



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
February 25, 2019
6:00 PM

WORKSHOP AGENDA

- I. MEETING CALLED TO ORDER: Mayor Elizabeth Carr-Hurst
- II. ROLL CALL: Keshia McCullough, City Clerk
- III. PRESENTATIONS
- IV. COUNCIL DISCUSSION
- V. REVIEW OF AGENDA ITEMS FOR COUNCIL SESSION
- VI. ADJOURN



CITY OF FAIRBURN
CITY HALL
56 Malone Street
Fairburn, GA 30213
February 25, 2019
7:00 PM

REGULAR AGENDA

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

Mayor Pro Tem Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable Ulysses Smallwood
The Honorable James Whitmore

Keshia McCullough
Randy Turner

City Clerk
City Attorney

- | | | |
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| I. | Meeting Called to Order: | The Honorable Mayor Carr-Hurst |
| II. | Roll Call: | Keshia McCullough, City Clerk |
| III. | Invocation: | Pastor Gary Taylor
Open Word Christian Ministries |
| IV. | Pledge of Allegiance: | In Unison |
| V. | Presentations: | None |
| VI. | Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the event, if more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time will be referred to the City Administrator for review and a response within 10 business days. | |
| VII. | Adoption of the Council Agenda: | Councilmembers |
| VIII. | Approval of Consent Agenda Items: | Councilmembers |
| IX. | Approval of February 11, 2019 Minutes: | Councilmembers |

X. Public Hearings:

1. Continued Public Hearing for Rezoning 18RZ-004 with a Concurrent Use Permit (18U-005) - Exeter Bohannon Land, LLC
2. Continued Public Hearing for Use Permit 18U-003 - Exeter Bohannon Land, LLC
3. Rezoning 18RZ-007 - 6905 Development Company (Renaissance Festival)

XI. Agenda Items:

Office of the Mayor

Mayor Elizabeth Carr-Hurst

4. Appointment of De'Carlton Seewood as City Administrator for the City of Fairburn
5. Council Comments: Councilmembers
6. Executive Session* Yes
7. Adjournment Councilmembers

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation.



CITY OF FAIRBURN
CITY HALL
56 Malone Street
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February 11, 2019
7:00 PM

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable Ulysses Smallwood
The Honorable James Whitmore

Keshia McCullough
Randy Turner

City Clerk
City Attorney

- I. Meeting Called to Order:
The meeting was called to order at 7:00 PM. The Honorable Mayor Carr-Hurst
- II. Roll Call:
All members of Council were present providing Council with a quorum. Keshia McCullough, City Clerk
- III. Invocation:
Apostle LaReese Howell
New Horizons in Faith Church
- IV. Pledge of Allegiance:
In Unison
- V. Presentations:
None
- VI. Public Comments: Thirty (30) minutes shall be available for public comments. Each speaker shall be limited to three (3) minutes; however, a speaker may transfer his or her three (3) minutes to another speaker, but no speaker shall be permitted to speak for more than (6) minutes; further in the event, if more than ten (10) speakers desire to speak, each speaker shall be limited to two (2) minutes and no speaker may speak more than four (4) minutes. Issues raised at this time will be referred to the City Administrator for review and a response within 10 business days.

There were no public comments.
- VII. Adoption of the Council Agenda: Councilmembers
Councilwoman Davis motioned to adopt the Council Agenda. Councilman Whitmore provided the second.

Motion Carried 6-0

VIII. Approval of Consent Agenda Items: Councilmembers

Councilman Smallwood motioned to approve Consent Agenda items #6-10.
Councilman Heath provided the second.

Motion Carried 6-0

IX. Approval of January 28, 2019 Minutes: Councilmembers

Councilman Whitmore motioned to approve the January 28, 2019 minutes to include the conversation about insurance on the Motorola radios. Councilman Smallwood provided the second.

Motion Carried 6-0

X. Public Hearings: There were no public hearings.

XI. Agenda Items:

Office of the Mayor

Mayor Elizabeth Carr-Hurst

1. Swearing-In of Cornelius Robinson as Fire Chief for the City of Fairburn

Cornelius Robinson was sworn in by Mayor Carr-Hurst as the Fire Chief for the City of Fairburn. His mother and brothers were in attendance as well as local Fire Chiefs from the surrounding area to show support for Chief Robinson.

Chief Robinson was sworn-in as Fire Chief

2. Appointment of Elise Stoney to the Planning and Zoning Commission

Councilman Pallend motioned to appoint Elise Stoney to the Planning and Zoning Commission. Councilman Heath provided the second.

Motion Carried 6-0

3. Appointment of Anthony Stewart to the Planning and Zoning Commission

Mr. Anthony Stewart introduced himself to Mayor and Council and stated that it is an honor to serve the City. Councilman Pallend motioned to appoint Anthony Stewart to the Planning and Zoning Commission. Councilman Heath provided the second.

Motion Carried 6-0

Planning and Zoning

Tarika Peek

4. Approval of a contract with The Collaborative Firm, LLC for an update/rewrite of the City's Zoning Ordinance as well as Planning and Zoning services for the City of Fairburn in the amount of \$63,730

Councilwoman Davis inquired if the Zoning Audit would be conducive with the City's current 2035 Plan or any other plans. She asked if the audit would address all the needs that need to be fixed. Senior Planner Tarika Peek answered stating that the Zoning Audit is needed to have the Comprehensive Plan and Zoning Ordinance compliment each other. She stated the Comprehensive Plan was adopted in 2015 and now the Zoning Ordinance needs to be updated so that they could be cohesive. Councilmember Heath asked if the funds were already budgeted for the contract and Ms. Peek stated that it was. Councilwoman Portis-Jones inquired if the Comprehensive Plan would be updated every five years. Ms. Peek confirmed that it is updated every five years and next year they will be in the process of updating the Comprehensive Plan. Councilman Heath motioned to approve the contract with The Collaborative Firm, LLC for an update/rewrite of the City's Zoning Ordinance as well as Planning and Zoning services for the City of Fairburn in the amount of \$63,730. Councilman Whitmore provided the second.

Motion Carried 6-0

5. Appointment of Zoning Audit Steering Committee Members

Councilwoman Davis motioned to appoint the following members to the Zoning Audit Steering Committee: Elizabeth Echols, Shelby Phillips, Tony Smith, Elise Stoney, Mark Wade, Jerry Williams, Thomas Cochran, Brenda Cooper, Derek Jones, Jason Jones, John Culbreath, Jessie Hightower, Ellen Samuels, Dave Dorrell, Bobby Fountain and Donna Phipps. Councilman Heath provided the second.

Motion Carried 6-0

Engineering

Lester Thompson

6. Approval of an Intergovernmental Agreement with the South Fulton Community Improvement District for the SR 74 Park & Ride Project

Councilman Smallwood motioned to approve this consent agenda item.
Councilman Heath provided the second.

Motion Carried 6-0

7. Approval of a contract award with AM Construction for the SR 74 Park & Ride Project in the amount of \$1,473,828.29

Councilman Smallwood motioned to approve this consent agenda item.
Councilman Heath provided the second.

Motion Carried 6-0

8. Approval of Change Order #1 to the contract with Tople Construction & Engineering for the Pedestrian Improvement on Various City Roads Project in the amount of \$40,000

Councilman Smallwood motioned to approve this consent agenda item.
Councilman Heath provided the second.

Motion Carried 6-0

Utilities

Tom Ridgway

9. Approval of a Utility Easement with The Knight Group

Councilman Smallwood motioned to approve this consent agenda item.
Councilman Heath provided the second.

Motion Carried 6-0

10. Approval of a loan through United Community Bank in the amount of \$267,124
for the purchase of a Digger Derrick Truck

Councilman Smallwood motioned to approve this consent agenda item.
Councilman Heath provided the second.

Motion Carried 6-0

Human Resources

Linda Johnson

11. Group Health Insurance with United Healthcare

Karen Larkin from BKS Partners (the broker for United Healthcare) requested that the City renew their group health insurance with United Healthcare with either their current plan with the \$2,000 deductible or move to the new \$2,500 deductible plan. Councilman Whitmore stated for the record that since we discontinued the long-term care, even if the additional deductible is adopted, it would be evened out with the savings that we currently have. Mrs. Larkin confirmed that it would be and stated that there would be no increase to the employees' payroll deductions. Councilman Heath asked that if they go with the option of a \$2,500 deductible, will the premiums will be at 10% versus 17%. Ms. Larkin stated that the premiums would be right under 10%. Councilwoman Portis Jones verified that the City pays the deductibles for the employees and that the employees wouldn't feel the impact of the \$2500 deductible. Ms. Larkin confirmed that it would be true if the City adopts the option. Councilman Heath motioned to adopt the group health insurance with United Healthcare with the \$2,500 deductible. Councilwoman Davis provided the second.

Motion Carried 6-0

12. Group Dental and Vision Insurance and FSA Contracts

Karen Larkin proposed that the City move its group dental and vision insurance from Ameritas to United Healthcare. She stated that the group dental would have 1.3% increase to the current rate for a 2-year rate guarantee and the voluntary vision would be reduced from the current plan with a 3-year guarantee.

Councilman Heath asked if his current dentist would be able to accept this insurance. Ms. Larkin responded that every insurance company has their own network. She stated that if his dentist is out of the network, he will have balanced billing with higher reimbursement for that dentist. Councilman Whitmore motioned for the City's group dental and vision insurance to be moved from Ameritas to United Healthcare. Councilman Smallwood provided the second.

Motion Carried 6-0

13. Health Insurance Deductible Reimbursement for the 2019 Plan Year

Karen Larkin stated that since the City has chosen to go with the \$2500 deductible plan, she recommended that the City makes the decision to fund the \$2500 deductible reimbursement plan. Councilman Whitmore stated for clarification that if we adopted the \$2500 deductible reimbursement plan from the savings from the long-term health termination, the fees would be evened out. Ms. Larkin stated that the difference in the premiums would be evened out even with the additional \$500. Councilman Whitmore motioned to approve the \$2500 Health Insurance Deductible Reimbursement for the 2019 Plan year. Councilwoman Davis provided the second.

Motion Carried 6-0

14. Council Comments:

Councilmembers

Councilman Heath mentioned that a resident stated to him that they would like to see an area where they can walk their dog at the park. He said that he would like for Council to consider putting a dog park at Duncan Park.

Councilwoman Portis-Jones congratulated Fire Chief Robinson. She stated that she was honored that he was appointed Fire Chief. She also extended congratulations to the new Planning and Zoning Commission member Anthony Stewart.

Councilman Smallwood congratulated Chief Robinson and Anthony Stewart on their new positions. He stated that the harvest is plentiful, but the laborers are full and thanked them for their service.

Councilwoman Davis welcomed Chief Robinson to his new position of Fire Chief. She also welcomed Anthony Stewart to his new position on the Planning and Zoning Commission and thanked the both of them for their service.

Councilman Heath thanked everyone for being at the meeting. He stated that there is no finer person than Chief Robinson and that he is a top-notch person. He recommended that everyone take care of themselves and lend a helping hand to those in need.

Councilman Whitmore said that Chief Robinson is a great asset to the City and that he is proud of him. He also stated that he is happy that Elise Stoney has been reappointed to the Planning and Zoning Commission because she is an asset to the

City. He said that he appreciated Anthony Stewart as well and he told him to take the time to go through the training and continue to look out for the City.

Mayor Carr-Hurst extended congratulations to Chief Robinson and Anthony Stewart. She stated that she's always thinking about how she can better serve the City. She said that it is amazing when people want to step up and do the right thing and that if there is anything that she can do to assist, her door is always open.

15. Executive Session*

None

16. Adjournment

Councilmembers

Councilwoman Davis motioned to adjourn the meeting at 7:43 PM. Councilman Heath provided the second.

Motion Carried 6-0

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation. ▶

DRAFT



**CITY OF FAIRBURN
CITY COUNCIL MEETING
AGENDA ITEM**

SUBJECT: REZONING 18RZ-004 with a Concurrent Use Permit [18U-005] - Exeter Bohannon Land, LLC

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Planning and Zoning Commission: 02.05.19

Mayor and City Council: 02.25.19

DEPARTMENT: Community Development/Planning and Zoning

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

Exeter Bohannon Land, LLC seeks to rezone 3.78 acres from **AG-1 (Agricultural District)** to **PD (Planned Development District)** with a concurrent use permit to allow a M-1 (Light Industrial) use.

STAFF RECOMMENDATION: DENIAL

PLANNING COMMISSION RECOMMENDATION: DENIAL


Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Rezoning Petition 18RZ-004 with a Concurrent Use Permit [18U-005] Exeter Bohannon Land, LLC

APPLICANT/PETITIONER INFORMATION

Property Owner Lacy Curry	Petitioner Exeter Bohannon Land, LLC c/o Doug Dillard
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PROPERTY INFORMATION

Address:	6560 Bohannon Road [Parcel # 07 400001800462]
Land Lot and District:	Land Lot 180, District 7
Frontage:	Bohannon Road
Area of Property:	+/- 3.78 acres
Existing Zoning and Use:	AG-1 (Agricultural District) and Single-Family Residential Agricultural use
Overlay District:	N/A
Prior Zoning Cases/History:	The subject site was a part of the Line Creek Area annexation which was approved on October 26, 2006. The property was annexed from Fulton County and rezoned, from CUP (Community Unit Plan) to PD (Planned Development).
2035 Comprehensive Future Land Use Map Designation:	Greenspace
Compatibility with Fairburn's 2035 Comprehensive Plan:	The proposed PD (Planned Development District) zoning and use permit to allow a M-1 (Light Industrial District) use is not consistent with the Comprehensive Plan and Future Development Map which designates the site as Greenspace.
Proposed Zoning:	PD (Planned Development District)

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
Tuesday, January 8, 2019
Tuesday, February 5, 2019

Mayor and City Council Public Hearing
Monday, January 28, 2019
Monday, February 25, 2019

INTENT

A request to rezone the subject property from **AG-1 (Agricultural District)** to **PD (Planned Development)** with a Use Permit to allow a M-1 (Light Industrial) use.

SURROUNDING ZONING

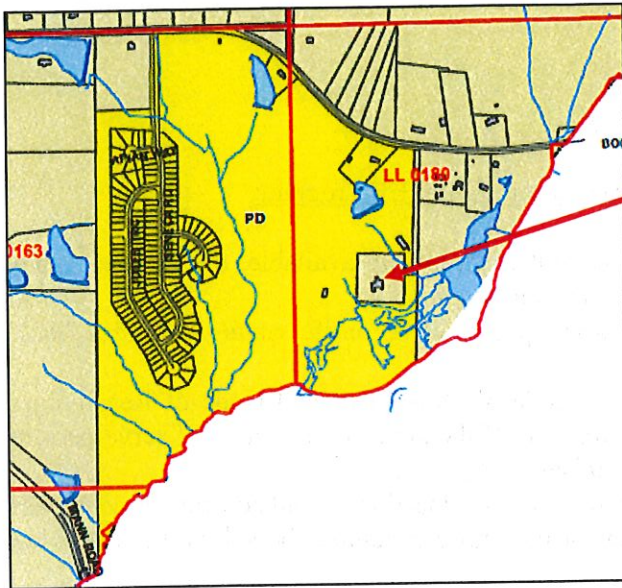
North: AG-1 (Agricultural District) and R-4 (Single-Family Residential District), and PD (Planned Development District)

East: AG-1 (Agricultural District)

South: Fayette County and PD (Planned Development District)

West: PD (Planned Development District)

Zoning Map



18RZ-004 18U-005
+/- 3.78 acres

STAFF/AGENCY REVIEW COMMENTS

Engineering/Public Works:

- According to Section 71-39 of the City of Fairburn Code of Ordinances, "In the event that a development has access to a substandard street and if that substandard street provides the primary means of access to the development, the substandard street, except as indicated in subsection (c) of this section, shall be fully upgraded and the full width of the roadway overlaid with asphaltic concrete surface course along the entire property frontage and continuing to the nearest standard paved road along the route of primary access.
(c) The upgrading of substandard streets used for access will not be required if any of the following conditions are met:

- The development consists of a single, one-family or two-family residence on an existing recorded lot within the city.
- The development is a small business with ingress/egress of less than 100 vehicles per day.

As such, Creekwood and Bohannon Roads may be required to be upgraded to accommodate to proposed operation of the proposed development. This upgrade may include complete roadway reconstruction, road widening, and bridge replacement.

