance Signs.* Rear, secondary or delivery entrance signs are permitted at appropriate locations within an industrial or office park. All such signs shall be free-standing and shall not exceed eight square feet (8 sq. ft.) in size and ten feet (10 ft.) in height.
7. *Signs During Construction.* One (1) temporary free-standing sign for each subdivided tract within an industrial or office park is permitted during construction. Such sign shall be allowed upon the commencement of construction for which a land disturbance permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development permit, whichever is first to occur.

The size of such sign shall not exceed thirty-two square feet (32 sq. ft.) and the maximum height of such sign shall be ten feet (10 ft.). Further, the location of the sign shall be confined to the site of construction.
8. *Standard Informational Signs.* Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.

D. *Signs Permitted for Convenience Centers with Gasoline Pumps.*

1. One monument sign per road frontage not to exceed ten feet (10 ft.) in height and thirty-two square feet (32 sq. ft.) in area. The monument sign may include changeable copy board, not to exceed four (4) square feet in area, which shall be calculated as part of the copy area **no digital copy is allowed.**
2. Wall signage for convenience store and accessory buildings shall not exceed an aggregate area of eighty square feet (80 sq. ft.).
3. One canopy sign per road frontage not to exceed twenty square feet (20 sq. ft.) per sign.
4. Signs on pumps shall not exceed three square feet (3 sq. ft.) per pump.
5. Window signs, as defined in this Ordinance, are permitted. The aggregate copy area of such signs, however, shall not exceed a maximum of twenty percent (20%) of the total window area of the subject building or tenant space. One (1) illuminated window sign is permitted for each tenant space provided that such sign does not exceed four (4) sq. ft. in area.
6. Standard Informational Signs. Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.

E. *Signs Permitted for Free-Standing Commercial Establishments not Located within a Shopping Center, Office Park or Industrial Park.*

1. One (1) monument sign per road frontage no greater than ten feet (10 ft.) in height with no more than thirty-two square feet (32 sq. ft.) of area. Each sign shall be set back not less than ten feet (10 ft.) from the public right-of-way, except in the Central Business District where the setback shall be not less than five feet (5 ft.) from the public right-of-way.
2. One (1) wall sign per road frontage for each tenant space no greater than one square foot (1 sq. ft.) of area per one linear foot (1 ln. ft.) of tenant frontage; provided, however, no more than 2 wall signs shall be allowed for a tenant space.
3. One (1) rear door sign not to exceed three square feet (3 sq. ft.) in area.
4. Window signs not exceeding twenty percent (20%) of the glass area.
5. One (1) sign no greater than three square feet (3 sq. ft.) located on the front door or on a wall immediately adjacent to the front door.
6. Buildings of **three two (32)** stories or greater may have a wall sign located at the top of the building and is not greater than **forty-eight square feet (48 sq. ft.) 20 sq. ft. per story (of building)**, in area.

7. One (1) temporary free-standing sign shall be permitted during the construction of the principal building for the lot. Such sign shall be allowed upon the commencement of construction for which a land disturbance or building permit has been issued, and terminating upon the issuance of a certificate of occupancy, the installation of a permanent sign, or the expiration/termination of the land development or building permit, whichever is first to occur. The sign shall not exceed ten feet (10 ft.) in height, thirty-two square feet (32 sq. ft.) in area, and must be set back ten feet (10 ft.) from the public right-of-way (five feet (5 ft.) in the Central Business District).
 8. Standard Informational Signs. Standard informational signs, as defined in this Section, shall be permitted for each lot. Standard informational signs do not require a permit from the Director.
- F. *Signs permitted within the Downtown Overlay and MU zoned properties.* In addition to the signs authorized under a designated category, each business in the Downtown Overlay and within MU zoned properties may utilize the following additional signage:
1. Each located on the ground floor of a building shall be permitted one (1) perpendicular sign which shall not exceed eight (8) square feet in size and shall be placed at least eight (8) feet, but no more than twelve (12) feet above sidewalk. In order to foster originality, the shape of the sign may not incorporate more than one set of parallel edges and words may only comprise up to 50% of the sign face area. The remaining sign face area must incorporate some form of graphic design. In addition, signs must be mounted on decorative black brackets.
 2. Businesses located within the first two floors of a building that backs onto a parking lot, alley, park or other public space may have an additional wall sign up to twenty-four (24) square feet in size. This additional wall sign shall be located on the back of the building facing the parking lot, alley, park or other public space and placed within general proximity of the associated business.
- G. Building Ground Signs (monument signs) within the Downtown Overlay shall not be internally illuminated. Where illumination is needed, lighting fixtures may be placed at the top of the sign and aimed downward or may be placed on the ground and aimed in such a way as to illuminate the sign without creating spillover into the night sky. ~~Maximum height shall not exceed 6 feet. This regulation shall apply only to new signs. The changing of a sign face or panel shall not constitute a new sign.~~

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016; [Ord. No. 736](#) , § 2, 3-20-2017)

2.6.13 Requirements for residential zoning districts.

- A. *Standard Informational Signs.* Each lot located in a residential district may display standard informational signs, as defined in this Ordinance. No single sign shall exceed four feet (4 ft.) in height. No sign shall be illuminated. All signs must be set back at least ten feet (10 ft.) from the right-of-way.
- B. *Subdivision Signs.* A maximum of two (2) subdivision signs per platted residential subdivision entrance are permitted, which may be erected while the subdivision is under construction and being actively marketed 'For-Sale'.. These signs shall be single-faced, not exceed ten feet (10 ft.) in height or thirty-two square feet (32 sq. ft.) in area, and be set back at least ten feet (10 ft.) from the right-of-way. Subdivision signs shall not be included in the calculation of aggregate sign area for any lot. A subdivision sign shall not be internally illuminated.
- C. *'For-Rent' Dwelling Developments.* One (1) monument sign shall be permitted for a planned 'for-rent' dwelling development. Such sign shall not exceed ten feet (10 ft.) in height or thirty-two square feet (32 sq. ft.) in area, and be set back at least ten feet (10 ft.) from the right-of-way. The sign shall not be internally illuminated.
- D. *CUP Districts.* Within CUP zoning districts, 'For-Rent' dwelling developments shall also be permitted one permanent, free-standing, directional sign. Such sign shall be a monument sign and shall match the appearance of the primary sign on the site, be setback at least ten feet (10 ft.) from the public right-of-way, and shall be no greater than thirty-two square feet (32 sq. ft.) in area.

([Ord. No. 720](#) , § 2(Exh. A), 2-22-2016)

Footnotes:

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Editor's note— [Ord. No. 720](#), § 2(Exh. A), adopted 2-22-2016, repealed former § 2.6 (2.6.1—2.6.14), and enacted a new § 2.6 as set out herein. The former § 2.6 pertained to similar subject matter and derived from the original codification and [Ord. No. 713](#), §§ 1—8, adopted Sept. 28, 2015.

Exhibit “B”

SECTION 2.10 - NORTH POINT OVERLAY

2.10.9. Signs.

A. Materials. Signage must be finished in the same exterior materials as the principal structure.

B. Monument Sign.

1. A minimum 2 feet wide planting area must be provided around the base of all monument signs.
2. Shrubs, groundcover, or mulch must be installed in the tree area identified in "1" immediately above.

~~C. Additional Walls Signs. One additional wall sign is permitted in excess of the sign allowances of UDC Sec. 2.6 – Signs. If an additional wall sign is installed, it is subject to the following:~~

~~1. The sign may be up to 24 square feet in size.~~

~~2. The sign must be located on the back or side of the building facing a parking lot, alley, or open space.~~

([Ord. No. 767](#) , § 5(Exh. B), 10-22-2018)



CITY COUNCIL MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: PH-19-28 UNIFIED DEVELOPMENT CODE AND CODE OF ORDINANCES TEXT AMENDMENTS – MASSAGE AND SPA ESTABLISHMENTS

CITY COUNCIL: JULY 27, 2020

This item was considered at the March 5, 2020 Planning Commission meeting. There were no public comments. After discussion, the Planning Commission recommended to approve the item. Vote (7-0)

II. RECOMMENDATION:

Approve amendments to the Unified Development Code and Code of Ordinances as it relates to Massage and Spa Establishments.

III. REPORT IN BRIEF:

Consideration of text amendments to Unified Development Code (UDC), Section 1.4 Definitions. Proposed amendments include:

1. Amend the definitions of 'Massage Therapy' and 'Spa Services' to match the definitions in the City's Code of Ordinances and including distance requirements from the Code of Ordinances Subsection related to Massage and Spa Establishments.

Consideration of text amendments to the Code of Ordinances, Article IX Massage and Spa Establishments. Proposed amendments include:

2. Amend the definitions of 'Massage or Massage Therapy' and 'Spa Establishment' to match the definitions in the Unified Development Code (UDC) and including distance requirements from the Code of Ordinances Subsection related to Massage and Spa Establishments.
3. Replace the City's Public Safety Department with the City's Community Development Department as the administrator of the ordinance.
4. Delete last 2 sentences of subsection 10-279 (a) which limits massage and spa establishment licenses to no more than 20 such licenses.

IV. ATTACHMENTS:

- UDC and Code of Ordinances Strike Through and Underline Edits



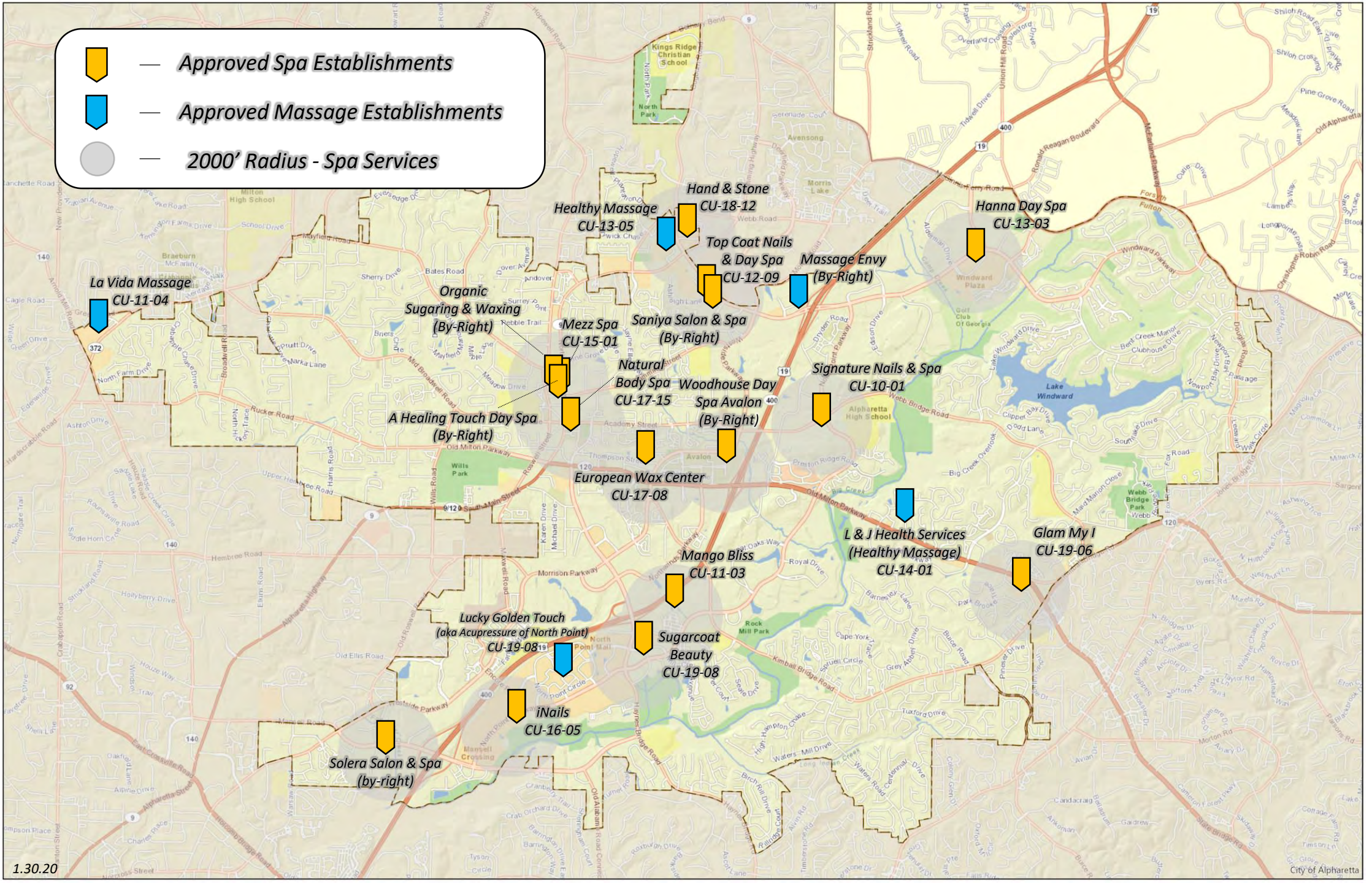
— *Approved Spa Establishments*



— *Approved Massage Establishments*



— *2000' Radius - Spa Services*



ARTICLE IX. - MESSAGE AND SPA ESTABLISHMENTS^[5]

Footnotes:

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State Law reference— Massage therapy practice, O.C.G.A. § 43-24A-22 et seq.

Sec. 10-275. - Purpose and legislative findings.

The Georgia General Assembly has declared that the practice of massage therapy is an activity affecting the public interest and involving the health, safety, and welfare of the public, and that the practice of massage therapy by a person who is not licensed under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) is a public nuisance, and harmful to the public health, safety, and welfare. The city council agrees with those findings. Furthermore, the city council finds that, for many massage establishments, the business in fact is sexual conduct or the intimation of sexual conduct, rather than lawful massage therapy. Such establishments offer massage services as a subterfuge for prostitution, masturbation for hire, and other paid sexual contact, which are harmful to the public health, safety, and welfare. There is difficulty and expense in conclusively distinguishing between such establishments and legitimate massage establishments, but one rational distinction is whether the establishment has a relationship with a corporate or franchising hierarchy, which would tend to safeguard against unlawful sexual activities on the massage establishment premises. It is a purpose of this article to impose licensing requirements to help prevent illegal massage, prostitution, and related sex crimes, yet without hindering legitimate massage establishments operating under a business structure with external oversight that serves that purpose. Pursuant to O.C.G.A. § 43-24A-22 (allowing local regulation of massage businesses and of persons not licensed by the state), it is the purpose of this article to regulate the operation of massage establishments and spa establishments, and to regulate employees of such establishments who are not licensed as massage therapists by the state, as an exercise of the city's police power in order to protect the health, safety and general welfare of the citizens of the city.

(Ord. No. 723, § 12-161, 4-4-2016)

Sec. 10-276. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person, firm, corporation, or other legal entity applying for a license to operate a massage establishment or spa establishment, as defined herein, or a person applying for a work permit, as provided for herein.

Employee means any person who performs any service on the premises of a massage establishment or spa establishment, on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, apprentice, trainee, or otherwise. The term "employee" does not include a person who is licensed or provisionally permitted pursuant to the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.), or a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Hearing officer means the city administrator, or his/her designee, appointed to conduct hearings under this article.

Massage or *massage therapy* means the manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, a system of structured touch, pressure, movement, and holding to

the soft tissue of the body, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of water, oils, lotions, creams, lubricants, salt glows or scrubs, hydrotherapy, heliotherapy, hot packs, cold packs or other topical preparations. The term "massage" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. Further, the term "massage" or "massage therapy" shall not include the following when lawfully performed by a natural person licensed or certified by the state board of cosmetology while engaged in the practice authorized by such state license (or certificate of registration) in accordance with, and as further regulated by, the state licensing laws set forth in O.C.G.A. § 43-10-1 et seq.:

- (1) Touching of the scalp or face by a state-licensed barber or cosmetologist;
- (2) Touching of the hands or feet by a state-licensed nail technician or cosmetologist; and
- (3) Touching of the face, neck, décolletage, or arms by a state-licensed esthetician or cosmetologist.

It shall be unlawful to establish a massage establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any massage establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power for the purpose of administering a massage.

Massage establishment means a commercial establishment where any person offers or engages in massage or massage therapy. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Premises means the real property, or portion thereof, upon which the massage establishment or spa establishment is located, including, but not limited to, the establishment and the grounds, private walkways, and parking lots and/or parking garages under the ownership or control of the establishment.

Spa establishment means a business that provides services requiring a customer to disrobe, which may include non-medical massage, other personal services such as skin, nail, hair treatments, hair removal/waxing, and may have the sale of associated retail products. Such business shall be located within a zoning category allowing retail use, shall not occupy more than 4,000 sq. ft. and shall not be closer than 2,000 ft. to a comparable business. ~~commercial establishment that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro-mineral wraps, body polishes, body washes, baths and hydro-tub soaks.~~ The term "spa establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

It shall be unlawful to establish a spa establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Specified criminal activity means any of the following specified crimes:

- (1) Illegal gambling;
- (2) Prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, sodomy, aggravated sodomy, rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of a child in a sexual performance;
- (4) Any offense related to any massage establishment or spa establishment or which is related to the regulatory purposes of this article, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate act been committed in Georgia, would have constituted any of the foregoing offenses.

(Ord. No. 723, § 12-162, 4-4-2016)

Sec. 10-277. - Penalties.

Any person violating any of the provisions of this article shall be punished as provided in section 1-8. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-163, 4-4-2016)

Sec. 10-278. - Scope of regulations.

- (a) All licenses and work permits issued under this article shall constitute a mere privilege to operate or work at the establishment specified in the license or work permit during the term of the license or work permit only, and shall be subject to all terms and conditions imposed by the city, the county and the state.
- (b) This article shall not be enforced against:
 - (1) Any natural person who is a physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of the profession for which the person is licensed by the state;
 - (2) Any hospital or other professional health care establishment, including a physician's, physical therapist's, or chiropractor's office, separately licensed as such by the state;
 - (3) Any natural person who is a massage therapist licensed by the state under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) while engaged in the practice of massage therapy as authorized and regulated under said Act; notwithstanding the foregoing exception, the provisions of this article regulating massage establishments and spa

establishments and the operation of such establishments shall be enforced against any such person to the extent such person owns, operates or manages a massage establishment or spa establishment or supervises the employees thereof, unless otherwise expressly excepted herein; or

- (4) Any other individual or entity expressly exempted from local legislation by the laws of the state.
- (c) Licenses and work permits issued before the adoption of the ordinance from which this article is derived shall continue in effect for their original terms, subject to the regulations provided herein, including the revocation provisions in section 10-284, as amended.
- (d) All massage establishments, spa establishments, and their employees shall comply with this article upon its adoption, including those that hold a license or a work permit issued before the adoption of the ordinance from which this article is derived.
- (e) The director of ~~public safety~~ Community Development may exempt a massage establishment or a spa establishment and its employees from the licensing requirements of sections 10-279 through 10-281 for a specified calendar year. An exemption under this subsection expires on December 31 of the year for which it was granted. Upon the expiration of an exemption, the establishment and its employees are subject to all requirements of sections 10-279 through 10-281. Any request for an exemption shall be submitted in writing to the director of ~~public safety~~ Community Development and is automatically rejected unless the director of ~~public safety~~ Community Development grants the exemption. An exemption, if granted by the director of ~~public safety~~ Community Development, shall be in writing and shall be based upon evaluation of the request according to the following standards:
- (1) Whether the establishment is part of a chain that operates in multiple locations under common ownership, franchise agreements, or a similar arrangement that involves centralized control or corporate supervision;
 - (2) Whether persons who provide services to customers at the establishment hold state licenses;
 - (3) The establishment's, its owners', and its managers' histories relative to compliance with massage establishment or spa establishment licensing requirements;
 - (4) Whether the location used by the establishment has been free from association with unlawful activity for the last 12 months; and
 - (5) Whether the establishment is managed and operated by a person who has been continually licensed pursuant to the Georgia Massage Therapy Practice Act for at least seven years.

(Ord. No. 723, § 12-164, 4-4-2016)

Sec. 10-279. - Massage/spa establishment license required; application.

- (a) *Massage/spa establishment license required.* It shall be unlawful for any person or legal entity to operate a massage establishment or a spa establishment in the city without a valid massage/spa establishment license. This license requirement is in addition to obtaining an occupation tax certificate pursuant to article III of chapter 42 pertaining to taxation. ~~No more than 20 massage/spa establishment licenses may be in effect at a time. The city shall not issue a massage/spa establishment license that would result in more than 20 such establishments being licensed to operate simultaneously.~~
- (b) *Application.* An applicant for a massage/spa establishment license shall file in person at the city department of ~~public safety records division~~ Community Development a completed application made on a form provided by the city. The application must be executed by the person primarily responsible for the operation of the establishment. If the applicant is a partnership, limited liability company, corporation, or other legal entity, the application must also be executed by an officer, member, partner or shareholder, as applicable. Signatures on the application shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection, accompanied by the annual regulatory fee:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
- (2) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1. If the applicant is a partnership, limited liability company, corporation, or other legal entity, a signed and sworn affidavit verifying the lawful presence of each person who executes the application on behalf of the applicant.
- (3) A signed and sworn affidavit attesting that the applicant either uses the federal work authorization program in accordance with federal regulations or that the applicant employs fewer than 11 people or otherwise does not fall within the requirements of O.C.G.A. § 36-60-6.
- (4) Current business address and residential mailing address for the applicant.
- (5) The business name, location, legal description, mailing address and telephone number of the establishment.
- (6) If the applicant is a sole proprietor, written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
- (7) If the applicant is not a sole proprietor, then the partnership, limited liability company, corporation, or other legal entity shall submit a complete list of the legal entity's:
 - a. Officers;
 - b. Directors;
 - c. Partners, members, or shareholders (natural persons) holding a ten percent or greater ownership interest in such legal entity, or if there is no shareholder (natural person) with at least a ten percent interest, the ten shareholders with the greatest ownership interest;
 - d. Employee or agent primarily responsible for operation of the massage or spa establishment; and
 - e. Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government for each person listed in subsections (b)(7)a through d of this section.
- (8) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (9) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.
- (10) A statement of whether the applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.

- (11) If the applicant is a partnership, limited liability company, corporation or other legal entity required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, such corporation must be chartered under the laws of the state or authorized by the secretary of state to do business in the state and must submit copies of the certificate of organization or incorporation, as applicable, and articles of organization or incorporation, as applicable.
- (12) A sworn and notarized statement of a registered agent who is a resident of the county and who is at least 18 years of age, required to be designated by a licensee to receive any process, notice or demand required or permitted by law or under this article to be served upon the applicant.
- (13) A statement as to whether the applicant is the owner of the premises wherein the establishment will be operated or the holder of a lease thereon for the period to be covered by the license. If the applicant is a lease holder, the following shall be submitted with the license application:
 - a. A copy of the lease; and
 - b. The written consent of the owner of the real property upon which the premises are located which demonstrates knowledge and acceptance of the applicant's proposed operation of a massage establishment or spa establishment on the subject property, grants permission to the applicant to submit the subject application, and acknowledges and represents that such real property owner has read and fully understands the requirements of this article, including, but not limited to, the provisions set forth in section 10-288.
- (14) A copy of a \$25,000.00 surety bond, issued by a company approved to issue surety bonds by the state insurance commissioner, payable to the city upon the entry of an injunction by the county superior court against operation of the applicant's massage establishment or spa establishment due to unlawful operation of same while the applicant held a massage/spa establishment license under this article.
- (15) For every person on the premises who offers, or will offer, services for which a license under O.C.G.A. § 43-24A-1 et seq. is required, a copy of the state license for each such person as well as a color photograph, no smaller than two inches by two inches, showing the face, neck, and shoulders of each such person; or, if there are none, a statement certifying that the application is for the operation of a spa establishment only and that neither the establishment nor any person on the premises offers, or will offer, massage.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of ~~public safety records division~~ Community Development within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) *Confidentiality.* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the city department of ~~public safety records division~~ Community Development on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.
- (d) *Issuance of license.* Upon the filing of a completed massage/spa establishment license application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of ~~public safety~~ Community Development or his /her designee. Within 60 days of the filing of the application, the director of ~~public safety~~ Community Development, or his /her designee, shall either issue a license to the applicant or issue a written notice of intent to deny the license to the applicant. The director of ~~public safety~~ Community Development, or his /her designee, shall issue the license unless:

- (1) The applicant or a person listed in response to subsection (b)(7) of this section is less than 21 years of age.
 - (2) The applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The applicant is neither the owner of the premises wherein the establishment will be operated, nor the holder of a lease thereon for the period to be covered by the license.
 - (4) The annual regulatory fee required by this article has not been paid.
 - (5) The establishment is not in compliance with the location requirements of this article or of any part of the Code. This provision shall not be grounds to deny a license to a massage establishment or spa establishment that was, in all respects, lawfully operating at the premises prior to the adoption of the location requirements of the ordinance from which this article is derived and that has continued to lawfully operate at the premises.
 - (6) The city has revoked a massage/spa establishment license at the premises within the previous 12 months.
 - (7) The applicant or a person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (8) The applicant or a person listed in response to subsection (b)(7) of this section has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
 - (9) The establishment does not comply with all applicable building, health, and life safety codes, or the building to be occupied does not have a valid, current certificate of occupancy.
 - (10) The applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - ~~(11) The license, if issued, would result in more than 20 massage/spa establishment licenses being in effect at the time.~~
 - (12) The applicant is a partnership, limited liability company, corporation or other legal entity that is required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, but is not so chartered or authorized.
- (e) *License display.* A license, if issued, shall be issued in the name of the applicant. The license shall be posted in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.
- (f) *Employee permit display.* Massage establishments and spa establishments shall post each employee's work permit issued by the city in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.

