



DeKalb County Department of Planning & Sustainability

**330 Ponce De Leon Avenue, Suite 500
Decatur, GA 30030
(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: May 1, 2018, 6:30 P.M.
Board of Commissioners Hearing Date: May 22, 2018, 6:30 P.M.
(Deferred from March 27, 2018)**

STAFF ANALYSIS

Case No.: CZ-18-22045 **Agenda #:** D. 7

Location/Address: 3224, 3138, 3148, 3158, and 3186 Snapfinger Road, Decatur. **Commission District:** 5 **Super District:** 7

Parcel ID(s): 15-065-01-040 and 15-096-02-002, -009, -010, & -071

Request: To rezone property from C-1 (Local Commercial) and R-100 (Residential-Medium Lot-100) to allow development of trade contractor's offices with accessory indoor storage.

Property Owner(s): Robert A. Wilson

Applicant/Agent: Paul Girardeau

Acreage: 8.90

Existing Land Use: Vacant and wooded, and abandoned buildings formerly used for a landscaping business.

Surrounding Properties: To the north: a commercial property and a property with roads installed for a subdivision; to the northeast and east: floodplain; to the south and southeast, an Exxon station, an auto sales and repair business, the Bazaar Hair Fashions salon; to the south: Creekview Plaza shopping plaza; to the west and northwest, vacant and wooded property.

Adjacent Zoning: **North:** C-1 **South:** C-1 **East:** R-100 **West:** NS **Northeast:** R-100 **Northwest:** O-I **Southeast:** C-2 **Southwest:** C-1

Comprehensive Plan: Suburban ☒ **Consistent** ☐ **Inconsistent**

Proposed Density: 4,012 s.f./acre	Existing Density: None (vacant)
Proposed Square Ft.: 35,711 s.f.	Existing Square Feet: None (vacant)
Proposed Lot Coverage: Information not provided	Existing Lot Coverage: None (vacant)

Zoning History: In 2007, the Board of Commissioners rezoned the subject property from R-75 (Single-Family Residential) and C-1 (Local Commercial) to C-1 with conditions for a mixed office and retail development called the Mill at Snapfinger (CZ-07-3899). In addition to the subject property, the Mill at Snapfinger would have included

adjoining properties to the west, i.e., the abandoned right-of-way of Old Snapfinger Road, and the land between this abandoned right-of-way and Snapfinger Road. Approval of CZ-07-3899 was conditioned on site plans, elevations, provision of a deceleration lane, maximum building height, description of tenant types, maximum building floor area, and building materials.

PROJECT ANALYSIS

The subject property is a 10.63-acre tract comprised of six parcels located on the east side of the abandoned right-of-way of Old Snapfinger Road. The east side of the property is bordered by Snapfinger Creek, which also forms the boundary of the City of Stonecrest. As shown on the site plan, the southeastern portion of the property is in the floodplain. The property is undeveloped. Portions of it have been cleared and other portions are wooded. Vacated landscaping supply company buildings are located at the southern end of the property. The land between the abandoned right-of-way and Snapfinger Road is densely wooded.

Snapfinger Road is a four-lane, divided major arterial. A multipurpose path, suitable for bicycling, has been constructed on the east side of Snapfinger Road. Flat Shoals Parkway, also a four-lane, divided major arterial, intersects with the west side of Snapfinger Road just south of the southern end of the subject property. Cleveland Road, a local street, intersects with the east side of Snapfinger approximately 500 feet south of Flat Shoals Road.

The intersections of Snapfinger, Flat Shoals, and Cleveland form a node of low-intensity commercial uses with C-1, OI, and NS zoning. Within this node, the land uses with frontage on Snapfinger Road and Flat Shoals Road include the Creekview Plaza shopping center, two gas stations with convenience stores (Exxon and Chevron), a hair salon, a day care center, and a Progressive Insurance office. Land uses beyond this node are single-family residential with R-100 zoning. Several contractors' office are located on nearby or adjoining C-1 properties: The T&J Industries contractors' office is located on Cleveland Road, on the parcel immediately west of the Chevron Station, and there is a contractors' office on the property that adjoins the north end of the subject property. In addition, contractors' office or warehouses are located on the C-2 property behind Tract 8.

The applicant proposes to construct a 35,711 square foot building with 79 surface parking spaces. The applicant has described the buildings as offices for building contractors and building trade companies such as electrical or plumbing businesses. Space for accessory storage would be provided inside the buildings, but there would be no outdoor storage of building materials. The abandoned right-of-way would be improved as a private drive to provide vehicular access to the building.

LAND USE AND ZONING ANALYSIS

Section 27-832 of the Zoning Ordinance, "Standards and factors governing review of proposed amendments to the official zoning map" states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.

A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:

The proposal is consistent with the economic development policies summarized in the 2035 Comprehensive Plan to support existing industry clusters and to create new ones.

B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:

The proposed development is suitable in view of the use of adjacent and nearby properties for similar contractors' office and other commercial land uses.

C. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned:

It does not appear that the property has reasonable economic use with the zoning conditions approved in 2007, which limit development to a project that is no longer being pursued by the property owner.

D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:

The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property, which is used for similar contractors' offices on the north, a gas station and contractors' office on the south and southeast. An undevelopable floodplain several hundred feet wide is located on the eastern border of the property. The proposed buildings would be screened from view from Snapfinger Road by what is now a wooded tract of land, and what might be developed in the future under its existing C-1 zoning classification for pedestrian-friendly commercial uses.

E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:

Staff is unaware of other conditions that would support either approval or disapproval of the zoning proposal.

F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

G. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

There has been no indication that the zoning proposal would be burdensome to existing public infrastructure.

H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources:

It does not appear that the zoning proposal would have unusual or unexpected impacts on the environment or surrounding natural resources.