- The site is not located on a designated truck route. As such truck access would be prohibited. It shall be unlawful for a person or business entity to operate or park a truck on any city street, road, drive, or avenue which is not designated as a truck route pursuant to Section 56-93 of the City of Fairburn's Code of Ordinances.
- When property fronting on an existing city street is to be developed or when the property is to be accessed from the existing city street, the developer shall cause to be constructed roadway improvements (pavement, signing, striping, curb and gutter and drainage) which are required along the existing road across the entire property frontage at no cost to the city. Required improvements shall not be less than provided in these regulations for the designated street classification. [Sec. 71-37 (a)]
- Turning lanes shall be required by the city to meet projected traffic demand and/or safe operations, as determined by the city engineer.
- Sidewalks are required on all street frontages regardless of the zoning district in which the street is located. All sidewalks shall have a minimum width of five feet.

Fire:

- The developer will need to provide water flow calculations for this development.

Water and Sewer:

- This property is outside the current service area for water service and wastewater collection of the City of Fairburn Water & Sewer Department.

Utility:

- The City of Fairburn does not provide services to this area.

Fulton County Environmental Health Services [EHS] and Environmental Justice [EJ] Program:

EHS Comments

- If this zoning is approved and public water and public sanitary sewer are available, the Fulton County Board of Health will require that the proposed warehouse be connected.
- Since this proposed development constitutes a premise where people work, onsite sanitary facilities would be mandatory prior to use or occupancy.
- This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 - Health and Sanitation, Article III - Smokefree Air. If the proposed facility will serve persons under the age 18, smoking will not be allowed on the premises at any time.
- This department will require that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.

General Public Health and EJ Comments

The Fulton County Board of Health notes the following public health and/or environmental justice concerns with the proposal:

- Studies have shown that increased vehicle volume predicts pedestrian injury. In the current roadway design, the increased traffic flow from allowing this development would likely increase the risk of pedestrian injury.
- Truck traffic and diesel engines have an impact on public health and/or air quality. Diesel exhaust particulate matter is a toxic air contaminant and contains known carcinogens. It is likely that local pollution level will increase at the facility and in the immediate surrounding areas.
- Air pollutants including particulate matter, nitrogen oxides, and sulfur impact human health.
- Potential noise is dependent upon frequency of exposure, duration of exposure, human perception (daytime versus nighttime), sound level, vibration, vehicle type, vehicle speed, maximum sound level, measurement distance, and measurement site. A diesel truck traveling 40 mph at 50 ft has a noise level of 84 dB. This department anticipates that there is a potential for at least an annoyance to the residential community from the noise.
- Noise exposure has been shown to have potential effect on stress, hypertension, blood pressure, and heart disease. Information specific to this development related to the anticipated noise levels from the operation of diesel trucks and the warehouse was not provided.
- Streams and rivers downstream from developed areas have been known to have higher bacterial counts after rainfall. Human health is indirectly affected by adequacy of water resources. This development has the potential to affect the water quality on the site and downstream which could affect the agriculture negatively.

ZONING IMPACT ANALYSIS

A. Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

The applicant is proposing to rezone the subject property to PD (Planned Development District) with a concurrent use permit to allow for the development of a 492,480 square foot warehouse with associated vehicle parking, truck parking and stormwater management facility.

Staff is of the opinion that the proposed use is not suitable in view of the use and development of adjacent and nearby property. The surrounding area consists of: AG-1 (Agricultural District), R-4 (Single-Family District),

and PD (Planned Development District) to the north, AG-1 (Agricultural District) to the east, Fayette County and PD (Planned Development) to the south, and PD (Planned Development) to the west.

B. Does the proposal adversely affect the existing use or usability of adjacent or nearby property?

Staff is of the opinion that the petition if approved would have an adverse impact on the use or usability of adjacent or nearby properties. The surrounding properties are zoned AG-1 (Agricultural District) and PD (Planned Development). A single-family residential subdivision is located to the west of the proposed warehouse development and there are large single-family residential lots in the surrounding area along Bohannon, Creekwood and Johnson Roads. The area is rural in character and the predominate land use surrounding the subject property is single family and rural residential (agricultural).

C. Does the property have a reasonable economic use as currently zoned?

Staff is of the opinion that the subject property has a reasonable economic use as currently zoned, as AG-1 (Agricultural District). The subject property is surrounded by PD (Planned Development District) and AG-1 (Agricultural District) zoning districts, consisting of single-family and rural residential land uses. The applicant's request to develop a warehouse (M-1 Light Industrial) will not be consistent with the existing land use of single-family and rural residential.

D. Will the proposal result in a use that could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

Staff is of the opinion that the proposal will significantly result in a use that could cause excessive or burdensome use of the existing streets and transportation facility due to the narrow width of the roads and limited weight capacity of the bridge on Creekwood Road. The proposed development will generate an additional 158 trucks daily on the existing roads. The applicant submitted a traffic impact study, prepared by Calyx Engineers + Consultants on November 21st and January 7th (revision). The traffic impact study provided the following findings and recommendations:

1. All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls. The new development driveways will operate adequately with stop sign controls and single lane approaches.
2. Creekwood Road between Oakley Industrial Boulevard and Johnson/Bohannon Road will need to be improved to accommodate the approximately 158 trucks entering and 158 trucks exiting the development daily. The lanes should be at least 12 feet wide and the existing stream crossing should be replaced to allow for heavy truck use. The weight limiting signs and truck prohibition signs should be removed when this is completed.
3. No mitigating improvements at the study intersections were identified in the traffic impact analyses.

See the attached "traffic study recommendations and executive summary".

The traffic study was reviewed by David A. Fairlie, P.E., Senior Transportation Engineer at Moreland Altobelli on behalf of the City of Fairburn. The following findings and recommendations were expressed by Mr. Fairlie:

1. Creekwood Road is not adequate for the volume of heavy vehicles that the site would generate due to the narrow lanes, narrow shoulder and the bridge with limited weight capacity. The developer anticipates that all truck traffic to/from the site, which amounts to 158 trucks entering and 158 exiting daily, would travel on Creekwood Road. Even if the trucks were to travel on Bohannon Road, to the east toward Oakley Industrial Boulevard, the conditions of Bohannon Road, south of Oakley, are the same as Creekwood Road. Work would need to be done on either roadway in order to accommodate heavy truck traffic.

2. The traffic impact study should also include a summary of crash data for Bohannon Road and for Creekwood Road. I did a quick search of GDOT's crash data (from 2014 to 2018) and found that a few of the crashes involved semi-trailers, specially at the intersection of Bohannon Road at Oakley industrial Blvd. and even a couple on sections of road (either Bohannon or Creekwood) currently posted for no truck traffic. This is relevant since truck crashes could increase if trucks are allowed to travel on roadways with narrow shoulders and narrow lanes.

E. Is the proposal in conformity with the policies and intent of the land use plan?

Staff is of the opinion that the proposal is not consistent with the Future Development Map, which designates the site as Greenspace. The Comprehensive Plan states, "The Greenspace Character Area is for land dedicated to active or passive recreational uses, as well as greenspace and wildlife management". The development strategies for the Greenspace Character Area, as referenced in the Comprehensive Plan are:

- Creation of a central community park/plaza in Downtown Fairburn
- Provide accessible and diverse open spaces that allow for Fairburn residents and visitors to meet, interact, and understand the natural environment of the city
- Connect parks and open spaces with open space corridors and/or a transportation network that is hospitable to and safe for pedestrians and bicyclists
- Preserve and restore natural drainage patterns and topography that help manage stormwater runoff and maintain or improve water quality
- Discourage development in the 100-year flood plain
- Continue to designate riparian buffers for the protection of streams

The applicant is proposing to rezone the subject property from AG-1 (Agricultural District) to PD (Planned Development District) with a concurrent use permit to allow a M-1 (Light Industrial District) use, a 492,480 square foot warehouse. The intent of the PD (Planned Development District) is to develop large tracts of land as planned communities with a combination of three or more of the following uses: single-family residential, multi-family, commercial, office, institutional, industrial and conservations. However, M-1 (Light Industrial District) and M-2 (Heavy Industrial District) uses are not classified as permitted use in PD (Planned Development District). An industrial use proposed for PD (Planned Development District) is only allowed through the approval of a use permit. This is evident that the intent of PD (Planned Development District) is to encourage flexible and creative concepts in site planning, as well as provide for an efficient use of land.

The appropriate land uses for the Greenspace Character Areas, as referenced in the Comprehensive Plan are:

- Playgrounds
- Public Parks
- Nature Preserves
- Golf Courses
- Amphitheaters/Pavilions
- Sports Fields
- Bike/Pedestrian/Running Trails

F. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the proposal?

Staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

G. Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?

The southern border of the proposed warehouse site has a significant amount of wetlands area. Also, the site has been designated as a water supply watershed and groundwater recharge area. The wetlands, water supply

watersheds and groundwater recharge areas within the City of Fairburn have all been identified by the Atlanta Regional Commission as "Regionally Important Resources".

Based on the comments from Fulton County Board of Health, the proposed industrial use presents the following concerns: 1.) air pollutants impact on public health; 2.) negative effects to the water quality on the site and downstream; 3.) potential annoyance to the residential community from the noise of diesel trucks. Please see the attached letter from Fulton County Board of Health.

USE PERMIT CONSIDERATIONS

A. Whether the proposal use is consistent with the comprehensive land use plan adopted by the city council;

Staff is of the opinion that the proposal is not consistent with the Comprehensive Plan and Future Land Use Map, which designates the site as Greenspace. The Comprehensive Plan states, "The Greenspace Character Area is for land dedicated to active or passive recreational uses, as well as greenspace and wildlife management".

B. Compatibility with the land uses and zoning districts in the vicinity of the property for which the use permit is proposed;

Staff is of the opinion that the proposed use (492,480 square foot warehouse) is not compatible with the land uses and zoning in the vicinity of the property. The surrounding area consists of the following zoning districts: AG-1 (Agricultural District), R-4 (Single-Family District), and PD (Planned Development District) to the north, AG-1 (Agricultural District) to the east, Fayette County and PD (Planned Development) to the south, and PD (Planned Development District) to the west. The land uses in the area are predominately single-family and rural residential (agricultural).

C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;

Staff is not aware of the proposed use to be in violation of local, state, and/or federal statutes, ordinance or regulations governing land development.

D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets

Based on the traffic impact study provided by Calyx Engineers + Consultants, approximately 158 trucks will enter and exit the warehouse facility daily. All of the new truck trips will use Creekwood Road north of the site to primarily access SR 74 and I-85 to originate and terminate at destinations north of the site. Approximately 10% of the new personal vehicle trips are expected to use Johnson and Bohannon Roads to/from the east and west of the site, while 80% are expected to use Creekwood Road north of the site. There are no existing pedestrian, bicycle, or transit facilities in the area of the proposed development. All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls.

E. The location and number of off-street parking spaces;

The required parking for the 492,480 square foot warehouse facility is:

Vehicle parking: 106 spaces

Truck parking: 98 spaces

The applicant is proposing to provide 277 vehicle and 123 trailer parking spaces.

F. The amount and location of open space;

The applicant will be required to adhere to the city's ordinance, Article X - Buffers and Open space, Section 80-373 - Open Space Reservation. The impervious area is 31.4% of the 72.58-acre site.

G. Protective screening;

The applicant will be required to provide a 50-foot undisturbed vegetated buffer and fencing around the perimeter of the subject property where it abuts residential zoned property. See the attached Evergreen Buffer Exhibit.

H. Hours and manner of operation;

The applicant states, "The operation manner and hours will be industry standards for similarly situated e-commerce/cross dock facilities".

I. Outdoor lightning; and

The applicant states, "All building lights will be directed downward and perimeter lighting shall be directed toward the interior of the site. The combination of the landscaping, buffering, and directing the light flow will provide the necessary protection for adjacent residential uses. The building and parking lot lighting will not adversely affect the surrounding properties".

J. Ingress and egress to the property

All vehicle traffic for the warehouse facility will ingress and egress from the entrance on Bohannon Road. The truck traffic will use Creekwood Road to access SR 74 and I-85 and vehicle traffic will primarily use Bohannon and Johnson Roads.

STAFF RECOMENDATION

It is the opinion of staff that the rezoning request is not in conformity with the Future Land Use Map, which designates the site as Greenspace. The rezoning of the property to PD (Planned Development District) with a concurrent use permit to allow an M-1 (Light Industrial District) use will adversely affect the surrounding properties as all adjacent parcels contain single-family and rural residential uses (agricultural). The most southern portion of the city is rural in character and the development of a warehouse in the area is not consistent with the surrounding properties nor is it consistent with the Future Land Use Map and Comprehensive Plan. Furthermore, the infrastructure constraints such as the narrow width of the roads (Creekwood, Bohannon/Johnson Road) and limited weight capacity of the Creekwood Road bridge will not support the heavy truck traffic that will be generated by the warehouse development. Therefore, based on these reasons staff recommends **DENIAL** of the rezoning petition.

Should the Mayor and City Council decide to rezone the subject property from AG-1 (Agricultural District) to PD (Planned Development District) with a use permit to allow a M-1 (Light Industrial District) use, a 492,480 square foot warehouse, staff recommends the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

A. To the owner's agreement to restrict the use of the subject property as follows:

1. The Property shall be developed subject to and according with the requirements and conditions of the approved concurrent use permit for 18U-005.

B. That the approved concurrent use permit 18U-005 is limited by the following conditions:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received July 2, 2018, and attached as Exhibit A. Said site plan is conceptual only and must meet or exceed the requirements of the city ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.
2. Truck queuing shall be maintained on the subject property to eliminate truck stacking on public roads.

3. Provide a 50-foot buffer around the perimeter of the subject property where it directly abuts residential zoned property, including AG-1 (Agricultural) zoned property.
4. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).
5. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
6. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the subject property.
7. A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the berm. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Eastern Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.
8. The detention ponds shall meet the minimum City of Fairburn standards.
9. A minimum of 5-foot sidewalks shall be installed along the subject property street frontage and shall be constructed to comply with the Americans with Disabilities Act (ADA) and City of Fairburn's development standards.
10. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
11. The Developer shall fully upgrade streets (Creekwood Road and Bohannon Road) used for access to the subject property. The upgrade of the streets shall include roadway reconstruction, road widening, and bridge replacement as deemed necessary by City Engineer.
12. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage on Bohannon Road at no cost to the City.
13. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. Turning lanes shall meet the following criteria:
 - a. Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
 - b. Provide taper lengths of not less than 100 feet.
 - c. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

ATTACHMENTS

Letter of Intent

Impact Analysis & Use Permit Considerations

Traffic Impact Study – Executive Summary and Recommendations

Fulton County Board of Health Zoning Comments

Conceptual Site Plan

Evergreen Buffer Exhibit

Letter of Intent and Impact Analysis

Fairburn, GA

Rezoning Application

Applicant:

Exeter Bohannon Land, LLC c/o G Douglas Dillard, Esq.

Property:

6560 Bohannon Road
Parcel ID 07-4000-0180-046-2

Submitted for Applicant by:

G. Douglas Dillard
Julie L. Sellers
R. Baxter Russell
PURSLEY FRIESE TORGRIMSON
1230 Peachtree Street, Suite 1200
Atlanta, Georgia 30309
(404) 665-1242
jsellers@pftlegal.com

I. INTRODUCTION

The subject property is approximately +/- 3.78 acres of land located at 6560 Bohannon Road, Land Lot 180, District 7 of Fulton County, and more particularly identified as Parcel ID 07-4000-0180-046-2 (the "Property"). The Property is a flag-shaped parcel containing one single-family residence, currently zoned AG-1 (Agricultural). Applicant, Exeter Bohannon Land, LLC, respectfully requests a zoning map amendment to rezone the Property from AG-1 to PD (Planned Development). Concurrent with this rezoning application, Applicant is submitting a use permit application for the Property and two adjacent parcels, to develop a cross dock facility. Applicant requests this rezoning to pursue reasonable economic development on underutilized agricultural land. The rezoning will allow development on the Property consistent and in conjunction with development allowed by use permit on those adjacent properties that are also zoned PD. The proposed development will benefit the City and surrounding properties by providing a high-quality, cross dock center on property that has remained vacant and undeveloped for many years. The proposed use of the Property will increase tax revenue for the City and provide job opportunities for residents. For these reasons, the Applicant respectfully requests the City grant this application and rezone the Property from AG-1 (Agricultural) to PD (Planned Development).

II. REZONING IMPACT ANALYSIS

The Applicant satisfies all of the standards of impact analysis, as set forth in the City of Fairburn Rezoning Application:

A) Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

Yes – the proposed rezoning of the Property from AG-1 to PD is suitable in view of the existing zoning of nearby and adjacent property. The Property is located adjacent to and surrounded by property zoned PD (Planned Development). Applicant's request will permit a use that is consistent with the zoning of surrounding PD-zoned properties.

B) Does the proposal adversely affect the existing use or usability of adjacent or nearby property?

No –the proposed rezoning of the Property to PD will not adversely affect the use of adjacent or nearby properties. The Property is a small parcel surrounded by PD zoned property and the rezoning will allow for a unified use of the land.

C) Does the property have a reasonable economic use as currently zoned?