Sec. 10-280. - Regulatory fee; expiration.

- (a) There shall be an annual regulatory fee, consisting of a non-refundable investigative fee and a license fee, for each massage and spa establishment licensed within the city. The investigative and license fees shall be set by the director of ~~public safety~~ Community Development. The full regulatory fee shall be paid with the license application and shall not be prorated under any circumstances. If the applicant withdraws the application or the license is denied, the applicant shall be refunded the full license fee paid. No refund shall be allowed once the license has been issued.
- (b) All licenses granted hereunder shall be for the calendar year and expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Existing licensees shall file applications by November 1 of each year for the following license year. Applications received after November 1 shall be subject to a ten percent late fee.
- (c) No license issued pursuant to this article shall be transferable. Upon change of ownership, even if only in part, a new application will be completed and submitted along with all necessary fees.

(Ord. No. 723, § 12-166, 4-4-2016)

Sec. 10-281. - Employee work permits required.

- (a) Massage/spa establishment work permit required. It shall be unlawful for any person to be an employee, as defined in this article, of a massage establishment or spa establishment in the city without a valid massage/spa establishment work permit issued under the terms of this article, except that a person who holds a valid massage/spa establishment license or who is listed in response to section 10-279(b)(7) (a) through (c) in relation to a valid massage/spa establishment license shall not be required to also obtain a massage/spa establishment work permit to be an employee at that particular licensed establishment. A person who works at more than one establishment shall obtain a separate work permit for each establishment. No applicant for a massage/spa establishment work permit shall work at a massage establishment or a spa establishment in the city until the applicant receives, and the establishment posts, the employee's work permit as required by this article. A receipt issued by the city is not a valid massage/spa establishment work permit and does not authorize the person to work in a massage establishment or spa establishment.
- (b) Application. An applicant for a massage/spa establishment work permit shall file in person at the city department of public safety, records division, a completed application made on a form provided by the city. The application must be signed and notarized. Applicants shall make themselves available for photographing. An application shall be considered complete when it contains the information and/or items required in this subsection (b), accompanied by the work permit fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current business address or another mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
 - (4) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1.
 - (5) The name and address of the massage establishment or spa establishment for which the applicant seeks to obtain the work permit.
 - (6) A statement of whether the applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):

- a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (7) A statement of whether the applicant has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.
- (8) A copy of the applicant's state massage therapy license and proof of continuing education credit.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of public safety, records division, within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) The information provided by an applicant in connection with an application for a work permit under this article shall be maintained by the city department of public safety, records division, on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.
- (d) Issuance of work permit. Upon the filing of a completed massage/spa establishment work permit application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of public safety or his /her designee. Within 30 days of the filing of a completed massage/spa establishment work permit application, the director of public safety or his /her designee shall either issue a work permit to the applicant or issue a written notice of intent to deny the work permit to the applicant. The director of public safety, or his /her designee, shall issue the work permit unless:
- (1) The applicant is less than 18 years of age.
 - (2) The applicant has failed to provide information required by this article for issuance of a work permit or has falsely answered a question or request for information on the application form.
 - (3) The work permit fee required by this article has not been paid.
 - (4) The establishment for which the applicant seeks a work permit does not have a valid massage/spa establishment license from the city.
 - (5) The applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (6) The applicant has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (e) The work permit, if issued, will be valid for a period of one year from the date it is issued. The replacement and additional work permit shall be issued upon payment of one-half of the fee charged for a work permit and will expire the same date as the then-current work permit. A massage establishment or spa establishment employee shall provide the employee's work permit to the establishment for which it was issued to be posted on the premises pursuant to this article.
- (f) The director of public safety, or his /her designee shall issue a written notice of intent to revoke an employee's work permit, following notice and hearing pursuant to this article, and demand its return if the employee has violated the provisions of this article, any state law or applicable local ordinance.

- (g) It shall be unlawful for an employee whose work permit has been revoked to refuse to return the work permit to the city department of public safety, records division, or to alter, conceal, deface, or destroy the work permit.
- (h) The permit fee for a massage/spa establishment work permit shall be established by the director of public safety.

(Ord. No. 723, § 12-167, 4-4-2016)

Sec. 10-282. - General operating provisions.

- (a) Massage establishments and spa establishments shall keep on file, on the premises of the establishment, a list of all persons who perform any service on the premises of the establishment, their home addresses and home or mobile telephone numbers, their duties and services performed for the massage or spa establishment, whether such persons have massage/spa establishment work permits issued by the city, and whether such persons have licenses or provisional permits issued by the state pursuant to the Georgia Massage Therapy Practice Act. The holder of a massage/spa establishment license must also keep on file, on the premises of the establishment, a copy of the establishment's two most recent license applications. A list of all employees, and most recent copies of their state licenses (if so licensed) and certifications shall be provided to the city department of ~~public safety, records division,~~ Community Development no later than January 15 of each year.
- (b) Massage establishments and spa establishments shall maintain correct and accurate records of each instance that a service is provided, the type of service provided, and the name of the person at the establishment who provided the service. The records shall be subject to inspection by the city manager, the chief of police, and their designees during those times when the establishment is occupied by patrons or is open to the public.
- (c) No massage establishment or spa establishment shall allow any person required to have any state-mandated licenses, or a massage/spa establishment work permit pursuant to this article, to perform any service on the premises until such person has procured such license or work permit. Licensees and all managers and/or supervisors of any massage or spa establishment are required by this article to inspect and verify that each person who performs services on the premises who is required to have a valid state license or city work permit, has the required license or work permit on the establishment premises at all times, and failure to do so shall be a violation of this article.
- (d) Each massage establishment and spa establishment shall have an owner, manager or supervisor on the premises at all hours that the establishment is occupied by patrons or is open to the public. Further, each massage establishment shall have a state-licensed massage therapist on the premises at all hours that the establishment is occupied by patrons or is open to the public. No massage establishment shall hold itself out as being open for business at any time when there is no state-licensed massage therapist on the premises. In addition to the other penalties and remedies provided herein, if during an inspection there is no owner, manager, or supervisor, or, if applicable, state-licensed massage therapist on the premises, the establishment must cease operations and close until an owner, manager or supervisor or state-licensed massage therapist, as applicable, is on the premises.
- (e) Records required to be maintained under this article shall be kept for a minimum of two (2) years. Records shall be made available to the director of ~~public safety~~ Community Development or his /her designee, during business hours, at the establishment's business location in the city.
- (f) All employees and other persons on the premises, with the exception of customers receiving a massage from a state-licensed massage therapist, shall be completely clothed. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either a blouse or shirt which shall cover all the upper body, save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or a skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.

- (g) No customer receiving a massage from a state-licensed massage therapist shall expose his ~~her~~ genitals, pubic area, anus, buttocks, or the female breast to another person on the premises of a massage establishment or spa establishment. This prohibition does not apply to the showing of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel, provided the areola is not exposed in whole or in part.
- (h) No massage establishment or spa establishment shall be or remain open for business between the hours of 9:00 p.m. and 7:00 a.m. No person shall be or remain inside a massage establishment or spa establishment between the hours of 10:00 p.m. and 6:00 a.m. No massage establishment or spa establishment shall hold itself out as open at a time that the establishment is prohibited, under this subsection, from being open for business.
- (i) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.
- (j) Minimum lighting shall be provided in accordance with the building code, as adopted by the city council, and at least one artificial light of not less than 40 watts (or equivalent illumination) shall be provided in each enclosed room or booth.
- (k) Ordinary beds or mattresses shall not be permitted in any massage establishment or spa establishment.
- (l) No massage establishment or spa establishment shall knowingly or recklessly allow any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his ~~her~~ parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian.
- (m) No person shall knowingly or recklessly touch, manipulate, fondle, or handle in any manner the sexual organs, genital area, or anus of any other person on the premises of a massage establishment or spa establishment.
- (n) Massage establishments and spa establishments shall post and maintain a copy of the human trafficking notice available on the Georgia Bureau of Investigation internet website (as per O.C.G.A. § 16-5-47) in each public restroom for the establishment and in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.
- (o) It shall be unlawful to operate a massage establishment or spa establishment with storefront windows that have material and glazing applied or affixed that reduce light transmission through the windows to less than 32 percent, plus or minus three percent, or increase light reflectance to more than 20 percent.
- (p) Massage establishments, spa establishments, and their employees shall ensure that storefront windows are not blocked by curtains, blinds, posters, advertisements, or any other screening material.

(Ord. No. 723, § 12-168, 4-4-2016)

Sec. 10-283. - Inspection.

Massage establishments, spa establishments, and their employees shall permit the city manager, director of ~~public safety~~ Community Development, and/or their designees or agents to inspect, from time to time on an occasional basis, any portion of the establishment premises where patrons are permitted, for the purpose of ensuring compliance with the regulations of this article, during those times when the establishment is occupied by any patron or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article.

(Ord. No. 723, § 12-169, 4-4-2016)

Sec. 10-284. - Revocation of license or work permit.

- (a) Revocation for specific violations. The director of public safety and/or Community Development, or his/her designee shall issue a written notice of intent to revoke a massage/spa establishment license or a massage/spa establishment work permit, as applicable, if:
- (1) The licensee or work permit holder has failed to maintain the qualifications for holding a license or work permit;
 - (2) The licensee or work permit holder has recklessly given false information in the application for the license or the employee work permit or has failed to supplement the application information as required by section 10-279(b) or 10-281(b) after a change of circumstances that rendered the information originally submitted false or incomplete;
 - (3) The licensee or work permit holder has failed to maintain correct and accurate records as required by this article;
 - (4) The licensee or work permit holder has engaged in or recklessly allowed possession, use, or sale of controlled substances on the premises of the establishment;
 - (5) The licensee or work permit holder has engaged in or recklessly allowed prostitution on the premises of the establishment;
 - (6) The licensee or work permit holder has engaged in or recklessly allowed sodomy, aggravated sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct to occur in or on the premises of the establishment;
 - (7) The licensee or work permit holder has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the establishment;
 - (8) The licensee or work permit holder has violated section 10-282(c);
 - (9) The licensee or work permit holder has knowingly or recklessly allowed any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his /her parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian; or
 - (10) The licensee or work permit holder has recklessly allowed three or more violations of this article within a 12-month period.
- (b) When a notice of intent to revoke a license or employee work permit has been issued, the licensee, any person listed on the licensee's application, or the work permit holder, as the case may be, shall not apply for or be issued any new license or permit under chapter 4, chapter 28, or chapter 42, until such notice has been withdrawn or, if revocation has become effective, until two years after the effective date of revocation.
- (c) When any person listed on a massage/spa establishment license application, any employee of the establishment, or any person who performs massage at the establishment, is arrested for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, no person listed on the establishment's license application and no employee of the establishment may apply for or be issued any new license or permit for that location under chapter 4, chapter 28, or chapter 42, until the arrestee is cleared or until 90 days following the arrest have passed, whichever occurs sooner.

(Ord. No. 723, § 12-170, 4-4-2016)

Sec. 10-285. - Hearing; license denial, revocation; appeal.

- (a) When the director of public safety and/or Community Development, or his/her designee, issues a written notice of intent to deny or revoke a license or employee work permit, the director of public

safety and/or Community Development or his/her designee shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee/work permit holder (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city department of public safety, records division, and/or Community Development for the respondent. The notice shall also set forth the following: the respondent shall have ten days after the delivery of the written notice to submit, at the office of the director of public safety and/or Community Development or his/her designee, a written request for a hearing. If the respondent does not request a hearing within said ten days, the city manager's written notice shall become a final denial or revocation, as the case may be, on the 30th day after it is issued.

- (b) If the respondent does make a written request for a hearing within said ten days, then the director of public safety and/or Community Development, or his/her designee shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than 20 days after the date that the hearing notice is issued.
- (c) The city administrator or his/her designee shall serve as the hearing officer for any such appeal.
- (d) At the hearing, the respondent shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his /her behalf, and cross-examine any of the city's witnesses. The respondent shall bear the burden of proving entitlement to the license. The hearing shall take no longer than one day, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.
- (e) If the decision is to deny or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the 30th day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the director of public safety and/or Community Development to immediately withdraw the intent to deny or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the director of public safety and/or Community Development shall contemporaneously therewith issue the license or work permit to the applicant.
- (f) If any court action challenging a licensing or work permitting decision is initiated, the city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.

(Ord. No. 723, § 12-171, 4-4-2016)

~~Sec. 10-286. Location and distance requirements.~~

- ~~(a) It shall be unlawful to establish a massage establishment or a spa establishment in the city, unless said establishment is located:
 - ~~(1) At least 300 feet from State Route 9;~~
 - ~~(2) At least 300 feet from State Route 120; and~~
 - ~~(3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.~~~~
- ~~(b) The foregoing minimum distance requirements shall not apply to any massage establishment or spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage~~

~~establishment or spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.~~

(Ord. No. 723, § 12-172, 4-4-2016)

Sec. 10-287. - Remedies.

- (a) Any premises, building, dwelling, or other structure in which a massage establishment or spa establishment is operated or maintained in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin the use of such premises as a massage establishment or spa establishment in the county superior court.
- (b) The operation of a massage establishment or spa establishment by a partnership, limited liability company, corporation, or other legal entity in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (c) The operation of a massage establishment by a person in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (d) It shall not be necessary, in order to obtain an injunction under this section, to allege or prove that there is no adequate remedy at law or to allege or prove any special injury.
- (e) If the court declares a massage establishment or spa establishment to be a nuisance, or if the court issues an injunction against a massage establishment or spa establishment pursuant to this article, the city shall be entitled, on motion, to recover its reasonable attorney's fees and costs incurred in bringing the action.

(Ord. No. 723, § 12-173, 4-4-2016)

Sec. 10-288. - Real property used for illegal sexual activity; property owner responsibility.

- (a) In accordance with O.C.G.A. § 41-3-13, the municipal court shall have jurisdiction to hear and determine the question of the existence of the nuisance provided for in O.C.G.A. § 41-3-1 and as further defined herein, and, if found to exist, to order its abatement.
- (b) As used in this subsection, the term:
 - (1) "Sex crime-related arrest" means an arrest for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, including, but not limited to, and citation, summons, accusation or indictment for violations of state laws concerning lewdness, prostitution, sodomy, the solicitation of sodomy, or masturbation for hire; provided, however, that any such arrests which result directly from cooperation between the real property owner and a law enforcement agency shall not be considered a sex crime-related arrest for purposes of this section.
 - (2) "Substantial illegal sexual activity" means activity comprised of three or more separate incidents resulting in sex crime-related arrests within a 24-month period on the same parcel of real property.
- (c) Any owner of real property, regardless of whether such owner is the occupant of the subject premises, who has knowledge that substantial illegal sexual activity is being conducted on such

property, shall be guilty of maintaining a nuisance, and such real property shall be deemed a nuisance and may be abated as provided by law.

- (d) The owner of real property shall be deemed to have knowledge of illegal sexual activity occurring on a parcel of real property if the city notifies the owner in writing of two or more separate incidents occurring on the same premises within a 24-month period that result in sex crime-related arrests and, after the receipt of such notice and within 24 months of the first of the incidents resulting in a sex crime-related arrest, one or more separate incidents occur which result in a sex crime-related arrest.
- (e) The provisions of this section are cumulative of any other remedies and shall not be construed to repeal any other existing remedies for related nuisances. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-174, 4-4-2016)

Secs. 10-289—10-309. - Reserved.

SECTION 1.4 - DEFINITIONS

1.4.1 Use of words and phrases.

For the purpose of this Ordinance, the following shall apply to the use of words and phrases:

- A. Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense. The masculine person "his" also means "her."
- B. The word "shall" is always mandatory and not discretionary.
- C. The word "may" is permissive.
- D. The word "and" indicates that all of the conditions, requirements, or factors so connected must be met or fulfilled, whereas the word "or" indicates that at least one condition, requirement, or factor so connected must be met.
- E. The term "such as" is intended to introduce one or more examples in illustration of a requirement or point, and is used herein to mean "including but not limited to the following."
- F. The word "structure" includes the word "building."
- G. The word "lot" shall include the words "plot," "tract," "parcel," and "property."
- H. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- I. The verbs "zone" and "rezone" have the same meaning and refer to the act of amending the Official Zoning Map through the process established by this Ordinance.
- J. The nouns "zone," "zoning district" and "district" have the same meaning and refer to the Zoning Districts established under this Ordinance.
- K. All words and phrases shall be interpreted within the context of the sentence, Section and Article in which they occur.

1.4.2 Defined terms.

Words and phrases defined herein shall be interpreted as defined without regard to other meanings in common or ordinary use, unless the context of the word or phrase indicates otherwise. Words and phrases not defined in this Ordinance shall be construed to have the meaning given by common and ordinary use as defined by Webster's New International Dictionary, Latest Edition. Figures associated with defined terms in this Section are provided for illustration only and do not limit or change the meaning of the term as defined in writing.

Acceleration Lane. An added roadway lane which permits integration and merging of slower moving vehicles into the main vehicular stream.

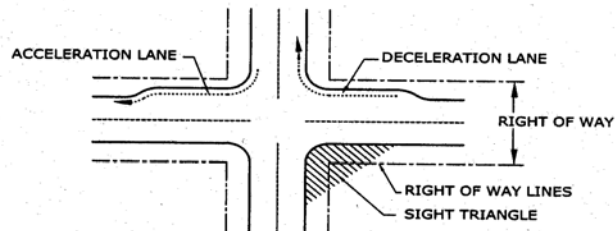
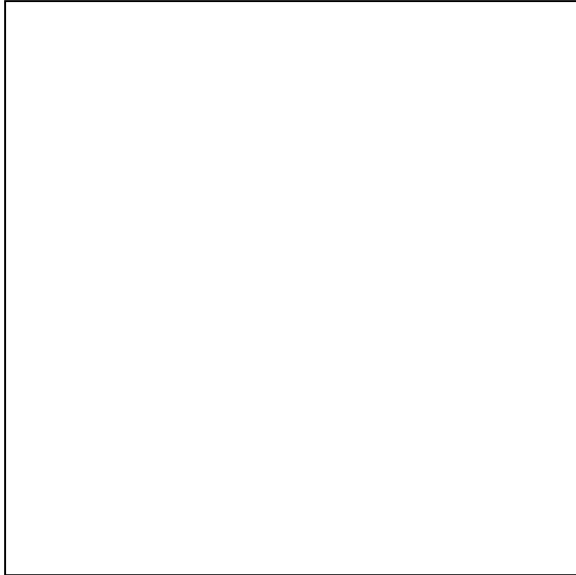


FIGURE 1

Access. A way or means of approach to provide physical entrance to a property.

Accessory Structure. A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

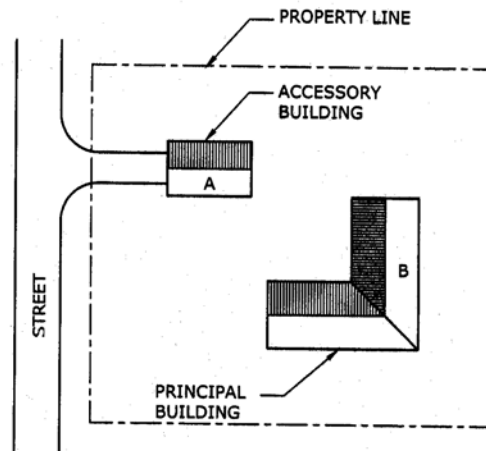
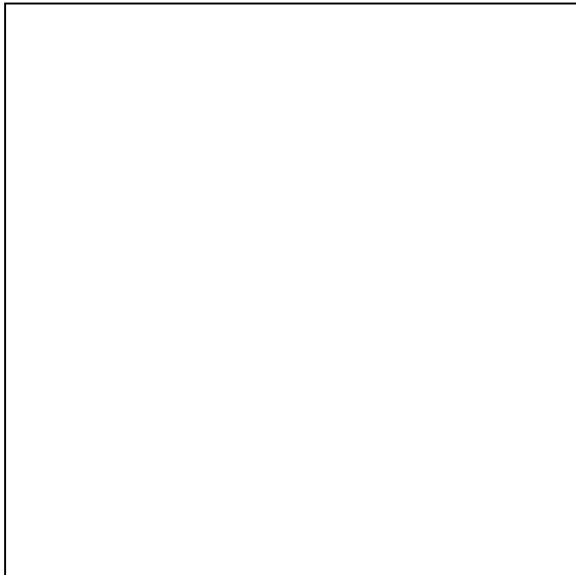


FIGURE 2

Accessory Use. A use customarily incidental and subordinate to the principal use and located on the same lot with such principal use.

Acre. A measure of land area containing 43,560 square feet.

1. **Acreage, Gross.** The total area of a property measured in acres and fractions thereof rounded to the nearest one-tenth acre.
2. **Acreage, Net.** The total buildable area of a property measured in acres to the nearest one-tenth, as existed when originally approved for its current zoning district, less any flood plain, easements and land dedicated to and accepted for streets or other public improvements by the City.

Adult Book Store. A retail establishment, a majority of whose inventory consists of books, magazines, videotapes and similar materials containing sexual activities or specified anatomical parts.

Airport. A property or structure licensed and approved by the Federal Aviation Administration where fixed wing aircraft or helicopters can land and take off, which may be equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

Aisle. The traveled way, which is not the public right-of-way, by which cars enter and depart parking spaces.

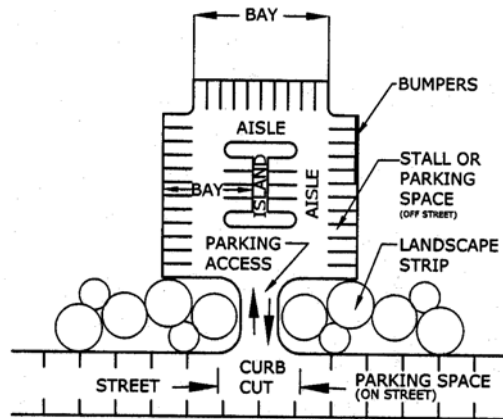
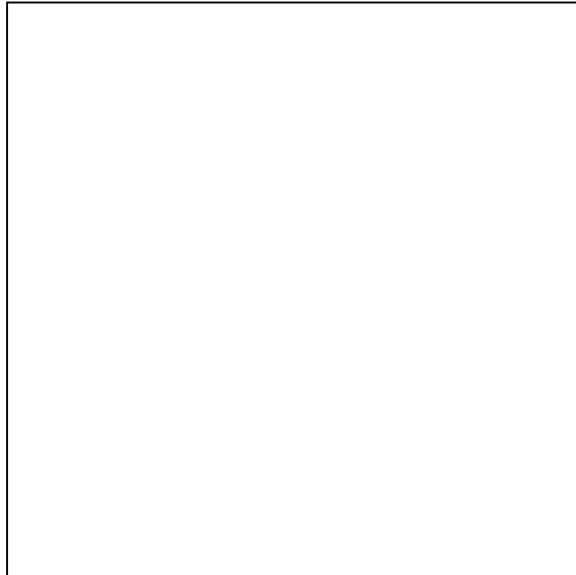


FIGURE 3

Alley. A non-exclusive private easement or publicly dedicated service way providing a secondary means of public access to abutting property and not intended for general traffic circulation.

Alteration of Building. Any change in the supporting members of a building (such as bearing walls, columns or girders); any change in the non-supporting interior walls of a building; any addition or reduction to a building; any change in use; or any relocation of a building from one location or position to another.

Amphitheater. An outdoor area designed or intended for the projection of sound to be heard by a nearby audience.

Amenity. A natural or man-made feature which is intended to enhance or make more attractive or satisfying a particular property.

Animal Hospital, Large Animals. A place where horses, cattle, sheep or other animals normally kept in agricultural settings are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Animal Hospital, Small Animals. A place where dogs, cats, birds or other animals normally kept as household pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Annexation. The incorporation of a land area into the City with a resulting change in the city limit boundaries.

Antenna. See Section 2.8 for definition of 'antenna.'

Apartment. One or more rooms comprising an independent dwelling unit in a 'For-Rent' building.

Applicant. Any person making a request to the City for any approval, permit or authorization under the procedures contained in this Ordinance.

Art Galleries. An establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This does not include libraries, museums, or non-commercial art galleries, or where such display of art is incidental to the primary use.

Asphalt Plant. A business which manufactures, mixes, or blends asphaltic products for distribution.

Assisted Living Facility. See Congregate Housing.

Associations. An organization of persons having common interests or purposes.

Auditorium. An indoor building or structure designed or intended for use for the gathering of people as an audience to hear music, lectures, plays, and other presentations.

Auto Sales and Leasing. The use of any building, land area, or other premises or portions thereof, for the display, sales or lease of automobiles, trucks, vans, trailers or recreational vehicles, including internet transactions where most vehicles are not stored on site.

Automobile. A self-propelled, free moving vehicle, with at least four but no more than six wheels, designed primarily for the transportation of passengers or for conveyance of up to two tons of materials on a street or roadway.

Automobile Service Station. Any building, land area or other premises, or portion thereof used or intended to be used for the retail dispensing or sales of vehicular fuels; and including as an accessory use the sale and installation of lubricants, tires, batteries and similar accessories, or the provision of tune-up or light maintenance services for vehicles.