Compliance with District Standards:

C-1 STANDARD	REQUIRED/ALLOWED	PROVIDED/PROPOSED (for entire site unless otherwise noted)	COMPLIANCE
MIN. LOT AREA	20,000 s.f.	8.90 acres	Yes
MIN. LOT WIDTH	100 ft.	1,366.79 feet	Yes
MAX. LOT COVERAGE	80%	Estimate: 20%	Yes
MIN. OPEN SPACE	15%	Estimate: 80%	Yes
MIN. TRANSITIONAL BUFFER	50-foot buffer superseded by 75-foot stream buffer on east side	150 ft.	Yes

C-1 STANDARD		REQUIRED/ALLOWED	PROVIDED/PROPOSED	COMPLIANCE
MIN. TRANSITIONAL BUFFER		50-foot buffer superseded by 75-foot stream buffer on east side	150 ft.	Yes
YARD SETBACKS	FRONT	Arterials: 60 ft.	14- - 210 feet	Yes
	INTERIOR SIDE	Min. 20 ft.	30 (north property line) 300 feet (south property line)	Yes
	REAR	Min. 30 ft.	350 feet	Yes
MAX. BLDG. HEIGHT WITHOUT SLUP		2 stories and 35 ft.	1 story and max. 21.8 ft.	Yes
TRANS'L HEIGHT PLANE		Not required; site does not adjoin R zoning	_____	_____
PARKING		One space/2000 s.f. of floor area = 18 spaces	79 spaces	Yes

STAFF RECOMMENDATION:

The proposal is consistent with the economic development policies summarized in the 2035 Comprehensive Plan to support existing industry clusters and to create new ones. The proposed development is suitable in view of the use of adjacent and nearby properties for similar contractors' office and other commercial land uses. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property, which is used for similar contractors' offices on the north, a gas station and contractors' office on the south and southeast. An undevelopable floodplain several hundred feet wide is located on the eastern border of the property. The proposed buildings would be screened from view from Snapfinger Road by what is now a wooded tract of land, and what might be developed in the future under its existing C-1 zoning classification for pedestrian-friendly commercial uses. Therefore, the Department of Planning and Sustainability recommends "Approval" of the proposal with the following condition:

1. The improvements shall be developed in substantial conformity with the Site Plan dated March 28, 2018 for Raw Properties, Inc. prepared by Paul Girardeau, GRA #9880, including the proposed elevation shown on the site plan.
2. Both entrance points off Snapfinger Road shall be gated to prevent vehicular access to the Property after business hours.
3. Surveillance cameras shall be erected and maintained throughout the Property and footage from such cameras shall be made available to local law enforcement as requested in connection with the investigation of any criminal activity on or near the Property.
4. Office Hours shall be limited to Monday through Saturday 7:00am until 7:00pm.

5. Eighteen-wheeler truck delivery hours shall be limited to Monday and Friday between 10:00AM and 4:00PM, all other truck deliveries shall be limited to Monday through Friday between 10:00AM and 7:00PM. USPS, UPS, FEDEX and other similar courier services shall be exempt from this delivery hour condition.
6. The use of the Property shall be limited to the following:
 - a. Accounting Office
 - b. Building or Construction Office
 - c. Engineering or Architects Office
 - d. General Business Office
 - e. Insurance Office
 - f. Legal Office
 - g. Medical Office
 - h. Real Estate Office
 - i. Trade shops: electrical, plumbing, heating/cooling, roofing/siding, with no outside storage
 - j. Plumbing, HV/AC equipment establishments with no outdoor storage
 - k. Quick copy printing store
 - l. Health services clinic
 - m. Kidney dialysis center
 - n. Medical or dental laboratories
 - o. Home healthcare service
7. Signage on the Property shall be limited to monument signs at the entrance point to the Property, with landscaping at the base of the sign.
8. The parking lot shall have adequate lighting in conformity with Chapter 27, Article 5, Section 5.6.1 Outdoor Lighting of the DeKalb County Zoning Ordinance.
9. There shall be no outdoor storage of materials and supplies.
10. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.

Attachments:

1. Department and Division Comments
2. Board of Health Comments
3. Application
4. Site Plan
5. Maps and Photographs

NEXT STEPS

Following an approval of this zoning action, one or several of the following may be required:

- ✓ • **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- ✓ • **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- ✓ • **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- ✓ • **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.



DeKalb County Department of Planning & Sustainability

Michael L. Thurmond
Chief Executive Officer

Andrew A. Baker, AICP
Director



APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

MAR 29 2018

Z/CZ No. CZ-18-22045
Filing Fee: _____

Date Received: _____ Application No.: _____

Applicant: Paul Girardeau c/o Battle Law, P.C. E-Mail: mlb@battlelawpc.com

Applicant Mailing Address: One West Court Square, Suite, 750, Decatur, GA 30030

Applicant Phone: 404-601-7616 Fax: 404-745-0045

Owner(s): Raw Properties, Inc. E-Mail: robert@wilserv.net
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: 407 Mill House Road, Sparta, GA 31087

Owner(s) Phone: 404-697-0973 Fax: _____

Address/Location of Subject Property: See Exhibit A attached hereto

District(s): _____ Land Lot(s): _____ Block: _____ Parcel(s): _____

Acreage: 8.90 acres Commission District(s): 5 & 7

Present Zoning Category: R-100 & C-1(cond) Proposed Zoning Category: C-1

Present Land Use Category: Suburban

PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted.

Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following questions must be answered:

Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application? Yes ☐ No ☒

If answer is yes, you must file a disclosure report with the governing authority of DeKalb County

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1399 Commerce Drive, Decatur, Ga. 30030.

NOTARY
May 04, 2020
EXPIRATION DATE / SEAL

SIGNATURE OF APPLICANT / DATE

Check One: Owner ☒ Agent ☐

330 West Ponce de Leon Avenue – Suites 100-500 – Decatur, Georgia – 30030
[voice] 404.371.2155 – [Planning Fax] (404) 371-4556 [Development Fax] (404) 371-3007
Web Address <http://www.dekalbcountyga.gov/planning>
Email Address: planninganddevelopment@dekalbcountyga.gov

LIST OF PROPERTIES

3138 Snapfinger Road	Tax Parcel 15-096-02-009
3148 R Snapfinger Road Rear	Tax Parcel 15-096-02-071
3158 Snapfinger Road	Tax Parcel 15-096-02-010
3186 Snapfinger Road	Tax Parcel 15-065-01-040
3224 Snapfinger Road	Tax Parcel 15-096-02-002



Date: December 13, 2017

Dear Sir/Madam:

In keeping with the guidelines of the Dekalb County Board of Commissioners, RAW Properties, Inc., would like to notify neighbors in the nearby area about a meeting that is scheduled Wednesday, January 3, 2018 at 7:00pm at the Ray of Hope Christian Church Education Center Auditorium at 2767 Snapfinger Road, Decatur, Georgia 30034-2446. The Christian Education Center is across the street from the main church building.

The purpose of the meeting will be for RAW Properties, Inc. to outline and discuss their plans to develop property near the intersection of Flat Shoals Parkway and Snapfinger Road.

We look forward to seeing you at the meeting and thank you in advance for the opportunity to make a presentation to you about the planned development.