No –the Property does not have a reasonable economic value as currently zoned. The Property's small-size and flag shaped configuration surrounded by PD zoning reduces the ability to use the property for agricultural purposes. Applicant's requested rezoning will

transform the Property from an isolated island of agricultural land to property aligned with adjacent parcels for uniform and cohesive development.

D) Will the proposal result in a use that could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?

No—the requested rezoning will have no impact upon local schools and very little impact on utilities as the proposed PD zoning will not increase the residential population of the City. The Applicant will work with the City if infrastructure upgrades are determined to be necessary for streets or transportation facilities.

E) Is the proposal in conformity with the policies and intent of the land use plan?

The policies and intent of the Comprehensive Plan signify that creation and attractive of new businesses is desired. This rezoning proposal will allow for the 3.78 acres to be efficiently utilized to attract new business while maintaining green space and buffers around the development.

F) Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the proposal?

Yes—due to its flag-shape, the Property is almost entirely surrounded by another parcel zoned PD support the rezoning to PD to be consistent and eliminate the current AG island that exists. The development of the PD surrounding the Property would be detrimental to the use of the Property for agriculture purposes.

G) Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?

No—the proposed rezoning of the Property to PD will allow this small parcel to be developed in accordance with development of the adjacent property in a manner that is environmentally sensitive. The addition of the 3.78 acres to the surrounding PD zoned property is not adverse to the citizens or any natural resources.

III. REQUIRED CONSTITUTIONAL NOTICE

Georgia law and the procedures of the City of Fairburn require the Applicant to raise Federal and State constitutional objections during the application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, the following constitutional objections are stated:

The portions of the City of Fairburn Zoning Ordinance, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development

standards, or to any zoning district other than that proposed by the Applicant are 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 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.

The application of the City of Fairburn Zoning Ordinance, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application 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.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the City of Fairburn to rezone the Property as requested would constitute a taking of the Applicant's property.

A denial of this Application would constitute an arbitrary and capricious act by the Fairburn 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 to rezone the Property would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the City of Fairburn to approve this Application for the Property in accordance with the 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. Any rezoning 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 Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this rezoning application be granted as requested by the Applicant. If there are any questions about this request, you may contact me at 404-665-1242 or jsellers@pftlegal.com.

Sincerely,

PURSLEY FRIESE TORGRIMSON

A handwritten signature in black ink, appearing to read "G. Douglas Dillard", written over the printed name.

G. Douglas Dillard

Julie L. Sellers

R. Baxter Russell

USE PERMIT CONSIDERATIONS

In accordance with Section 80-172 of the Fairburn Zoning Ordinance, the Applicant satisfies all use permit considerations as follows:

- 1) **Whether the proposed use is consistent with the comprehensive land use plan adopted by the city council;**

Applicant's proposed use of the Property is consistent with the Fairburn Comprehensive Plan 2035, as the site plan preserves significant greenspace as a part of the overall site plan. Furthermore, the proposed use is also in line with Vision Statement of the City being an economically thriving community. The use will create jobs and be a positive addition to the tax base.

- 2) **Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

The e-commerce/cross dock facility use is compatible and located near other properties used as e-commerce and distribution facilities. The use is separated from nearby residential uses by significant buffers.

- 3) **Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

No, the use will not violate any local, state, or federal statutes or regulations.

- 4) **The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

Applicant's proposed use will not adversely affect traffic flow for adjoining or surrounding streets. Surrounding intersections can adequately handle traffic generated by the proposed use. See Applicant's Traffic Impact Study prepared by Calyx Engineers and Consultants. Furthermore, Applicant will work with the City and contribute financially to improve Creekwood Road and Bohannon Road.

- 5) **The location and number of off-street parking spaces;**

The site plan reflects 277 employee parking spaces, located on the northern and southern sides of the facility building. There will be landscaping around the employee parking area.

- 6) **The amount and location of open space;**

Applicant's site plan reflects significant open and green space. The impervious area is only 31.4% of the 72.58 acre site.

7) Protective screening;

Applicant's development of the property will comply with all City requirements for buffering and screening. In addition, the site will be developed with an evergreen buffer as depicted on the attached exhibit.

8) Hours and manner of operation;

The operation manner and hours will be industry standards for similarly situated e-commerce/cross dock facilities.

9) Outdoor lighting; and

All building lights will be directed downward and perimeter lighting shall be directed toward the interior of the site. The combination of the landscaping, buffering, and directing the light flow will provide the necessary protection for adjacent residential uses. The building and parking lighting will not adversely affect surrounding properties.

10) Ingress and egress to the property.

All vehicular traffic for the facility will enter and leave the Property through the entrance on Bohannon Road, as indicated on the site plan. As described in the Traffic Impact Study, the truck traffic will use Creekwood Road to primarily access SR 74 and I-85. Personal vehicles for employees may use Johnson and Bohannon Roads.

Executive Summary

The Exeter Bohannon Road development is a new 492,480 square feet (sq. ft.) warehouse/distribution center building on 72.58 acres located in the City of Fairburn in southeastern Fulton County, Georgia. The development is located south of Bohannon Road, east of Creekwood Road and Johnson Road. The development will have a single vehicular access point on Bohannon Road. The development is expected to be complete in 2021.

Peak hour existing turning movement traffic counts were collected on Tuesday, February 28, 2017, and increased by 1% annually for two (2) years to approximate existing 2019 volumes and these volumes were increased by 1% annually for two (2) years and the expected new trips to be generated by the previously approved Saben Fairburn South Distribution Center (DRI 2665) to estimate the 2021 future volumes at the study intersections. On Thursday, March 23, 2017, 1,939 vehicles in both directions were counted on Johnson/Bohannon Road near the site. Of these vehicles, 2 were tractor-trailers and 26 were greater than two (2) axle's single unit trucks. At the intersections of Oakley Industrial Boulevard at Bohannon Road and at Senoia Road, 6% of the entering vehicles were heavy trucks during the AM and PM peak hours.

When completed in 2021, the development is expected to generate approximately 824 new trips daily of which 65 entering and 19 exiting new vehicular trips are expected during the morning peak volume hour with 23 entering and 64 exiting evening peak hour trips. All of the new truck trips will use Creekwood Road north of the site to primarily access SR 74 and I-85 to originate and terminate at destinations north of the site. Approximately 10% of the new personal vehicle trips are expected to use Johnson and Bohannon Roads to/from the east and west of the site, while 80% are expected to use Creekwood Rd north of the site. There are no existing pedestrian, bicycle, or transit facilities in the area of the development. No reduction in trips was taken for alternate transportation modes.

All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls. The new development driveways will operate adequately with stop sign controls and single lane approaches. The site design of the new driveway should provide adequate site intersection distances of 500 feet on Bohannon Road (per AASHTO Figure 9-21 for a 45 mph roadway) and 780 feet (per AASHTO Figure 9-17 for a 45 mph roadway) for combination trucks turning left out of the site, assuming less than 3% approach grades.

Creekwood Road between Oakley Industrial Boulevard and Johnson/Bohannon Road will need to be improved to accommodate the approximately 158 trucks entering and 158 trucks exiting the development daily. The lanes should be at least 12 feet wide and the existing stream crossing should be replaced to allow for heavy truck use. The weight limiting signs and truck prohibition signs should be removed when this is completed. No mitigating improvements at the study intersections were identified in the traffic impact analyses.

E. Recommendations

The additional new trips generated by the 492,480 sq. ft. of warehouse/distribution center development located in the City of Fairburn in southeastern Fulton County, Georgia. The development is located south of Bohannon Road, east of Creekwood Road and Johnson Road. The development will have a single vehicular access point on Bohannon Road. The development is expected to be complete in 2021.

All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls. The new development driveways will operate adequately with stop sign controls and single lane approaches.

Creekwood Road between Oakley Industrial Boulevard and Johnson/Bohannon Road will need to be improved to accommodate the approximately 158 trucks entering and 158 trucks exiting the development daily. The lanes should be at least 12 feet wide and the existing stream crossing should be replaced to allow for heavy truck use. The weight limiting signs and truck prohibition signs should be removed when this is completed.

No mitigating improvements at the study intersections were identified in the traffic impact analyses.

February 4, 2019

Tarika Peeks
Senior City Planner/Zoning Administrator
City of Fairburn
Community Development, Office of Planning & Zoning
26 West Campbellton Street
Fairburn, GA 30213

RE: Zoning Comments for February 2019

Dear Ms. Peeks:

The following are comments by the Environmental Health Services (EHS) Division and the Environmental Justice (EJ) Program of the Fulton County Board of Health. These comments are in reference to the zoning applications which were previously received from your office and are scheduled for public hearing before the Planning and Zoning Commission in February 2019.

APPLICATION	ZONING COMMENTS
6560 Bohannon Rd	<p><u>EHS Comments</u></p> <ul style="list-style-type: none">• If this zoning is approved and public water and public sanitary sewer are available, the Fulton County Board of Health will require that the proposed warehouse be connected.• Since this proposed development constitutes a premise where people work, onsite sanitary facilities would be mandatory prior to use or occupancy.• This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air. If the proposed facility will serve persons under the age 18, smoking will not be allowed on the premises at any time.• This department will require that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review


**FULTON
COUNTY**
BOARD OF HEALTH
J. Patrick O'Neal, M.D., Commissioner
Interim District Health Director, District 3-2

APPLICATION	ZONING COMMENTS
	<p>and approval.</p> <ul style="list-style-type: none"> • If the proposed development includes an existing individual onsite sewage management system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations. • If this proposed development includes an existing individual onsite water supply system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations. <p><u>General Public Health and EJ Comments</u></p> <p>The Fulton County Board of Health notes the following public health and/or environmental justice concerns with the proposal:</p> <ul style="list-style-type: none"> • Studies have shown that increased vehicle volume predicts pedestrian injury. In the current roadway design, the increased traffic flow from allowing this development would likely increase the risk of pedestrian injury. • Truck traffic and diesel engines have an impact on public health and/or air quality. Diesel exhaust particulate matter is a toxic air contaminant and contains known carcinogens. It is likely that local pollution level will increase at the facility and in the immediate surrounding areas. • Air pollutants including particulate matter, nitrogen oxides, and sulfur impact human health. • Potential noise is dependent upon frequency of exposure, duration of exposure, human perception (daytime versus nighttime), sound level, vibration, vehicle type, vehicle speed, maximum sound level, measurement distance, and measurement site. A diesel truck traveling 40 mph at 50 ft has a noise level of 84 dB. This department anticipates that there is a potential for at least an annoyance to the residential community from the noise. • Noise exposure has been shown to have potential effect on stress, hypertension, blood pressure, and heart disease. Information specific to this development related to the anticipated noise levels from the operation of diesel trucks and the warehouse was not provided. • Streams and rivers downstream from developed areas have been known to have higher bacterial counts after rainfall. Human health is indirectly affected by adequacy of water resources. This development has the potential to affect the water quality on the site and downstream



J. Patrick O'Neal, M.D., Commissioner
Interim District Health Director, District 3-2

APPLICATION	ZONING COMMENTS
	which could affect the agriculture negatively.

If you have any questions related to the EHS comments, you may contact Ellis "Eli" Jones at 404-613-1337 or by e-mail at Ellis.Jones@fultoncountyga.gov. All questions related to the broader public health and/or environmental justice comments should be directed to me, Monica Robinson, by telephone at 404-613-1491 or e-mail at Monica.Robinson@fultoncountyga.gov.

Sincerely,



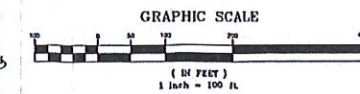
Monica M. Robinson, M.B.A.
Health Program Manager
Environmental Justice Program

CC: Ellis "Eli" Jones, Deputy Director EHS



J. Patrick O'Neal, M.D., Commissioner
Interim District Health Director, District 3-2

3 of 3



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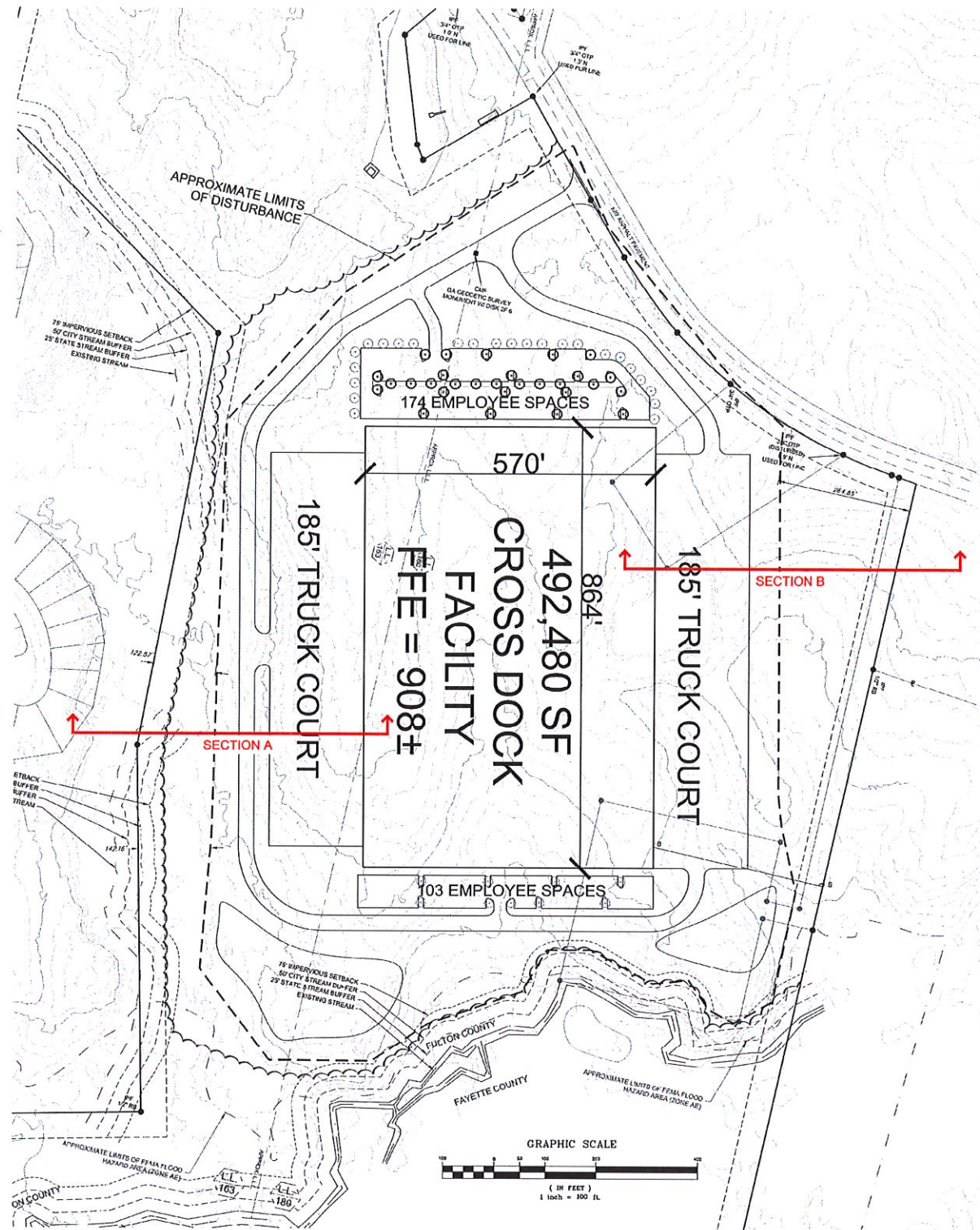
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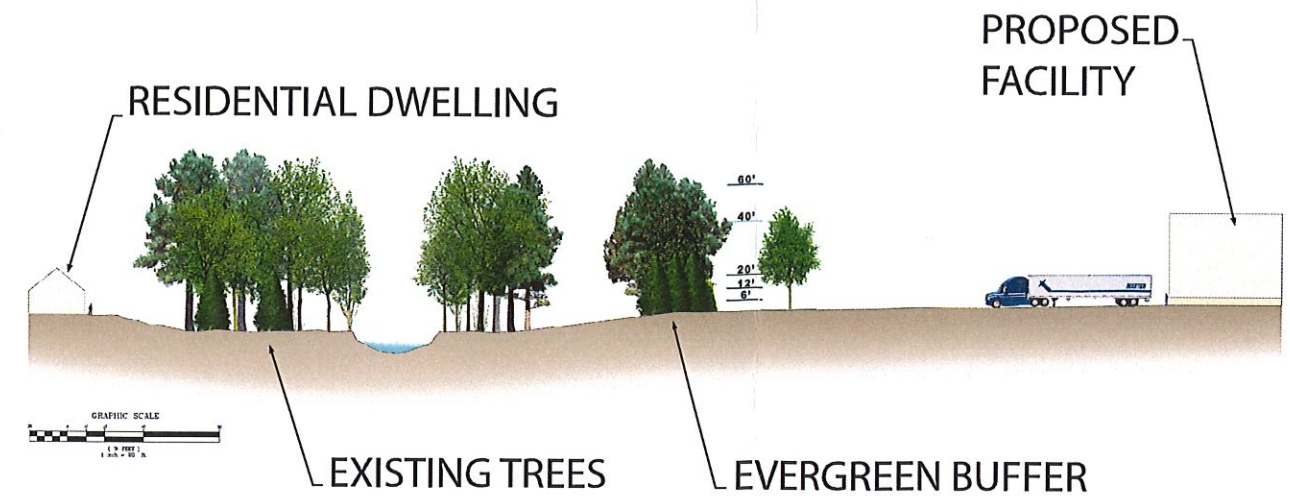
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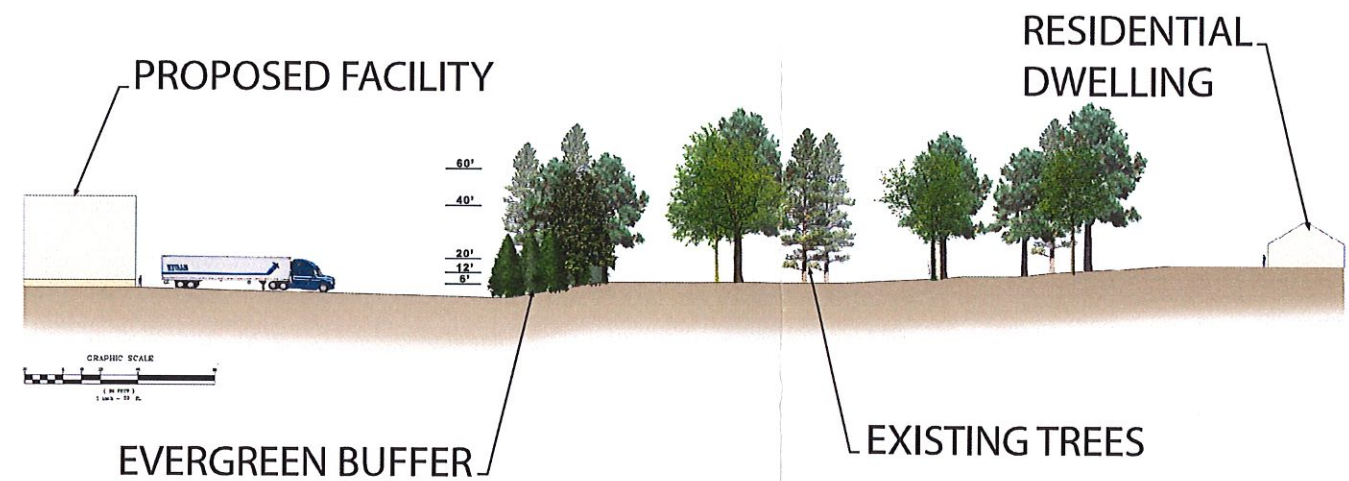
CP1.0