Automotive Service Establishment. A business principally engaged in the repair of automobiles or other motorized vehicles, or the installation or repair of equipment or parts on motorized vehicles such as mufflers, brakes, tires, radios, transmissions, and engines or engine parts.

Bakery. An establishment primarily engaged in the retail sale of baked products for consumption off site. The products may be prepared either on or off site. Such use may include incidental food service.

Bank. A freestanding building, with or without a drive-up window, for the custody, loan, or exchange of money; for the extension of credit; and for facilitating the transmission of funds. This may include credit unions, savings and loans, and traditional banks.

Barber Shop. Any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

Basement. An area below the first floor of a building used for storage, garages, and utilities or for common use of the occupants of the building. A basement used for any one or more of the above purposes shall not be counted as a story.

Beauty Shop. Any commercial establishment, residence, vehicle, or other establishment, place, or event wherein cosmetology is offered or practiced on a regular basis for compensation, excluding such types of services requiring customers to disrobe.

Bed and Breakfast. A building in which lodging and meals are provided for no more than 15 guest and meals are served in a common dining room.

Berm. A mound of earth, or the act of pushing earth into a mound.

Block. A tract of land bounded by streets or a combination of streets and public land, rights-of-way or any other barrier to the community or development.

Board of Appeals. The appointed Board of Appeals of the City of Alpharetta.

Boarding House. A dwelling where more than two, but fewer than six rooms are provided for lodging for definite periods of times. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests.

Book or Stationery Store. An establishment for the sale or distribution of books and miscellaneous stationery by direct retail sales to the public.

Bottled Gas Storage and Distribution. An establishment where gas is stored for wholesale distribution.

Boutique Hotel. A high quality hotel which contains less than 120 rooms located in a unique setting, such as the City's Downtown, mixed-use developments and/or an entertainment district. The building shall reflect a unique exterior architecture and interior design compatible with the area in which the hotel is located. The boutique hotel shall provide guests with high quality services, such as, but not limited to, concierge, on-site restaurant, room service, meeting space, business center, banquet facilities, spas, doormen, valet parking, boutiques and/or other amenities. Guest rooms within the building shall contain no equipment for food preparation other than a mini-fridge and/or microwave. There shall be no self-serve laundry facilities (for guests use) within the building. Access to each guest room shall be through an inside lobby supervised at all hours.

Brewery. A facility where malt beverages are manufactured or brewed.

Broadcasting Studio. An establishment for the dissemination of radio, television, satellite, or similar medium, which may include a transmission tower.

Buffer Area or Buffer Strip. That portion of a lot set aside for open space and screening purposes pursuant to applicable provisions of this Ordinance to separate different zoning districts or uses on one property from uses on another property. A required set back area may not be included in a required buffer area or visa-versa.

Buffer, Undisturbed. An area of land as defined above that exists in its natural state without intrusion or alteration. The addition of landscaping into areas of sparse vegetation within undisturbed buffers does not constitute intrusion or alteration.

Buildable Area. See "Lot Building Area."

Builder's Equipment. An area designed or intended for the storage and use of equipment or materials common in the construction trade. This may not include sales of such equipment or materials.

Building. Any structure built for or intended for occupancy, storage or shelter of persons, animals, personal or business property, or machinery of any kind which is entirely separated from any other structure.

Building Code. The latest edition of all codes relating to the construction of buildings and their mechanical, electrical and other systems, as adopted by the City of Alpharetta pursuant to the Georgia Uniform Building Code Act and also referred to as the Standard Building Code.

Building Frontage. The linear width of a building facing or most nearly facing a street.

Building Height. The vertical distance to the highest point of the roof surface of a flat roof, the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof, as measured from the average finished grade across the building frontage.

Building Inspector. The Building Official of the City of Alpharetta or the Building Official's designated representative.

Building Site. A parcel or lot or land occupied or intended to be occupied by a building or structure having not less than the minimum area permitted by the code.

Bus Shelter. A small, roofed structure, having from one to three walls, located near a street, and designed primarily for the protection and convenience of bus passengers.

Car Wash. Any building or premises or portions thereof dedicated to use for washing automobiles; or a structure containing facilities for washing automobiles.

Carpenter Shop. An establishment utilized for the manufacture or assemblage of wood into usable forms for sale and distribution.

Carpet and Rug Sales. An establishment for the retail or wholesale sale of floor coverings.

Cemetery. Land used or dedicated to the burial or internment of human or animal remains, including crematoriums, mausoleums, necessary sales, and maintenance facilities.

Center Line of Street. Any line surveyed as such by the City of Alpharetta or the Georgia Department of Transportation or their designee, or, if no such survey exists, the line which is midway between the edge of pavement or back of curb of a street.

Central Business District (CBD). That portion of the City bounded by Mayfield Road to the North, Old Milton Parkway to the South, Haynes Bridge Road and Highway 9 to the east and Roswell and Canton Streets to the west. (see page 2-103)

Certificate of Occupancy. A document issued by the Director indicating that a particular building conforms with the requirements of this Ordinance and the building is complete and ready for use.

Church. A facility incorporating one or more buildings where religious services are conducted.

City. The City of Alpharetta, Georgia.

City Administrator. The Chief Operating Officer of the City of Alpharetta or his designee.

City Clerk. The City Clerk of Alpharetta, Georgia, or the City Clerk's designated representative.

City Council or Mayor and Council. The legally constituted and elected governing body of the City of Alpharetta, Georgia.

Clinic. An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists, medical professionals, or social workers and where patients are not usually lodged overnight.

Club. Buildings and facilities owned or operated by an association or persons for a social or recreational purpose.

Collection Box. A container, trailer, vehicle or other structure, used for the purpose of acquiring donated goods, by a for-profit or not-for-profit entity.

Commercial Parking Lot. An area or structure dedicated to the temporary storage of automobiles or other vehicles for periods of less than 24 hours for a fee, operated as the principal use of the property or structure.

Community Development Director. The Director of the Community Development Department or his designee.

Comprehensive Plan (CP). The long-range plan for guiding development in the City of Alpharetta and the City's urban area to a point in time at least 15 years from when the plan was adopted, with the overall goal being to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents and businesses.

Concept Plan. A generalized map presenting an image or representation of a proposed development, and showing those plan elements as further required by this Ordinance.

Concrete Plant. A business which manufactures, mixes, or blends concrete products for distribution.

Conditional Use. A use that generally would not be appropriate throughout a zoning district but which, if controlled as to visual appearance, number, area, height, location, or relation to abutting or nearby uses, would not be injurious to the public, health, safety, welfare, morals, order, comfort, convenience, appearance or general welfare. Such uses may be permitted only in zoning districts specified in this Ordinance and are subject to conditions and approval by the Mayor and Council.

Condominium. A legal form of multiple ownership consisting of a building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

Condominium, Office. An office building (or group of buildings) organized, owned and maintained as a condominium.

Condominium, Residential. A building type consisting of individual units located within a single structure. The structure normally has at least two, but no more than six stories. The structure is designed to appear as a single building with no architectural distinction between the units. Architectural elements such as materials, colors and windows are repeated consistently throughout the building and there is usually a single roof element and a single point of primary entry. The architectural style typically expresses the horizontal lines of the building which then accentuates the floors of the building as a primary visual element. The common areas of the building such as the elevators and lobby may be expressed as special features on the main elevations of the structure.

Congregate Housing. Any group dwelling or facility licensed by the state, public or private, which for gain or otherwise, regularly provides one or more persons with assisted living care. The term "assisted living care" means specialized care and services including the provision of personal services, the administration of medications by a certified medication aide and the provision of assisted self-preservation. The term "personal services" includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance, essential activities of daily living such as eating, bathing, grooming, dressing, toileting, ambulation and transfer. The term "assisted self-preservation" means the capacity of a resident to be evacuated from an assisted living facility to a designated point of safety and within an established period of time as determined by the Office of Fire Safety Commissioner. Assisted self-preservation is a function of all of the following:

1. The condition of the individual.
2. The assistance that is available to be provided to the individual by the staff of the assisted living facility; and
3. The construction of the building in which the assisted living facility is housed, including whether such building meets the state fire safety requirements applicable to an existing health care occupancy.

Construction Trailer. A temporary structure used as an office and located on an active construction site.

Contractor's Office with outside storage. A room or group of rooms used for conducting business that includes an enclosed exterior space for the storage of business related equipment and supplies.

Contractor's Office without outside storage. A room or group of rooms used for conducting business that does not use any exterior storage area.

Convenience Center with Gas Pumps. A facility that combines a small retail store with the sale and dispensing of gasoline products.

Convenience Store. A retail establishment primarily selling packaged food and household convenience items, which may also dispense automobile fuel, oil and accessories. Excluded from this definition is any establishment providing automotive maintenance services or repairs.

Craftsman Shop or Studio. A facility where products are made or serviced on an individual basis without the use of mechanized or assembly line production equipment.

Curb Break or Curb Cut. Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property.

Data Center. A building or complex of buildings in which a substantial portion of the gross square footage is dedicated to the housing of computer or data processing equipment or systems.

Day Care Center. Any establishment operated by an individual, partnership, society, agency, corporation, institution or group, and licensed by or registered with the State of Georgia as a group day care home or day care center, which enrolls therein for pay, for supervision and care, seven or more children or adults. Such facility may provide supervision, care, education, recreation and specialized programmings but does not provide overnight accommodations.

Deed. An instrument that conveys or transfers title to land or other real property.

Density. The average number of dwelling units or gross square feet of building floor area per gross acre of land. For an individual property, the density shall be calculated by dividing the total dwelling units or gross square footage of the building by the total gross acres of the property that existed when originally approved for its current zoning district.

Design Review Board. The Design Review Board of the City of Alpharetta, as established by this Ordinance and appointed by the Mayor and Council.

Development Activity. The construction of public improvements, site improvements, or buildings, including any alteration of a property in preparation for such construction. Development Activity shall also include the "thinning" or removal of trees from undeveloped land in conjunction with a forest management program, and the removal of trees incidental to the development of land or to the marketing of land for development.

Director. Unless otherwise specified, the Director of Community Development of the City of Alpharetta, Georgia, or the Director's designated representative.

Discount Store. A retail store that sells new or used goods or products at prices lower than traditional retail outlets. Discount stores principally engage in offering a category of similar goods or a wide assortment of goods for sale to the general public.

Distillery. A facility where distilled spirits are manufactured (distilled, rectified or blended).

Drainage. See Article III, Section 3.1 for all definitions relating to drainage and storm water control.

Drive or Driveway. A surfaced asphalt or concrete area on a lot which provides direct access for vehicles between a street and a private garage, carport or other permitted parking space or parking area or loading area.

Dry cleaning, pick-up station. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without the maintenance or operation of any laundry or dry-cleaning equipment or machinery on the premises.

Dry cleaning plant. A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and/or agitation, and other processes incidental thereto.

Duplex (or semi-detached). A building type consisting of two independent units that are attached by a common side wall, floor and/or ceiling. Such units normally have at least two, but no more than four floors. These units may share a common front door and are sometimes designed to appear as a single unit.

Dwelling, 'For-Rent' (Downtown Overlay).

- a. Unit—A residential unit designed to be leased or rented and occupied by a single family tenant and located within the Downtown Overlay (map A).
- b. Building—A structure incorporating multiple rental units. (See Apartments.)
- c. See Section 2.7 Standards for Downtown Overlay.

Dwelling, 'For-Rent' (Outside of Downtown Overlay).

- a. Unit—A residential unit designed to be leased or rented and occupied by a single family tenant.
- b. Building—A structure incorporating multiple rental units. (See Apartment.)
- c. See Section 2.7 Standards for Units (outside of Downtown Overlay).

Dwelling, 'For-Sale'.

- a. Detached—A free-standing residential unit designed to be purchased and occupied by a single family.
- b. Attached—A residential unit attached to other residential units and designed to be purchased and occupied by a single family.

- c. Condominium—A type of property ownership in which a 'For-Sale' unit is purchased and the purchaser of each unit acquires full title to the unit and an undivided interest in the common elements (the land, roof, elevator, etc.).

Dwelling, Group. A building or portion of a building occupied or intended for occupancy by a number of unrelated persons or families, but in which separate cooking facilities are not provided for such resident persons or families. The term "group dwelling" includes but is not limited to the terms rooming house, apartment hotel, nursing home, fraternity or sorority house, YMCA or YWCA. A hotel, motel or bed and breakfast tourist home shall not be deemed to be a group dwelling as herein defined.

Dwelling Unit. One or more rooms connected together and constituting a separate, independent housekeeping establishment designed for use by one family with provision for cooking, eating, sleeping, bathing and personal sanitation, and physically set apart from any other rooms or dwelling units in the same structure or another structure.

Easement. A grant by a property owner of any designated part of a property for the use by another for a specified purpose without transfer of title or right of ownership.

Egress. An exit.

Electric power yards, substation. All equipment, fixtures, and personal property operated or maintained in connection with the production of electricity using any source of thermal, steam, wind, or solar energy with a generating capacity of more than 500 kilowatts and less than 50 megawatts.

Existing Use. The use of a lot or structure at the current time or another time if so designated.

Extended Stay Hotel. A building containing guest rooms for lodging, offered to the public for compensation, which are advertised, designed, intended or routinely utilized for weekly or monthly occupancy, or in which at least 30% of all guest rooms have facilities for the refrigeration and preparation of food by guests, such as a refrigerator and a cooktop/stove (or a refrigerator, a microwave, and a dishwasher or kitchenette sink), and a self-serve laundry facility is available for guests use. For the purposes of this Code, extended stay hotels and hotels (or motels) are separate and distinct uses. See, Section 2.7.3.

Family. One or more persons related by blood, adoption, guardianship or marriage and/or not more than three unrelated persons, living and cooking together as a single, nonprofit housekeeping unit.

Family Day Care Home. An accessory use within a private residence, licensed by or registered with the State of Georgia as a family day care home, operated by the occupant of the dwelling who enrolls for pay, for supervision and care without overnight accommodations, three but not more than six children or adults.

Fast Food Restaurant. See Restaurant, Drive-thru or Fast Food.

Fence. A structure made of manufactured materials—and used for the purpose of defining a boundary, creating an enclosure, providing security, privacy or screening, or as a means of protection.

Flood Control. See Article III, Section 3.4, for definitions relating to flooding and flood control.

Floor Area. The total number of square feet of heated floor space within the exterior walls of a building.

Floor, First. The location within a building in which the primary egress and ingress are provided.

Florist, Retail With Greenhouse. Any business establishment which, as its primary business, sells at retail flowers and ornamental plants. A greenhouse or nursery for the growing of plants, or another open or enclosed supplemental display area outside the establishment, is permitted as a normal accessory use.

Florist, Retail Without Greenhouse. Any business establishment which, as its primary business, sells at retail flowers and ornamental plants. A greenhouse or nursery for the growing of plants, or another open or enclosed supplemental display area outside the establishment, is not permitted.

Frontage Lot or Street Frontage. The width in linear feet of a lot where it abuts the right-of-way of any street from which access may be directly gained.

Funeral Home. A building used for the preparation of deceased human beings for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

Future Land Use Map. The map named as such and contained in the Comprehensive Plan that indicates areas appropriate for various land uses and public facilities over time and as described in the Comprehensive Plan text.

Garage Sale. The sale or offering for sale of miscellaneous personal items on a residential zoned lot, (not including churches and schools).

Garden District. That portion of Canton Street bounded by Church Street to the south and Hopewell Road to the north.

Gasoline Station. A facility where primary use is the dispensation of fuels. (Also see Convenience Center with Gas Pumps)

Gazebo. An accessory, open air structure not exceeding 300 sq. ft. in size.

Governing Body. The Mayor and Council of the City of Alpharetta, Georgia, under whose authority this Ordinance is enacted into law, administered, and enforced.

Grade. The degree rise or descent of a sloping surface. The average elevation of the sidewalk or crown of road surrounding a building site.

Grade, Finished. See Section 3.1, "Site Grading and Land Disturbance."

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale or for personal enjoyment.

Greenspace. All that area of land that can be landscaped or planted, allows natural passage through by water, and is not covered by manmade materials or structures such as buildings or paving.

Group Home. A dwelling shared by four or fewer persons, excluding resident owner, (or no more than six persons including the resident owner), who live together as a single housekeeping unit and in a long term, family-like environment in which the resident owner, serving as the primary caregiver to the residents, provides care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. 1. No group home shall be located within 2,000 ft. of another group home as measured at the property line. 2. A group home shall be limited to one structure and multiple structures located near one another shall not be considered components of one group home. Each structure shall meet distance requirements. The term "group home" shall not include a halfway house, a treatment center for alcoholism or drug abuse, and work release facility for convicts or ex-convicts, a home for detention and/or rehabilitation of juveniles adjudged delinquent or unruly and placed in custody of the state or other housing facilities serving as an alternate to incarceration. The term "group home" shall also not allow the use of a dwelling as an apartment or duplex. A "group home" shall not allow use of the dwelling as a home for individuals on parole, probation, or convicted and released from incarceration, for any crimes including child molestation, aggravated child molestation, or child sexual abuse, as defined in O.C.G.A. 16-6-4 or individuals required to register as sex offenders pursuant to O.C.G.A. 42-1-12. A group home may include a home for the handicapped. As used in this subsection, the term "handicapped" shall mean:

1. Having a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently;
2. Having a record of having such an impairment; or
3. Being regarded as having impairment.

However, the term "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

Hardware Store. A facility of 30,000 or fewer square feet gross floor area, primarily engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, plumbing and electrical supplies, paint and glass, housewares and household appliance, garden supplies, etc.; if greater than 30,000 square feet, such a facility is a Home Improvement Center.

Historic Business District. That portion of the Central Business District bounded by Church Street to the north, Highway 9 to the east, Marietta Street to the south and Milton High School to the west. (see page 2-122)

Home Improvement Center. A facility of more than 30,000 square feet gross floor area, engaged in the retail sale of various basic hardware lines, such as tools, builders hardware, paint and glass, houseware and household appliances, garden supplies, and cutlery.

Home Occupation. Any activity carried out as a business and/or for profit by the resident and conducted as an accessory use in the resident's dwelling unit.

Hospital. A building providing primary or tertiary health services and medical or surgical care to persons including in-patients and out-patients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

Hotel (or Motel). A building in which lodging along with customary lodging facilities and services, such as meeting rooms, restaurant, maid service and fitness center, are provided for transient guests for an average stay of less than 7 days and offered to the public for compensation. Hotel services shall include the provision of food and beverage services suitable for both guests and groups, on-site restaurant, lounges, group meeting spaces with banquet facilities and selective amenities, such as but not limited to spas, banquet rooms, doormen, valet parking, concierge, and high-end restaurant and boutiques. Guest rooms within the building shall contain no equipment for food preparation other than a mini-fridge and/or microwave. There shall be no self-serve laundry facilities (for guests use) within the building. Access to each guest room shall be through an inside lobby supervised at all hours.

Improvements. The buildings, public utilities and facilities, and accessory structures built on or serving a property.

- A. *Public Improvements.* Any structure, owned by or to be dedicated to a government or a utility regulated by the Georgia Public Service Commission, together with its associated public land, easement or right-of-way, necessary to provide transportation, drainage, public or private utilities, or other public services such as education, recreation, or public safety.
- B. *Site Improvements.* Any structure, other than a principal building or a structure intended for dedication to public ownership, constructed to support or provide for the use or occupancy of a property, such as driveways, parking and loading areas, retaining walls and other earthen works, erosion and sedimentation control facilities, stormwater drains and detention facilities, and connections to public water, sewer or other utilities.

Industrial Park. A development that contains a number of separate industrial buildings and supporting uses on one or more lots, which is designed, planned, constructed and managed on an integrated and coordinated basis.

Industrialized Buildings. Prefabricated structures as defined in O.C.G.A. 110-2 and usually used for a limited time period such as for a site construction office, portable classroom and site real estate office.

Ingress. Access or entry.

Island. In parking lot and street design, built-up curbs (and in parking lots usually placed at the end of parking rows) as a guide to traffic and also used for landscaping, signing or lighting.

Junk or Salvage Yards. Any area, lot, land, parcel, building or structure or part thereof used for the storage, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or

discarded goods, materials, machinery or two or more unregistered, inoperable vehicles or other type of junk. See Also "Recycling Center."

Kenel. An establishment in which more than six dogs or other domesticated animals more than one year old may be housed, groomed, bred, boarded, trained or sold.

Land Disturbance Permit. A permit issued by the City that authorizes Development Activity, and includes, but is not limited to, activity related to soil erosion control, clearing and grubbing, grading, public and site improvements. This permit does not authorize building construction.

Land Use. See "Use," "Principal Use," and "Accessory Use."

Landscape Strip. A portion of a lot required to be reserved for, installed with, and maintained with vegetation. Such a strip may or may not be required to be of a linear form. No utilities or parking shall be allowed within a required landscape strip.

Loading Space, Off-street. A space or berth used for the loading or unloading of commercial vehicles, trucks or other vehicles.

Lot. A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the street right-of-way or private street easement may be included.

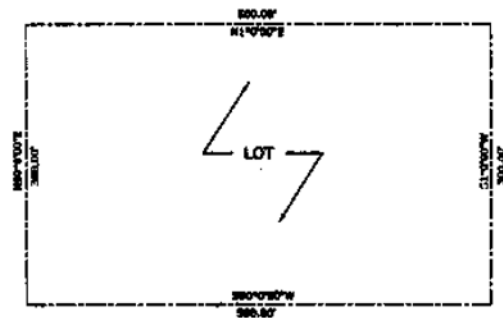
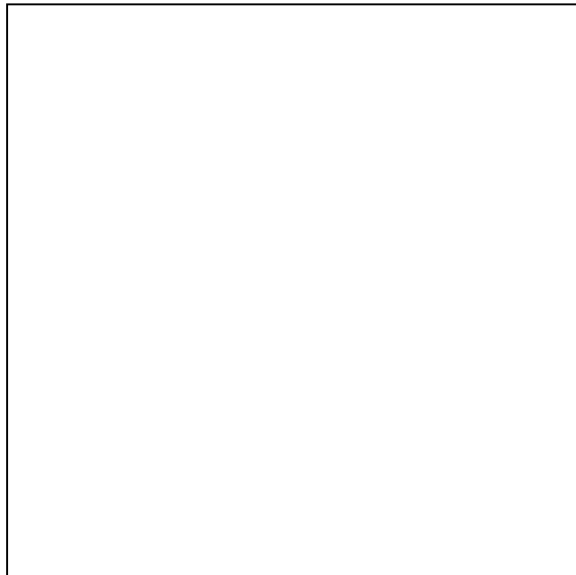
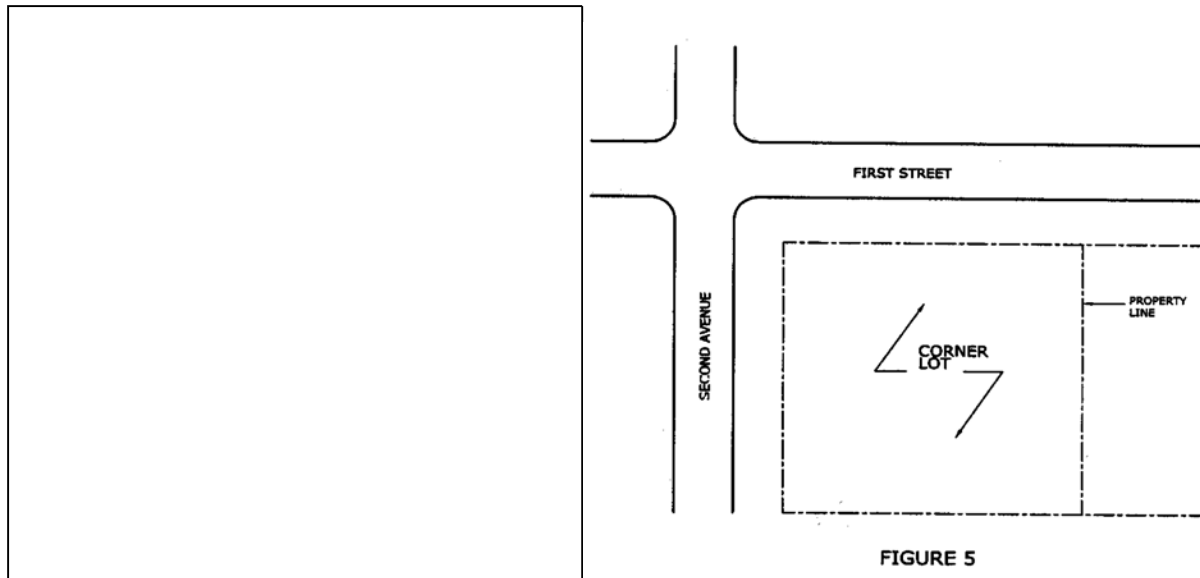


FIGURE 4

Lot Building Area. The portion of a lot located interior to the front, side and rear yard building setback lines; that is, the portion of a lot wherein a building may be located.