Thank you,

Bryant Green
Berkshire Hathaway Georgia Properties
bryantgreenteam@yahoo.com
770-597-5711

***3150 Snappfinger Road Community Meeting
Sign-In Sheet
January 3, 2018***

Name**Street Address**

City / Zip Code

[illegible]

I. STATEMENT OF INTENT

The Applicant, Paul Giradeau, with Abri Design Studio, Inc., is seeking to rezone the following five tracts of land with an aggregate acreage of 8.90 acres (the "Subject Property"):

3138 Snapfinger Road	Tax Parcel 15-096-02-009
3148 R Snapfinger Road Rear	Tax Parcel 15-096-02-071
3158 Snapfinger Road	Tax Parcel 15-096-02-010
3186 Snapfinger Road	Tax Parcel 15-065-01-040
3224 Snapfinger Road	Tax Parcel 15-096-02-002

The Subject Property is currently owned by Raw Properties, Inc. (the "Owner") and was a portion of the 13.28 acre tract of land that was rezoned from R-100 and C-1 to C-1 by the DeKalb County Board of Commissioners pursuant to Rezoning Case CZ-07-3899 (the "Prior Zoning Case") for the development of an 81,000 sq. ft. retail/office center (the "Original Project") on Snapfinger Road north of the intersection of Snapfinger Road and Flat Shoals Parkway. The Prior Zoning Case was approved subject to the following five (5) conditions:

1. Building elevation rendering, as indicated on Sheet A0.0, and Building Elevations, as indicated on Sheet A2.0, submitted by "The Artisan Design Group, LLC", date stamped received May 23 2007, by the Planning and Development Department;
2. General Compliance with Site Plan(s) as indicated on Sheet (s) C1, C2, and C3, as submitted by Patton-Boyer, Inc. Land Surveyors & Civil Engineers, date stamped May 23, 2007, with revisions to be approved by the Planning and Development Department, to include the following changes:
 - A. Provide a one hundred (100) foot deceleration lane, tapered fifty (50) feet in length at the existing Snapfinger Road entrance located approximately 300-400 feet north of Flat Shoal Parkway (with incoming traffic onto the site having right-of-way);
 - B. Corner Radius from Snapfinger Road shall be of sufficient size to accommodate fire trucks;
3. Compliance with the Letter of Intent, submitted by Artisan Design Group, LLC dated May 21, 2007, indicating maximum height of buildings at two (2) stories; Project Breakdown (indicating Tenant types that would be excluded from the project; Building Breakdown (indicating maximum building floor area of 81,000 square feet), and Building Materials to be used;
4. Storm water drainage improvements shall be subject to the approval of the Roads and Drainage Division of the DeKalb Public Works Department and the Development Division of the Planning and Development Department, and
5. Access and circulation shall be subject to approval by DeKalb County Public Works Division and the Georgia Department of Transportation (GA D.O.T).

Due to the economic down turn in 2008, the Original Project was never developed. The Owner of the Subject Property now seeking to commence development on a portion of the Original Project site based upon a new site plan and architectural design. To achieve this objective, the Applicant, as the architect for the Owner, is seeking to delete conditions 1-3 as set forth above to allow for the development of the Subject Property based upon the site plan (the "Site Plan") submitted with this Statement of Intent and Impact Analysis. Additionally, due to the Planning Staff's uncertainty as to whether the abandoned portion of Old Snapfinger Road was included in the 13.28 acres that was rezoned, the Applicant is seeking to confirm the rezoning of 3186 Snapfinger Road to C-1.

It is the intent of the Owner to development the Subject Property for primarily office space, with some retail (the "Proposed Project"). The total square footage of the Proposed Project will not exceed 35,711 sq. ft., which is less than half of the square footage proposed in the Original Project. It is anticipated that the office space will be marketed primarily to trade contractors, which is a permissible use of the Subject Property under the current Land Use Table for the C-1 District, as well as under the

current zoning conditions for the Subject Property. In substitute for the remove of conditions 1-3 of the Prior Zoning Case, the Application is submitting to the DeKalb County Board of Commissioners the Proposed New Conditions submitted with this Statement of Intent. This document is submitted both as a Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and the Impact Analysis as required by the DeKalb County Zoning Ordinance, § 27-829(f). A surveyed plat and site plan of the Subject Property has been filed contemporaneously with the Application, along with other required materials.

II. IMPACT ANALYSIS

A.

THE ZONING PROPOSAL IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COMPREHENSIVE PLAN

The Subject Property is designated Suburban under the DeKalb Comprehensive Land Use Plan through 2035, and is consistent with the economic development policies set forth in the Comprehensive Plan, as well as with the policies under the Suburban Land Use Designation regarding non-residential development.

B.

THE PROPOSED REZONING PERMITS A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY.

The Subject Property located along the Snapfinger Road corridor which is a major arterial road. The Proposed Project will allow for new non-residential development on the corridor at a level of intensity that will have less of an impact on the surrounding community than the Original Project which would have resulted a significant increase in traffic in the area with in excess of 81,000 sq. ft. of retail/office space. The emphasis on trade contractor office space for the Subject Property will be more compatible with the surrounding community, as the trade contractor space will support the small business trade contractors such as electricians, plumbers, carpenters, floor installers, drapery and blinds contractors, etc. that are doing business in the surrounding area. As no outdoor storage is allowed for this specific type of office space, it is essentially no different than regular office space for any other business from a visual and functional perspective.

C.

THE SUBJECT PROPERTY DOES NOT HAVE A REASONABLE ECONOMIC USE AS PRESENTLY ZONED.

The Subject Property has no reasonable economic use as presently zoned with the five (5) conditions, as the Original Project is no longer viable economically. The Applicant and the Owner respectfully submit that the Zoning Ordinance of DeKalb County, Georgia, as amended from time to time and known as the "DeKalb County Zoning Ordinance", to the extent that it classifies the Subject Property in any zoning district which would preclude the development of the Proposed Project, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Subject Property pursuant to the DeKalb County Zoning Ordinance deprives the current owner of any alternative reasonable use and development of the Subject Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and the one requested herein, would deprive the current owner of any reasonable use and

development of the Subject Property. Further, an attempt by the Board of Commissioners to impose greater restrictions upon the manner in which the Subject Property will be developed than presently exist, such as by way of approving the zoning district requested but limiting development to standards allowed under more stringent zoning classifications, would be equally unlawful.

The Applicant submits that the current zoning classification and any other zoning of the Subject Property save for what has been requested by it as established in the DeKalb County Zoning Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality or general welfare of the public and would substantially harm the Applicant. Further, the existing inconsistent zoning classifications constitute, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this project would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Further, the Applicant respectfully submits that the Board of Commissioners' failure to approve the requested zoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

The Applicant respectfully submits that the Board of Commissioners cannot lawfully impose more restrictive standards upon the development of the Subject Property than presently exist as to do so not only would constitute a taking of the Subject Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

Finally, the Applicant protests any action which would prohibit development of the Subject Property as requested inasmuch as the Zoning Ordinance was adopted in violation of or in other respects does not comply with the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq. and minimum procedural due process standards guaranteed by the Constitutional provisions set forth above.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power, Guhl vs. Holcomb Bridge Road, 238 Ga. 322 (1977).