SITE PLAN



SECTION A: EVERGREEN BUFFER



SECTION B: EVERGREEN BUFFER

Re: REZONING ORDINANCE 18RZ-004
CONCURRENT USE PERMIT 18U-005
Property of Lacy Curry
6560 Bohannon Road
07400001800462
3.78 acres; Land Lot 180
District 7
Fairburn, Fulton County, Georgia

**STATE OF GEORGIA
COUNTY OF FULTON**

AN ORDINANCE TO REZONE CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN FROM AG-1 (AGRICULTURAL) DISTRICT TO PD (PLANNED DEVELOPMENT) DISTRICT WITH A CONCURRENT USE PERMIT FOR AN M-1 (LIGHT INDUSTRIAL) DISTRICT USE, SUBJECT TO CERTAIN CONDITIONS, TO ALLOW A FOUR HUNDRED NINEY-TWO THOUSAND (492,480) SQUARE FOOT CROSS DOCK/E-COMMERCE WAREHOUSE FACILITY IN A PD (PLANNED DEVELOPMENT) DISTRICT; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME:

Section 1. That the City of Fairburn Zoning Ordinance be amended, and the official maps established in connection therewith be changed so that the Subject Property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from AG-1 (Agricultural) District to PD (Planned Development) District with the following conditions:

A. To the owner's agreement to restrict the use of the subject property as follows:

1. The Property shall be developed subject to and according with the requirements and conditions of the approved concurrent use permit for an M-1 (Light Industrial) District use for 18U-005.

B. That the approved concurrent use permit 18U-005 is limited by the following conditions:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received July 2, 2018, and attached as Exhibit A. Said site plan is conceptual only and must meet or exceed the requirements of the city ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

2. Truck queuing shall be maintained on the subject property to eliminate truck stacking on public roads.
3. Provide a 50-foot buffer around the perimeter of the subject property where it directly abuts residential zoned property, including AG-1 (Agricultural) zoned property.
4. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).
5. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
6. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the subject property.
7. A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the berm. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Easter Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.
8. The detention ponds shall meet the minimum City of Fairburn standards.
9. A minimum of 5-foot sidewalks shall be installed along the subject property street frontage and shall be constructed to comply with the Americans with Disabilities Act (ADA) and City of Fairburn's development standards.
10. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
11. The Developer shall fully upgrade streets (Creekwood Road and Bohannon Road) used for access to the subject property. The upgrade of the streets shall include roadway reconstruction, road widening, and bridge replacement as deemed necessary by City Engineer.
12. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage on Bohannon Road at no cost to the City.

13. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. Turning lanes shall meet the following criteria:

- a. Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
- b. Provide taper lengths of not less than 100 feet.
- c. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

Section 2. That the property shall be developed in compliance with the conditions of approval as stated in this Ordinance. Any conditions hereby approved do not authorize the violation of any district regulations; and

Section 3. That the official maps referred to, on file in the Office of the City Clerk, be changed to conform with the terms of this Ordinance; and

Section 4. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 5. Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 28th day of January, 2019 and continued in order to be referred back to the February 5, 2019, Planning and Zoning Commission meeting for the Planning and Zoning Commission to review the proposed amendment transmit its recommendation to the Mayor and City Council for the continued public hearing to be held on February 25, 2019, pursuant to Section 80-298 of the City of Fairburn Zoning Ordinance.

Section 6. This Ordinance shall become effective on the 25th day of February, 2019.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 25th day of February, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney

LACY CURRY TRACT

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 180, 7TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF BOHANNON ROAD (60 FOOT RIGHT-OF-WAY WIDTH), LOCATED SOUTH 45 DEGREES 53 MINUTES 00 SECONDS EAST, 1286.94 FEET FROM THE COMMON CORNER OF LAND LOTS 163, 164, 179, AND 180;

THENCE, ALONG SAID RIGHT-OF-WAY LINE, SOUTH 83 DEGREES 33 MINUTES 38 SECONDS EAST, 35.23 FEET TO A POINT;

THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 898.19 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 101.00 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 206.50 FEET TO A POINT;

THENCE, SOUTH 89 DEGREES 52 MINUTES 36 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 361.50 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 361.50 FEET TO A POINT;

THENCE, SOUTH 00 DEGREES 07 MINUTES 24 SECONDS EAST, 120.00 FEET TO A POINT;

THENCE, NORTH 89 DEGREES 52 MINUTES 36 SECONDS EAST, 66.00 FEET TO A POINT;

THENCE, NORTH 00 DEGREES 07 MINUTES 24 SECONDS WEST, 867.22 FEET TO THE **POINT OF BEGINNING.**

SAID TRACT OF LAND CONTAINING **3.78 ACRES (164,499 SQUARE FEET).**



**CITY OF FAIRBURN
CITY COUNCIL MEETING
AGENDA ITEM**

SUBJECT: USE PERMIT 18U-003 - Exeter Bohannon Land, LLC

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Planning and Zoning Commission: 02.05.19

Mayor and City Council: 02.25.19

DEPARTMENT: Community Development/Planning and Zoning

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

Exeter Bohannon Land, LLC seeks a use permit to allow an M-1 (Light Industrial) use in PD (Planned Development District).

STAFF RECOMMENDATION: DENIAL

PLANNING AND ZONING RECOMMENDATION: DENIAL



Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Use Permit Petition 18U-003 Exeter Bohannon Land, LLC

APPLICANT/PETITIONER INFORMATION

Property Owners Bartow Properties, LLC Octaviano Ayala	Petitioner Exeter Bohannon Land, LLC c/o Doug Dillard
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PROPERTY INFORMATION

Address:	6570 Bohannon Road [Parcel # 0740001800413], 0 Bohannon Road [parcel # 07400001632170]
Land Lot and District:	Land Lot 180, District 7
Frontage:	Bohannon Road
Area of Property:	+/- 68.8 acres
Existing Zoning and Use:	PD (planned Development) and vacant
Overlay District:	N/A
Prior Zoning Cases/History:	The subject sites were a part of the Line Creek Area annexation which was approved on October 26, 2006. The property was annexed from Fulton County and rezoned, from CUP (Community Unit Plan) to PD (Planned Development).
2035 Comprehensive Future Land Use Map Designation:	Greenspace
Compatibility with Fairburn's 2035 Comprehensive Plan:	The proposed M-1 (Light Industrial District) use is not consistent with the Comprehensive Plan and Future Development Map which designates the site as Greenspace.

MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
Tuesday, January 8, 2019
Tuesday, February 5, 2019

Mayor and City Council Public Hearing
Monday, January 28, 2019
Monday, February 25, 2019

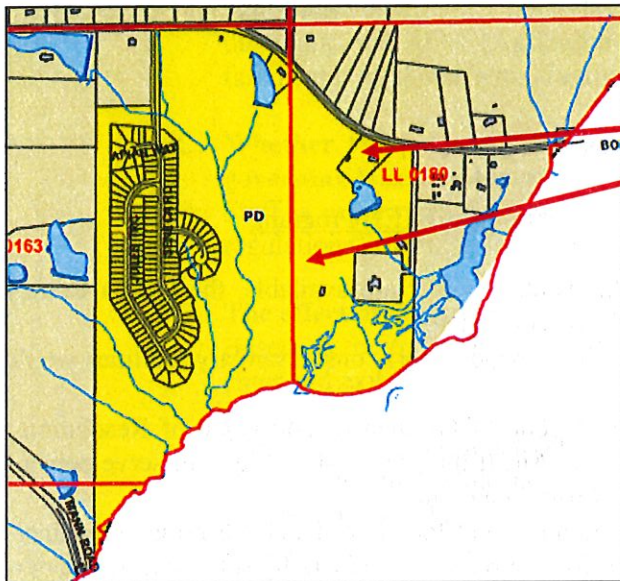
INTENT

A request to allow a M-1 (Light Industrial) use in PD (Planned Development) zoning district.

SURROUNDING ZONING

North: AG-1 (Agricultural District) and R-4 (Single-Family Residential District)
East: AG-1 (Agricultural District)
South: Fayette County
West: AG-1 (Agricultural District)

Zoning Map



18U-003
+/- 68.8 acres

STAFF COMMENTS

Engineering/Public Works:

- According to Section 71-39 of the City of Fairburn Code of Ordinances, “In the event that a development has access to a substandard street and if that substandard street provides the primary means of access to the development, the substandard street, except as indicated in subsection (c) of this section, shall be fully upgraded and the full width of the roadway overlaid with asphaltic concrete surface course along the entire property frontage and continuing to the nearest standard paved road along the route of primary access.
(c) The upgrading of substandard streets used for access will not be required if any of the following conditions are met:
 1. The development consists of a single, one-family or two-family residence on an existing recorded lot within the city.
 2. The development is a small business with ingress/egress of less than 100 vehicles per day.As such, Creekwood and Bohannon Roads may be required to be upgraded to accommodate to proposed operation of the proposed development. This upgrade may include complete roadway reconstruction, road widening, and bridge replacement.
- The site is not located on a designated truck route. As such truck access would be prohibited. It shall be unlawful for a person or business entity to operate or park a truck on any city street, road, drive, or avenue which is not designated as a truck route pursuant to Section 56-93 of the City of Fairburn’s Code of Ordinances.
- When property fronting on an existing city street is to be developed or when the property is to be accessed from the existing city street, the developer shall cause to be constructed roadway improvements (pavement, signing, striping, curb and gutter and drainage) which are required along the existing road across the entire property frontage at no cost to the city. Required improvements shall not be less than provided in these regulations for the designated street classification. [Sec. 71-37 (a)]
- Turning lanes shall be required by the city to meet projected traffic demand and/or safe operations, as determined by the city engineer.
- Sidewalks are required on all street frontages regardless of the zoning district in which the street is located. All sidewalks shall have a minimum width of five feet

traffic. This is relevant since truck crashes could increase if trucks are allowed to travel on roadways with narrow shoulders and narrow lanes.

The location and number of off-street parking spaces;

The required parking for the 492,480 square foot warehouse facility is:

- Vehicle parking: 106 spaces
- Truck parking: 98 spaces

The applicant is proposing to provide 277 vehicle and 123 trailer parking spaces.

The amount and location of open space;

The applicant will be required to meet or exceed the city’s ordinance, Article X - Buffers and Open Space, Section 80-373 - Open Space Reservation.

Protective screening;

The applicant will be required to provide a 50-foot undisturbed vegetated buffer and fencing around the perimeter of the subject property where it abuts residential zoned property. See the attached Evergreen Buffer Exhibit.

Hours and manner of operation;

The applicant states, “The operation manner and hours will be industry standards for similarly situated e-commerce/cross dock facilities”.

Outdoor lightning; and

The applicant states, “All building lights will be directed downward and perimeter lighting shall be directed toward the interior of the site. The combination of the landscaping, buffering, and directing the light flow will provide the necessary protection for adjacent residential uses. The building and parking lot lighting will not adversely affect the surrounding properties”.

Ingress and egress to the property

All vehicle traffic for the warehouse facility will ingress and egress from the entrance on Bohannon Road. According to the traffic impact study, the truck traffic will use Creekwood Road to access SR 74 and I-85 and vehicle traffic will primarily use Bohannon and Johnson Roads.

STAFF RECOMMENDATION

It is the opinion of staff that the use permit request is not in conformity with the Future Land Use Map which designates the site as Greenspace. The proposal is not consistent with development strategies of the Greenspace Character Area, as specified in the Comprehensive Plan. The most southern portion of the city is rural in character and the development of a warehouse in the area is not consistent with the surrounding land uses nor is it consistent with the Future Land Use Map and Comprehensive Plan. Furthermore, the infrastructure constraints such as the narrow width of the roads (Creekwood, Bohannon/Johnson Road) and limited weight capacity of the Creekwood Road bridge will not support the heavy truck traffic that will be generated by the warehouse development. Therefore, based on these reasons staff recommends **DENIAL** of the use permit request.

If the Mayor and City Council decide to approve the use permit to allow a M-1 (Light Industrial District) use, 492,480 square foot warehouse, staff recommends the following conditions. The applicant’s agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

A. To the owner’s agreement to restrict the use of the subject property as follows:

- 1, Permitted uses as described in use permit conditions for 18U-003.

2. The subject property will be developed with no more than 492,480 square feet of warehouse space.

B. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received July 2, 2018, and attached as Exhibit A. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.
2. Truck queuing shall be maintained on the subject property to eliminate truck stacking on public roads.
3. Provide a 50-foot buffer around the perimeter of the subject property where it directly abuts residential zoned property, including AG-1 (Agricultural) zoned property.
4. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).
5. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
6. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the subject property.
7. A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the berm. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Eastern Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.
8. The detention ponds shall meet the minimum City of Fairburn standards.
9. A minimum of 5-foot sidewalks shall be installed along the subject property street frontage and shall be constructed to comply with the Americans with Disabilities Act (ADA) and City of Fairburn's development standards.
10. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
11. The Developer shall fully upgrade streets (Creekwood Road and Bohannon Road) used for access to the subject property. The upgrade of the streets shall include roadway reconstruction, road widening, and bridge replacement as deemed necessary by City Engineer.
12. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage on Bohannon Road at no cost to the City.
13. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. Turning lanes shall meet the following criteria:
 - a. Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.

- b. Provide taper lengths of not less than 100 feet.
- c. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

ATTACHMENTS

Letter of Intent

Use Permit Considerations

Traffic Impact Study - Executive Summary and Recommendations

Fulton County Board of Health Zoning Comments

Conceptual Site Plan

Evergreen Buffer Exhibit

First Amended Letter of Intent and Impact Analysis
Use Permit Application

Fairburn, GA

Use Permit Application

Applicant:

Exeter Bohannon Land, LLC c/o G. Douglas Dillard, Esq.