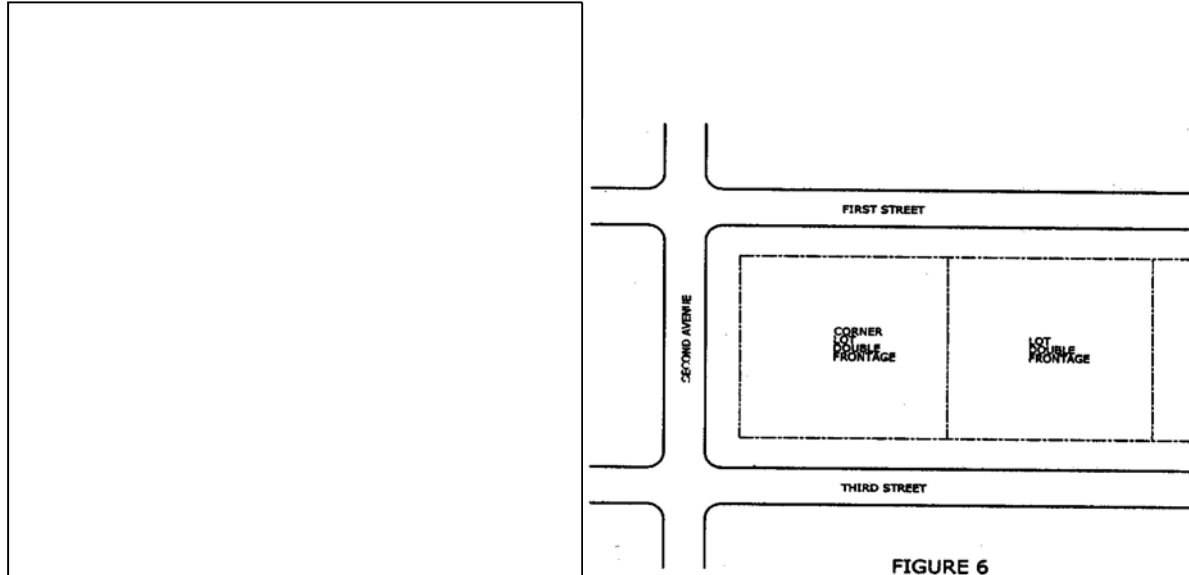
Lot, Corner. A lot abutting two or more streets at their intersection.



Lot Coverage. That portion of the lot that is covered by buildings, structures, and any other impervious surface.

Lot Depth. The distance between front and rear lot lines. If front and rear lines of said lot are not parallel, such least dimension shall be deemed to be the lot depth.

Lot, Double Frontage. A lot which has frontage on more than one street, provided however, that no corner lot shall qualify as a double frontage lot unless said corner lot has frontage on three or more streets.



Lot, Flag. An "L" shaped lot whose frontage is provided by the driveway access which ties the buildable portion of the property to the street.

Lot Frontage. See "Frontage."

Lot Line. A line of record bounding a lot which divides one lot from another lot or from a street or any public space.

- A. *Front Lot Line.* Any boundary line of a lot which is coterminous with a public street right-of-way line or private street easement line. For a corner lot, the narrow portion is usually considered the front.
- B. *Rear Lot Line.* Any boundary line of a lot which does not intersect with a street right-of-way or private street easement line and which is usually opposite of the front lot line.
- C. *Side Lot Line.* Any boundary line of a lot which intersects with a street right-of-way or private street easement line.

Lot of Record. A lot which exists as shown or described on a plat or deed recorded in the Office of the Clerk of the Superior Court of Fulton County.

Lot Width. The distance measured between side lot lines at the front minimum setback line between intersecting lot lines.

Lot Width—Cul-de-sac. The distance measured between side lot lines at the point of the property that is twice the front setback requirement from the front property line.

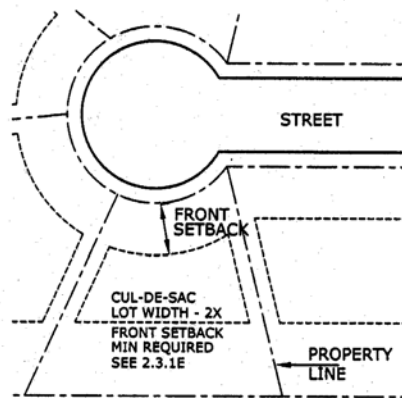
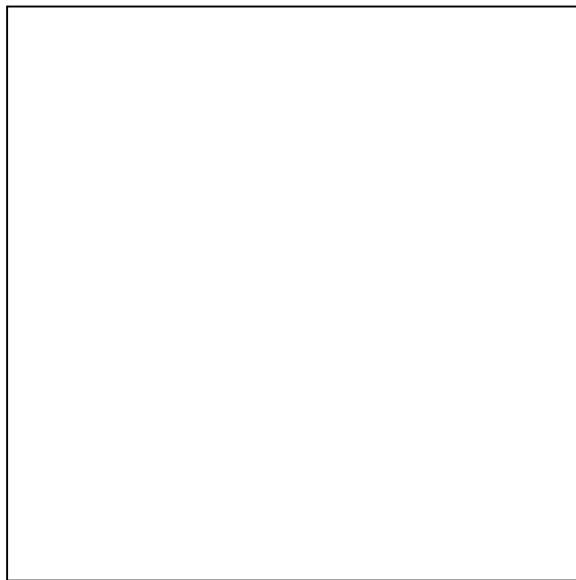


FIG 7

Mansard Façade. An architectural appendage or embellishment to a flat topped structure which is attached to the front external wall and if intended to create the appearance of a mansard roof. See also "Roof."

Manufactured Building. A factory-built, structure that meets national standards for manufactured buildings.

Manufacturing, Heavy. The extraction of natural resources or the transformation of raw materials through mechanical or chemical means into new products ready for assembly, fabrication or use in the production of finished goods.

Manufacturing, Light. The fabrication or assembly of parts into a finished product or component products.

Marquee. Any hood, canopy, awning or permanent construction which projects from a wall of a building, usually above an entrance.

Massage Therapy. ~~Any use, other than a hospital or clinic, where non-medical manipulative devices or exercises are practiced upon the human body by someone other than a licensed medical professional. The manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, a system of structured touch, pressure, movement, and holding to the soft tissue of the body, and any other~~

soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of water, oils, lotions, creams, lubricants, salt glows or scrubs, hydrotherapy, heliotherapy, hot packs, cold packs or other topical preparations. The term "massage" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. Further, the term "massage" or "massage therapy" shall not include the following when lawfully performed by a natural person licensed or certified by the state board of cosmetology while engaged in the practice authorized by such state license (or certificate of registration) in accordance with, and as further regulated by, the state licensing laws set forth in O.C.G.A. § 43-10-1 et seq.:

- (1) Touching of the scalp or face by a state-licensed barber or cosmetologist;
- (2) Touching of the hands or feet by a state-licensed nail technician or cosmetologist; and
- (3) Touching of the face, neck, décolletage, or arms by a state-licensed esthetician or cosmetologist.

It shall be unlawful to establish a massage establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any massage establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Master Plan. A plan map and associated statement of intent which, at least, includes a depiction of pods, roads, buffers, flood areas, permitted uses and development regulations which represents the framework for development activity on a property. See also "Concept Plan."

Median Break or Cut. Any interruption in the curb separating opposing vehicular travel lanes of a street for the purpose of allowing ingress or egress by left turning movements to a street, or abutting property.

Metes and Bounds. A method of describing the boundaries of land by directions and distances from a known point of reference.

Mezzanine. An intermediate floor between two other stories that does not contain more than 1/3 of the area of the floor below it.

Mini-Warehouse. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

Mobile Home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling. 'For-Sale', with or without a permanent foundation when connected to public utilities. The term mobile home shall not include motorized vehicles with temporary living quarters. Mobile homes built after 1976 are referred to as "Manufactured Homes" or "Industrialized Buildings".

Mobile Home Park. A site with required public and/or private improvements and utilities for the long-term parking of two or more mobile homes or manufactured homes each on a single lot, and which may include such accessory uses as retail convenience sales, Laundromat, and recreational facilities for the exclusive use of residents.

Motel. See "Hotel".

Nail Salon. An establishment that offers nail care services such as manicures, pedicures, and nail enhancements, excluding such types of services requiring customers to disrobe.

Natural Resources Commission. The appointed natural resources commission (formerly known as the Tree Commission) for the City of Alpharetta.

Neighborhood Grocery. A facility with a floor area of at least 3,000 square feet but not more than 50,000 square feet that sells primarily grocery items such as prepackaged food, produce, meats, baked goods, beverages and similar food items intended for off-site consumption. At least 60% of the floor area of the facility shall be dedicated to the sale of said grocery items, including any immediately adjacent circulation and service areas, but not including storage.

Nonconforming Lot. A lot of record whose area, frontage, dimensions, or location were lawful prior to the adoption, revision, or amendment of this Ordinance, and which, by reason of such adoption, revision or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

Nonconforming Sign. Any structure or sign which was lawfully erected and maintained prior to the adoption, revision, or amendment of this Ordinance, and which by reason of such adoption, revision or amendment fails to conform to all applicable regulations and restrictions of this Ordinance.

Nonconforming Structure. A structure or building whose size, dimensions, or location on a property were lawful prior to the adoption, revision, or amendment of this Ordinance, but which, by reason of such adoption, revision, or amendment, no longer meets or conforms to one or more such requirements of this Ordinance.

Nonconforming Use. A use or activity that was lawful prior to the adoption, revision, or amendment of this Ordinance, but which, by reason of such adoption, revision, or amendment, is not a use or activity permitted by right or no longer meets or conforms to the requirements of this Ordinance.

Nursery, Plant. Land or greenhouses used to raise flowers, shrubs and plants for sale to distributors or for subsequent replanting by the owner, a landscape company or others. See also "Florist, Retail."

Nursery School. See "Day Care Center."

Nursing Home. An extended or intermediate care facility required to be licensed or approved by the State of Georgia to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Office. A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government.

Office Building. A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

Office Park. A development that contains a number of separate office buildings and supporting uses on one or more lots, which is designed, planned, constructed and managed on an integrated and coordinated basis.

Opaque. Impenetrable to view, or so obscuring to view that buildings, structures, and uses become visually indistinguishable.

Open Space. A privately or publicly owned area on the grounds of a premises outside of any principal building or parking area, which is open to the sky and set aside and intended for the outdoor enjoyment of occupants or visitors to the property, and which may but is not required to include such pedestrian oriented improvements as landscaping, walkway paths, pergolas, gazebos, bikeways, exercise or play equipment, and benches, and which may further include up to 20% of its area in water bodies or areas inappropriate for pedestrian use. Open space shall not include any other required open areas such as required building setbacks, buffers, landscape strips or other similar requirements of this ordinance. There are 2 types of open space: Civic space and Amenity space.

1. *Civic Space.* 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. Civic space may include the following types: park, square, plaza, pocket park and playground.
2. *Amenity Space.* 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 the following types: rooftop deck, balconies, patios and porches, outdoor dining areas, pool areas, athletic courts and similar uses, yards and lawns, gardens, hardscape areas improved for pedestrian enjoyment, wooded areas and runoff reduction measures such as bioretention areas and cisterns.

Outdoor Storage. The keeping, in an unroofed area of any goods, material, merchandise or vehicles in the same place for more than 24 hours.

Outdoor Vending. Sale and/or display of products in an area exposed to open air on two or more sides.

Owner. An individual, firm, association, syndicate, partnership or corporation having a majority proprietary interest in land or a building, or their authorized representative.

Parapet. That portion of a wall which extends above the roof line.

Parcel. A lot or tract of land, or several adjoining lots in common ownership.

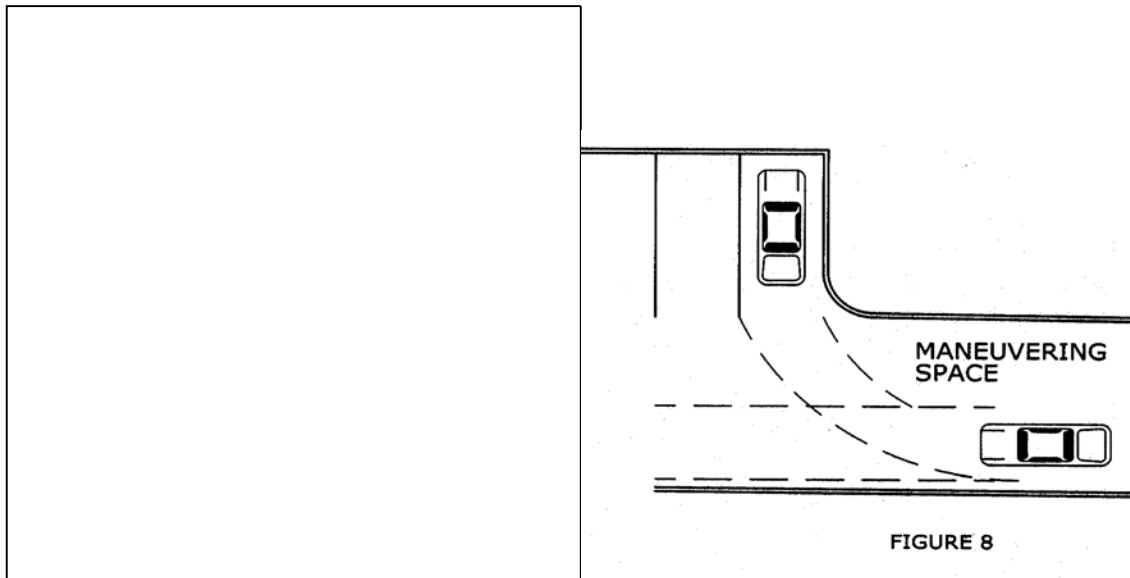
Park Space. A public- or privately-owned area, which is set aside for the enjoyment for occupants or visitors to the property, and which may include both outdoor and indoor areas developed for active and/or passive recreation.

Parking Area. Any public or private area at grade or within a structure used for the express purpose of temporarily parking automobiles and other vehicles otherwise in operation for personal or business use.

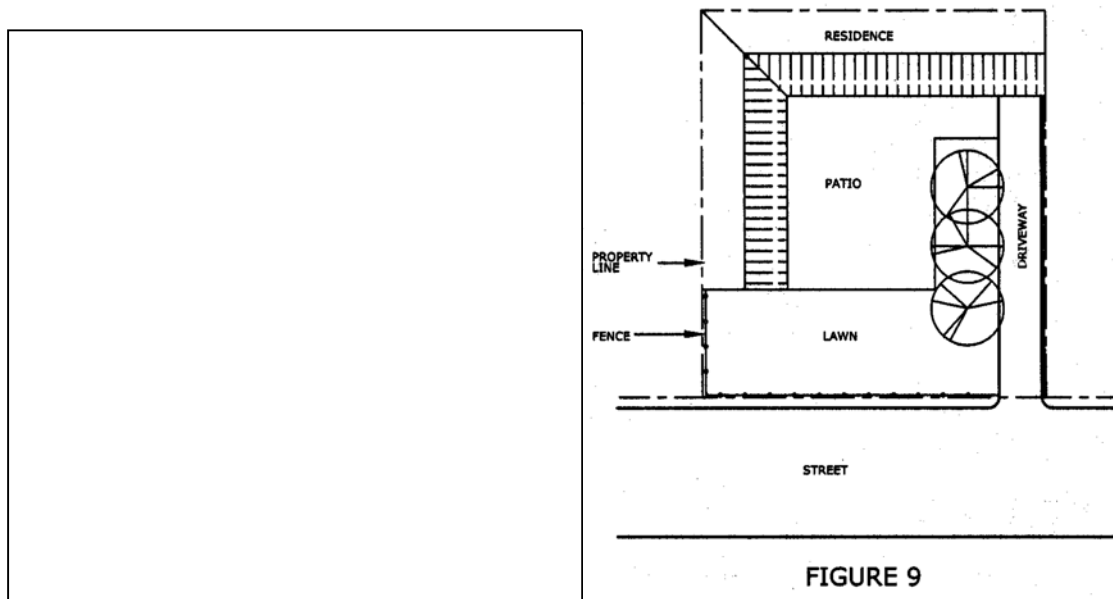
Parking Garage. An accessory building or portion of a principal building used only for the private storage of motor vehicles as an accessory use.

Parking Space. A space identified and set aside for the temporary parking of an automobile or other motor vehicle which is subdivided into the following categories:

- A. *Compact Car Parking Space.* A designated space not less than 8 feet by 16 feet expressly provided within a parking area for purposes of temporarily parking a compact car or other compact motor vehicle.
- B. *Handicapped Parking Space.* A designated space not less than thirteen feet in width (including loading area) and twenty feet in length, laid out and designated by signage in accordance with the requirements of the Georgia Accessibility Code for Buildings and Facilities.
- C. *Handicap - Van Only.* A designated space not less than sixteen feet in width including loading area and twenty feet in length.
- D. *Regular Parking Space.* A designated space not less than 9 feet in width by 19 feet in length.



Patio House. A 'For-Sale' dwelling in which most, or all, of a lot is used with yard space combined instead of divided. Front, rear and side yard are consolidated into one garden area, either partially or completely bordered by rooms or enclosed by walls. See also "Zero Lot Line."



Pedestrian Walkway. A right-of-way within a block dedicated to public use, five feet or more in width, intended primarily for pedestrians or bicycles and other non-motorized vehicles.

Perimeter. The boundaries or borders of a lot, tract or parcel of land.

Permit. Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law, but not allowed without such authorization.

Permitted Use. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person. Any individual, corporation, association, firm, partnership or other legal entity.

Pet Day Care. A facility that provides care on a regular basis to household animals for a period of less than 24 hours with no overnight accommodations.

Planned Center, Office, Commercial or Industrial. A group of rental stores, service establishments, offices, industries and any other businesses planned to serve the public, which is in common ownership or condominium ownership.

Planning Commission. The appointed Planning Commission of the City of Alpharetta, Georgia.

Planted Area. An area of living plant material created for the purpose of establishing open space and consisting of a minimum of 50% of the area devoted to trees and shrubs.

Plat. (1) a map representing a tract of land, showing the boundaries and location of individual properties and streets; (2) a map of a subdivision or site plan.

Plat, Final. The final map of all or a portion of a subdivision which is presented to the proper review authority for final approval and recorded in the office of the Clerk of Superior Court of Fulton County.

Plat, Minor. A division of a tract or parcel of land into not more than four (4) lots and does not dedicate or offer for dedication any new street or require construction of any private road for access to any lots and does not require extension of sanitary sewer, stormwater, or water mains to service lots.

Plat, Preliminary. A preliminary map indicating the proposed layout of the subdivision or site plan which is submitted to the proper review authority for consideration and preliminary approval.

Portable. See Industrialized Buildings.

Premises. An area of land with its appurtenances and buildings which, because of its unity of use, is one unit of real estate.

Principal Building. The building or other structure within which is conducted (or intended to be conducted) the principal use of the lot on which said building is situated.

Principal Use. The primary or predominant use of any lot.

Prohibited Use. A use that is not permitted in a zoning district by right as a principal use, as an accessory use, or as a conditional use.

Public Space. A public- or privately-owned area, which is set aside for the enjoyment for occupants or visitors to the property, and which is developed for recreation, entertainment, and/or civic purposes and may include plazas, outdoor theaters, sculpture gardens, parks, playgrounds, community gardens, or other areas where people can gather. Areas that are restricted to the general public, like residential amenities, may not be included within the public space requirement.

Recreation Facility. A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

1. *Recreation Facilities, Indoor.* Recreational uses conducted almost wholly indoors, including bowling alley, skating rink, shooting range, health club, etc.
2. *Recreation Facilities, Outdoors.* Recreational uses conducted almost wholly outdoors, including ball fields, soccer, etc.

Recycling Center. A use operated exclusively for the collection and temporary storage of used paper, glass, metal, and similar materials suitable for reprocessing, which are transported elsewhere for separating, processing, or storage.

Rental Services Establishment. Any business establishment which rents or leases items of personal property such as tools, appliances and equipment to the general public.

Residence. A dwelling unit.

Restaurant. An establishment where food and drink are prepared, served and consumed primarily within the principal building, and without a drive-in or drive-thru component.

Restaurant, Drive-thru or Fast-Food. Any establishment, building or structure where food or drink are served for consumption, either on or off the premises, with drive-thru components. This definition shall not

include otherwise permitted restaurants where outdoor table service is provided to customers in outdoor dining areas.

Retail Establishment, Mixed Sales. Any business establishment selling a wide variety of goods arranged in several departments including, but not limited to, hardware, automotive, sporting goods, audio and video equipment, and clothing.

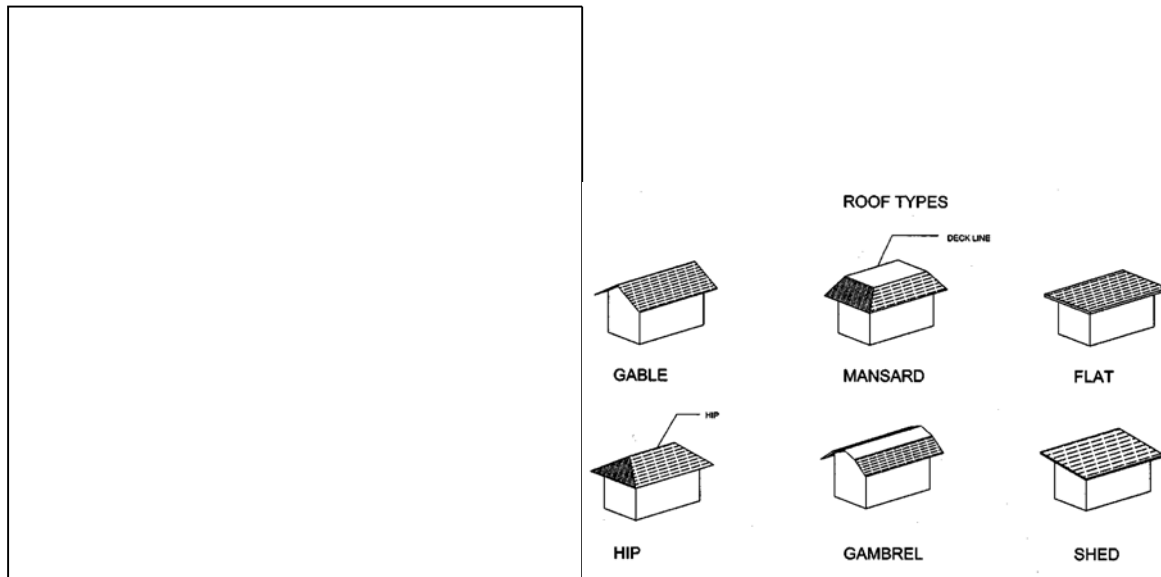
Retail Sales Establishment. A business principally engaged in offering a category of similar goods or products for sale to the general public, such as grocery store, hardware store, pharmacy, clothing shop, home furnishings store, office supplies store, and the like.

Retail Services Establishment. A business principally engaged in providing a service, as opposed to products, to the general public, such as a banking or financial institution, real estate or insurance office, barber or beauty shop, travel agency, amusement or recreation center, health clinic, legal firm, professional service, and the like.

Retail Strip Center. A group of retail stores designed as one development and being less than 50,000 square feet in size.

Right-of-Way. A strip of land occupied or intended to be occupied by a street, sidewalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special purpose use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use in fee simple.

Roof. The outside top covering of a building.



Salvage Yard. A facility or area for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded material.

School, Academic. Any building or part thereof which is designed, constructed or used for education or instruction following the same curriculum offered in a public elementary, secondary, trade or technical, or higher education facility, and accredited to award diplomas as such.

School, Commercial. Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge or vocational pursuit, other than an academic school.

Semipublic Use. A use owned or operated by a nonprofit, religious, or educational institution for the purpose of providing educational, cultural, recreational, religious, or social services to the general public.

Service Drive. A minor, permanent, public right-of-way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Setback. The straight line distance between a street right-of-way or a lot line and the nearest point of a structure or building or projection therefrom (excluding steps, roof overhang, chimneys, bay windows and patios).

Setback, Front Cul-de-Sac.

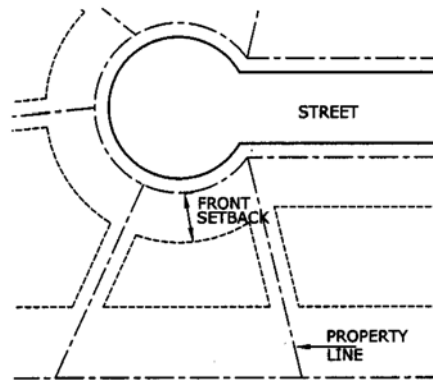
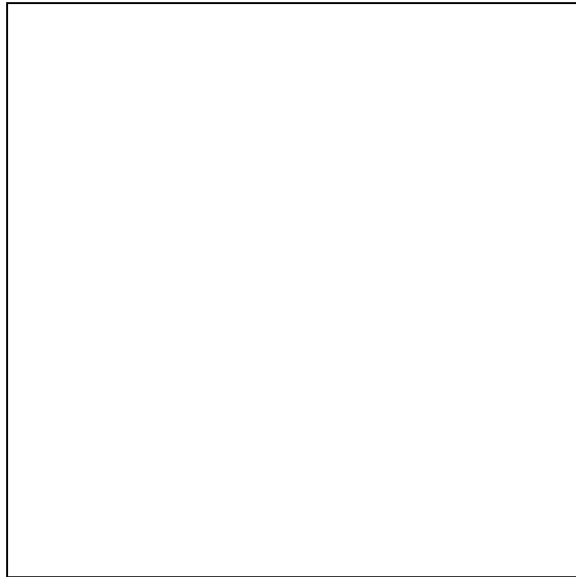


FIG 11

Setback, Minimum. The shortest distance allowed between a property line and any principal or accessory building on a lot, not including any required buffer areas. Minimum setback requirements for buildings are associated with the type of lot line from which the setback is taken; for instance, a "side yard setback" is measured from a side lot line.

Shopping Center. A group of retail sales or services establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements with a total size of at least 50,000 square feet.