D.

THE PROPOSED REZONING WILL NOT ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY

The proposed rezoning will in no way adversely affect the existing use or usability of adjacent or nearby property. There is existing retail and office space centers located throughout the area, including trade contractor offices both North and South of the Subject Property, along with a self storage facility and Exxon gas station. The residential lot adjacent to the eastern boundary line of the Subject Property is zoned R-100 but is undeveloped and landlocked.

**E.
OTHER EXISTING OR CHANGING CONDITIONS
AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY**

There are no existing or changing conditions affecting the use and development of the Subject Property.

**F.
THE ZONING PROPOSAL WILL NOT
ADVERSELY AFFECT HISTORIC BUILDINGS,
SITES, DISTRICTS OR ARCHAEOLOGICAL RESOURCES**

The Applicant knows of no historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the requested Major Change of Condition Application.

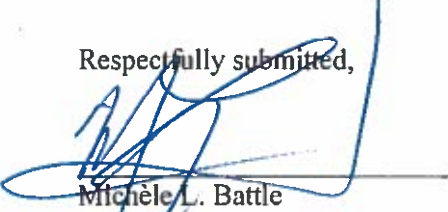
**G.
THE REQUESTED REZONING WILL NOT RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS,
TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS**

The Proposed Project will not cause excessive or burdensome use of existing streets. Snapfinger Road is a major arterial road which can handle any traffic generated by the Proposed Project. The Proposed Project will have no impact on the surrounding communities.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

Respectfully submitted,


Michèle L. Battle
Attorney For Applicant

CONSTITUTIONAL ALLEGATIONS

The portions of the DeKalb County Zoning Ordinance, facially and as applied to the Subject Property, which restrict or classify or may restrict or classify the Subject Property so as to prohibit its development as proposed by the Applicant are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, 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.

The application of the DeKalb County Zoning Ordinance to the Subject Property which restricts its use to any classification other than that 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 Article I, 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 DeKalb County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the DeKalb County Board of Commissioners to modify the CZ-07-3899 conditions of the Subject Property to the classification as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of 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. Any modification of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to unconstitutional conditions and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

The existing zoning conditions on the Subject Property is unconstitutional as it applies to the Subject Property. This notice is being given to comply with the provisions of O.C.G.A. Section 36-11-1 to afford the County an opportunity to revise the Property to a constitutional classification. If action is not taken by the County to rectify the unconstitutional zoning condition within a reasonable time, the Applicant is hereby placing the County on notice that it may elect to file a claim in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Subject Property, diminution of value of the Subject Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

DEKALB COUNTY

ITEM NO.

BOARD OF COMMISSIONERSHEARING TYPE
PUBLIC HEARING**ZONING AGENDA / MINUTES**ACTION TYPE
ORDINANCE**MEETING DATE:** June 12, 2007**SUBJECT:** Rezone – WS Snapfinger, LLC**COMMISSION DISTRICTS:** 5 & 7**DEPARTMENT:** Planning**PUBLIC HEARING:** ☒ YES ☐ NO**ATTACHMENT:** ☒ YES ☐ No**INFORMATION CONTACT:** Patrick Ejike/Kevin Hunter**PAGES:** 18**PHONE NUMBER:** (404) 371-2155

Deferred from 2/13/07, 3/13/07, 4/10/07, 4/24/07 & 5/8/07 for a public hearing.

PURPOSE:**Z-07-3899** Subject Property: 15-065-03-040

Application of WS Snapfinger, LLC to rezone property from R-100 and C-1 to C-1. The property is located on the east side of Snapfinger Road, at its intersection with Flat Shoals Parkway. The property has approximately 1,535 feet of frontage along Snapfinger Road, and contains 13.28 acres.

RECOMMENDATION(S):**PLANNING DEPARTMENT:**

APPROVAL W/CONDITION(S) (Revised 6/4/07). The proposed C-1 zoning is consistent with the Comprehensive Plan LIC (Low Intensity Commercial) land use category. Based on the submitted site plan, it appears that the proposed project meets the minimum requirements of the zoning ordinance for approval of the requested zoning classification. Therefore, it is the recommendation of the Planning and Development Department that the application be approved subject to the following conditions:

1. Building elevation rendering, as indicated on Sheet A0.0, and Building Elevations, as indicated on Sheet A2.0, submitted by "The Artisan Design Group, LLC", date stamped received May 23 2007, by the Planning and Development Department;
2. General Compliance with Site Plan(s) as indicated on Sheet (s) C1, C2, and C3, as submitted by Patton-Boyer, Inc. Land Surveyors & Civil Engineers, date stamped May 23, 2007, with revisions to be approved by the Planning and Development Department, to include the following changes:
 - A. Provide a one hundred (100) foot deceleration lane, tapered fifty (50) feet in length at the existing Snapfinger Road entrance located approximately 300-400 feet north of Flat Shoal Parkway (with incoming traffic onto the site having right-of-way);
 - B. Corner Radius from Snapfinger Road shall be of sufficient size to accommodate fire trucks;
3. Compliance with the Letter of Intent, submitted by Artisan Design Group, LLC dated May 21, 2007, indicating maximum height of buildings at two (2) stories; Project Breakdown (indicating Tenant types that would be excluded from the project; Building Breakdown (indicating maximum building floor area of 81,000 square feet), and Building Materials to be used;
4. Storm water drainage improvements shall be subject to the approval of the Roads and Drainage Division of the DeKalb Public Works Department and the Development Division of the Planning and Development Department, and
5. Access and circulation shall be subject to approval by DeKalb County Public Works Division and the Georgia Department of Transportation (GA D.O.T).

PLANNING COMMISSION:

Approval per staff recommendation an additional condition which requires the applicant to develop a list of commercial uses (including restricted uses), by the Board of Commissioners public hearing.

COMMUNITY COUNCIL:


Approval.

FOR USE BY COMMISSION OFFICE/CLERK ONLY

ACTION: H5


MOTION was made by Commissioner May, seconded by Commissioner Stokes and passed 7-0-0-0, to approve with conditions, the rezoning application of WS Snapfinger, LLC.