Property:

6570 & 0 Bohannon Road
Parcel ID 07-4000-0180-041-3
Parcel ID 07-4000-0163-217-0

Submitted for Applicant by:

G. Douglas Dillard
Julie L. Sellers
R. Baxter Russell
PURSLEY FRIESE TORGRIMSON
1230 Peachtree Street, Suite 1200
Atlanta, Georgia 30309
(404) 665-1242
jsellers@pftlegal.com

I. INTRODUCTION

Exeter Bohannon Land, LLC ("Applicant") respectfully requests a use permit to develop a new cross dock/e-commerce building. In response to staff review and feedback on the original use permit application, Applicant amends the letter of intent submitted on June 4, 2018 with the original application to reflect a use permit request for only those properties currently zoned-PD.

The subject property is approximately +/- 68.8 acres and consists of two (2) separate parcels, including Parcel ID 07-4000-0180-041-3 and Parcel ID 07-4000-0163-217-0 (the "Property"). The Property is zoned PD (Planned Development). This application is solely to request a use permit for the Property. Concurrent with this use permit application, Applicant has submitted separate use permit and rezoning applications for an adjacent, AG-1 zoned-parcel (Parcel ID 07-4000-0180-046-2). Applicant requests the rezoning and use permit approval for the adjacent parcel in order development an e-commerce/cross dock facility across all three properties.

The majority of the Property exists as undeveloped vacant land, with a single-family residence. The PD zoning classification encourages flexible and creative site planning for large tracts of land. The uses allowed in PD zoning districts include industrial uses with a use permit. The development plan included with this application reflects the proposed e-commerce/distribution facility designed in a manner that provides for an efficient use of the land and incorporates buffers and green space. Applicant respectfully requests approval of this use permit application to develop a high-quality distribution/e-commerce facility on the Property. Applicant's use permit request complies with the City's standards and is consistent with the City's goals of attracting new business.

USE PERMIT CONSIDERATIONS

In accordance with Section 80-172 of the Fairburn Zoning Ordinance, the Applicant satisfies all use permit considerations as follows:

- 1) **Whether the proposed use is consistent with the comprehensive land use plan adopted by the city council;**

Applicant's proposed use of the Property is consistent with the Fairburn Comprehensive Plan 2035, as the site plan preserves significant greenspace as a part of the overall site plan. Furthermore, the proposed use is also in line with Vision Statement of the City being an economically thriving community. The use will create jobs and be a positive addition to the tax base.

- 2) **Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

The e-commerce/cross dock facility use is compatible and located near other properties used as e-commerce and distribution facilities. The use is separated from nearby residential uses by significant buffers.

- 3) **Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

No, the use will not violate any local, state, or federal statutes or regulations.

- 4) **The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

Applicant's proposed use will not adversely affect traffic flow for adjoining or surrounding streets. Surrounding intersections can adequately handle traffic generated by the proposed use. *See Applicant's Traffic Impact Study* prepared by Calyx Engineers and Consultants. Furthermore, Applicant will work with the City and contribute financially to improve Creekwood Road and Bohannon Road.

- 5) **The location and number of off-street parking spaces;**

The site plan reflects 277 employee parking spaces, located on the northern and southern sides of the facility building. There will be landscaping around the employee parking area.

- 6) **The amount and location of open space;**

Applicant's site plan reflects significant open and green space. The impervious area is only 31.4% of the 72.58 acre site.

7) Protective screening;

Applicant's development of the property will comply with all City requirements for buffering and screening. In addition, the site will be developed with an evergreen buffer as depicted on the attached exhibit.

8) Hours and manner of operation;

The operation manner and hours will be industry standards for similarly situated e-commerce/cross dock facilities.

9) Outdoor lighting; and

All building lights will be directed downward and perimeter lighting shall be directed toward the interior of the site. The combination of the landscaping, buffering, and directing the light flow will provide the necessary protection for adjacent residential uses. The building and parking lighting will not adversely affect surrounding properties.

10) Ingress and egress to the property.

All vehicular traffic for the facility will enter and leave the Property through the entrance on Bohannon Road, as indicated on the site plan. As described in the Traffic Impact Study, the truck traffic will use Creekwood Road to primarily access SR 74 and I-85. Personal vehicles for employees may use Johnson and Bohannon Roads.

III. REQUIRED CONSTITUTIONAL NOTICE

Georgia law and the procedures of the City of Fairburn require us to raise Federal and State constitutional objections during the use permit application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the City of Fairburn Zoning Ordinance, facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are 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 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.

The application of the City of Fairburn Zoning Ordinance, facially and as applied to the Property, which restricts the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than in accordance with the application 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.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Fairburn City Council to approve this Application as requested would constitute a taking of the Applicant's property.

A denial of this Application would constitute an arbitrary and capricious act by the Fairburn 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 to grant the use permit request would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

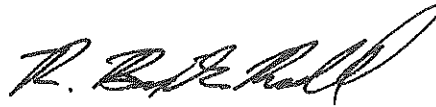
A refusal by the Fairburn City Council to approve this Application for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property 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. Any approval of the requests, 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 Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this application for a use permit be granted as requested by the Applicant. If there are any questions about this request, you may contact me at 404-665-1242 or jsellers@pftlegal.com.

Sincerely,

PURSLEY FRIESE TORGRIMSON

A handwritten signature in black ink, appearing to read "R. Baxter Russell". The signature is fluid and cursive, with the first name "R." being prominent.

G. Douglas Dillard

Julie L. Sellers

R. Baxter Russell

Executive Summary

The Exeter Bohannon Road development is a new 492,480 square feet (sq. ft.) warehouse/distribution center building on 72.58 acres located in the City of Fairburn in southeastern Fulton County, Georgia. The development is located south of Bohannon Road, east of Creekwood Road and Johnson Road. The development will have a single vehicular access point on Bohannon Road. The development is expected to be complete in 2021.

Peak hour existing turning movement traffic counts were collected on Tuesday, February 28, 2017, and increased by 1% annually for two (2) years to approximate existing 2019 volumes and these volumes were increased by 1% annually for two (2) years and the expected new trips to be generated by the previously approved Saben Fairburn South Distribution Center (DRI 2665) to estimate the 2021 future volumes at the study intersections. On Thursday, March 23, 2017, 1,939 vehicles in both directions were counted on Johnson/Bohannon Road near the site. Of these vehicles, 2 were tractor-trailers and 26 were greater than two (2) axle's single unit trucks. At the intersections of Oakley Industrial Boulevard at Bohannon Road and at Senoia Road, 6% of the entering vehicles were heavy trucks during the AM and PM peak hours.

When completed in 2021, the development is expected to generate approximately 824 new trips daily of which 65 entering and 19 exiting new vehicular trips are expected during the morning peak volume hour with 23 entering and 64 exiting evening peak hour trips. All of the new truck trips will use Creekwood Road north of the site to primarily access SR 74 and I-85 to originate and terminate at destinations north of the site. Approximately 10% of the new personal vehicle trips are expected to use Johnson and Bohannon Roads to/from the east and west of the site, while 80% are expected to use Creekwood Rd north of the site. There are no existing pedestrian, bicycle, or transit facilities in the area of the development. No reduction in trips was taken for alternate transportation modes.

All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls. The new development driveways will operate adequately with stop sign controls and single lane approaches. The site design of the new driveway should provide adequate site intersection distances of 500 feet on Bohannon Road (per AASHTO Figure 9-21 for a 45 mph roadway) and 780 feet (per AASHTO Figure 9-17 for a 45 mph roadway) for combination trucks turning left out of the site, assuming less than 3% approach grades.

Creekwood Road between Oakley Industrial Boulevard and Johnson/Bohannon Road will need to be improved to accommodate the approximately 158 trucks entering and 158 trucks exiting the development daily. The lanes should be at least 12 feet wide and the existing stream crossing should be replaced to allow for heavy truck use. The weight limiting signs and truck prohibition signs should be removed when this is completed. No mitigating improvements at the study intersections were identified in the traffic impact analyses.

E. Recommendations

The additional new trips generated by the 492,480 sq. ft. of warehouse/distribution center development located in the City of Fairburn in southeastern Fulton County, Georgia. The development is located south of Bohannon Road, east of Creekwood Road and Johnson Road. The development will have a single vehicular access point on Bohannon Road. The development is expected to be complete in 2021.

All of the existing study intersections are expected to operate adequately during the weekday peak volume hours with the existing lane configurations and controls. The new development driveways will operate adequately with stop sign controls and single lane approaches.

Creekwood Road between Oakley Industrial Boulevard and Johnson/Bohannon Road will need to be improved to accommodate the approximately 158 trucks entering and 158 trucks exiting the development daily. The lanes should be at least 12 feet wide and the existing stream crossing should be replaced to allow for heavy truck use. The weight limiting signs and truck prohibition signs should be removed when this is completed.

No mitigating improvements at the study intersections were identified in the traffic impact analyses.

February 4, 2019

Tarika Peeks
Senior City Planner/Zoning Administrator
City of Fairburn
Community Development, Office of Planning & Zoning
26 West Campbellton Street
Fairburn, GA 30213

RE: Zoning Comments for February 2019

Dear Ms. Peeks:

The following are comments by the Environmental Health Services (EHS) Division and the Environmental Justice (EJ) Program of the Fulton County Board of Health. These comments are in reference to the zoning applications which were previously received from your office and are scheduled for public hearing before the Planning and Zoning Commission in February 2019.

APPLICATION	ZONING COMMENTS
6560 Bohannon Rd	<p><u>EHS Comments</u></p> <ul style="list-style-type: none">• If this zoning is approved and public water and public sanitary sewer are available, the Fulton County Board of Health will require that the proposed warehouse be connected.• Since this proposed development constitutes a premise where people work, onsite sanitary facilities would be mandatory prior to use or occupancy.• This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air. If the proposed facility will serve persons under the age 18, smoking will not be allowed on the premises at any time.• This department will require that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review

APPLICATION	ZONING COMMENTS
	<p>and approval.</p> <ul style="list-style-type: none"> • If the proposed development includes an existing individual onsite sewage management system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations. • If this proposed development includes an existing individual onsite water supply system(s), and the system(s) will be abandoned, it shall be abandoned in accordance with Fulton County regulations. <p><u>General Public Health and EJ Comments</u></p> <p>The Fulton County Board of Health notes the following public health and/or environmental justice concerns with the proposal:</p> <ul style="list-style-type: none"> • Studies have shown that increased vehicle volume predicts pedestrian injury. In the current roadway design, the increased traffic flow from allowing this development would likely increase the risk of pedestrian injury. • Truck traffic and diesel engines have an impact on public health and/or air quality. Diesel exhaust particulate matter is a toxic air contaminant and contains known carcinogens. It is likely that local pollution level will increase at the facility and in the immediate surrounding areas. • Air pollutants including particulate matter, nitrogen oxides, and sulfur impact human health. • Potential noise is dependent upon frequency of exposure, duration of exposure, human perception (daytime versus nighttime), sound level, vibration, vehicle type, vehicle speed, maximum sound level, measurement distance, and measurement site. A diesel truck traveling 40 mph at 50 ft has a noise level of 84 dB. This department anticipates that there is a potential for at least an annoyance to the residential community from the noise. • Noise exposure has been shown to have potential effect on stress, hypertension, blood pressure, and heart disease. Information specific to this development related to the anticipated noise levels from the operation of diesel trucks and the warehouse was not provided. • Streams and rivers downstream from developed areas have been known to have higher bacterial counts after rainfall. Human health is indirectly affected by adequacy of water resources. This development has the potential to affect the water quality on the site and downstream



J. Patrick O'Neal, M.D., Commissioner
Interim District Health Director, District 3-2

APPLICATION	ZONING COMMENTS
	which could affect the agriculture negatively.

If you have any questions related to the EHS comments, you may contact Ellis "Eli" Jones at 404-613-1337 or by e-mail at Ellis.Jones@fultoncountyga.gov. All questions related to the broader public health and/or environmental justice comments should be directed to me, Monica Robinson, by telephone at 404-613-1491 or e-mail at Monica.Robinson@fultoncountyga.gov.

Sincerely,



Monica M. Robinson, M.B.A.
Health Program Manager
Environmental Justice Program

CC: Ellis "Eli" Jones, Deputy Director EHS



J. Patrick O'Neal, M.D., Commissioner
Interim District Health Director, District 3-2

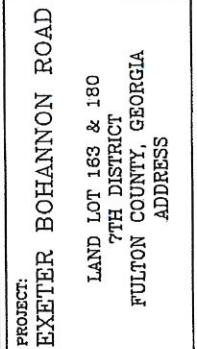
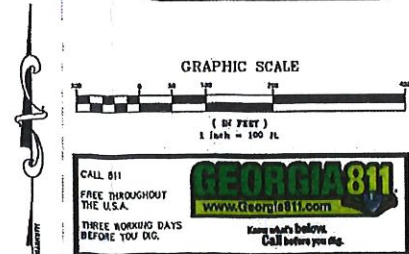
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OWNER/DEVELOPER
ADAM DUERR
EXETER BOHANNON LAND, I.L.C.
6285 BARFIELD ROAD
SUITE 225 ATLANTA, GA 30328
(404) 427-9313

ENGINEER
BRIAN BRUMFIELD
EBERLY & ASSOCIATES, INC.
295 FLOWERS ROAD SOUTH
SUITE 119
ATLANTA, GEORGIA 30341
(770) 452-7849

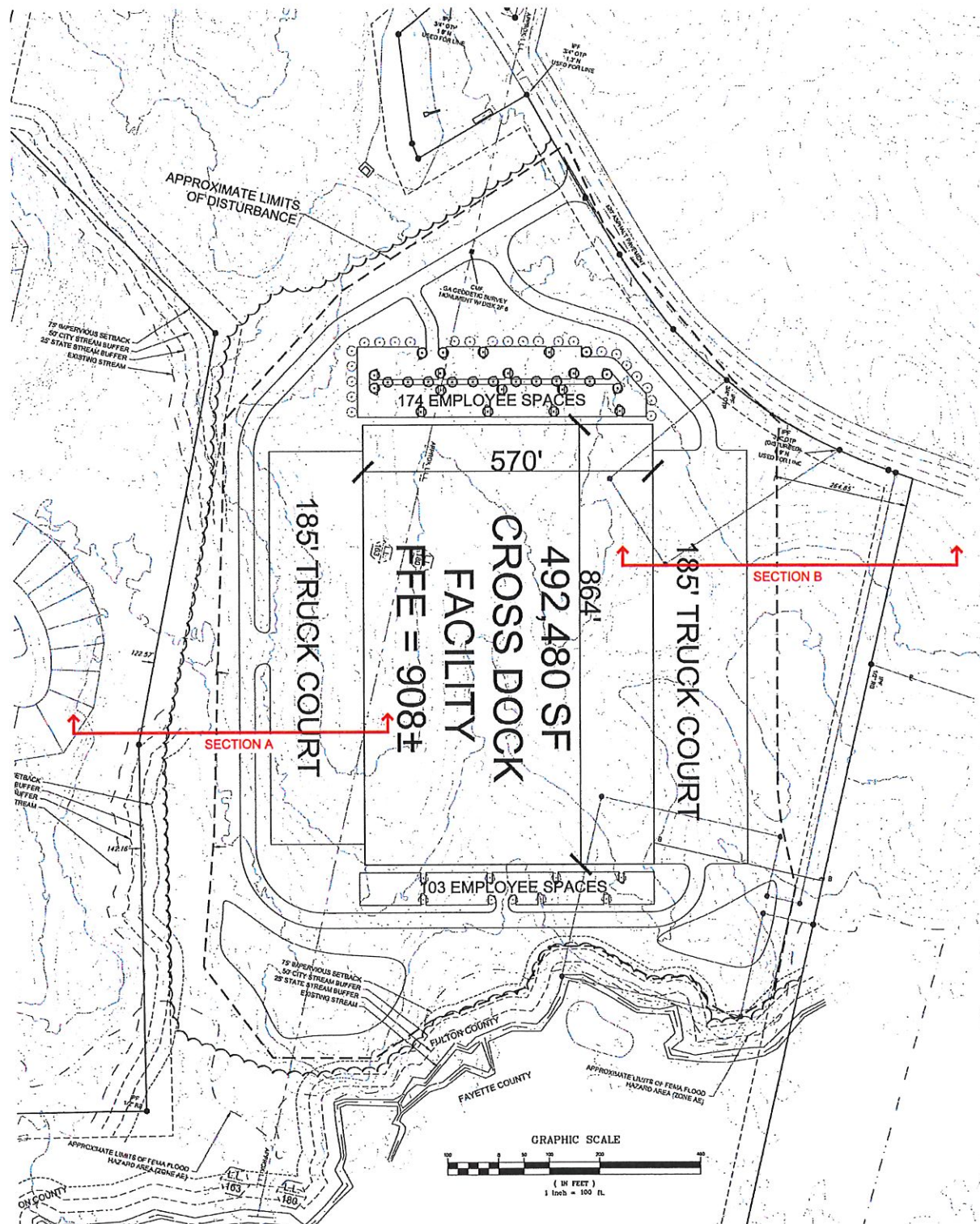
24 HOUR CONTACT
ADAM DUERR
(404) 427-9313