Shopping Center, Specialty. A shopping center whose shops cater to a specific market and are linked together by an architectural, historical or geographic theme or by a commonality of goods and services.

Sidewalk. A paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Sign. See Article II, Section 2.6, for all definitions relating to signs.

Site Plan. A plan accurately drawn to scale of a development project, depicting the buildings proposed to be placed on the property, related public and site improvements on the site, and additional information as required by this Ordinance or conditions of zoning approval, and other applicable ordinances.

Smoke Shop and Tobacco Store. Any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco instruments; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store".

Spa Services. A business that provides services **requiring a customer to disrobe**, which may include non-medical massage, other personal services such as skin, nail, hair treatments, hair removal/waxing,

~~and such types of services requiring a customer to disrobe~~, and may have the sale of associated retail products. Such business shall be located within a ~~retail center zoning category allowing retail use~~, shall not occupy more than 4,000 sq. ft. and shall not be closer than 2,000 ft. to a comparable business. The term "spa establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

It shall be unlawful to establish a spa establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Special Care Home. An accessory use in a 'For-Sale' dwelling occupied by one or more persons related by blood, adoption, guardianship or marriage and/or not more than three unrelated persons, some of whom are in need of special care, living together as a nonprofit housekeeping unit. The term "special care home" shall include a home for adolescents, a home for physically handicapped persons and a home for mentally handicapped persons. The term "special care home" shall not include the business of operating a boarding house, rooming house or other similar establishment. Additionally, the term shall not include a penal institution, any place for persons convicted of a crime or any place for persons found to be juvenile delinquents.

Storage, Climate Controlled. A facility consisting of a building or group of buildings that contain individual storage units of varying sizes in a climate controlled environment where customer access is through a lobby and where no commercial transactions or activities take place other than the rental of the storage units (permitted in L-I only).

Storage, Mini-Warehouse. A facility consisting of a building or group of buildings that are surrounded by a security fence with controlled access and which contains individual storage units of varying sizes whose doors open directly to the outside and where no commercial transactions or activities take place other than the rental of the storage units.

Storefront Street. A street, that by virtue of its pre-existing pedestrian-supportive qualities, or its future importance to pedestrian connectivity, requires that new development along it achieves a high standard of design and pedestrian orientation.

Storm Water Management Report. A report prepared by a Professional Engineer registered in the State of Georgia that details the pre and post development activity hydrologic conditions.

Story. That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multi-story building used for parking, even if below grade, shall be classified as a story.

Street. A dedicated and accepted public right-of-way for vehicular traffic from which direct access may be gained to abutting properties, or an easement or private right-of-way approved by the City Council to serve such purpose. The term "street" shall refer to the full width located between the limits of the right-of-way or easement, and not be limited to the roadway itself.

- A. *Principal Arterials* —are those streets and highways which serve major activity centers and emphasize traffic service rather than access to abutting land access. Principal arterials include all limited access freeways, expressways or parkways, and carry a high proportion of total area travel on a minimum of mileage.

- B. *Major Arterials* —are those streets which interconnect with the principal arterial system and provide service to trips of moderate length with emphasis on both traffic service and land access and generally do not penetrate identifiable single family residential neighborhoods.
- C. *Minor Arterials* —provide intra-community continuity but should not penetrate identifiable neighborhoods.
- D. *Collector Streets* —distribute trips from arterial street to their ultimate origin or destination. Collector streets provide a greater level of land access than arterial streets, may enter or traverse identifiable neighborhoods, and rarely serve significant volumes of through traffic.
- E. *Local Streets* —comprise all facilities not classified as arterial or collector. Local streets provide land access with service to through traffic being actively discouraged.

Street, Future Right-of-Way Line. The right-of-way line which is anticipated by the City, State or other agency for future development.

Street Right-of-Way Line. The limit of public ownership or private easement for property containing or intended to contain a street, dividing it from an adjacent lot.

Structure. A combination of materials to form a construction for use, occupancy or ornamentation which is fastened or attached to the ground.

Structure Height. The vertical distance to the highest point of a structure, as measured in the same manner as "Building Height" herein.

Subdivision. The division of a lot, tract or parcel of land into 2 or more lots, tracts, parcels or other divisions of land for sale, development, finance or lease.

Swimming Pool. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

Temporary Use. A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

Theater. A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

Townhouse/Rowhouse. A building type consisting of at least three, but not more than eight independent units that are attached by common side walls in a linear arrangement. Each unit occupies the space from the ground to the roof and normally has at least two, but no more than four floors. Such units typically feature a primary entrance on the front elevation and variations in materials, colors and/or windows to create a visual distinction between each of the attached units.

Tract. See "Lot."

Tree. See Article III, Section 3.2, for definitions relating to tree protection.

Use. The purpose for which a property or structure is designed, intended, reserved, or occupied.

Use, Accessory. See "Accessory Use."

Use, Conditional. See "Conditional Use."

Use, Principal. See "Principal Use."

Variance. Permission granted under circumstances prescribed herein to depart from the specific requirements of this Ordinance.

Vehicle for Hire Company. An establishment offering to transport passengers for a fee in any motorized or animal-drawn vehicle, the charges for which are determined by agreement, mileage or by the length of time for which the vehicle is engaged and also described as a taxi or limousine service.

Warehouse. A building used primarily for the storage of goods and materials. See also "Mini-Warehouse."

Wholesale Trade. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless Telecommunications Facilities. See Section 2.8 for definition of 'wireless tower.'

Yard. An area that lies between the buildings on a lot and the nearest lot line.

1. *Front Yard.* A yard situated along any public street right-of-way or private street easement.
2. *Rear Yard.* A yard situated along a rear lot line.
3. *Side Yard.* A yard situated along a side lot line.

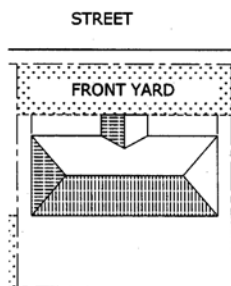
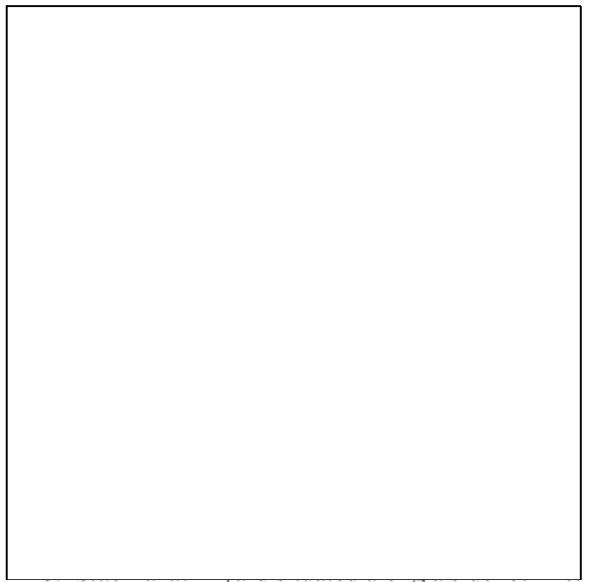


FIG 12

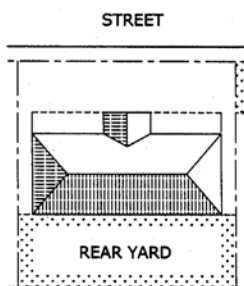


FIG 13

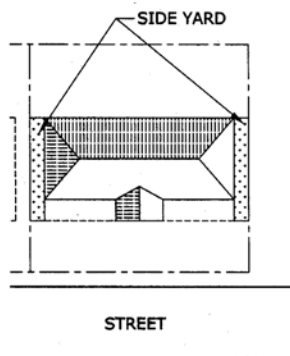


FIG 14

Zero Lot Line. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

Zoning Change. An amendment to the Official Zoning Map or other action having the result of rezoning a property, approval of a Conditional Use on a particular property, or a change in conditions of approval applied to the zoning or conditional uses pertaining to a property.

3/6/20

EXHIBIT A

Zoning Map. The Official Zoning Map of the City of Alpharetta, Georgia, which may include a series of maps in section.

([Ord. No. 689, § 1, 6-2-2014](#) ; [Ord. No. 702, § 1\(Exh. A\), 3-2-2015](#) ; [Ord. No. 704, § 1, 6-1-2015](#) ; [Ord. No. 715](#) , § 1, 9-28-2015; [Ord. No. 718](#) , § 1, 12-14-2015; [Ord. No. 730](#) , § 1, 12-5-2016; [Ord. No. 741](#) , § 1, 6-5-2017; [Ord. No. 744](#) , § 1, 7-10-2017; [Ord. No. 749](#) , § 1, 9-18-2017; [Ord. No. 772](#) , § 1, 2-4-2019)

AN ORDINANCE TO AMEND ARTICLE I OF THE UNIFIED DEVELOPMENT CODE AND ARTICLE IX OF THE CODE OF ORDINANCES OF THE CITY OF ALPHARETTA, GEORGIA; TO AMEND THE DEFINITIONS OF ‘MASSAGE THERPAY’ AND ‘SPA SERVICES’; TO AMEND REGULATIONS RELATED TO MASSAGE AND SPA ESTABLISHMENTS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, on or about May 21, 2001, the City of Alpharetta (the “City”) adopted a comprehensive zoning ordinance known and cited as the Unified Development Code of the City of Alpharetta, Georgia, which has subsequently been amended from time to time (the “Unified Development Code”); and

WHEREAS, the Mayor and Council of the City of Alpharetta (the “City Council” or “Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta; and

WHEREAS, the Unified Development Code and Code of Ordinances were designed to be amended from time to time when circumstances warrant that modifications be made in order to make said Codes more responsive to community needs; and

WHEREAS, the City Council finds that ordinances and regulations governing the uses of land and development of land within the City, as well as the City’s operations, should be continually improved from time to time and modified as necessary to better protect and promote the public health, safety and welfare of the residents and businesses of the City of Alpharetta; and

WHEREAS, the City Council desires to amend Article I of the Unified Development Code and Article IX of the Code of Ordinances for the foregoing purposes; and

WHEREAS, the City Council finds that the following amendments to the Unified Development Code and Code of Ordinances promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the City of Alpharetta;

NOW THEREFORE, The Council of the City of Alpharetta hereby ordains, as follows:

Section 1: Article I, Subsection 1.4 titled “Definitions” of the Unified Development Code is hereby amended by revising same as set forth in Exhibit “A” attached hereto as if fully set forth herein; and

Section 2: Article IX, titled “Massage and Spa Establishments” of the Code of Ordinances is hereby amended by revising same as set forth in Exhibit “B” attached hereto as if fully set forth herein; and

Section 3: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 4: This Ordinance shall be effective immediately upon its adoption by the City Council and the amendments made herein shall be incorporated into the Unified Development Code of the

City of Alpharetta, Georgia and The Code of Ordinances of the City of Alpharetta, Georgia, as applicable.
This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED this the _____ day of _____, 2020.

Approved:

Jim Gilvin, Mayor

Attest:

COUNCILMEMBERS

Erin Cobb, City Clerk
(Seal)

Approved as to Form:

C. Sam Thomas, City Attorney

Exhibit “A”

Massage Therapy. ~~Any use, other than a hospital or clinic, where non-medical manipulative devices or exercises are practiced upon the human body by someone other than a licensed medical professional. The manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, a system of structured touch, pressure, movement, and holding to the soft tissue of the body, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of water, oils, lotions, creams, lubricants, salt glows or scrubs, hydrotherapy, heliotherapy, hot packs, cold packs or other topical preparations. The term "massage" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. Further, the term "massage" or "massage therapy" shall not include the following when lawfully performed by a natural person licensed or certified by the state board of cosmetology while engaged in the practice authorized by such state license (or certificate of registration) in accordance with, and as further regulated by, the state licensing laws set forth in O.C.G.A. § 43-10-1 et seq.:~~

- ~~(1) Touching of the scalp or face by a state-licensed barber or cosmetologist;~~
- ~~(2) Touching of the hands or feet by a state-licensed nail technician or cosmetologist; and~~
- ~~(3) Touching of the face, neck, décolletage, or arms by a state-licensed esthetician or cosmetologist.~~

~~It shall be unlawful to establish a massage establishment in the city, unless said establishment is located:~~

- ~~(1) At least 300 feet from State Route 9;~~
- ~~(2) At least 300 feet from State Route 120; and~~
- ~~(3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.~~

~~The foregoing minimum distance requirements shall not apply to any massage establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.~~

Spa Services. A business that provides services requiring a customer to disrobe, which may include non-medical massage, other personal services such as skin, nail, hair treatments, hair removal/waxing, ~~and such types of services requiring a customer to disrobe~~, and may have the sale of associated retail products. Such business shall be located within a retail center zoning category allowing retail use, shall not occupy more than 4,000 sq. ft. and shall not be closer than 2,000 ft. to a comparable business. ~~The term "spa establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.~~

~~It shall be unlawful to establish a spa establishment in the city, unless said establishment is located:~~

- ~~(1) At least 300 feet from State Route 9;~~
- ~~(2) At least 300 feet from State Route 120; and~~
- ~~(3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.~~

~~The foregoing minimum distance requirements shall not apply to any spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.~~

Exhibit “B”

ARTICLE IX. - MESSAGE AND SPA ESTABLISHMENTS^[5]

Footnotes:

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State Law reference— Massage therapy practice, O.C.G.A. § 43-24A-22 et seq.

Sec. 10-275. - Purpose and legislative findings.

The Georgia General Assembly has declared that the practice of massage therapy is an activity affecting the public interest and involving the health, safety, and welfare of the public, and that the practice of massage therapy by a person who is not licensed under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) is a public nuisance, and harmful to the public health, safety, and welfare. The city council agrees with those findings. Furthermore, the city council finds that, for many massage establishments, the business in fact is sexual conduct or the intimation of sexual conduct, rather than lawful massage therapy. Such establishments offer massage services as a subterfuge for prostitution, masturbation for hire, and other paid sexual contact, which are harmful to the public health, safety, and welfare. There is difficulty and expense in conclusively distinguishing between such establishments and legitimate massage establishments, but one rational distinction is whether the establishment has a relationship with a corporate or franchising hierarchy, which would tend to safeguard against unlawful sexual activities on the massage establishment premises. It is a purpose of this article to impose licensing requirements to help prevent illegal massage, prostitution, and related sex crimes, yet without hindering legitimate massage establishments operating under a business structure with external oversight that serves that purpose. Pursuant to O.C.G.A. § 43-24A-22 (allowing local regulation of massage businesses and of persons not licensed by the state), it is the purpose of this article to regulate the operation of massage establishments and spa establishments, and to regulate employees of such establishments who are not licensed as massage therapists by the state, as an exercise of the city's police power in order to protect the health, safety and general welfare of the citizens of the city.

(Ord. No. 723, § 12-161, 4-4-2016)

Sec. 10-276. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person, firm, corporation, or other legal entity applying for a license to operate a massage establishment or spa establishment, as defined herein, or a person applying for a work permit, as provided for herein.

Employee means any person who performs any service on the premises of a massage establishment or spa establishment, on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, apprentice, trainee, or otherwise. The term "employee" does not include a person who is licensed or provisionally permitted pursuant to the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.), or a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Hearing officer means the city administrator, or his/**her** designee, appointed to conduct hearings under this article.

Massage or massage therapy means the manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, a system of structured touch, pressure, movement, and holding to the soft tissue of the body, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of water, oils, lotions, creams, lubricants, salt glows or scrubs, hydrotherapy, heliotherapy, hot packs, cold packs or other topical preparations. The term "massage" or

"massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. Further, the term "massage" or "massage therapy" shall not include the following when lawfully performed by a natural person licensed or certified by the state board of cosmetology while engaged in the practice authorized by such state license (or certificate of registration) in accordance with, and as further regulated by, the state licensing laws set forth in O.C.G.A. § 43-10-1 et seq.:

- (1) Touching of the scalp or face by a state-licensed barber or cosmetologist;
- (2) Touching of the hands or feet by a state-licensed nail technician or cosmetologist; and
- (3) Touching of the face, neck, décolletage, or arms by a state-licensed esthetician or cosmetologist.

It shall be unlawful to establish a massage establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any massage establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power for the purpose of administering a massage.

Massage establishment means a commercial establishment where any person offers or engages in massage or massage therapy. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Premises means the real property, or portion thereof, upon which the massage establishment or spa establishment is located, including, but not limited to, the establishment and the grounds, private walkways, and parking lots and/or parking garages under the ownership or control of the establishment.

Spa establishment means a business that provides services requiring a customer to disrobe, which may include non-medical massage, other personal services such as skin, nail, hair treatments, hair removal/waxing, and may have the sale of associated retail products. Such business shall be located within a zoning category allowing retail use, shall not occupy more than 4,000 sq. ft. and shall not be closer than 2,000 ft. to a comparable business. ~~commercial establishment that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro-mineral wraps, body polishes, body washes, baths and hydro-tub soaks.~~ The term "spa establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

It shall be unlawful to establish a spa establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the spa establishment parcel to the closest point on the State Route 9 or State Route

120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Specified criminal activity means any of the following specified crimes:

- (1) Illegal gambling;
- (2) Prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, sodomy, aggravated sodomy, rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of a child in a sexual performance;
- (4) Any offense related to any massage establishment or spa establishment or which is related to the regulatory purposes of this article, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate act been committed in Georgia, would have constituted any of the foregoing offenses.

(Ord. No. 723, § 12-162, 4-4-2016)

Sec. 10-277. - Penalties.

Any person violating any of the provisions of this article shall be punished as provided in section 1-8. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-163, 4-4-2016)

Sec. 10-278. - Scope of regulations.

- (a) All licenses and work permits issued under this article shall constitute a mere privilege to operate or work at the establishment specified in the license or work permit during the term of the license or work permit only, and shall be subject to all terms and conditions imposed by the city, the county and the state.
- (b) This article shall not be enforced against:
 - (1) Any natural person who is a physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of the profession for which the person is licensed by the state;
 - (2) Any hospital or other professional health care establishment, including a physician's, physical therapist's, or chiropractor's office, separately licensed as such by the state;
 - (3) Any natural person who is a massage therapist licensed by the state under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) while engaged in the practice of massage therapy as authorized and regulated under said Act; notwithstanding the foregoing exception, the provisions of this article regulating massage establishments and spa establishments and the operation of such establishments shall be enforced against any such person to the extent such person owns, operates or manages a massage establishment or spa establishment or supervises the employees thereof, unless otherwise expressly excepted herein; or
 - (4) Any other individual or entity expressly exempted from local legislation by the laws of the state.

- (c) Licenses and work permits issued before the adoption of the ordinance from which this article is derived shall continue in effect for their original terms, subject to the regulations provided herein, including the revocation provisions in section 10-284, as amended.
- (d) All massage establishments, spa establishments, and their employees shall comply with this article upon its adoption, including those that hold a license or a work permit issued before the adoption of the ordinance from which this article is derived.
- (e) The director of ~~public safety~~ Community Development may exempt a massage establishment or a spa establishment and its employees from the licensing requirements of sections 10-279 through 10-281 for a specified calendar year. An exemption under this subsection expires on December 31 of the year for which it was granted. Upon the expiration of an exemption, the establishment and its employees are subject to all requirements of sections 10-279 through 10-281. Any request for an exemption shall be submitted in writing to the director of ~~public safety~~ Community Development and is automatically rejected unless the director of ~~public safety~~ Community Development grants the exemption. An exemption, if granted by the director of ~~public safety~~ Community Development, shall be in writing and shall be based upon evaluation of the request according to the following standards:
 - (1) Whether the establishment is part of a chain that operates in multiple locations under common ownership, franchise agreements, or a similar arrangement that involves centralized control or corporate supervision;
 - (2) Whether persons who provide services to customers at the establishment hold state licenses;
 - (3) The establishment's, its owners', and its managers' histories relative to compliance with massage establishment or spa establishment licensing requirements;
 - (4) Whether the location used by the establishment has been free from association with unlawful activity for the last 12 months; and
 - (5) Whether the establishment is managed and operated by a person who has been continually licensed pursuant to the Georgia Massage Therapy Practice Act for at least seven years.

(Ord. No. 723, § 12-164, 4-4-2016)

Sec. 10-279. - Massage/spa establishment license required; application.

- (a) *Massage/spa establishment license required.* It shall be unlawful for any person or legal entity to operate a massage establishment or a spa establishment in the city without a valid massage/spa establishment license. This license requirement is in addition to obtaining an occupation tax certificate pursuant to article III of chapter 42 pertaining to taxation. ~~No more than 20 massage/spa establishment licenses may be in effect at a time. The city shall not issue a massage/spa establishment license that would result in more than 20 such establishments being licensed to operate simultaneously.~~
- (b) *Application.* An applicant for a massage/spa establishment license shall file in person at the city department of ~~public safety records division~~ Community Development a completed application made on a form provided by the city. The application must be executed by the person primarily responsible for the operation of the establishment. If the applicant is a partnership, limited liability company, corporation, or other legal entity, the application must also be executed by an officer, member, partner or shareholder, as applicable. Signatures on the application shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection, accompanied by the annual regulatory fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1. If the applicant is a partnership, limited liability company, corporation, or other legal entity, a signed and sworn affidavit verifying the lawful presence of each person who executes the application on behalf of the applicant.

- (3) A signed and sworn affidavit attesting that the applicant either uses the federal work authorization program in accordance with federal regulations or that the applicant employs fewer than 11 people or otherwise does not fall within the requirements of O.C.G.A. § 36-60-6.
- (4) Current business address and residential mailing address for the applicant.
- (5) The business name, location, legal description, mailing address and telephone number of the establishment.
- (6) If the applicant is a sole proprietor, written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
- (7) If the applicant is not a sole proprietor, then the partnership, limited liability company, corporation, or other legal entity shall submit a complete list of the legal entity's:
 - a. Officers;
 - b. Directors;
 - c. Partners, members, or shareholders (natural persons) holding a ten percent or greater ownership interest in such legal entity, or if there is no shareholder (natural person) with at least a ten percent interest, the ten shareholders with the greatest ownership interest;
 - d. Employee or agent primarily responsible for operation of the massage or spa establishment; and
 - e. Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government for each person listed in subsections (b)(7)a through d of this section.
- (8) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (9) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.
- (10) A statement of whether the applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (11) If the applicant is a partnership, limited liability company, corporation or other legal entity required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, such corporation must be chartered under the laws of the state or authorized by the secretary of state to do business in the state and must submit copies of the certificate of organization or incorporation, as applicable, and articles of organization or incorporation, as applicable.

- (12) A sworn and notarized statement of a registered agent who is a resident of the county and who is at least 18 years of age, required to be designated by a licensee to receive any process, notice or demand required or permitted by law or under this article to be served upon the applicant.
- (13) A statement as to whether the applicant is the owner of the premises wherein the establishment will be operated or the holder of a lease thereon for the period to be covered by the license. If the applicant is a lease holder, the following shall be submitted with the license application:
 - a. A copy of the lease; and
 - b. The written consent of the owner of the real property upon which the premises are located which demonstrates knowledge and acceptance of the applicant's proposed operation of a massage establishment or spa establishment on the subject property, grants permission to the applicant to submit the subject application, and acknowledges and represents that such real property owner has read and fully understands the requirements of this article, including, but not limited to, the provisions set forth in section 10-288.
- (14) A copy of a \$25,000.00 surety bond, issued by a company approved to issue surety bonds by the state insurance commissioner, payable to the city upon the entry of an injunction by the county superior court against operation of the applicant's massage establishment or spa establishment due to unlawful operation of same while the applicant held a massage/spa establishment license under this article.
- (15) For every person on the premises who offers, or will offer, services for which a license under O.C.G.A. § 43-24A-1 et seq. is required, a copy of the state license for each such person as well as a color photograph, no smaller than two inches by two inches, showing the face, neck, and shoulders of each such person; or, if there are none, a statement certifying that the application is for the operation of a spa establishment only and that neither the establishment nor any person on the premises offers, or will offer, massage.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of ~~public safety records division~~ Community Development within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) *Confidentiality.* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the city department of ~~public safety records division~~ Community Development on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.
- (d) *Issuance of license.* Upon the filing of a completed massage/spa establishment license application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of ~~public safety~~ Community Development or his/ her designee. Within 60 days of the filing of the application, the director of ~~public safety~~ Community Development, or his/ her designee, shall either issue a license to the applicant or issue a written notice of intent to deny the license to the applicant. The director of ~~public safety~~ Community Development, or his/ her designee, shall issue the license unless:
 - (1) The applicant or a person listed in response to subsection (b)(7) of this section is less than 21 years of age.
 - (2) The applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The applicant is neither the owner of the premises wherein the establishment will be operated, nor the holder of a lease thereon for the period to be covered by the license.
 - (4) The annual regulatory fee required by this article has not been paid.

- (5) The establishment is not in compliance with the location requirements of this article or of any part of the Code. This provision shall not be grounds to deny a license to a massage establishment or spa establishment that was, in all respects, lawfully operating at the premises prior to the adoption of the location requirements of the ordinance from which this article is derived and that has continued to lawfully operate at the premises.
- (6) The city has revoked a massage/spa establishment license at the premises within the previous 12 months.
- (7) The applicant or a person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (8) The applicant or a person listed in response to subsection (b)(7) of this section has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (9) The establishment does not comply with all applicable building, health, and life safety codes, or the building to be occupied does not have a valid, current certificate of occupancy.
- (10) The applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- ~~(11) The license, if issued, would result in more than 20 massage/spa establishment licenses being in effect at the time.~~
- (12) The applicant is a partnership, limited liability company, corporation or other legal entity that is required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, but is not so chartered or authorized.
- (e) *License display.* A license, if issued, shall be issued in the name of the applicant. The license shall be posted in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.
- (f) *Employee permit display.* Massage establishments and spa establishments shall post each employee's work permit issued by the city in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.