ADOPTED: JUN 12 2007
(DATE)



PRESIDING OFFICER
DEKALB COUNTY BOARD OF COMMISSIONERS


CERTIFIED: JUN 12 2007
(DATE)



CLERK, *Chief Deputy Clerk*
DEKALB COUNTY BOARD
OF COMMISSIONERS

FOR USE BY CHIEF EXECUTIVE OFFICER ONLY

APPROVED: JUN 18 2007



CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

VETOED: _____

CHIEF EXECUTIVE OFFICER
DEKALB COUNTY

VETO STATEMENT ATTACHED: _____

MINUTES:

Commissioner May submitted a list of conditions for the record, to be kept on file in the Clerk's office.

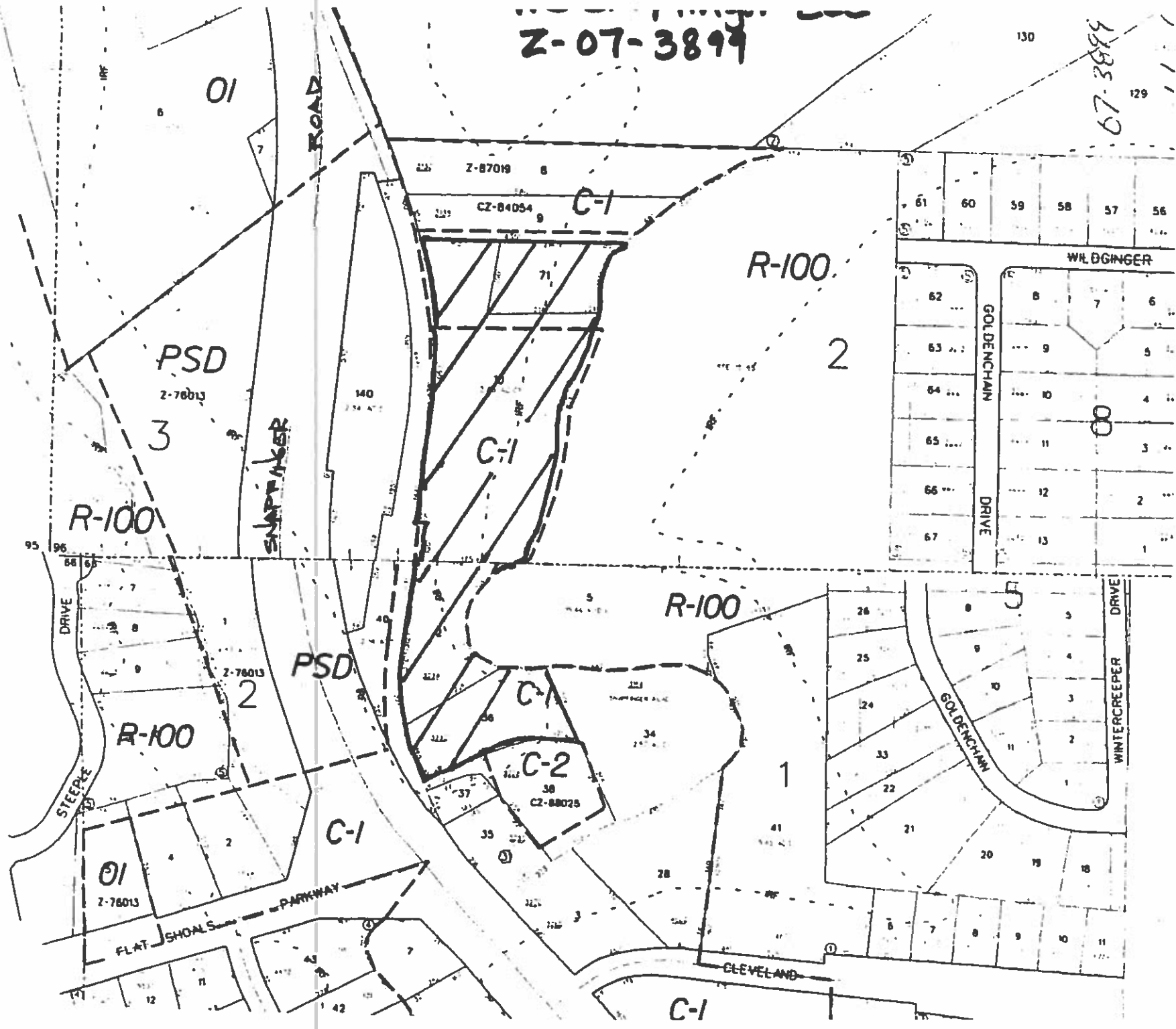
Paul Girardeau, 8100 B Roswell Road, Sandy Springs, Ga. 30350, spoke in support of the application.

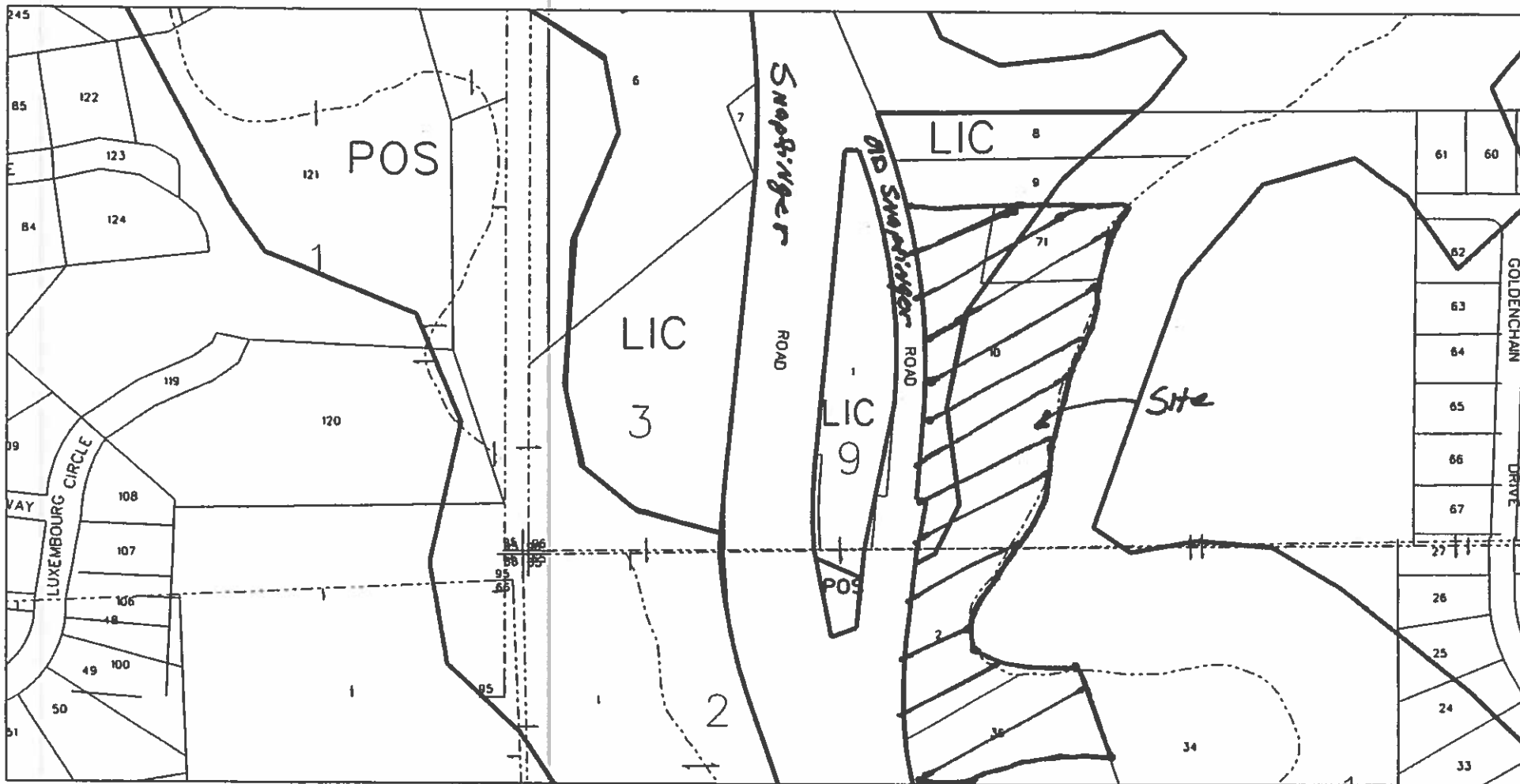
No one spoke in opposition of the application.