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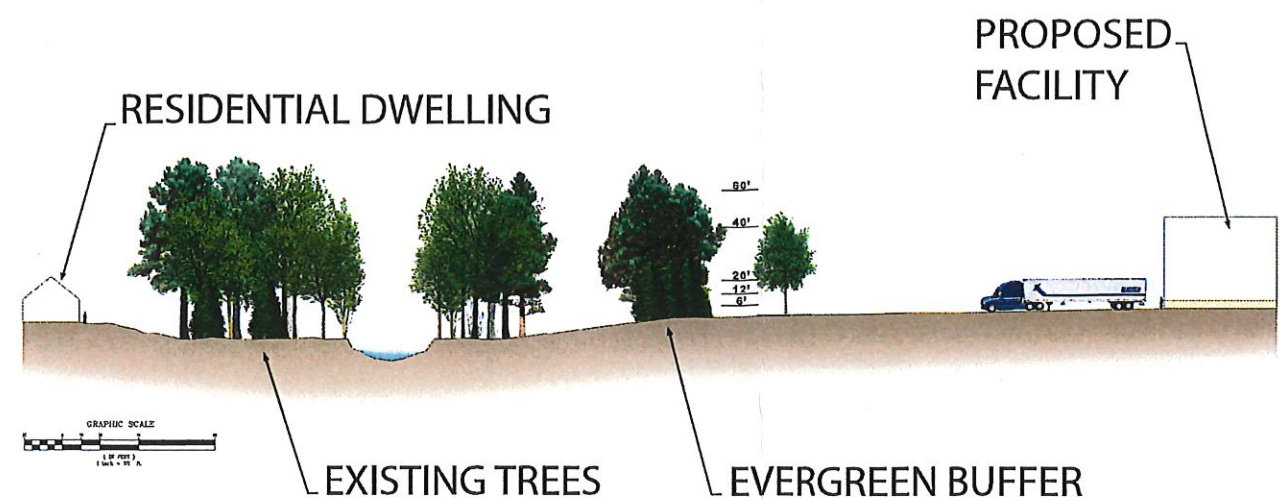
REZONING CONCEPT PLAN	
SCALE:	1" = 100'
DATE:	05/25/18
DRAWN BY:	L. MALONEY
PROJECT MANAGER:	B. BRUMFIELD
QA/QC CHECK:	XXXXXX

PROJECT NO.
16-060

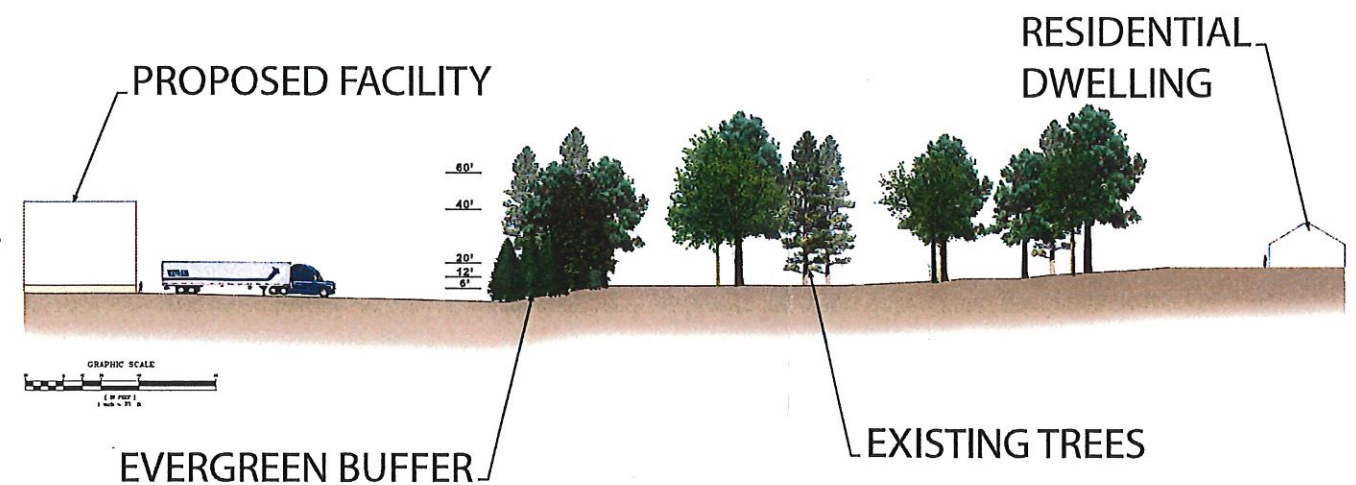
SHEET NO.
CP1.0



SITE PLAN



SECTION A: EVERGREEN BUFFER



SECTION B: EVERGREEN BUFFER

Re: USE PERMIT 18U-003
Property of Exeter Bohannon Land, LLC
6570 Bohannon Road, 0 Bohannon Road
07400001800413, 07400001632170
68.8 acres; Land Lot 180
District 7
Fairburn, Fulton County, Georgia

AN ORDINANCE GRANTING THE APPLICANT, EXETER BOHANNON LAND, LLC, A USE PERMIT FOR AN M-1 (LIGHT INDUSTRIAL) DISTRICT USE, SUBJECT TO CERTAIN CONDITIONS, TO ALLOW A FOUR HUNDRED NINETY-TWO THOUSAND FOUR HUNDRED EIGHTY (492,480) SQUARE FOOT CROSS DOCK/E-COMMERCE WAREHOUSE FACILITY IN A PD (PLANNED DEVELOPMENT) DISTRICT: TO IDENTIFY THE CONDITIONS ATTACHED TO THE GRANT OF THE USE PERMIT; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME THAT:

Whereas, Chapter 80. Article II, Zoning Districts, Section 80-87 – PD (Planned Development) District (c) Permitted Uses of the City of Fairburn Zoning Ordinance requires that a Use Permit be obtained for M-1 (Light Industrial) District and M-2 (Heavy Industrial) District uses; and

Whereas, Chapter 80, Article IV, Section 80-171 of the City of Fairburn Zoning Ordinance requires approval of the Use Permit by the City of Fairburn City Council; and

Whereas, the City of Fairburn Zoning Ordinance allows for the operation of heavy and/or light industrial uses within the PD (Planned Development) District within the City of Fairburn only by way of a use permit, describes the objective criteria to be evaluated in deciding whether to grant a requested use permit, and permits City Council to attach other conditions that it deems necessary to protect the environment as well as the public health, safety and welfare; and

Whereas, the Applicant, Exeter Bohannon Land, LLC seeks a use permit for an M-1 (Light Industrial) District use, in accordance with its application, 18U-003, in order to operate a 492,480 square foot cross dock/e-commerce warehouse facility at the location 6570 Bohannon Road and 0 Bohannon Road, with parcel identification numbers 07400001800413, 07400001632170 in the PD (Planned Development) District as described in Exhibit A; and

Whereas, Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 28th day of January, 2019, and continued in order to be referred back to the February 5, 2019, Planning and Zoning Commission meeting for the Planning and Zoning Commission to review the proposed amendment and transmit its recommendation to the Mayor and City Council for the

continued public hearing to be held on February 25, 2019, pursuant to Section 80-298 of the City of Fairburn Zoning Ordinance.

Whereas, pursuant to Chapter 80, Article IV, Section 80-171(5)(b) of the City of Fairburn Zoning Ordinance, the Use Permit, if granted, shall expire within three years from the date of approval of this resolution, unless a land disturbance permit, building permit, business license or certificate of occupancy has been issued.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Fairburn, Georgia:

Section 1. That a use permit is granted to the Applicant, Exeter Bohannon Land, LLC, in accordance with Chapter 80, Article IV.- Administrative Permits and Use Permits of the City of Fairburn Zoning Ordinance in order to operate a cross dock/e-commerce warehouse facility at the location 6570 Bohannon Road, 0 Bohannon Road with parcel identification numbers 07400001800413, 07400001632170, in the PD (Planned Development) District, the City of Fairburn City Council concluding that the use permit should be granted, subject to certain conditions.

Section 2. That the granted use permit is limited by the following conditions:

A. To the owner's agreement to restrict the use of the subject property as follows:

1. Permitted uses as described in use permit conditions for 18U-003.
2. The subject property will be developed with no more than 492,480 square feet of warehouse space.

B. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Eberly and Associates and submitted with the original use permit application stamped received July 2, 2018, and attached as Exhibit A. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.
2. Truck queuing shall be maintained on the subject property to eliminate truck stacking on public roads.
3. Provide a 50-foot buffer around the perimeter of the subject property where it directly abuts residential zoned property, including AG-1 (Agricultural) zoned property.
4. Provide a 25-foot vegetated buffer along the entire site frontage (Bohannon Road).

5. Exterior of the building(s) shall be constructed predominately of stone, brick, concrete, glass or metal. Vinyl siding is a prohibited exterior building material.
6. Lighting on the exterior of the building(s) shall be directed downward and internal to the property lines. All perimeter lighting shall be directed to the interior of the subject property.
7. A vegetated earthen berm and fencing shall be installed on the outer perimeter of the truck courts to maximize screening and sound remediation from surrounding properties. A combination of existing trees and newly planted trees (where insufficient vegetation exists) shall be installed to establish the berm. New trees shall be 8'-10' in height at the time of installation. Newly planted trees shall consist of one or a combination of the following trees: Leyland Cypress, Eastern Red Cedar, Southern Magnolia, Virginia Pine, Arborvitae, Savannah Holly, Nellie R. Stevens Holly.
8. The detention ponds shall meet the minimum City of Fairburn standards.
9. A minimum of 5-foot sidewalks shall be installed along the subject property street frontage and shall be constructed to comply with the Americans with Disabilities Act (ADA) and City of Fairburn's development standards.
10. Commercial driveways/concrete aprons shall be at each project entrance to delineate public from private. Commercial drives shall extend a minimum of 12 feet from the edge of pavement or to the right-of-way.
11. The Developer shall fully upgrade streets (Creekwood Road and Bohannon Road) used for access to the subject property. The upgrade of the streets shall include roadway reconstruction, road widening, and bridge replacement as deemed necessary by City Engineer.
12. The Developer shall provide roadway improvements which shall include pavement, signing, striping, curb and gutter and drainage along the entire site frontage on Bohannon Road at no cost to the City.
13. Turning lanes shall be required to meet projected traffic demand and/or safe operations, as determined by the City Engineer. Turning lanes shall meet the following criteria:
 - a. Provide not less than 150 feet of storage length for arterial roadways. Provide not less than 100 feet of storage length for collector roadways.
 - b. Provide taper lengths of not less than 100 feet.
 - c. Longer storage and taper lengths may be required when traffic projections indicate they are justified.

Section 3. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 4. This Ordinance shall become effective on the 25th day of February, 2019.

Section 5. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed to the extent of the conflict.

APPROVED this 25th day of February, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney

Exhibit A

OCTAVIANO AYALA TRACT

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 180, 7TH DISTRICT, FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH OPEN TOP PIPE IN THE SOUTHERLY RIGHT-OF-WAY LINE OF BOHANNON ROAD (60 FOOT RW WIDTH), LOCATED SOUTH 35 DEGREES 17 MINUTES 10 SECONDS EAST, 969.08 FEET FROM THE COMMON CORNER OF LAND LOTS 163, 164, 179, AND 180;

THENCE, WITH SAID RIGHT-OF-WAY LINE, 261.52 FEET ALONG A CURVE TO THE LEFT, (SAID CURVE HAVING A RADIUS OF 1045.84 FEET, AND CHORD BEARING SOUTH 70 DEGREES 40 MINUTES 58 SECONDS EAST, 260.84 FEET) TO A 3/4 INCH OPEN TOP PIPE;

THENCE, LEAVING SAID RIGHT OF WAY LINE, SOUTH 44 DEGREES 13 MINUTES 46 SECONDS WEST, 409.49 FEET TO A POINT IN A POND;

THENCE, NORTH 45 DEGREES 44 MINUTES 06 SECONDS WEST, 200.00 FEET TO A POINT;

THENCE, NORTH 37 DEGREES 16 MINUTES 03 SECONDS EAST, 301.72 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT OF LAND CONTAINING **1.77 ACRES (76,764 SQUARE FEET)**.

All that certain lot or parcel of land situate in **Fulton and Fayette Counties**, State of Georgia, and being more particularly described as follows:

PARCEL ONE

All that tract or parcel of land lying and being in Land Lot 163 of the 7th District of Fulton County, Georgia, and being more particularly described as follows.

BEGINNING at an iron pin on the north line of Land Lot 163 where said Land Lot line intersects the westerly line of Creekwood Drive (50-foot right-of-way); running thence south 3 degrees 39 minutes west, along the west line of said Creekwood Drive, 187.87 feet to an iron pin; running thence northwesterly along the northeasterly side of Creekwood Drive a distance of 359.41 feet to an iron pin, the chord of said arc being north 56 degrees 07 minutes west, 356.73 feet, running thence south 87 degrees 53 minutes east, along the north line of Land Lot 163, 308.32 feet to the iron pin at the POINT OF BEGINNING on Creekwood Drive, said property being shown as having .561 acres as per plat of survey for Bohannon Group, Ltd., dated December 18, 1973, and finally revised March 27, 1974, prepared by Morrison J. Simms & Associates, registered land surveyors.

PARCEL TWO

All that tract or parcel of land lying and being in Land Lots 163 and 180 of the 7th District of Fulton County, Georgia, and in Land Lot 145 of the 7th District of Fayette County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin at the point where the east line of Land Lot 163 intersects the southwest right-of-way line of Bohannon Road (60-foot right-of-way); running thence south 03 degrees 39 minutes west along the east line of Land Lot 163, 357.66 feet to a geodetic monument; running thence south 72 degrees 43 minutes 51 seconds east, 590.49 feet to an iron pin on the southwesterly right-of-way line of Bohannon Road; running thence southeasterly along the southwesterly right-of-way line of Bohannon Road 306.46 feet to an iron pin, the chord of the arc just described being south 70 degrees 49 minutes 23 seconds east, 305.23 feet; running thence south 79 degrees 44 minutes east, along the southwesterly right-of-way line of Bohannon Road, 83.35 feet to an iron pin; running thence south 02 degrees 39 minutes west, 2,388.42 feet to an iron pin on the south line of Land Lot 145 of the 7th District of Fayette County, Georgia; running thence north 87 degrees 30 minutes 30 seconds west, along the south line of said Land Lot 145, 1,308.49 feet to a point, said point being a common point with property now or formerly owned by Mann, and being shown on plat of survey recorded in Plat Book 8, Page 104, in the Office of the Clerk of the Superior Court of Fayette County, Georgia; running thence north 16 degrees 37 minutes 30 seconds west, 280 feet, more or less, to the center line of County Line Creek; running thence westerly and southwesterly along the center line of County Line Creek and following the meanderings thereof, 625 feet, more or less, to a point where said center line intersects the south line of Land Lot 145; continuing thence southwesterly along the center line of said County Line Creek, and following the meanderings thereof, 360 feet, more or less, to a point where said center line intersects the south line of Land Lot 163; running thence north 88 degrees 10 minutes 30 seconds west, 172.68 feet, more or less, to an iron pin; running thence north 02 degrees 23 minutes 30 seconds east, 2,916.55 feet to an iron pin at the southwest corner of property now or formerly owned by Fulton County; running thence south 89 degrees 26 minutes 30 seconds east, along the south line of said Fulton County property, 399.79 feet to an iron pin; running thence north 02 degrees 23 minutes 30 seconds east, along the east line of said Fulton County property, 538.95 feet to an iron pin on the south right-of-way line of Bohannon Road; running thence south 87 degrees 53 minutes east, 435.62 feet to an iron pin; running thence southeasterly along the southwesterly right-of-way line of Bohannon Road 656.34 feet to an iron pin, the chord of said arc being south 64 degrees 02 minutes 15 seconds east, 637.55 feet; running thence south 40 degrees 11 minutes 30 seconds east, along the southwesterly right-of-way line of Bohannon Road, 40.50 feet to the iron pin at the POINT OF BEGINNING, said tract containing 154.3 acres as per plat of survey for Bohannon Group, Ltd., prepared by Morrison J. Simms & Associates, registered land surveyors, dated December 18, 1973, and revised March 27, 1974

for record August 31, 1982, recorded in Deed Book 8224, page 217, in the office of the Clerk of the Superior Court of Fulton County, Georgia.