(Ord. No. 723, § 12-165, 4-4-2016)

Sec. 10-280. - Regulatory fee; expiration.

- (a) There shall be an annual regulatory fee, consisting of a non-refundable investigative fee and a license fee, for each massage and spa establishment licensed within the city. The investigative and license fees shall be set by the director of ~~public safety~~ Community Development. The full regulatory fee shall be paid with the license application and shall not be prorated under any circumstances. If the applicant withdraws the application or the license is denied, the applicant shall be refunded the full license fee paid. No refund shall be allowed once the license has been issued.

- (b) All licenses granted hereunder shall be for the calendar year and expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Existing licensees shall file applications by November 1 of each year for the following license year. Applications received after November 1 shall be subject to a ten percent late fee.
- (c) No license issued pursuant to this article shall be transferable. Upon change of ownership, even if only in part, a new application will be completed and submitted along with all necessary fees.

(Ord. No. 723, § 12-166, 4-4-2016)

Sec. 10-281. - Employee work permits required.

- (a) Massage/spa establishment work permit required. It shall be unlawful for any person to be an employee, as defined in this article, of a massage establishment or spa establishment in the city without a valid massage/spa establishment work permit issued under the terms of this article, except that a person who holds a valid massage/spa establishment license or who is listed in response to section 10-279(b)(7) (a) through (c) in relation to a valid massage/spa establishment license shall not be required to also obtain a massage/spa establishment work permit to be an employee at that particular licensed establishment. A person who works at more than one establishment shall obtain a separate work permit for each establishment. No applicant for a massage/spa establishment work permit shall work at a massage establishment or a spa establishment in the city until the applicant receives, and the establishment posts, the employee's work permit as required by this article. A receipt issued by the city is not a valid massage/spa establishment work permit and does not authorize the person to work in a massage establishment or spa establishment.
- (b) Application. An applicant for a massage/spa establishment work permit shall file in person at the city department of public safety, records division, a completed application made on a form provided by the city. The application must be signed and notarized. Applicants shall make themselves available for photographing. An application shall be considered complete when it contains the information and/or items required in this subsection (b), accompanied by the work permit fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current business address or another mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
 - (4) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1.
 - (5) The name and address of the massage establishment or spa establishment for which the applicant seeks to obtain the work permit.
 - (6) A statement of whether the applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (7) A statement of whether the applicant has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.
 - (8) A copy of the applicant's state massage therapy license and proof of continuing education credit.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of public safety, records division, within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) The information provided by an applicant in connection with an application for a work permit under this article shall be maintained by the city department of public safety, records division, on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.
- (d) Issuance of work permit. Upon the filing of a completed massage/spa establishment work permit application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of public safety or his/her designee. Within 30 days of the filing of a completed massage/spa establishment work permit application, the director of public safety or his/her designee shall either issue a work permit to the applicant or issue a written notice of intent to deny the work permit to the applicant. The director of public safety, or his/her designee, shall issue the work permit unless:
 - (1) The applicant is less than 18 years of age.
 - (2) The applicant has failed to provide information required by this article for issuance of a work permit or has falsely answered a question or request for information on the application form.
 - (3) The work permit fee required by this article has not been paid.
 - (4) The establishment for which the applicant seeks a work permit does not have a valid massage/spa establishment license from the city.
 - (5) The applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
 - (6) The applicant has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (e) The work permit, if issued, will be valid for a period of one year from the date it is issued. The replacement and additional work permit shall be issued upon payment of one-half of the fee charged for a work permit and will expire the same date as the then-current work permit. A massage establishment or spa establishment employee shall provide the employee's work permit to the establishment for which it was issued to be posted on the premises pursuant to this article.
- (f) The director of public safety, or his/her designee shall issue a written notice of intent to revoke an employee's work permit, following notice and hearing pursuant to this article, and demand its return if the employee has violated the provisions of this article, any state law or applicable local ordinance.
- (g) It shall be unlawful for an employee whose work permit has been revoked to refuse to return the work permit to the city department of public safety, records division, or to alter, conceal, deface, or destroy the work permit.
- (h) The permit fee for a massage/spa establishment work permit shall be established by the director of public safety.

(Ord. No. 723, § 12-167, 4-4-2016)

Sec. 10-282. - General operating provisions.

- (a) Massage establishments and spa establishments shall keep on file, on the premises of the establishment, a list of all persons who perform any service on the premises of the establishment, their home addresses and home or mobile telephone numbers, their duties and services performed for the massage or spa establishment, whether such persons have massage/spa establishment work permits issued by the city, and whether such persons have licenses or provisional permits issued by the state pursuant to the Georgia Massage Therapy Practice Act. The holder of a massage/spa establishment license must also keep on file, on the premises of the establishment, a copy of the establishment's two most recent license applications. A list of all employees, and most recent copies of their state licenses (if so licensed) and certifications shall be provided to the city department of ~~public safety, records division,~~ Community Development no later than January 15 of each year.
- (b) Massage establishments and spa establishments shall maintain correct and accurate records of each instance that a service is provided, the type of service provided, and the name of the person at the establishment who provided the service. The records shall be subject to inspection by the city manager, the chief of police, and their designees during those times when the establishment is occupied by patrons or is open to the public.
- (c) No massage establishment or spa establishment shall allow any person required to have any state-mandated licenses, or a massage/spa establishment work permit pursuant to this article, to perform any service on the premises until such person has procured such license or work permit. Licensees and all managers and/or supervisors of any massage or spa establishment are required by this article to inspect and verify that each person who performs services on the premises who is required to have a valid state license or city work permit, has the required license or work permit on the establishment premises at all times, and failure to do so shall be a violation of this article.
- (d) Each massage establishment and spa establishment shall have an owner, manager or supervisor on the premises at all hours that the establishment is occupied by patrons or is open to the public. Further, each massage establishment shall have a state-licensed massage therapist on the premises at all hours that the establishment is occupied by patrons or is open to the public. No massage establishment shall hold itself out as being open for business at any time when there is no state-licensed massage therapist on the premises. In addition to the other penalties and remedies provided herein, if during an inspection there is no owner, manager, or supervisor, or, if applicable, state-licensed massage therapist on the premises, the establishment must cease operations and close until an owner, manager or supervisor or state-licensed massage therapist, as applicable, is on the premises.
- (e) Records required to be maintained under this article shall be kept for a minimum of two (2) years. Records shall be made available to the director of ~~public safety~~ Community Development or his/ her designee, during business hours, at the establishment's business location in the city.
- (f) All employees and other persons on the premises, with the exception of customers receiving a massage from a state-licensed massage therapist, shall be completely clothed. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either a blouse or shirt which shall cover all the upper body, save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or a skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.
- (g) No customer receiving a massage from a state-licensed massage therapist shall expose his/her genitals, pubic area, anus, buttocks, or the female breast to another person on the premises of a massage establishment or spa establishment. This prohibition does not apply to the showing of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel, provided the areola is not exposed in whole or in part.
- (h) No massage establishment or spa establishment shall be or remain open for business between the hours of 9:00 p.m. and 7:00 a.m. No person shall be or remain inside a massage establishment or spa establishment between the hours of 10:00 p.m. and 6:00 a.m. No massage establishment or spa establishment shall hold itself out as open at a time that the establishment is prohibited, under this subsection, from being open for business.

- (i) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.
- (j) Minimum lighting shall be provided in accordance with the building code, as adopted by the city council, and at least one artificial light of not less than 40 watts (or equivalent illumination) shall be provided in each enclosed room or booth.
- (k) Ordinary beds or mattresses shall not be permitted in any massage establishment or spa establishment.
- (l) No massage establishment or spa establishment shall knowingly or recklessly allow any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his/~~her~~ parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian.
- (m) No person shall knowingly or recklessly touch, manipulate, fondle, or handle in any manner the sexual organs, genital area, or anus of any other person on the premises of a massage establishment or spa establishment.
- (n) Massage establishments and spa establishments shall post and maintain a copy of the human trafficking notice available on the Georgia Bureau of Investigation internet website (as per O.C.G.A. § 16-5-47) in each public restroom for the establishment and in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.
- (o) It shall be unlawful to operate a massage establishment or spa establishment with storefront windows that have material and glazing applied or affixed that reduce light transmission through the windows to less than 32 percent, plus or minus three percent, or increase light reflectance to more than 20 percent.
- (p) Massage establishments, spa establishments, and their employees shall ensure that storefront windows are not blocked by curtains, blinds, posters, advertisements, or any other screening material.

(Ord. No. 723, § 12-168, 4-4-2016)

Sec. 10-283. - Inspection.

Massage establishments, spa establishments, and their employees shall permit the city manager, director of ~~public safety~~ Community Development, and/or their designees or agents to inspect, from time to time on an occasional basis, any portion of the establishment premises where patrons are permitted, for the purpose of ensuring compliance with the regulations of this article, during those times when the establishment is occupied by any patron or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article.

(Ord. No. 723, § 12-169, 4-4-2016)

Sec. 10-284. - Revocation of license or work permit.

- (a) Revocation for specific violations. The director of public safety and/or Community Development, or his/~~her~~ designee shall issue a written notice of intent to revoke a massage/spa establishment license or a massage/spa establishment work permit, as applicable, if:
 - (1) The licensee or work permit holder has failed to maintain the qualifications for holding a license or work permit;
 - (2) The licensee or work permit holder has recklessly given false information in the application for the license or the employee work permit or has failed to supplement the application information as required by section 10-279(b) or 10-281(b) after a change of circumstances that rendered the information originally submitted false or incomplete;

- (3) The licensee or work permit holder has failed to maintain correct and accurate records as required by this article;
 - (4) The licensee or work permit holder has engaged in or recklessly allowed possession, use, or sale of controlled substances on the premises of the establishment;
 - (5) The licensee or work permit holder has engaged in or recklessly allowed prostitution on the premises of the establishment;
 - (6) The licensee or work permit holder has engaged in or recklessly allowed sodomy, aggravated sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct to occur in or on the premises of the establishment;
 - (7) The licensee or work permit holder has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the establishment;
 - (8) The licensee or work permit holder has violated section 10-282(c);
 - (9) The licensee or work permit holder has knowingly or recklessly allowed any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his /her parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian; or
 - (10) The licensee or work permit holder has recklessly allowed three or more violations of this article within a 12-month period.
- (b) When a notice of intent to revoke a license or employee work permit has been issued, the licensee, any person listed on the licensee's application, or the work permit holder, as the case may be, shall not apply for or be issued any new license or permit under chapter 4, chapter 28, or chapter 42, until such notice has been withdrawn or, if revocation has become effective, until two years after the effective date of revocation.
 - (c) When any person listed on a massage/spa establishment license application, any employee of the establishment, or any person who performs massage at the establishment, is arrested for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, no person listed on the establishment's license application and no employee of the establishment may apply for or be issued any new license or permit for that location under chapter 4, chapter 28, or chapter 42, until the arrestee is cleared or until 90 days following the arrest have passed, whichever occurs sooner.

(Ord. No. 723, § 12-170, 4-4-2016)

Sec. 10-285. - Hearing; license denial, revocation; appeal.

- (a) When the director of public safety and/or Community Development, or his/her designee, issues a written notice of intent to deny or revoke a license or employee work permit, the director of public safety and/or Community Development or his/her designee shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee/work permit holder (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city department of public safety, records division, and/or Community Development for the respondent. The notice shall also set forth the following: the respondent shall have ten days after the delivery of the written notice to submit, at the office of the director of public safety and/or Community Development or his/her designee, a written request for a hearing. If the respondent does not request a hearing within said ten days, the city manager's written notice shall become a final denial or revocation, as the case may be, on the 30th day after it is issued.
- (b) If the respondent does make a written request for a hearing within said ten days, then the director of public safety and/or Community Development, or his/her designee shall, within ten days after the

submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than 20 days after the date that the hearing notice is issued.

- (c) The city administrator or his/~~her~~ designee shall serve as the hearing officer for any such appeal.
- (d) At the hearing, the respondent shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his/~~her~~ behalf, and cross-examine any of the city's witnesses. The respondent shall bear the burden of proving entitlement to the license. The hearing shall take no longer than one day, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.
- (e) If the decision is to deny or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the 30th day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the director of public safety and/or Community Development to immediately withdraw the intent to deny or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the director of public safety and/or Community Development shall contemporaneously therewith issue the license or work permit to the applicant.
- (f) If any court action challenging a licensing or work permitting decision is initiated, the city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.

(Ord. No. 723, § 12-171, 4-4-2016)

~~Sec. 10-286. Location and distance requirements.~~

- ~~(a) It shall be unlawful to establish a massage establishment or a spa establishment in the city, unless said establishment is located:
 - ~~(1) At least 300 feet from State Route 9;~~
 - ~~(2) At least 300 feet from State Route 120; and~~
 - ~~(3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.~~~~
- ~~(b) The foregoing minimum distance requirements shall not apply to any massage establishment or spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment or spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.~~

(Ord. No. 723, § 12-172, 4-4-2016)

Sec. 10-287. - Remedies.

- (a) Any premises, building, dwelling, or other structure in which a massage establishment or spa establishment is operated or maintained in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin the use of such premises as a massage establishment or spa establishment in the county superior court.

- (b) The operation of a massage establishment or spa establishment by a partnership, limited liability company, corporation, or other legal entity in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (c) The operation of a massage establishment by a person in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (d) It shall not be necessary, in order to obtain an injunction under this section, to allege or prove that there is no adequate remedy at law or to allege or prove any special injury.
- (e) If the court declares a massage establishment or spa establishment to be a nuisance, or if the court issues an injunction against a massage establishment or spa establishment pursuant to this article, the city shall be entitled, on motion, to recover its reasonable attorney's fees and costs incurred in bringing the action.

(Ord. No. 723, § 12-173, 4-4-2016)

Sec. 10-288. - Real property used for illegal sexual activity; property owner responsibility.

- (a) In accordance with O.C.G.A. § 41-3-13, the municipal court shall have jurisdiction to hear and determine the question of the existence of the nuisance provided for in O.C.G.A. § 41-3-1 and as further defined herein, and, if found to exist, to order its abatement.
- (b) As used in this subsection, the term:
 - (1) "Sex crime-related arrest" means an arrest for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, including, but not limited to, and citation, summons, accusation or indictment for violations of state laws concerning lewdness, prostitution, sodomy, the solicitation of sodomy, or masturbation for hire; provided, however, that any such arrests which result directly from cooperation between the real property owner and a law enforcement agency shall not be considered a sex crime-related arrest for purposes of this section.
 - (2) "Substantial illegal sexual activity" means activity comprised of three or more separate incidents resulting in sex crime-related arrests within a 24-month period on the same parcel of real property.
- (c) Any owner of real property, regardless of whether such owner is the occupant of the subject premises, who has knowledge that substantial illegal sexual activity is being conducted on such property, shall be guilty of maintaining a nuisance, and such real property shall be deemed a nuisance and may be abated as provided by law.
- (d) The owner of real property shall be deemed to have knowledge of illegal sexual activity occurring on a parcel of real property if the city notifies the owner in writing of two or more separate incidents occurring on the same premises within a 24-month period that result in sex crime-related arrests and, after the receipt of such notice and within 24 months of the first of the incidents resulting in a sex crime-related arrest, one or more separate incidents occur which result in a sex crime-related arrest.
- (e) The provisions of this section are cumulative of any other remedies and shall not be construed to repeal any other existing remedies for related nuisances. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-174, 4-4-2016)

Secs. 10-289—10-309. - Reserved.

ARTICLE IX. - MESSAGE AND SPA ESTABLISHMENTS^[5]

Footnotes:

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State Law reference— Massage therapy practice, O.C.G.A. § 43-24A-22 et seq.

Sec. 10-275. - Purpose and legislative findings.

The Georgia General Assembly has declared that the practice of massage therapy is an activity affecting the public interest and involving the health, safety, and welfare of the public, and that the practice of massage therapy by a person who is not licensed under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) is a public nuisance, and harmful to the public health, safety, and welfare. The city council agrees with those findings. Furthermore, the city council finds that, for many massage establishments, the business in fact is sexual conduct or the intimation of sexual conduct, rather than lawful massage therapy. Such establishments offer massage services as a subterfuge for prostitution, masturbation for hire, and other paid sexual contact, which are harmful to the public health, safety, and welfare. There is difficulty and expense in conclusively distinguishing between such establishments and legitimate massage establishments, but one rational distinction is whether the establishment has a relationship with a corporate or franchising hierarchy, which would tend to safeguard against unlawful sexual activities on the massage establishment premises. It is a purpose of this article to impose licensing requirements to help prevent illegal massage, prostitution, and related sex crimes, yet without hindering legitimate massage establishments operating under a business structure with external oversight that serves that purpose. Pursuant to O.C.G.A. § 43-24A-22 (allowing local regulation of massage businesses and of persons not licensed by the state), it is the purpose of this article to regulate the operation of massage establishments and spa establishments, and to regulate employees of such establishments who are not licensed as massage therapists by the state, as an exercise of the city's police power in order to protect the health, safety and general welfare of the citizens of the city.

(Ord. No. 723, § 12-161, 4-4-2016)

Sec. 10-276. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person, firm, corporation, or other legal entity applying for a license to operate a massage establishment or spa establishment, as defined herein, or a person applying for a work permit, as provided for herein.

Employee means any person who performs any service on the premises of a massage establishment or spa establishment, on a full-time, part-time, or contract basis, regardless of whether the person is denominated an employee, independent contractor, agent, apprentice, trainee, or otherwise. The term "employee" does not include a person who is licensed or provisionally permitted pursuant to the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.), or a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Hearing officer means the city administrator, or his/her designee, appointed to conduct hearings under this article.

Massage or massage therapy means the manipulation and/or treatment of soft tissues of the body, including, but not limited to, the use of effleurage, petrissage, pressure, friction, tapotement, kneading, vibration, range of motion stretches, a system of structured touch, pressure, movement, and holding to the

soft tissue of the body, and any other soft tissue manipulation whether manual or by use of massage apparatus, and may include the use of water, oils, lotions, creams, lubricants, salt glows or scrubs, hydrotherapy, heliotherapy, hot packs, cold packs or other topical preparations. The term "massage" or "massage therapy" shall not include diagnosis, the prescribing of drugs or medicines, spinal or other joint manipulations, or any service or procedure when performed by a person who is licensed by the state to practice chiropractic, physical therapy, podiatry or medicine. Further, the term "massage" or "massage therapy" shall not include the following when lawfully performed by a natural person licensed or certified by the state board of cosmetology while engaged in the practice authorized by such state license (or certificate of registration) in accordance with, and as further regulated by, the state licensing laws set forth in O.C.G.A. § 43-10-1 et seq.:

- (1) Touching of the scalp or face by a state-licensed barber or cosmetologist;
- (2) Touching of the hands or feet by a state-licensed nail technician or cosmetologist; and
- (3) Touching of the face, neck, décolletage, or arms by a state-licensed esthetician or cosmetologist.

It shall be unlawful to establish a massage establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any massage establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Massage apparatus means any manual, mechanical, hydraulic, hydrokinetic, electric or electronic device or instrument or any device or instrument operated by manual, mechanical, hydraulic, hydrokinetic or electric power for the purpose of administering a massage.

Massage establishment means a commercial establishment where any person offers or engages in massage or massage therapy. The term "massage establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

Premises means the real property, or portion thereof, upon which the massage establishment or spa establishment is located, including, but not limited to, the establishment and the grounds, private walkways, and parking lots and/or parking garages under the ownership or control of the establishment.

Spa establishment means a business that provides services requiring a customer to disrobe, which may include non-medical massage, other personal services such as skin, nail, hair treatments, hair removal/waxing, and may have the sale of associated retail products. Such business shall be located within a zoning category allowing retail use, shall not occupy more than 4,000 sq. ft. and shall not be closer than 2,000 ft. to a comparable business. ~~commercial establishment that offers or engages in personal services that call for the patron to disrobe, such as body wraps, hydro mineral wraps, body polishes, body washes, baths and hydro-tub soaks.~~ The term "spa establishment" shall not include hospitals or other professional health care establishments separately licensed as such by the state.

It shall be unlawful to establish a spa establishment in the city, unless said establishment is located:

- (1) At least 300 feet from State Route 9;
- (2) At least 300 feet from State Route 120; and
- (3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.

The foregoing minimum distance requirements shall not apply to any spa establishment located within a mixed use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.

Specified criminal activity means any of the following specified crimes:

- (1) Illegal gambling;
- (2) Prostitution, keeping a place of prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, sodomy, aggravated sodomy, rape, child molestation, sexual assault, sexual battery, aggravated sexual assault, aggravated sexual battery, or public indecency;
- (3) Obscenity, disseminating or displaying matter harmful to a minor, or use of a child in a sexual performance;
- (4) Any offense related to any massage establishment or spa establishment or which is related to the regulatory purposes of this article, including controlled substance offenses, tax violations, racketeering, crimes involving sex, crimes involving prostitution, or crimes involving obscenity;
- (5) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or
- (6) Any offense in another jurisdiction that, had the predicate act been committed in Georgia, would have constituted any of the foregoing offenses.

(Ord. No. 723, § 12-162, 4-4-2016)

Sec. 10-277. - Penalties.

Any person violating any of the provisions of this article shall be punished as provided in section 1-8. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-163, 4-4-2016)

Sec. 10-278. - Scope of regulations.

- (a) All licenses and work permits issued under this article shall constitute a mere privilege to operate or work at the establishment specified in the license or work permit during the term of the license or work permit only, and shall be subject to all terms and conditions imposed by the city, the county and the state.
- (b) This article shall not be enforced against:
 - (1) Any natural person who is a physician, chiropractor, physical therapist, or similar professional licensed and regulated by or through the state while engaged in the practice of the profession for which the person is licensed by the state;
 - (2) Any hospital or other professional health care establishment, including a physician's, physical therapist's, or chiropractor's office, separately licensed as such by the state;
 - (3) Any natural person who is a massage therapist licensed by the state under the Georgia Massage Therapy Practice Act (O.C.G.A. § 43-24A-1 et seq.) while engaged in the practice of massage therapy as authorized and regulated under said Act; notwithstanding the foregoing exception, the provisions of this article regulating massage establishments and spa establishments and the

operation of such establishments shall be enforced against any such person to the extent such person owns, operates or manages a massage establishment or spa establishment or supervises the employees thereof, unless otherwise expressly excepted herein; or

- (4) Any other individual or entity expressly exempted from local legislation by the laws of the state.
- (c) Licenses and work permits issued before the adoption of the ordinance from which this article is derived shall continue in effect for their original terms, subject to the regulations provided herein, including the revocation provisions in section 10-284, as amended.
- (d) All massage establishments, spa establishments, and their employees shall comply with this article upon its adoption, including those that hold a license or a work permit issued before the adoption of the ordinance from which this article is derived.
- (e) The director of ~~public safety~~ Community Development may exempt a massage establishment or a spa establishment and its employees from the licensing requirements of sections 10-279 through 10-281 for a specified calendar year. An exemption under this subsection expires on December 31 of the year for which it was granted. Upon the expiration of an exemption, the establishment and its employees are subject to all requirements of sections 10-279 through 10-281. Any request for an exemption shall be submitted in writing to the director of ~~public safety~~ Community Development and is automatically rejected unless the director of ~~public safety~~ Community Development grants the exemption. An exemption, if granted by the director of ~~public safety~~ Community Development, shall be in writing and shall be based upon evaluation of the request according to the following standards:
 - (1) Whether the establishment is part of a chain that operates in multiple locations under common ownership, franchise agreements, or a similar arrangement that involves centralized control or corporate supervision;
 - (2) Whether persons who provide services to customers at the establishment hold state licenses;
 - (3) The establishment's, its owners', and its managers' histories relative to compliance with massage establishment or spa establishment licensing requirements;
 - (4) Whether the location used by the establishment has been free from association with unlawful activity for the last 12 months; and
 - (5) Whether the establishment is managed and operated by a person who has been continually licensed pursuant to the Georgia Massage Therapy Practice Act for at least seven years.

(Ord. No. 723, § 12-164, 4-4-2016)

Sec. 10-279. - Massage/spa establishment license required; application.