	FOR	AGAINST	ABSTAIN	ABSENT
DISTRICT 1 - ELAINE BOYER	<u>X</u>	_____	_____	_____
DISTRICT 2 - JEFF RADER	<u>X</u>	_____	_____	_____
DISTRICT 3 - LARRY JOHNSON	<u>X</u>	_____	_____	_____
DISTRICT 4 - BURRELL ELLIS	<u>X</u>	_____	_____	_____
DISTRICT 5 - LEE MAY	<u>X</u>	_____	_____	_____
DISTRICT 6 - KATHIE GANNON	<u>X</u>	_____	_____	_____
DISTRICT 7 - CONNIE STOKES	<u>X</u>	_____	_____	_____

Z-07-3899

67-3899





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1-4

2-07-3899



ADg LLC
ARTISAN DESIGN group LLC

May 21, 2007

LETTER OF INTENT

Harry Seitz and Robert Wilson Sr. of Wilserv 2502 Lantrac Ct. Decatur Georgia 30035 is looking to rezone and combine adjacent properties he owns into one C1 property at 3138 Snapfinger Road in the 5th district and land lots 65 and 96. The properties currently exist as (C1, (1)R100, and (1)NS. Harry and Robert plan on building a office retail development as shown on attached rendering and site plan and building elevations. The development will be an old world design with retail on the bottom floors and office on the upper floors. The buildings will be maximum 2 stories. We have revised the site plan per comments by Planning and Traffic as well as DOT.

PROJECT BREAKDOWN

Possible Tenant types:

Art gallery and art supply store.
Bank, credit union and other similar financial institution.
Commercial recreation and entertainment:
Restaurant
Accounting office.
Engineering and architectural office.
Financial services office.
Insurance office.
Legal office.
Medical office.
Real estate office.
Publishing and printing establishment.
Apparel and accessories store.
Book, greeting card, and stationery store.
Camera and photographic supply store.
Florist.
Food stores including bakeries.
Furniture, home furnishings and equipment store.
General merchandise store.
Gift, novelty, and souvenir store (no adult stores).
Hardware store.
Hobby, toy and game store (no adult stores).
Jewelry store.
Music and musical equipment store.
News dealer and newsstand.
Office supplies and equipment store.

Pharmacy and drug store.
Quick copy printing store.
Shopping center.
Specialty store.
Sporting goods and bicycle sales.
Business service establishment.
Outdoor advertising service.
Photographic studios.
Jewelry repair store.

Tenant types that will be excluded from this project:

Pet supply store, animal grooming shop.
Food stores including bakeries.
Furniture, home furnishings and equipment store.
General merchandise store.
Adult Gift, novelty, and souvenir stores.
Adult Hobby, toy and game store.
Retail automobile parts and tire store.
Variety store.
Video tape sales and rental store.
Business service establishment.
Outdoor advertising service.
Photographic studios.
Shoe repair store.

Building Breakdown:

Retail Shops	+/-55,500 SF
Office (2 nd Floor)	+/-25,500 SF
Total Building Area:	81,000 SF

Building Materials to be used

Stone
 Stacked
 Cast
Brick
 At least 2 colors
Wood Siding
 Horizontal
 Board and Batten
Stucco
 Limited to less than 10% of Building Exterior



DEKALB COUNTY GOVERNMENT PLANNING DEPARTMENT DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues relate to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

DEVELOPMENT ANALYSIS:

- **Transportation/Access/Row**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

- **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control is required as a condition of land development permit approval.

- **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was reflected in the G.I.S. records for the site. Typical state waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.



DEKALB COUNTY GOVERNMENT
PLANNING DEPARTMENT
DISTRIBUTION FORM

NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO
MADOLYN SPANN MSPANN@DEKALBCOUNTYGA.GOV OR JOHN REID JREID@DEKALBCOUNTYGA.GOV

COMMENTS FORM:
PUBLIC WORKS TRAFFIC ENGINEERING

Case No.: CZ-18-2204

Parcel I.D. #: 15-065-01-036

Address: Snapping Rd
Decatur, GA

Adjacent Roadway (s):

_____	_____
(classification)	(classification)

Capacity (TPD) _____
Latest Count (TPD) _____
Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____
Existing right of way width _____
Proposed number of traffic lanes _____
Proposed right of way width _____

Capacity (TPD) _____
Latest Count (TPD) _____
Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____
Existing right of way width _____
Proposed number of traffic lanes _____
Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7TH Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1,000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the _____ square foot place of worship building would generate _____ vehicle trip ends, with approximately _____ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the _____ (Single Family Residential) District designation which allows a maximum of _____ units per acres, and the given fact that the project site is approximately _____ acres in land area, _____ daily vehicle trip end, and _____ peak hour vehicle trip end would be generated with residential development of the parcel.