FURTHER LESS AND EXCEPT:

All that property previously released by Kingston Hill Corporation by virtue of that certain Quitclaim Deed dated November 16, 1988, filed for record on November 21, 1988 at Deed Book 12064, page 348, Fulton County Records, said property being all that tract or parcel of land lying and being in Land Lot 180 of the 7th District of Fulton County, Georgia, and being more particularly described as follows:

Beginning at a point located on the existing southerly right-of-way of Bohannon Road (a 60-foot right-of-way), which point is located 1,137.73 feet east of the intersection of said right-of-way with the west land lot line of Land Lot 180, as measured along said right-of-way; running thence south 79 degrees 44 minutes 00 seconds east 35.00 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 896.00 feet to a point; running thence north 87 degrees 21 minutes 00 seconds west 100.00 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 206.50 feet to a point; running thence north 87 degrees 21 minutes 00 seconds west 361.5 feet to a point, running thence north 02 degrees 39 minutes 00 seconds east 361.5 feet to a point; running thence south 87 degrees 21 minutes 00 seconds east 361.5 feet to a point; running thence south 02 degrees 39 minutes 00 seconds west 120.00 feet to a point; running thence south 87 degrees 21 minutes 00 seconds east 85.31 feet to a point; running thence north 02 degrees 39 minutes 00 seconds east 865.64 feet to the point of beginning; said tract containing 3.768 acres, as per plat of survey prepared for Lacy S. Curry dated June 10, 1988 by Charles C. Jones, Registered Land Surveyor # 1650.

LESS AND EXCEPT:

All that tract of land lying and being in Land Lot 163 of the 7th District, Fulton County, Georgia and more particularly described as follows:

BEGINNING AT A POINT on the southern right of way of Johnson Road (80 foot right of way). said point being located 2004.14 feet easterly of the centerline of Gullatt Road as measured along the southern right of way of Johnson Road, said point being The True Point of Beginning.

Proceeding thence along said right of way S 87 degrees 51 minutes 24 seconds West a distance of 570.34 feet to a point. Proceeding thence South 55 degrees 00 minutes 00 seconds East a distance of 618.77 feet to a point. Proceeding thence South 00 degrees 40 minutes 00 seconds West a distance of 821.40 feet to a point. Proceeding thence South 11 degrees 00 minutes 00 seconds East a distance of 719.07 feet to a point. Proceeding thence South 79 degrees 00 minutes 00 seconds West a distance of 298.67 feet to a point. Proceeding thence South 40 degrees 50 minutes 00 seconds West a distance of 616.09 feet to a point. Proceeding thence North 87 degrees 36 minutes 30 seconds West a distance of 498.43 feet to a point. Proceeding thence North 02 degrees 23 minutes 30 seconds East a distance of 2423.86 feet to a point. Proceeding thence South 89 degrees 29 minutes 30 seconds East a distance of 399.72 feet to a point. Proceeding thence North 02 degrees 23 minutes 33 seconds East a distance of 538.81 feet to a point and The True Point Of Beginning. Said tract containing 52.000 Acres.

Being all that parcel or tract of land conveyed from Bartow Properties, LLC to Asbury Park, LLC, a Georgia limited liability company by virtue of Warranty Deed dated November 18, 2003, and recorded December 15, 2003 in Deed Book 36694, Page 107, Fulton County, Georgia Records.



**CITY OF FAIRBURN
CITY COUNCIL MEETING
AGENDA ITEM**

SUBJECT: REZONING 18RZ-007 – 6905 Development Company [Renaissance Festival]

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Planning and Zoning Commission: 02.05.19

Mayor and City Council: 02.25.19

DEPARTMENT: Community Development/Planning and Zoning

BUDGET IMPACT: None

PUBLIC HEARING: (X) Yes () No

Jack Sias of 6905 Development Company [Renaissance Festival] seeks to rezone the subject property located at 592 Rivertown Road from **R-1 (Single-Family Residential District)** to **AG-1 (Agricultural District)** to allow the expansion of Renaissance Festival parking.

STAFF RECOMMENDATION: APPROVAL CONDITIONAL

PLANNING AND ZONING COMMISSION RECOMMENDATION: APPROVAL CONDITIONAL


Elizabeth Carr-Hurst, Mayor

APPLICATION INFORMATION

Rezoning Petition 18RZ-007 6905 Development Company [Renaissance Festival]

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner
6905 Development Company	6905 Development Company
Jack Sias	Jack Sias

PROPERTY INFORMATION

Address	592 Rivertown Road [parcel no. 09F180000700372], 0 Rivertown Road [parcel no. 09F180000700364]
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Land Lot, and District:	Land Lot 70 and District 9F
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Frontage:	Rivertown Road
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Area of Property:	+/- 21.41 acres
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Existing Zoning and Use:	Vacant
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Overlay District:	N/A
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2035 Comprehensive Future Land Use Map Designation:	Rural Residential
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Compatibility with Fairburn's 2035 Comprehensive Plan:	The proposed use and rezoning to AG-1 (Agricultural District) is compatible with the 2035 Comprehensive Plan.
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Proposed Zoning:	AG-1 (Agricultural)
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MEETING AND HEARING DATES

Planning and Zoning Commission Meeting
Tuesday, February 5, 2019

Mayor and City Council Public Hearing
Monday, February 25, 2019

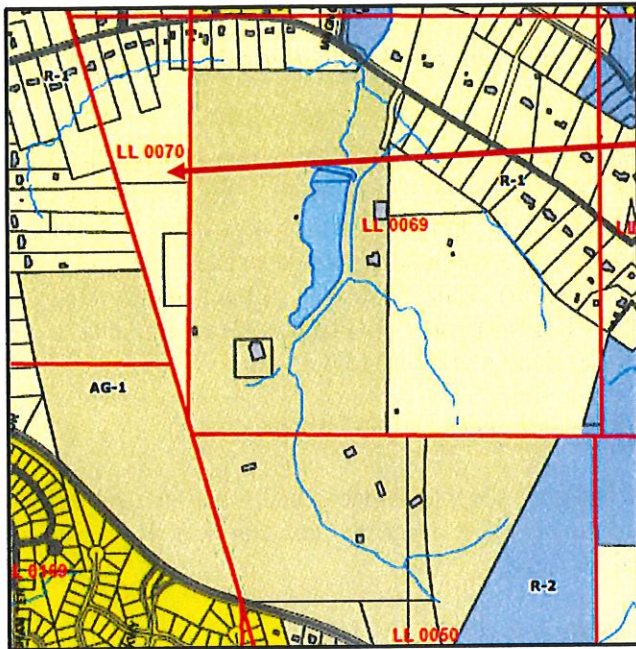
INTENT

To rezone the subject property located at 592 Rivertown Road from **R-1 (Single-Family Residential) District** to **AG-1 (Agricultural District)** to allow the expansion of Renaissance Festival parking.

SURROUNDING ZONING

North: R-1 (Single-Family Residential District) and R-3 (Single-Family Residential District)
East: R-1 (Single-Family Residential District) and AG-1 (Agricultural District)
South: AG-1 (Agricultural District) and PD (Planned Development District)
West: AG-1 (Agricultural District) and R-1 (Single-Family Residential District)

Zoning Map



18RZ-007
21.41 acres

PUBLIC PARTICIPATION

The applicant held a community meeting on Thursday, January 31, 2018, 7:00 p.m. at the Fairburn Annex located at 40 Washington Street. Property owners located within 500 feet of the subject property were invited to the meeting.

STAFF COMMENTS

Engineering/Public Works:

- Lives and property are endangered by traffic created by festivals which are unregulated and uncontrolled and by vehicles for which no provisions for parking and safe ingress and egress have been made by festival operators. Sec. 14-94(b)
- As such, turning lanes will likely be required by the City to meet projected traffic demand. There is already a traffic problem in this residential area due to festival activities. The proposed expansion will only exacerbate the situation. The installation of turning lanes may also trigger other development requirements that may not have been originally captured such as the installation of curb and gutter, sidewalk, striping and signage, etc. If the proposed secondary entrance will be utilized solely for emergency purposes, these requirements may only be obligatory at the existing entrance if these traffic control and pedestrian safety measures are not currently present there. However, should the use of the secondary entrance extend beyond emergency access only, then these improvements would also be applicable at this location as well.

Fire: Reviewed; no comments provided.

Water and Sewer: Reviewed; no comments provided.

Utility: Reviewed; no comments provided.

ZONING IMPACT ANALYSIS

A. Does the proposal permit a use that is suitable in view of the use and development of adjacent and nearby property?

The applicant is proposing to rezone the subject property to AG-1 (Agricultural District) to be consistent with the current zoning of the Renaissance Festival property, which is AG-1 (Agricultural District). The property will be used to provide additional parking for festival attendees. The staff is of the opinion that the proposed use is suitable in view of the use and development of adjacent and nearby property. The surrounding area consists of: R-1 (Single-Family Residential District) and R-3 (Single-Family Residential District) to the north, R-1 (Single-Family District) and AG-1 (Agricultural District) to the east, AG-1 (Agricultural District) and PD (Planned Development) to the south, and AG-1 (Agricultural District) and R-1 (Single-Family Residential District) to the west.

B. Does the proposal adversely affect the existing use or usability of adjacent or nearby property?

Staff is of the opinion that the petition if approved will not have an adverse impact on the use or usability of adjacent or nearby properties. The surrounding properties are zoned AG-1 (Agricultural District), R-1 (Single-Family Residential District) and R-3 (Single-Family Residential District).

C. Does the property have a reasonable economic use as currently zoned?

Staff is of the opinion that the subject property has a reasonable economic use as currently zoned.

D. Will the proposal result in a use that could cause excessive or burdensome use of existing streets, transportation facilities, utilities or schools?

Staff is of the opinion that the proposal will not result in a use which will cause additional burdens on the existing streets, transportation facility, utilities or schools. The Renaissance Festival generate a significant amount of traffic during the six weeks of its seasonal operation. With the creation of additional parking spaces, vehicles will be able to move faster on/off Virlyn B. Smith Road, which will decrease traffic congestion. The proposed secondary entrance on Rivertown Road will provide a controlled access only for emergency vehicles. The main access point into the festival will remain on Virlyn B. Smith Road.

E. Is the proposal in conformity with the policies and intent of the land use plan?

The applicant is proposing to rezone the subject property from R-1 (Single-Family Residential District) to AG-1 (Agricultural District) for the future expansion of Renaissance Festival parking. The staff is of the opinion that the proposal is consistent with the Future Land Use Map, which designates the property as Rural Residential. The Rural Residential Character Area is meant to preserve a rural feel and transition to the very low-density uses in the rural areas surrounding the city, South Fulton, Fayette, and Coweta counties. One acre or larger lots are appropriate in these areas. The appropriate zoning districts for the Rural Residential Character Areas, as referenced in the Comprehensive Plan are: AG-1 (Agricultural District), R-1 (Single-Family District), R-2 (Single-Family District), R-3 (Single-Family District), and R-4 (Single-Family District). Also, rezoning the subject property to AG-1 (Agricultural District) is consistent with the current zoning of the Renaissance Festival property.

The appropriate land uses for the Rural Residential Character Areas, as referenced in the Comprehensive Plan are:

- Single-family residential
- Parks/Playgrounds
- Golf Courses
- Schools
- Churches

F. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the proposal?

Staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

G. Does the proposal permit a use that can be considered environmentally adverse to the natural resources, environment, and citizens of Fairburn?

Staff is of the opinion that the proposal would not permit a use which could be considered environmentally adverse to the natural resources, environment, or citizens of Fairburn. The developer will be required to adhere buffer standards and erosion control BMPs (Best Management Practices).

STAFF RECOMENDATION

It is the opinion of staff that the rezoning request is in conformity with the Future Land Use Map, which designates the property as, Rural Residential. The current zoning for the Renaissance Festival property is AG-1 (Agricultural District) and the Future Land Use Map designates the property as Rural Residential. Rezoning the subject property from R-1 (Single-Family District) to AG-1 (Agricultural District) will be consistent with the current zoning of the Renaissance Festival property. Therefore, based on these reasons staff recommends **APPROVAL** **CONDITIONAL** of the rezoning petition.

Should the Mayor and City Council decide to rezone the subject property from R-1 (Single-Family Residential District) to AG-1 (Agricultural District) the staff recommends the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

A. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Integrated Science and Engineering and submitted with the original rezoning application stamped received September 04, 2018. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

B. To the owner's agreement to the following site development considerations:

1. Provide a 50-foot undisturbed vegetated buffer and fencing around the perimeter of the subject property where it directly abuts residential zoned properties.
2. The site shall be developed to restrict the secondary entrance on Rivertown Road for emergency vehicle access.

ATTACHMENTS

Letter of Intent
Impact Analysis
Conceptual Site Plan



INTEGRATED Science & Engineering

40 YEARS OF EXCELLENCE
ATLANTA · SAVANNAH · MOBILE

1782-007

RECEIVED
SEP 04 2018

8/31/2018

Tarika Peek
City of Fairburn – Planning and Zoning
56 Malone Street
Fairburn, GA 30213

Re: Georgia Renaissance Festival Parking Expansion

Dear Ms. Peek:

Please accept this as the formal Letter of Intent for the rezoning of the property located at 592 Rivertown Road, Fairburn Georgia.

It is the Owner/Developer's Intent to rezone the subject property from the current R-1 to AG-1 zoning. The purpose of the rezoning is to allow the owner to expand the parking from the GA Renaissance Festival located at 6905 Virlyn B. Smith Road. This zoning compliments the existing zoning of the current parking facilities as well as the festival, itself.

1039 Sullivan Road
Suite 200
Newnan, Georgia 30265
T: 678.552.2106

This new parking area will be used to accommodate the future growth of the festival. Additionally, the access drive will tie to the current drive and provide controlled access for emergency vehicles to Rivertown Road.

22 Barnard Street
Suite 240
Savannah, Georgia 31401
T: 912.480.6935

The rezoning request covers both the properties at the following Parcel Identification Numbers - 09F180000700372 and 09F180000700364.

Should you have any additional questions, please feel free to reach me at 770-733-7905.

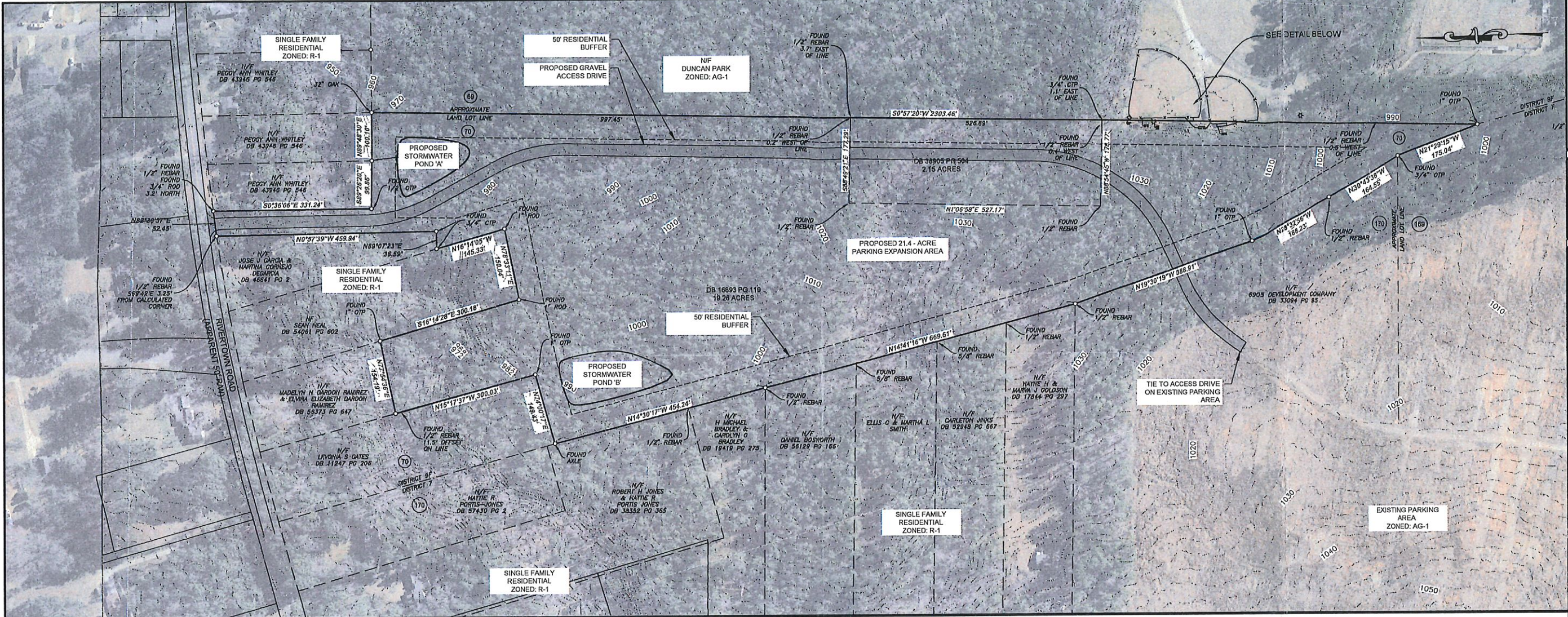
Sincerely,

1290 Main Street
Suite C
Daphne, Alabama 36526
T: 251.210.2544

INTEGRATED SCIENCE & ENGINEERING, INC.