- (a) *Massage/spa establishment license required.* It shall be unlawful for any person or legal entity to operate a massage establishment or a spa establishment in the city without a valid massage/spa establishment license. This license requirement is in addition to obtaining an occupation tax certificate pursuant to article III of chapter 42 pertaining to taxation. ~~No more than 20 massage/spa establishment licenses may be in effect at a time. The city shall not issue a massage/spa establishment license that would result in more than 20 such establishments being licensed to operate simultaneously.~~
- (b) *Application.* An applicant for a massage/spa establishment license shall file in person at the city department of ~~public safety records division~~ Community Development a completed application made on a form provided by the city. The application must be executed by the person primarily responsible for the operation of the establishment. If the applicant is a partnership, limited liability company, corporation, or other legal entity, the application must also be executed by an officer, member, partner or shareholder, as applicable. Signatures on the application shall be notarized. An application shall be considered complete when it contains the information and/or items required in this subsection, accompanied by the annual regulatory fee:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
- (2) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1. If the applicant is a partnership, limited liability company, corporation, or other legal entity, a signed and sworn affidavit verifying the lawful presence of each person who executes the application on behalf of the applicant.
- (3) A signed and sworn affidavit attesting that the applicant either uses the federal work authorization program in accordance with federal regulations or that the applicant employs fewer than 11 people or otherwise does not fall within the requirements of O.C.G.A. § 36-60-6.
- (4) Current business address and residential mailing address for the applicant.
- (5) The business name, location, legal description, mailing address and telephone number of the establishment.
- (6) If the applicant is a sole proprietor, written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
- (7) If the applicant is not a sole proprietor, then the partnership, limited liability company, corporation, or other legal entity shall submit a complete list of the legal entity's:
 - a. Officers;
 - b. Directors;
 - c. Partners, members, or shareholders (natural persons) holding a ten percent or greater ownership interest in such legal entity, or if there is no shareholder (natural person) with at least a ten percent interest, the ten shareholders with the greatest ownership interest;
 - d. Employee or agent primarily responsible for operation of the massage or spa establishment; and
 - e. Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government for each person listed in subsections (b)(7)a through d of this section.
- (8) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (9) A statement of whether the applicant or any person listed in response to subsection (b)(7) of this section has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.
- (10) A statement of whether the applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.

- (11) If the applicant is a partnership, limited liability company, corporation or other legal entity required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, such corporation must be chartered under the laws of the state or authorized by the secretary of state to do business in the state and must submit copies of the certificate of organization or incorporation, as applicable, and articles of organization or incorporation, as applicable.
- (12) A sworn and notarized statement of a registered agent who is a resident of the county and who is at least 18 years of age, required to be designated by a licensee to receive any process, notice or demand required or permitted by law or under this article to be served upon the applicant.
- (13) A statement as to whether the applicant is the owner of the premises wherein the establishment will be operated or the holder of a lease thereon for the period to be covered by the license. If the applicant is a lease holder, the following shall be submitted with the license application:
 - a. A copy of the lease; and
 - b. The written consent of the owner of the real property upon which the premises are located which demonstrates knowledge and acceptance of the applicant's proposed operation of a massage establishment or spa establishment on the subject property, grants permission to the applicant to submit the subject application, and acknowledges and represents that such real property owner has read and fully understands the requirements of this article, including, but not limited to, the provisions set forth in section 10-288.
- (14) A copy of a \$25,000.00 surety bond, issued by a company approved to issue surety bonds by the state insurance commissioner, payable to the city upon the entry of an injunction by the county superior court against operation of the applicant's massage establishment or spa establishment due to unlawful operation of same while the applicant held a massage/spa establishment license under this article.
- (15) For every person on the premises who offers, or will offer, services for which a license under O.C.G.A. § 43-24A-1 et seq. is required, a copy of the state license for each such person as well as a color photograph, no smaller than two inches by two inches, showing the face, neck, and shoulders of each such person; or, if there are none, a statement certifying that the application is for the operation of a spa establishment only and that neither the establishment nor any person on the premises offers, or will offer, massage.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of ~~public safety records division~~ Community Development within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

- (c) *Confidentiality.* The information provided by an applicant in connection with an application for a license under this article shall be maintained by the city department of ~~public safety records division~~ Community Development on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.
- (d) *Issuance of license.* Upon the filing of a completed massage/spa establishment license application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of ~~public safety~~ Community Development or his /her designee. Within 60 days of the filing of the application, the director of ~~public safety~~ Community Development, or his /her designee, shall either issue a license to the applicant or issue a written notice of intent to deny the license to the applicant. The director of ~~public safety~~ Community Development, or his /her designee, shall issue the license unless:
 - (1) The applicant or a person listed in response to subsection (b)(7) of this section is less than 21 years of age.

- (2) The applicant has failed to provide information required by this article for issuance of a license or has falsely answered a question or request for information on the application form.
- (3) The applicant is neither the owner of the premises wherein the establishment will be operated, nor the holder of a lease thereon for the period to be covered by the license.
- (4) The annual regulatory fee required by this article has not been paid.
- (5) The establishment is not in compliance with the location requirements of this article or of any part of the Code. This provision shall not be grounds to deny a license to a massage establishment or spa establishment that was, in all respects, lawfully operating at the premises prior to the adoption of the location requirements of the ordinance from which this article is derived and that has continued to lawfully operate at the premises.
- (6) The city has revoked a massage/spa establishment license at the premises within the previous 12 months.
- (7) The applicant or a person listed in response to subsection (b)(7) of this section has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- (8) The applicant or a person listed in response to subsection (b)(7) of this section has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.
- (9) The establishment does not comply with all applicable building, health, and life safety codes, or the building to be occupied does not have a valid, current certificate of occupancy.
- (10) The applicant or a person listed in response to subsection (b)(7) of this section has in the previous 12 months resided with someone who has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or
 - b. Had its license to operate a massage establishment or a spa establishment revoked.
- ~~(11) — The license, if issued, would result in more than 20 massage/spa establishment licenses being in effect at the time.~~
- (12) The applicant is a partnership, limited liability company, corporation or other legal entity that is required to be chartered under the laws of the state or authorized by the secretary of state to do business in the state, but is not so chartered or authorized.
- (e) *License display.* A license, if issued, shall be issued in the name of the applicant. The license shall be posted in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.
- (f) *Employee permit display.* Massage establishments and spa establishments shall post each employee's work permit issued by the city in a conspicuous place at or near the entrance to the establishment so that it may be read at any time that the establishment is occupied by patrons or is open to the public.

(Ord. No. 723, § 12-165, 4-4-2016)

Sec. 10-280. - Regulatory fee; expiration.

- (a) There shall be an annual regulatory fee, consisting of a non-refundable investigative fee and a license fee, for each massage and spa establishment licensed within the city. The investigative and license fees shall be set by the director of ~~public safety~~ Community Development. The full regulatory fee shall be paid with the license application and shall not be prorated under any circumstances. If the applicant withdraws the application or the license is denied, the applicant shall be refunded the full license fee paid. No refund shall be allowed once the license has been issued.
- (b) All licenses granted hereunder shall be for the calendar year and expire on December 31 of each year. Each subsequent application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. Existing licensees shall file applications by November 1 of each year for the following license year. Applications received after November 1 shall be subject to a ten percent late fee.
- (c) No license issued pursuant to this article shall be transferable. Upon change of ownership, even if only in part, a new application will be completed and submitted along with all necessary fees.

(Ord. No. 723, § 12-166, 4-4-2016)

Sec. 10-281. - Employee work permits required.

- (a) Massage/spa establishment work permit required. It shall be unlawful for any person to be an employee, as defined in this article, of a massage establishment or spa establishment in the city without a valid massage/spa establishment work permit issued under the terms of this article, except that a person who holds a valid massage/spa establishment license or who is listed in response to section 10-279(b)(7) (a) through (c) in relation to a valid massage/spa establishment license shall not be required to also obtain a massage/spa establishment work permit to be an employee at that particular licensed establishment. A person who works at more than one establishment shall obtain a separate work permit for each establishment. No applicant for a massage/spa establishment work permit shall work at a massage establishment or a spa establishment in the city until the applicant receives, and the establishment posts, the employee's work permit as required by this article. A receipt issued by the city is not a valid massage/spa establishment work permit and does not authorize the person to work in a massage establishment or spa establishment.
- (b) Application. An applicant for a massage/spa establishment work permit shall file in person at the city department of public safety, records division, a completed application made on a form provided by the city. The application must be signed and notarized. Applicants shall make themselves available for photographing. An application shall be considered complete when it contains the information and/or items required in this subsection (b), accompanied by the work permit fee:
 - (1) The applicant's full legal name and any other names used by the applicant in the preceding five years.
 - (2) Current business address or another mailing address for the applicant.
 - (3) Written proof of age, in the form of a driver's license or a picture identification document containing the applicant's date of birth issued by an agency of a state or of the federal government.
 - (4) A signed and sworn affidavit verifying the applicant's lawful presence in the United States as required by O.C.G.A. § 50-36-1.
 - (5) The name and address of the massage establishment or spa establishment for which the applicant seeks to obtain the work permit.
 - (6) A statement of whether the applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):
 - a. Been declared by a court of law to be a nuisance; or

b. Had its license to operate a massage establishment or a spa establishment revoked.

(7) A statement of whether the applicant has within the previous five years been arrested for, convicted of, or pleaded guilty or entered a plea of nolo contendere to a specified criminal activity as defined in this article, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each such arrest and/or conviction.

(8) A copy of the applicant's state massage therapy license and proof of continuing education credit.

The information provided pursuant to subsection (b) of this section shall be supplemented in writing by certified mail, return receipt requested, to the city department of public safety, records division, within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(c) The information provided by an applicant in connection with an application for a work permit under this article shall be maintained by the city department of public safety, records division, on a confidential basis, and such information may be disclosed to the public only as required under governing law. Any information protected by the right to privacy as recognized by state or federal law shall be redacted prior to any required disclosure under the Georgia Open Records Act or other applicable law.

(d) Issuance of work permit. Upon the filing of a completed massage/spa establishment work permit application, the city shall cause to be conducted a criminal background investigation of the applicant and shall transmit a summary of the investigation results to the director of public safety or his [/her](#) designee. Within 30 days of the filing of a completed massage/spa establishment work permit application, the director of public safety or his [/her](#) designee shall either issue a work permit to the applicant or issue a written notice of intent to deny the work permit to the applicant. The director of public safety, or his [/her](#) designee, shall issue the work permit unless:

(1) The applicant is less than 18 years of age.

(2) The applicant has failed to provide information required by this article for issuance of a work permit or has falsely answered a question or request for information on the application form.

(3) The work permit fee required by this article has not been paid.

(4) The establishment for which the applicant seeks a work permit does not have a valid massage/spa establishment license from the city.

(5) The applicant has been an owner, director, officer, partner, member, or shareholder of a massage establishment or spa establishment that has, in the previous five years (and at a time during which the person was so related to the establishment):

a. Been declared by a court of law to be a nuisance; or

b. Had its license to operate a massage establishment or a spa establishment revoked.

(6) The applicant has within the previous five years been convicted of, or pleaded guilty or entered a plea of nolo contendere to, a specified criminal activity, as defined in this article.

(e) The work permit, if issued, will be valid for a period of one year from the date it is issued. The replacement and additional work permit shall be issued upon payment of one-half of the fee charged for a work permit and will expire the same date as the then-current work permit. A massage establishment or spa establishment employee shall provide the employee's work permit to the establishment for which it was issued to be posted on the premises pursuant to this article.

(f) The director of public safety, or his [/her](#) designee shall issue a written notice of intent to revoke an employee's work permit, following notice and hearing pursuant to this article, and demand its return if the employee has violated the provisions of this article, any state law or applicable local ordinance.

(g) It shall be unlawful for an employee whose work permit has been revoked to refuse to return the work permit to the city department of public safety, records division, or to alter, conceal, deface, or destroy the work permit.

- (h) The permit fee for a massage/spa establishment work permit shall be established by the director of public safety.

(Ord. No. 723, § 12-167, 4-4-2016)

Sec. 10-282. - General operating provisions.

- (a) Massage establishments and spa establishments shall keep on file, on the premises of the establishment, a list of all persons who perform any service on the premises of the establishment, their home addresses and home or mobile telephone numbers, their duties and services performed for the massage or spa establishment, whether such persons have massage/spa establishment work permits issued by the city, and whether such persons have licenses or provisional permits issued by the state pursuant to the Georgia Massage Therapy Practice Act. The holder of a massage/spa establishment license must also keep on file, on the premises of the establishment, a copy of the establishment's two most recent license applications. A list of all employees, and most recent copies of their state licenses (if so licensed) and certifications shall be provided to the city department of ~~public safety, records division,~~ Community Development no later than January 15 of each year.
- (b) Massage establishments and spa establishments shall maintain correct and accurate records of each instance that a service is provided, the type of service provided, and the name of the person at the establishment who provided the service. The records shall be subject to inspection by the city manager, the chief of police, and their designees during those times when the establishment is occupied by patrons or is open to the public.
- (c) No massage establishment or spa establishment shall allow any person required to have any state-mandated licenses, or a massage/spa establishment work permit pursuant to this article, to perform any service on the premises until such person has procured such license or work permit. Licensees and all managers and/or supervisors of any massage or spa establishment are required by this article to inspect and verify that each person who performs services on the premises who is required to have a valid state license or city work permit, has the required license or work permit on the establishment premises at all times, and failure to do so shall be a violation of this article.
- (d) Each massage establishment and spa establishment shall have an owner, manager or supervisor on the premises at all hours that the establishment is occupied by patrons or is open to the public. Further, each massage establishment shall have a state-licensed massage therapist on the premises at all hours that the establishment is occupied by patrons or is open to the public. No massage establishment shall hold itself out as being open for business at any time when there is no state-licensed massage therapist on the premises. In addition to the other penalties and remedies provided herein, if during an inspection there is no owner, manager, or supervisor, or, if applicable, state-licensed massage therapist on the premises, the establishment must cease operations and close until an owner, manager or supervisor or state-licensed massage therapist, as applicable, is on the premises.
- (e) Records required to be maintained under this article shall be kept for a minimum of two (2) years. Records shall be made available to the director of ~~public safety~~ Community Development or his /her designee, during business hours, at the establishment's business location in the city.
- (f) All employees and other persons on the premises, with the exception of customers receiving a massage from a state-licensed massage therapist, shall be completely clothed. For the purposes of this article, the term "completely clothed" means having on the upper portion of the body appropriate undergarments and either a blouse or shirt which shall cover all the upper body, save the arms and neck, and shall mean having on the lower body appropriate undergarments plus either pants or a skirt, and said pants or skirt must cover from the waist down to a point at least two inches above the knee. All clothes worn in compliance with this article shall be entirely non-transparent.
- (g) No customer receiving a massage from a state-licensed massage therapist shall expose his /her genitals, pubic area, anus, buttocks, or the female breast to another person on the premises of a massage establishment or spa establishment. This prohibition does not apply to the showing of the

cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel, provided the areola is not exposed in whole or in part.

- (h) No massage establishment or spa establishment shall be or remain open for business between the hours of 9:00 p.m. and 7:00 a.m. No person shall be or remain inside a massage establishment or spa establishment between the hours of 10:00 p.m. and 6:00 a.m. No massage establishment or spa establishment shall hold itself out as open at a time that the establishment is prohibited, under this subsection, from being open for business.
- (i) A readable sign shall be posted at the main entrance identifying the establishment. Signs shall comply with the sign requirements of this Code.
- (j) Minimum lighting shall be provided in accordance with the building code, as adopted by the city council, and at least one artificial light of not less than 40 watts (or equivalent illumination) shall be provided in each enclosed room or booth.
- (k) Ordinary beds or mattresses shall not be permitted in any massage establishment or spa establishment.
- (l) No massage establishment or spa establishment shall knowingly or recklessly allow any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his/her parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian.
- (m) No person shall knowingly or recklessly touch, manipulate, fondle, or handle in any manner the sexual organs, genital area, or anus of any other person on the premises of a massage establishment or spa establishment.
- (n) Massage establishments and spa establishments shall post and maintain a copy of the human trafficking notice available on the Georgia Bureau of Investigation internet website (as per O.C.G.A. § 16-5-47) in each public restroom for the establishment and in another conspicuous location in clear view of the public and employees where similar notices are customarily posted.
- (o) It shall be unlawful to operate a massage establishment or spa establishment with storefront windows that have material and glazing applied or affixed that reduce light transmission through the windows to less than 32 percent, plus or minus three percent, or increase light reflectance to more than 20 percent.
- (p) Massage establishments, spa establishments, and their employees shall ensure that storefront windows are not blocked by curtains, blinds, posters, advertisements, or any other screening material.

(Ord. No. 723, § 12-168, 4-4-2016)

Sec. 10-283. - Inspection.

Massage establishments, spa establishments, and their employees shall permit the city manager, director of ~~public safety~~ Community Development, and/or their designees or agents to inspect, from time to time on an occasional basis, any portion of the establishment premises where patrons are permitted, for the purpose of ensuring compliance with the regulations of this article, during those times when the establishment is occupied by any patron or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article.

(Ord. No. 723, § 12-169, 4-4-2016)

Sec. 10-284. - Revocation of license or work permit.

- (a) Revocation for specific violations. The director of public safety and/or Community Development, or his/her designee shall issue a written notice of intent to revoke a massage/spa establishment license or a massage/spa establishment work permit, as applicable, if:
- (1) The licensee or work permit holder has failed to maintain the qualifications for holding a license or work permit;
 - (2) The licensee or work permit holder has recklessly given false information in the application for the license or the employee work permit or has failed to supplement the application information as required by section 10-279(b) or 10-281(b) after a change of circumstances that rendered the information originally submitted false or incomplete;
 - (3) The licensee or work permit holder has failed to maintain correct and accurate records as required by this article;
 - (4) The licensee or work permit holder has engaged in or recklessly allowed possession, use, or sale of controlled substances on the premises of the establishment;
 - (5) The licensee or work permit holder has engaged in or recklessly allowed prostitution on the premises of the establishment;
 - (6) The licensee or work permit holder has engaged in or recklessly allowed sodomy, aggravated sodomy, public indecency, prostitution, pimping, pandering, pandering by compulsion, masturbation for hire, or disorderly conduct to occur in or on the premises of the establishment;
 - (7) The licensee or work permit holder has knowingly or recklessly allowed a person under the age of 21 years to consume alcohol on the premises of the establishment;
 - (8) The licensee or work permit holder has violated section 10-282(c);
 - (9) The licensee or work permit holder has knowingly or recklessly allowed any minor (i.e., a person under the age of 18 years) to be or remain inside the massage establishment or spa establishment unless the minor is accompanied by his/her parent, legal guardian, or a person who is at least 21 years of age and has been entrusted with the minor by the minor's parent or legal guardian; or
 - (10) The licensee or work permit holder has recklessly allowed three or more violations of this article within a 12-month period.
- (b) When a notice of intent to revoke a license or employee work permit has been issued, the licensee, any person listed on the licensee's application, or the work permit holder, as the case may be, shall not apply for or be issued any new license or permit under chapter 4, chapter 28, or chapter 42, until such notice has been withdrawn or, if revocation has become effective, until two years after the effective date of revocation.
- (c) When any person listed on a massage/spa establishment license application, any employee of the establishment, or any person who performs massage at the establishment, is arrested for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, no person listed on the establishment's license application and no employee of the establishment may apply for or be issued any new license or permit for that location under chapter 4, chapter 28, or chapter 42, until the arrestee is cleared or until 90 days following the arrest have passed, whichever occurs sooner.

(Ord. No. 723, § 12-170, 4-4-2016)

Sec. 10-285. - Hearing; license denial, revocation; appeal.

- (a) When the director of public safety and/or Community Development, or his/her designee, issues a written notice of intent to deny or revoke a license or employee work permit, the director of public safety and/or Community Development or his/her designee shall immediately send such notice, which shall include the specific grounds under this article for such action, to the applicant or licensee/work

permit holder (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city department of public safety, records division, and/or Community Development for the respondent. The notice shall also set forth the following: the respondent shall have ten days after the delivery of the written notice to submit, at the office of the director of public safety and/or Community Development or his/her designee, a written request for a hearing. If the respondent does not request a hearing within said ten days, the city manager's written notice shall become a final denial or revocation, as the case may be, on the 30th day after it is issued.

- (b) If the respondent does make a written request for a hearing within said ten days, then the director of public safety and/or Community Development, or his/her designee shall, within ten days after the submission of the request, send a notice to the respondent indicating the date, time, and place of the hearing. The hearing shall be conducted not less than ten (10) days nor more than 20 days after the date that the hearing notice is issued.
- (c) The city administrator or his/her designee shall serve as the hearing officer for any such appeal.
- (d) At the hearing, the respondent shall have the opportunity to present all relevant arguments and to be represented by counsel, present evidence and witnesses on his /her behalf, and cross-examine any of the city's witnesses. The respondent shall bear the burden of proving entitlement to the license. The hearing shall take no longer than one day, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a final written decision, including specific reasons for the decision pursuant to this article, to the respondent within five days after the hearing.
- (e) If the decision is to deny or revoke the license, the decision shall advise the respondent of the right to appeal such decision to a court of competent jurisdiction, and the decision shall not become effective until the 30th day after it is rendered. If the hearing officer's decision finds that no grounds exist for denial or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the director of public safety and/or Community Development to immediately withdraw the intent to deny or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the director of public safety and/or Community Development shall contemporaneously therewith issue the license or work permit to the applicant.
- (f) If any court action challenging a licensing or work permitting decision is initiated, the city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.

(Ord. No. 723, § 12-171, 4-4-2016)

~~Sec. 10-286. Location and distance requirements.~~

- ~~(a) It shall be unlawful to establish a massage establishment or a spa establishment in the city, unless said establishment is located:
 - ~~(1) At least 300 feet from State Route 9;~~
 - ~~(2) At least 300 feet from State Route 120; and~~
 - ~~(3) At least 300 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park, state-licensed day care facility, or any residence.~~~~
- ~~(b) The foregoing minimum distance requirements shall not apply to any massage establishment or spa establishment located within a mixed-use development in the MU district. For the purpose of this subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest point on a boundary line of the massage establishment or spa establishment parcel to the closest point on the State Route 9 or State Route 120 right-of-way, or to the closest point on a boundary line of any parcel containing a house of worship, public or private elementary or secondary school, public park, or residence.~~

(Ord. No. 723, § 12-172, 4-4-2016)

Sec. 10-287. - Remedies.

- (a) Any premises, building, dwelling, or other structure in which a massage establishment or spa establishment is operated or maintained in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin the use of such premises as a massage establishment or spa establishment in the county superior court.
- (b) The operation of a massage establishment or spa establishment by a partnership, limited liability company, corporation, or other legal entity in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (c) The operation of a massage establishment by a person in violation of this article is declared to be a public nuisance, and harmful to the public health, safety, and welfare. The city's legal counsel may bring an action in the county superior court to restrain, prohibit, and/or enjoin such operation of a massage establishment or spa establishment.
- (d) It shall not be necessary, in order to obtain an injunction under this section, to allege or prove that there is no adequate remedy at law or to allege or prove any special injury.
- (e) If the court declares a massage establishment or spa establishment to be a nuisance, or if the court issues an injunction against a massage establishment or spa establishment pursuant to this article, the city shall be entitled, on motion, to recover its reasonable attorney's fees and costs incurred in bringing the action.

(Ord. No. 723, § 12-173, 4-4-2016)

Sec. 10-288. - Real property used for illegal sexual activity; property owner responsibility.

- (a) In accordance with O.C.G.A. § 41-3-13, the municipal court shall have jurisdiction to hear and determine the question of the existence of the nuisance provided for in O.C.G.A. § 41-3-1 and as further defined herein, and, if found to exist, to order its abatement.
- (b) As used in this subsection, the term:
 - (1) "Sex crime-related arrest" means an arrest for unlawful sexual conduct of any kind alleged to have occurred at the massage establishment or spa establishment, including, but not limited to, and citation, summons, accusation or indictment for violations of state laws concerning lewdness, prostitution, sodomy, the solicitation of sodomy, or masturbation for hire; provided, however, that any such arrests which result directly from cooperation between the real property owner and a law enforcement agency shall not be considered a sex crime-related arrest for purposes of this section.
 - (2) "Substantial illegal sexual activity" means activity comprised of three or more separate incidents resulting in sex crime-related arrests within a 24-month period on the same parcel of real property.
- (c) Any owner of real property, regardless of whether such owner is the occupant of the subject premises, who has knowledge that substantial illegal sexual activity is being conducted on such property, shall be guilty of maintaining a nuisance, and such real property shall be deemed a nuisance and may be abated as provided by law.
- (d) The owner of real property shall be deemed to have knowledge of illegal sexual activity occurring on a parcel of real property if the city notifies the owner in writing of two or more separate incidents occurring on the same premises within a 24-month period that result in sex crime-related arrests and,

after the receipt of such notice and within 24 months of the first of the incidents resulting in a sex crime-related arrest, one or more separate incidents occur which result in a sex crime-related arrest.

- (e) The provisions of this section are cumulative of any other remedies and shall not be construed to repeal any other existing remedies for related nuisances. Nothing in this section and no action taken hereunder shall be held to exclude such other civil, criminal, or administrative proceedings as may be authorized by other provisions of this Code or any of the laws in force in the city, or to exempt anyone violating this Code or any part of said laws from any penalty which may be incurred.

(Ord. No. 723, § 12-174, 4-4-2016)

Secs. 10-289—10-309. - Reserved.