COMMENTS:

Field and plans reviewed. Nothing found that would disrupt traffic.

Signature: [Signature]

DeKalb County Board of Health

404.508.7900 • www.dekalbhealth.net

2/14/2018

N.9

Z-18-22040/15-250-06-001 through -006

3337,3345,3353,3361,3367 and 3375 Kensington Road, Decatur, A

☐ Amendment

- Please see general comments.

N.10

SLUP-18-222032/16 100 06 004

2053 South Stone Mountain, Lithonia , GA

☐ Amendment

- Note: Septic system installed in on property 2-16-1961. Septic system was repalced on 8/21/2003.
- Contact Division of Environmental Health regarding septic system capacity. Please see general comments.

→ N.11

CZ-18-22045/15-065-01-036-037 and 15-096-01-002, -009,010,- 071

3130,3138,3158,3220,3224, and 3234 Snapfinger Road, Decatur, GA

☐ Amendment

- Septic system installe don 6/3/204 on proeprty 3138 Snapfinger Road, Decatur.
- Please see general comments.

N.12

TA-18-22052

The Bouldercrest-CedarGrove-Moreland Overlay District Table

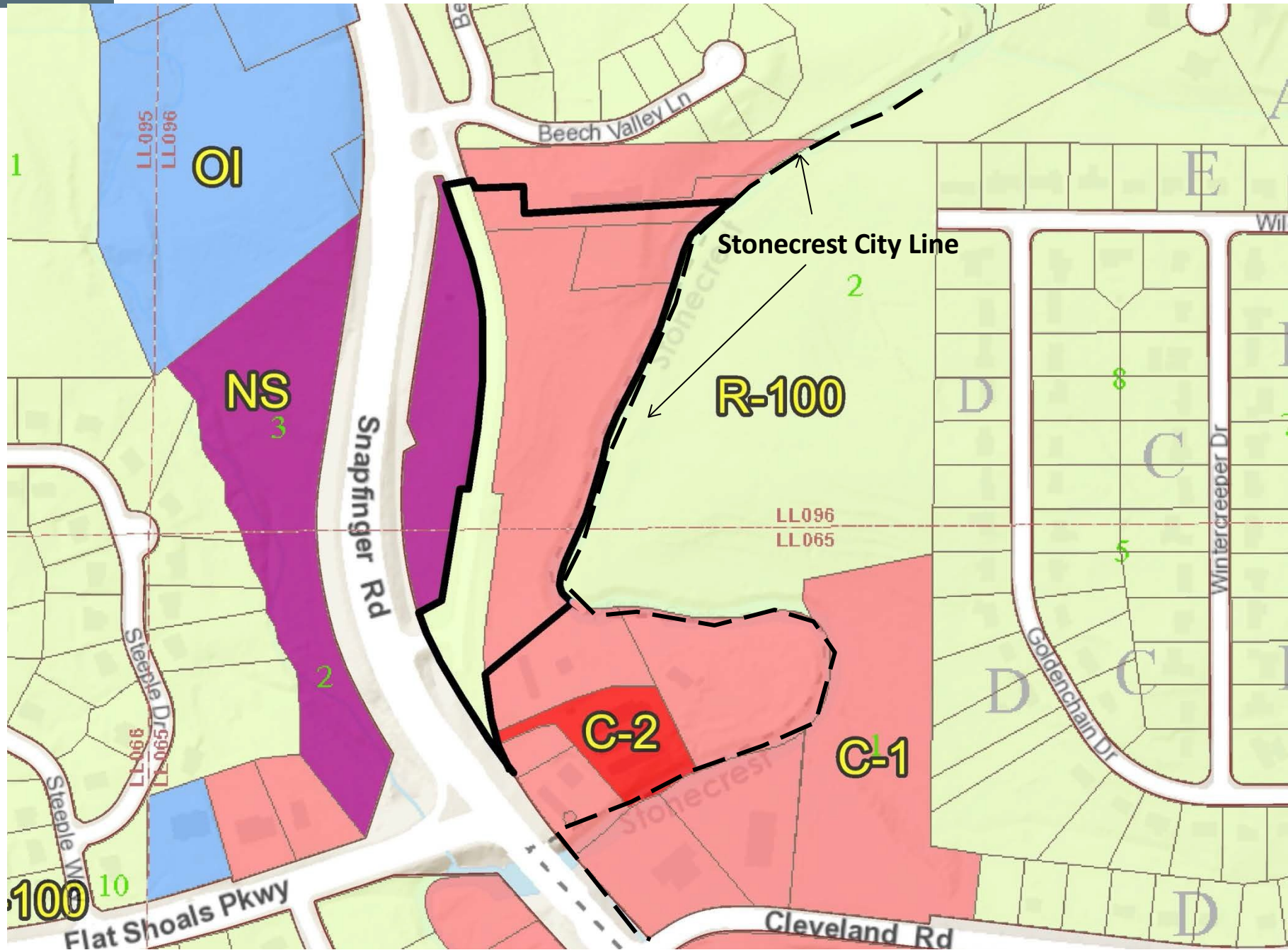
☒ Amendment

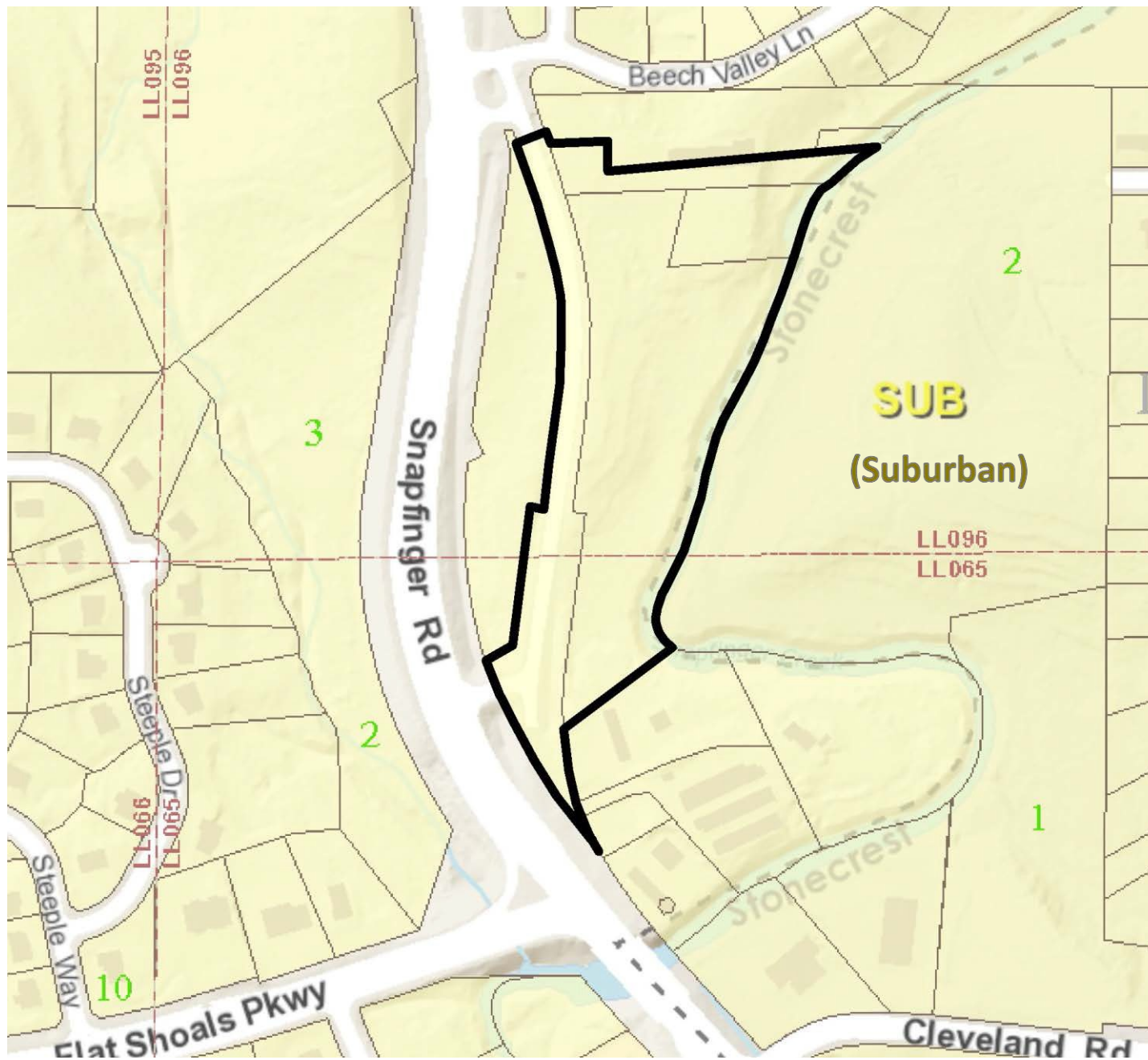
- Please see general comments.

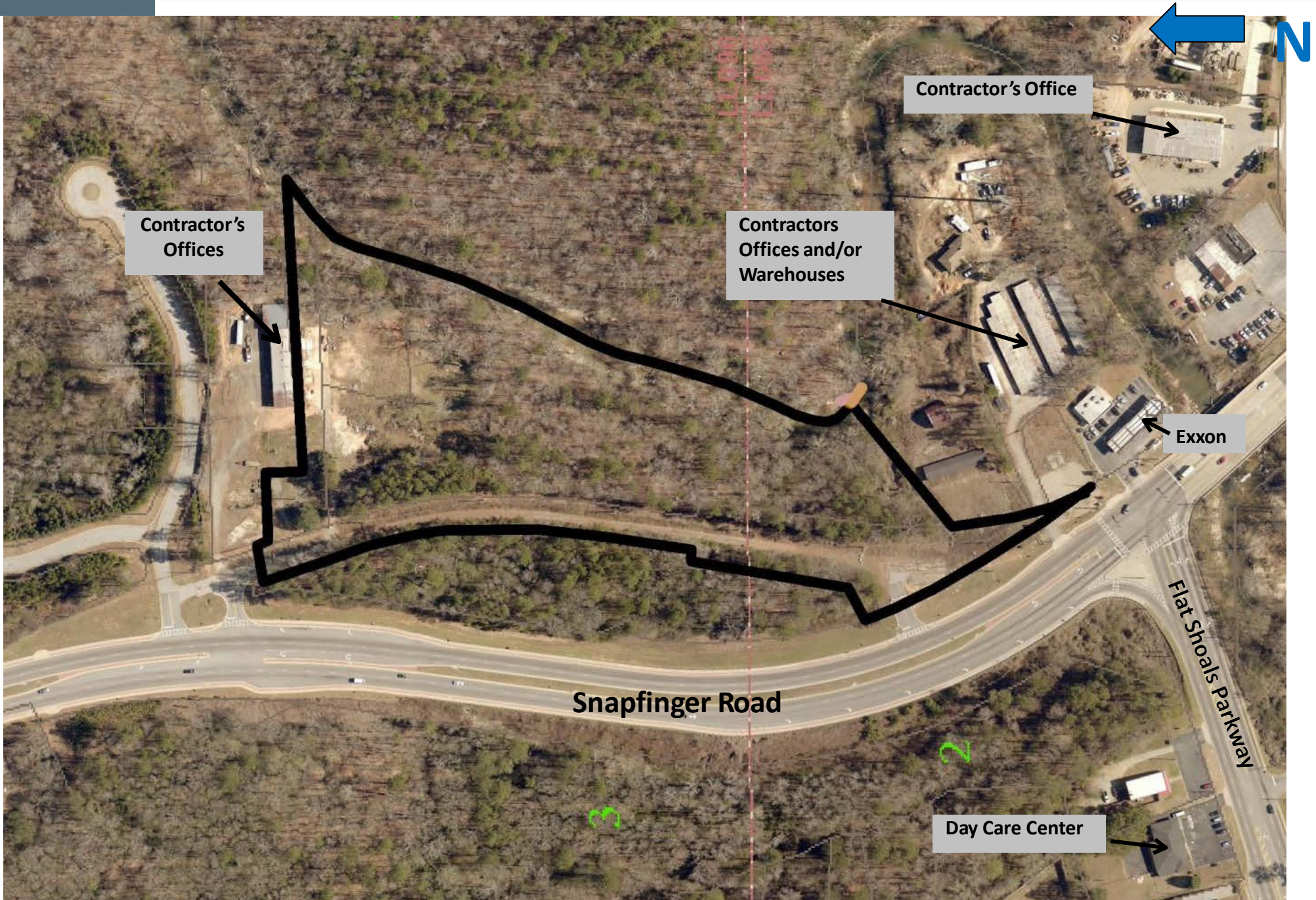


1 TYPICAL ELEVATION
SCALE: N/A













(Left) View of property , looking southward, that shows abandoned R-O-W of Old Snapfinger Road, now owned by applicant.

(Right) Proposed building site ;ooking east towards floodplain.





(Left) Adjoining property to the north.

(Right) Adjoining and nearby properties to the south.