City Council Meeting & Public Hearing STAFF REPORT

Submitting Department: Community Development

Submitted By:

Sponsored By:

Meeting Date: July 27, 2020

I. AGENDA ITEM TITLE: PH-20-08 CODE OF ORDINANCES TEXT AMENDMENTS – LITTER ORDINANCE
(2ND READING)

*CONSIDERATION OF TEXT AMENDMENTS TO THE CODE OF ORDINANCES RELATED TO LITTER.
THE PROPOSED CHANGES MATCH THE MINIMUM STANDARDS OF THE LATEST MODEL
ORDINANCE FROM THE METROPOLITAN NORTH GEORGIA WATER PLANNING DISTRICT.*

II. RECOMMENDATION:

III. BUDGET IMPLICATIONS:

BUDGETED ITEM: NO

FISCAL IMPACT: NO

INCLUDED IN CURRENT FY CPTL BUDGET: NO

INCLUDED IN CURRENT FY OPRT. BUDGET: NO

TOTAL PROJECT COST:

APPROPRIATIONS:

<u>ACCOUNT TITLE/NUMBER</u>	<u>DOLLAR AMOUNT</u>

EXTERNAL FUNDING SOURCES:

<u>ACCOUNT TITLE/NUMBER</u>	<u>DOLLAR AMOUNT</u>

IV. REPORT IN BRIEF:

V. ALTERNATIVES:

VI. ATTACHMENTS:

Code of Ordinances Litter CC Staff Report (002), Ordinance , Proposed Edits to ARTICLE_IV.____LITTER
Code



CITY COUNCIL MEETING STAFF REPORT

SUBMITTING DEPARTMENT: COMMUNITY DEVELOPMENT

SUBMITTED BY: KATHI COOK

DRAFTED BY: MICHAEL WOODMAN

I. AGENDA ITEM TITLE: PH-20-08 CODE OF ORDINANCES TEXT AMENDMENTS – LITTER

CITY COUNCIL:

JULY 20, 2020

II. RECOMMENDATION:

Approve amendments to the Code of Ordinances as it relates to Litter.

III. REPORT IN BRIEF:

Consideration of text amendments to the Code of Ordinances, Article IV to amend regulations pertaining to Litter.

In 2001 the Georgia General Assembly created the Metropolitan North Georgia Water Planning District to develop comprehensive regional and watershed-specific water resource management plans to be implemented by local governments. In accordance with the June 2017 Water Resources Management Plan, Alpharetta is required to adopt policies, ordinances, and regulations that match the surrounding 15 counties and 93 municipalities that make up The District.

Litter:

The Plan requires cities and counties to enforce regulations to prevent littering. Amendments are proposed to the definition of Litter and violation fine amounts. The District has developed a model ordinance for local governments to adopt for this compliance. The ordinance presented here for adoption and approval is the model ordinance.

IV. ATTACHMENTS:

- UDC Strike Through and Underline Edits

AN ORDINANCE TO AMEND ARTICLE IV, CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF ALPHARETTA, GEORGIA; TO AMEND THE DEFINITION OF LITTER; TO AMEND VIOLATION FINE AMOUNTS; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Alpharetta (the “City”) adopted the Code of Ordinances of the City of Alpharetta, Georgia, which has subsequently been amended from time to time (the “Code of Ordinances”); and

WHEREAS, the Mayor and Council of the City of Alpharetta (the “City Council” or “Council”) are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta; and

WHEREAS, the Code of Ordinances was designed to be amended from time to time when circumstances warrant that modifications be made in order to make said Codes more responsive to community needs; and

WHEREAS, the City Council finds that ordinances and regulations governing the uses of land and development of land within the City, as well as the City’s operations, should be continually improved from time to time and modified as necessary to better protect and promote the public health, safety and welfare of the residents and businesses of the City of Alpharetta; and

WHEREAS, the City Council desires to amend Article IV of the Code of Ordinances for the foregoing purposes; and

WHEREAS, the City Council finds that the following amendments to the Code of Ordinances promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the City of Alpharetta;

NOW THEREFORE, The Council of the City of Alpharetta hereby ordains, as follows:

Section 1: Article IV, Chapter 26 titled “Litter” of the Code of Ordinances is hereby amended by revising same as set forth in Exhibit “A” attached hereto as if fully set forth herein; and

Section 2: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 3: This Ordinance shall be effective immediately upon its adoption by the City Council and the amendments made herein shall be incorporated into the Code of Ordinances of the City of Alpharetta, Georgia, as applicable. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED this the _____ day of _____, 2020.

Approved:

Jim Gilvin, Mayor

Attest:

COUNCILMEMBERS

Erin Cobb, City Clerk
(Seal)

Approved as to Form:

C. Sam Thomas, City Attorney

Exhibit “A”

ARTICLE IV. - LITTER^[2]

Footnotes:

--- (2) ---

State Law reference— Littering, O.C.G.A. § 16-7-42 et seq.; egregious litter control, O.C.G.A. § 16-7-51 et seq.

Sec. 26-85. - General provisions.

- (a) *Purpose and intent.* The purpose of this article is to protect the public health, safety, environment, and general welfare through the regulation and prevention of litter. The objectives of this article are to:
 - (1) Provide for uniform prohibition throughout the city of any and all littering on public or private property; and
 - (2) Prevent the desecration of the beauty and quality of life of the city and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.
- (b) *Applicability.* This article shall apply to all public and private property within the jurisdiction of the city.
- (c) *Compatibility with other regulations.* This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

(Code 1989, § 10-19; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-86. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Litter means ~~any discarded or abandoned refuse, rubbish, junk, or other waste material; or dead animals that are not subject to the provisions of any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals, or intentionally or unintentionally discarded materials of every kind and description which are not “waste” as such term is defined in O.C.G.A. § 4-5-4 16-7-51, paragraph 6.~~

Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

(Code 1989, § 10-20; Ord. No. 209, § 1, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-87. - Dumping, depositing, etc.

- (a) It shall be unlawful for any person to dump, deposit, place, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city limits or any waters in the city unless:
 - (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
 - (2) The litter is placed into a non-disposable litter receptacle or container designed for the temporary storage of litter and located in an area designated by the owner or tenant in lawful possession of the property; or
 - (3) The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.
- (b) No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

(Code 1989, § 10-21; Ord. No. 209, § 2(a), 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-88. - Punishment for violation.

- (a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.
- (b) Any person who violates this article shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:
 - (1) By a fine of not less than ~~\$25.00~~ 200.00 and not more than \$1200.00; and
 - (2) In addition to the fine set out in subsection (b)(1) of this section, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city; and
 - (3)
 - a. In the sound discretion of the municipal court, the person may be directed to pick up and remove from any public street or highway or public right-of-way, for a distance not to exceed one mile, any litter such person has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - b. In the sound discretion of the municipal court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or, with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that the offender has deposited litter. Pick-up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
 - (4) The court may publish the names of persons convicted of violating this article.

(Code 1989, § 10-22; Ord. No. 209, § 2(b), 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-89. - Prima facie evidence.

- (a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, the trier of fact may, in his discretion, and in consideration of the totality of the circumstances, infer that the operator of the conveyance has violated this article.
- (b) Except as provided in subsection (a) of this section, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any articles, including, but not limited to, letters, bills, publications or other writing which displays the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, the trier of fact may, in his discretion, and in consideration of the totality of the circumstances, infer that such person has violated this article.

(Code 1989, § 10-23; Ord. No. 209, § 3, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-90. - Containers—Receptacles to be provided; notice to public.

The director of public works is hereby authorized, empowered, and instructed to establish and maintain receptacles for the deposit of litter at appropriate locations where the property is frequented by the public, to post signs directing persons to the receptacles and serving notice of the provisions of this article, and to otherwise publicize the availability of the litter receptacles and the requirements of this article.

(Code 1989, § 10-24; Ord. No. 209, § 5, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-91. - Same—Misuse or vandalization.

It shall be unlawful for any person to set fire to the contents of, indiscriminately scatter or disperse the contents of, or otherwise vandalize any container provided by the city for the dumping of trash, garbage or litter.

(Code 1989, § 10-25; Ord. No. 209, § 6, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-92. - Enforcement officials.

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

(Code 1989, § 10-26; Ord. No. 209, § 4, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Secs. 26-93—26-112. - Reserved.

ARTICLE IV. - LITTER^[2]

Footnotes:

--- (2) ---

State Law reference— Littering, O.C.G.A. § 16-7-42 et seq.; egregious litter control, O.C.G.A. § 16-7-51 et seq.

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 - (1) Provide for uniform prohibition throughout the city of any and all littering on public or private property; and
 - (2) Prevent the desecration of the beauty and quality of life of the city and prevent harm to the public health, safety, environment, and general welfare, including the degradation of water and aquatic resources caused by litter.
- (b) *Applicability.* This article shall apply to all public and private property within the jurisdiction of the city.
- (c) *Compatibility with other regulations.* This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

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Public or private property means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

(Code 1989, § 10-20; Ord. No. 209, § 1, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

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- (a) It shall be unlawful for any person to dump, deposit, place, throw or leave or to cause or permit the dumping, depositing, placing, throwing or leaving of litter on any public or private property in the city limits or any waters in the city unless:
 - (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
 - (2) The litter is placed into a non-disposable litter receptacle or container designed for the temporary storage of litter and located in an area designated by the owner or tenant in lawful possession of the property; or
 - (3) The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.
- (b) No person shall operate any motor vehicle with a load on or in such vehicle unless the load on or in such vehicle is adequately secured to prevent the dropping or shifting of materials from such load onto the roadway.

(Code 1989, § 10-21; Ord. No. 209, § 2(a), 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-88. - Punishment for violation.

- (a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. Any person who has violated or continues to violate the provisions of this article may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise sentenced in a manner provided by law.
- (b) Any person who violates this article shall be guilty of a violation and, upon conviction thereof, shall be punished as follows:
 - (1) By a fine of not less than ~~\$25.00~~ 200.00 and not more than \$1200.00; and
 - (2) In addition to the fine set out in subsection (b)(1) of this section, the violator shall reimburse the city for the reasonable cost of removing the litter when the litter is or is ordered removed by the city; and
 - (3)
 - a. In the sound discretion of the municipal court, the person may be directed to pick up and remove from any public street or highway or public right-of-way, for a distance not to exceed one mile, any litter such person has deposited and any and all litter deposited thereon by anyone else prior to the date of execution of sentence; or
 - b. In the sound discretion of the municipal court, the person may be directed to pick up and remove any and all litter from any public property, private right-of-way, or, with prior permission of the legal owner or tenant in lawful possession of such property, any private property upon which it can be established by competent evidence that the offender has deposited litter. Pick-up and removal shall include any and all litter deposited thereon by anyone prior to the date of execution of sentence; and
 - (4) The court may publish the names of persons convicted of violating this article.

(Code 1989, § 10-22; Ord. No. 209, § 2(b), 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-89. - Prima facie evidence.

- (a) Whenever litter is thrown, deposited, dropped or dumped from any motor vehicle, boat, airplane, or other conveyance in violation of this article, the trier of fact may, in his discretion, and in

consideration of the totality of the circumstances, infer that the operator of the conveyance has violated this article.

- (b) Except as provided in subsection (a) of this section, whenever any litter which is dumped, deposited, thrown or left on public or private property in violation of this article is discovered to contain any articles, including, but not limited to, letters, bills, publications or other writing which displays the name of the person thereon in such a manner as to indicate that the article belongs or belonged to such person, the trier of fact may, in his discretion, and in consideration of the totality of the circumstances, infer that such person has violated this article.

(Code 1989, § 10-23; Ord. No. 209, § 3, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

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The director of public works is hereby authorized, empowered, and instructed to establish and maintain receptacles for the deposit of litter at appropriate locations where the property is frequented by the public, to post signs directing persons to the receptacles and serving notice of the provisions of this article, and to otherwise publicize the availability of the litter receptacles and the requirements of this article.

(Code 1989, § 10-24; Ord. No. 209, § 5, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-91. - Same—Misuse or vandalization.

It shall be unlawful for any person to set fire to the contents of, indiscriminately scatter or disperse the contents of, or otherwise vandalize any container provided by the city for the dumping of trash, garbage or litter.

(Code 1989, § 10-25; Ord. No. 209, § 6, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Sec. 26-92. - Enforcement officials.

All law enforcement agencies, officers and officials of this state or any political subdivision thereof, or any enforcement agency, officer or any official of any commission of this state or any political subdivision thereof, are hereby authorized, empowered and directed to enforce compliance with this article.

(Code 1989, § 10-26; Ord. No. 209, § 4, 5-27-1985; Ord. No. 540, § 1, 3-15-2004)

Secs. 26-93—26-112. - Reserved.



City Council Meeting & Public Hearing

STAFF REPORT

Submitting Department: Community Development

Submitted By: Kathi Cook

Sponsored By:

Meeting Date: July 27, 2020

I. AGENDA ITEM TITLE: RESOLUTION FOR NATIONAL ENDOWMENT FOR THE ARTS OUR TOWN GRANT

II. RECOMMENDATION:

Staff requests the approval of a resolution authorizing the submittal of an application for the National Endowment for the Arts Our Town Grant and to designate funds up to \$60,000 for the required local match if the grant is awarded.

III. BUDGET IMPLICATIONS:

BUDGETED ITEM: YES

FISCAL IMPACT: YES

INCLUDED IN CURRENT FY CPTL BUDGET: NO

INCLUDED IN
CURRENT FY OPRT.
BUDGET: NO

TOTAL PROJECT COST: GRANT MATCH WOULD COME FROM THE CAPITAL PROJECT FUND NON-ALLOCATED ACCOUNT (BALANCE OF \$1.4 MILLION BEFORE APPROVAL OF THIS ITEM). UPON APPROVAL AND AWARD OF THE GRANT, MATCH FUNDS WILL BE TRANSFERRED TO THE CAPITAL GRANT FUND FOR PROPER TRACKING.

APPROPRIATIONS:

ACCOUNT TITLE/NUMBER	DOLLAR AMOUNT
Gateway Park Design (account TBD upon approval)	\$120,000.00
City Grant Match - Capital Project Fund Non-Allocated (30190200-579000)	(\$60,000.00)

EXTERNAL FUNDING SOURCES:

ACCOUNT TITLE/NUMBER	DOLLAR AMOUNT
Nat'l Endowment for the Arts Grant (account TBD upon approval)	\$60,000.00
-	\$0.00

IV. REPORT IN BRIEF:

Consideration of a resolution authorizing the submittal of an application for the National Endowment for the Arts Our Town Grant and to designate funds up to \$60,000 for the required local match if the grant is awarded.

The funding if approved will be used to design the proposed Gateway Park connection to the Alpharetta Greenway at North Point Parkway and Encore Parkway. The City of Alpharetta agrees to a 50% match requirement (\$60,000) of the project budget total of \$120,000.

V. ALTERNATIVES:

VI. ATTACHMENTS:

National endowment for the arts resolution edit (002), Gateway Park - North Point Parkway & Encore Parkway

A RESOLUTION OF THE MAYOR AND COUNCIL AUTHORIZING THE SUBMISSION OF THE NATIONAL ENDOWMENT FOR THE ARTS OUR TOWN GRANT

WHEREAS, the National Endowment for the Arts Our Town Grant, made funding available for arts engagement, cultural planning, or design of public space

WHEREAS, an application must be submitted for projects that integrate arts, culture, and design activities into efforts that strengthen communities; and

WHEREAS, the City of Alpharetta has prepared such an application for this program; and

WHEREAS, the funding, if awarded, will be used to design the proposed Gateway Park connection to the Alpharetta Greenway at North Point Parkway and Encore Parkway;

WHEREAS, the City of Alpharetta certifies and assures it has the funding available to finance the 50% match requirement of the submitted project budget total of \$120,000.

NOW, THEREFORE, BE IT SO RESOLVED, this 27th day of July, 2020, by the Mayor and Council of the City of Alpharetta that the submission of the National Endowment for the Arts Our Town Grant application is hereby approved; and if awarded the Mayor is hereby authorized to execute award package under the directives of the program.

Adopted this _____ day of _____ 2020.

CITY OF ALPHARETTA, GEORGIA

By: _____
Mayor

Council Member

Council Member

Council Member

Council Member

Council Member

Council Member

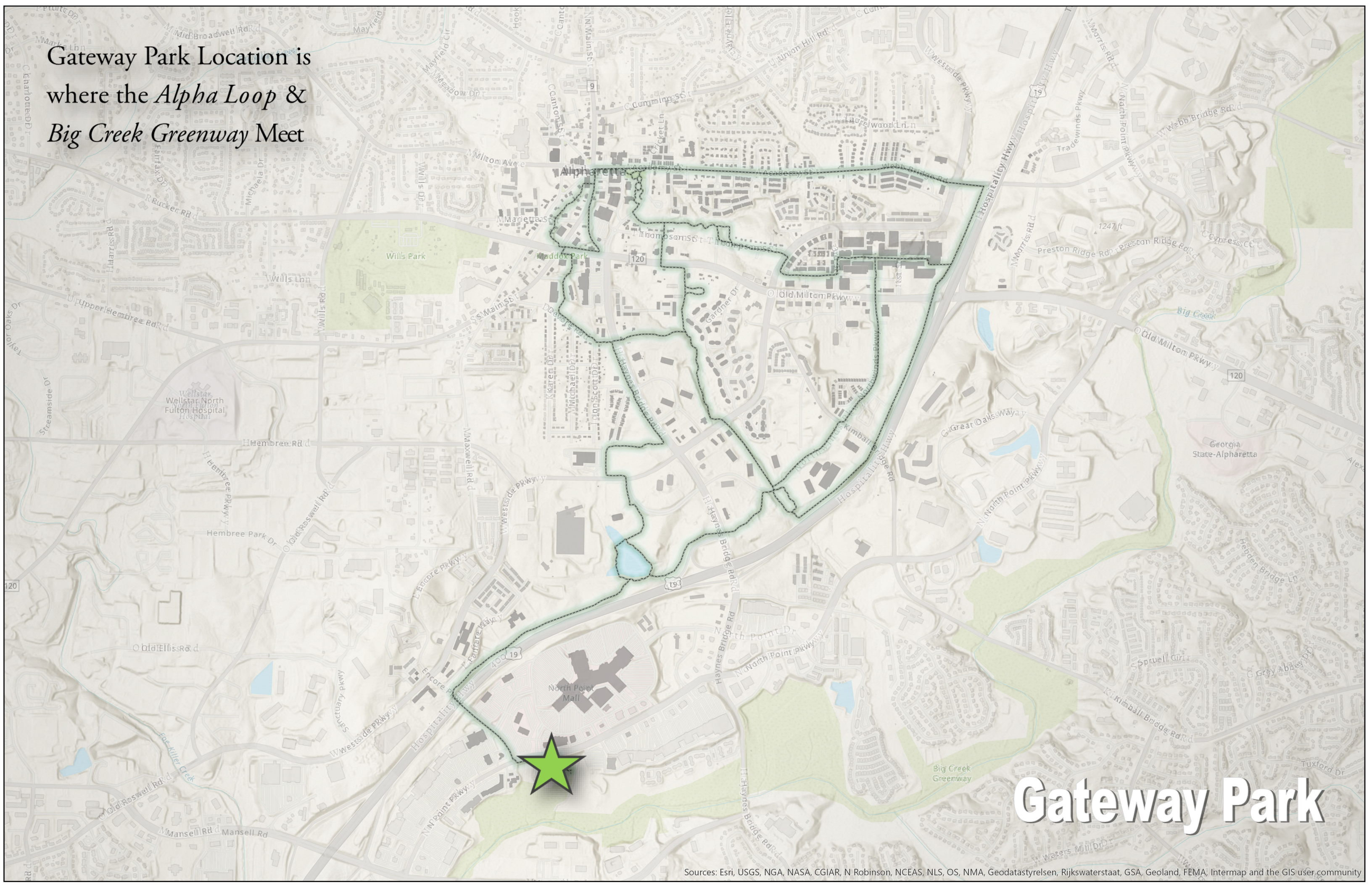
Attest:

Erin Cobb, City Clerk

APPROVED AS TO FORM:

C. Sam Thomas, City Attorney

Gateway Park Location is
where the *Alpha Loop* &
Big Creek Greenway Meet



Gateway Park

Gateway Park Opportunity

Alpharetta GA



Falls Park on the Reedy

Greenville SC



Roughly the Same Size

Gateway Park

Gateway Park

Inspiration Photos

Falls Park on the Reedy

Greenville SC





City Council Meeting & Public Hearing STAFF REPORT

Submitting Department: Finance

Submitted By: Thomas Harris

Sponsored By: Council Member Burnett

Meeting Date: July 27, 2020

I. AGENDA ITEM TITLE: RESOLUTION REQUESTING SALES TAX INFORMATION FROM THE GEORGIA DEPARTMENT OF REVENUE
SPONSORED BY: COUNCIL MEMBER BURNETT

II. RECOMMENDATION:

Staff is recommending that Mayor and Council approve a resolution requesting sales tax information from The Georgia Department of Revenue.

III. REPORT IN BRIEF:

The attached resolution designates the Director of Finance as the designated officer to receive certain information related to vendor/taxpayers that have submitted sales tax reports within a designated period in accordance with OCGA 48-2-15(d.1).

IV. ALTERNATIVES:

V. ATTACHMENTS:

2 RESOLUTION REQUESTING SALES TAX INFORMATION FROM GDOR PURSUANT TO O.C.G.A. 48-2-15(d.1) AND NAMING A DESIGNATED OFFICER FOR ALL RELATE

RESOLUTION NO.: _____

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA REQUESTING SALES TAX INFORMATION FROM THE GEORGIA DEPARTMENT OF REVENUE PURSUANT TO O.C.G.A. § 48-2-15(d.1); NAMING A DESIGNATED OFFICER FOR ALL RELATED PURPOSES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the City of Alpharetta, Georgia is a municipal corporation duly created by the General Assembly of the State of Georgia (the "City"); and

WHEREAS, Section 48-2-15(d.1), as amended in 2018, of the Official Code of Georgia Annotated ("O.C.G.A.") authorizes the Commissioner of the Georgia Department of Revenue (the "DOR Commissioner"), upon request by resolution of a municipality, such as the City, or other local government, to provide to the "designated finance officer or taxing official" of the local government (the "Designated Officer") certain information relating to vendors/taxpayers that have submitted sales tax reports within the period of time set forth in that request;

WHEREAS, O.C.G.A. § 48-2-15(d.1)(2)(B) further allows the Designated Officer to request that the DOR Commissioner validate, from time to time, the political subdivision to which sales taxes are being remitted by vendors/taxpayers with a business location within the City's boundaries; and

WHEREAS, the City desires to obtain the aforementioned and described sales tax information and to name a Designated Officer for all related purposes.

NOW THEREFORE, BE IT RESOLVED AND IT IS HEREBY RESOLVED, by the Mayor and City Council of the City of Alpharetta as follows:

Section 1. The Mayor and City Council of the City of Alpharetta hereby designate the following finance officer as the City's Designated Officer for all purposes described in O.C.G.A. § 48-2-15(d.1):

Thomas G. Harris, CPA
Director of Finance
2 Park Plaza
Alpharetta, Georgia 30009
tharris@alpharetta.ga.us

Section 2. The Mayor and City Council of the City of Alpharetta hereby request that the DOR Commissioner (or his/her designee) furnish to the above-named Designated Officer all vendor/taxpayer sales tax information described in O.C.G.A. § 48-2-15(d.1)(1) for the City for the following time period: July 1, 2019 to June 30, 2020.

Section 3. In accordance with O.C.G.A. § 48-2-15(d.1)(2)(B) and following receipt of the information described in Section 2, above, the Designated Officer is hereby authorized to request validation by the DOR Commissioner of the political subdivision to which one or more vendors/taxpayers with a business location in the City have remitted sales taxes for the designated period, with such validation request to contain the business name and location address of each such vendor/taxpayer and such other information as may assist the DOR Commissioner in responding to such validation request.

Section 4. The Designated Officer shall use such information only in the discharge of his duties and shall maintain the confidentiality of such information as required by O.C.G.A. § 48-2-15(d.1).

Section 5. The Mayor and City Council shall comply with all confidentiality requirements of O.C.G.A. § 48-2-15(d.1), including, but not limited to, the requirements that (1) such information may only be discussed by the Mayor and City Council in executive session; and (2) in the event of a conflict of interest under O.C.G.A. § 48-2-15(d.1)(4), the affected member of the City Council or the Mayor, as applicable, shall recuse himself or herself from such executive session discussions.

Section 5.1. Pursuant to O.C.G.A. § 48-2-15(d.1)(4), a "conflict of interest" for the purposes of this Resolution includes, but is not limited to, engaging in similar business to those which are identified in the confidential information or having a financial or other personal interest, direct or indirect, in such matter which is incompatible with the impartial and proper discharge of that person's official duties, which would tend to impair the independence of that person's judgment or actions, or which would make such person privy to information that would provide a competitive business advantage.

Section 6. This Resolution shall become effective upon its adoption by the Mayor and City Council of the City of Alpharetta, and the official named above shall remain the City's Designated

Officer for all purposes under O.C.G.A. § 48-2-15(d.1) until further action by the Mayor and City Council; and

Section 7. The "WHEREAS" recitals in this Resolution are deemed to be a substantive part of this Resolution and are incorporated herein as if fully restated.

Section 8. All resolutions and parts of resolutions in conflict with this Resolution are hereby repleaded to the extent of such conflict.

Section 9. The City Clerk is hereby directed to provide a certified copy of this Resolution to the Georgia Department of Revenue via email to public.disclosure@dor.ga.gov or to otherwise transmit a copy of this Resolution as may be directed by the Georgia Department of Revenue

SO RESOLVED, this _____ day of July 2020.

CITY OF ALPHARETTA, GEORGIA

By: _____
Jim Gilvin, Mayor

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[SIGNATURES CONTINUED FROM PRECEDING PAGE OF
RESOLUTION REGARDING O.C.G.A. § 48-2-15(d.1)]

COUNCIL MEMBERS

Jason Binder

Ben Burnett

John Hipes

Dan Merkel

Donald Mitchell

Karen Richard

(SEAL)

Attest:

Erin Cobb, City Clerk

Approve as to form and
legal sufficiency:

C. Sam Thomas, City Attorney