Brian C. Pelham, PE
Senior Project Manager

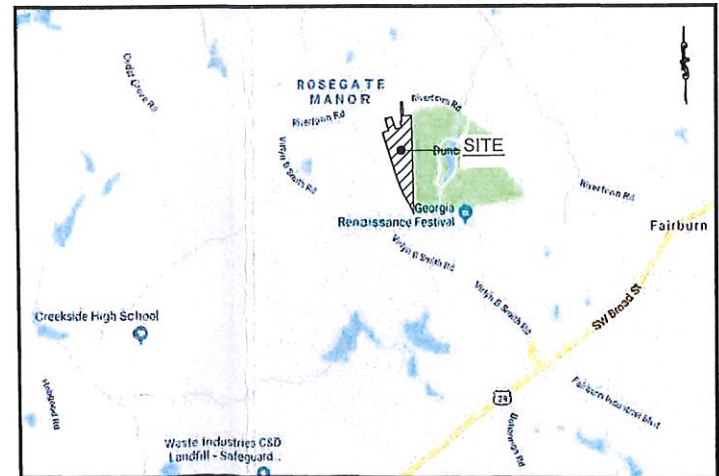
64 Bracketts Way
Unit 10
Blairsville, Georgia 30512
T: 706.438.2323



SITE PLAN NOTES:

1. OWNER:
6905 DEVELOPMENT COMPANY
PO BOX 986
FAIRBURN, GA 30213
CONTACT: JACK SIAS
(770) 964-8575
2. ENGINEER/SURVEYOR:
INTEGRATED SCIENCE & ENGINEERING, INC.
1039 SULLIVAN ROAD, STE. 200
NEWNAN, GA 30265
CONTACT: BRIAN C. PELHAM, P.E.
(678) 552-2106
3. EXISTING ZONING: R-1
PROPOSED ZONING: AG-1
4. TOTAL SITE AREA = 21.4 AC.
5. BUILDING SETBACKS: 60 FT FRONT
25 FT SIDE
50 FT REAR
6. ZONING BUFFERS: 50 FT
7. PER FEMA FLOOD PANEL 13121C0453F, EFFECTIVE 9-18-2013, THIS PROPERTY LIES WITHIN A ZONE X, AREA OF MINIMAL FLOOD HAZARD.
8. BASED ON THE NATIONAL WETLANDS INVENTORY, THERE DOES NOT APPEAR TO BE ANY WETLANDS LOCATED WITHIN THIS PROPERTY.
9. NO TIE-INS TO PUBLIC WATER OR SEWER IS PROPOSED. NO ON-SITE SEPTIC SYSTEMS ARE PROPOSED.

THE GEORGIA
**RENAISSANCE
Festival**



VICINITY MAP

Date	Drawn By	Check By	Design By	Review By	Rev.	Description	Date	Rev.
8/27/2018	CVC	BCP	BCP	BCP				
Project #	2411801							
Scale	1" = 100'							
100'	50'	0'	100'					

CONSTRUCTION PLANS
FOR
GEORGIA RENAISSANCE FESTIVAL PARKING EXPANSION
PREPARED FOR
6905 DEVELOPMENT COMPANY
LOCATED IN LAND LOT 70 OF THE 7TH DISTRICT OF FULTON COUNTY, GEORGIA

Re: REZONING ORDINANCE 18RZ-007
Property of 6905 Development Company
592 Rivertown Road 09F180000700372 &
0 Rivertown Road 09F180000700364
21.41 acres; Land Lot 70
District 9F,
Fairburn, Fulton County, Georgia

**STATE OF GEORGIA
COUNTY OF FULTON**

AN ORDINANCE TO REZONE CERTAIN PROPERTY WITHIN THE CITY LIMITS OF THE CITY OF FAIRBURN FROM R-1 (SINGLE-FAMILY RESIDENTIAL) DISTRICT TO AG-1 (AGRICULTURAL) DISTRICT; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FAIRBURN, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY OF THE SAME:

Section 1. That the City of Fairburn Zoning Ordinance be amended, and the official maps established in connection therewith be changed so that the property located in the City of Fairburn as indicated on Exhibit "A" to this Ordinance be changed from R-1 (Single- Family Residential) District to AG-1 (Agricultural) District with the following conditions:

A. To the owner's agreement to abide by the following:

1. The property shall be developed in substantial conformity with the Zoning Site Plan prepared by Integrated Science and Engineering and submitted with the original rezoning application stamped received September 4, 2018. Said site plan is conceptual only and must meet or exceed the requirements of the City's ordinances prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the City Engineer or designee.

B. To the owner's agreement to the following site development considerations:

1. Provide a 50-foot undisturbed vegetated buffer and fencing around the perimeter of the subject property where it directly abuts residential zoned properties.

2. The site shall be developed to restrict the secondary entrance on Rivertown Road for emergency vehicle access.

Section 2. That the property shall be developed in compliance with the conditions of approval as stated in this Ordinance. Any conditions hereby approved do not authorize the violation of any district regulations; and

Section 3. That the official maps referred to, on file in the Office of the City Clerk, be changed to conform with the terms of this Ordinance; and

Section 4. In the event any section, subsection, sentence, clause, or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions of the other sections, subsections, sentences, clauses or phrases of this Ordinance, which shall remain in full force and effect as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part thereof. The City Council declares that it would have passed the remaining parts of this Ordinance or retained the previously existing Ordinance if it had known that such part of parts hereof would be declared or adjudicated invalid or unconstitutional.

Section 5. Pursuant to the requirements of the Zoning Procedures Act and the City Zoning Ordinance, a properly advertised public hearing was held not less than 15 nor more than 45 days from the date of publication of notice, and which public hearing was held on the 25th day of February, 2019.

Section 6. This Ordinance shall become effective on February 25, 2019.

Section 7. All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.

APPROVED this 25th day of February, 2019, by the Mayor and Council of the City of Fairburn, Georgia.

Elizabeth Carr-Hurst, Mayor

ATTEST:

Keisha McCollough, City Clerk

APPROVED AS TO FORM:

William R. (Randy) Turner, City Attorney

Exhibit A

All that tract or parcel of land lying and being in the 9th District of originally Campbell, now Fulton County, Georgia, being Tract 3 according to the survey and plat by J. W. Steed of December, 1931, and being all of fractional Land Lot 70, fronting 865 feet on the south side of the Fairburn and Pumpkintown Road, containing 26 acres, more or less, being that tract conveyed R. L. Johnson by Mrs. K. R. Owens by deed dated July 13, 1949, recorded in Deed Book 2443 at Page 190, records of Fulton County, Georgia; SAVING AND EXCEPTING however, from said tract, the realty embraced by the following: (a) That right-of-way deed from R. L. Johnson to State Highway Department of Georgia dated November 26, 1955, recorded in Deed Book 3079 at Page 476, said records; (b) That deed from Mr. R. L. Johnson to Mr. William C. Whitley dated January 22, 1957, recorded in Deed Book 3190 at Page 120, said records; (c) That deed from R. L. Johnson to W. E. Thompson dated July 18, 1960, recorded in Deed Book 3591, at Page 589, said records; (d) That deed from R. L. Johnson, Sr. to A. Gerald Sledge, dated August 27, 1967, recorded in Deed Book 4782 at Page 561, said records; (e) That deed from R. L. Johnson to Hugh D. Davis dated March 18, 1968, recorded in Deed Book 4875 at Page 547, said records; (f) That deed from R. L. Johnson to Joe H. Cochran dated July 14, 1970, recorded in Deed Book 5285 at Page 498, said records; (g) That deed from R. L. Johnson to William C. Simpson dated June 7, 1971, recorded in Deed Book 5407 at Page 38, said records, as amended and corrected by corrective deed dated August 5, 1971, recorded in Deed Book 5436 at Page 301, said records; (h) That deed from R. L. Johnson, Sr. to H. S. Smith dated February 23, 1971, recorded in Deed Book 5386 at Page 109, and (i) That deed from R. L. Johnson, Sr. to Reuben Lee Johnson, Jr., dated August 24, 1973, recorded in Deed Book 5894 at Page 226, said records.

Grantor's decedent, R. L. Johnson, is the same person referred to in the above-referenced deeds as R. L. Johnson and as R. L. Johnson, Sr.

Said realty is referred to between the parties as "Land, Rivertown Road."

ALSO:

ALL that tract or parcel of land lying and being in Land Lot 70 of the 9F District of Fulton County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the East line of said Land Lot 70, said point being 778 feet North of the Southeast corner of Land Lot 70; running thence North along the East line of said Land Lot 70 a distance of 527 feet to an iron pin corner; running thence West 180 feet to an iron pin corner; running thence South 527 feet to an iron pin corner; running thence East along the North side of a tract reserved for a 50 foot street, a distance of 180 feet to an iron pin corner on the East line of Land Lot 70 and the point of beginning, as more fully will appear by Plat of Survey for R. L. Johnson, Jr., by Bush, Steed & Boyd, Inc., Surveyors and Engineers dated December 11, 1972, and said plat is by reference hereto made a part hereof, as though fully set forth on this page to more clearly show the courses, distances, meets and bounds of the lands herein conveyed.

LESS & EXCEPT:

All that tract or parcel of land lying and being in the 9th District of originally Campbell, now Fulton County, Georgia. Being a small part of Tract 3, according to the survey and plat of J.W. Steed of Sept. 1952 and being part of fractional land lot 70, fronting one-hundred (100) feet on the south side of Fairburn and Pumpkintown Road, described as follows: Beginning where said Lot No. 1 intersects the south edge of the pavement of Rivertown Road from an iron stake and oak tree and running west along

the margin of the pavement of said road 100 feet; thence South 370 feet to the R.L. Johnson Property; thence East 100 feet to corner of Whitley Property; thence 370 feet to the margin of the pavement of Rivertown Road, at the point of beginning.

ALSO:

Right of Way Deed recorded in Deed Book 3079, Page 476, Fulton County, Georgia Records.

ALSO:

All that tract or parcel of land lying and being in the 9th District of originally Campbell, now Fulton County, Georgia. Being a small part of Tract 3, according to the survey and plat of J.W. Steed of January 1957, and being a part of fractional of Land Lot 70, fronting one-hundred (100) feet on the south side of Fairburn and Pumpkintown Road, described as follows: Beginning where said Lot No. 2 intersects the south edge of the pavement of Rivertown Road from an iron stake and running West the margin of the pavement of said road 100 feet; thence South 336 feet to the R.L. Johnson Property Line. Thence East 100 feet to corner of Lot No. 1 or W.C. Whitley property; Thence 350 feet to the margin of the pavement of Rivertown Road, at the point of beginning.

ALSO:

All that tract or parcel of land lying and being in Land Lot 70 of the 9th District of originally Fayette, then Campbell, now Fulton County, Georgia, more particularly described as follows:

BEGINNING at an iron pin on the Southeastern side of the Rivertown Road at the intersection of the dividing line of the 7th and 9th Land Districts with said Road, which point and line is commonly called the Old Indian Treaty Line; thence South 18 degrees East, forming an interior angle with the Southeastern side of the Rivertown Road, along the Old Indian Treaty Line, three hundred (300) feet to an iron pin; thence Northeastwardly, crossing a branch and forming an interior angle with the preceding course of 91 degrees, a distance of one hundred fifty (150) feet to an iron pin; thence Northwestwardly Three Hundred (300) feet to an iron pin on the Southeastern side of the Rivertown Road; thence Southwestwardly along the Southeastern side of the Rivertown Road One Hundred Fifty (150) feet to the iron pin at the Old Indian Treaty line, at the point of beginning.

ALSO:

All that tract or parcel of land lying and being in Land Lot 70 of the 9th District of originally Campbell, now Fulton County, according to a Plat of Survey by Eston Pendley made June 2, 1967 for R.L. Johnson, said property being more particularly described as follows:

BEGINNING at a point on the Southeast line of Rivertown Road, 150 feet from a point formed by the intersection of the of the Southeast line of Rivertown Road, with the West line of Land Lot 70, as measured along the Southeast line of Rivertown Road; running thence in a Southeasterly direction a distance of 300 feet to an iron pin; running thence in a Northeasterly direction a distance of 150 feet to an iron pin; running thence in a Northwesterly direction a distance of 300 feet to an iron pin on the Southeast line of Rivertown Rd; running thence in a Southwesterly direction along the Southeast line of Rivertown Rd, a distance of 150 feet to an iron pin and the point of beginning.

ALSO:

All that tract or parcel of land lying and being in Land Lot 70 of the 9th District of Fulton County, Georgia and being more fully described as follows:

BEGINNING at a point on the southerly side of Rivertown Road 300' feet East of a point formed by the West line of Land Lot 70 with the southerly side of Rivertown Road; running thence in a southerly direction a distance of 300' feet to an iron pin; running thence in an easterly direction a distance of 150' feet to an iron pin; running thence in a northwesterly direction a distance of 300' feet to an iron pin on the southerly side of Rivertown Road; running thence in a Southwesterly direction along the Southerly side of Rivertown Road a distance of 150' feet to an iron pin and the point of beginning.

Said description according to a plat of survey for R.L. Johnson completed by Eston Pendley, Registered Land Surveyor #945 on September 26, 1967.

ALSO:

All that tract or parcel of land lying and being in Land Lot No. 70 of the Ninth District of originally Fayette now in Fulton County Georgia, more fully described as follows: Commencing on Old Indian Treaty line between Seventh District of Coweta and Ninth District of Fayette originally at an iron pin corner which is three hundred (300) feet from Rivertown Road as measured along said Old Treaty line. This point being the South West corner of Cochran Home lot and from this corner run South 16 degrees 15 minutes East three hundred (300) feet along Old Treaty line to iron pin corner, then run East 16 degrees 15 minutes North one hundred and fifty (150) feet to an iron pin corner. Then run North 16 degrees West three hundred (300) feet to South East corner of Cochran Home lot, then run Westerly one hundred and fifty (150) feet to the point of beginning at South West corner of Cochran Home lot, the point of beginning.

ALSO:

All that tract or parcel of land lying and being in Land Lot No. 70 of the 9F District of Fulton County, Georgia, and more particularly described as follows:

To arrive at the beginning point, start at an Iron pin on the southerly side of Rivertown Road, which is 300 feet easterly along the southerly side of Rivertown Road from the Indian Treaty Line, and run thence southeasterly at an interior angle of 85 degrees 13 minutes a distance of 300 feet to an iron pin, which is the beginning point of the land herein conveyed; thence southeasterly at an interior angle of 85 degrees 15 minutes a distance of 300 feet; thence easterly-northeasterly at an interior angle of 94 degrees 45 minutes and running a distance of 150 feet; thence north-northwesterly at an interior angle of 84 degrees 13 minutes a distance of 300 feet to an iron pin; thence westerly at an interior angle of 94 degrees 45 minutes a distance of 150 feet to the point of beginning, according to a plat made by Thomas E. Boyd, dated February 1971.

ALSO:

All that tract or parcel of land lying and being in Land Lot No. 70 of the 9F District of Fulton County, Georgia, and more particularly described as follows:

Beginning at an iron pin on the south side of Rivertown Road, which iron pin is 300 feet west of the east line of Land Lot 70, as measured along the south side of Rivertown Road, and running thence South at an interior angle of 90 degrees 40 minutes a distance of 460 feet to an iron pin; thence west 36.6 feet to an interior angle of 30 degrees to an iron pin; thence north-northwesterly a distance of 454.6 feet to the

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CATHIELENE ROBINSON
Clerk of Superior Court
Fulton County, Georgia

South side of Rivertown Road; thence easterly at an interior angle of 58 degrees 02 minutes a distance of 158 feet, as measured along the south side of Rivertown Road to an iron pin and the point of beginning, containing 1.01 acres, more or less.



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPOINTMENT OF CITY ADMINISTRATOR

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (x) OTHER

Submitted: 2/20/19

Work Session: 2/25/19

Council Meeting: 2/25/19

DEPARTMENT: Mayor and Council

BUDGET IMPACT: 100-1320-51-1100 (City Administrator Salaries & Wages)

PUBLIC HEARING? () Yes (x) No

PURPOSE: For Mayor and Council to appoint De'Carlton Seewood as the City Administrator for the City of Fairburn.

HISTORY: Per Article IV, Section 30 of the Fairburn City Charter, the Mayor and Council have the right and power to elect officers or employers in the opinion of the said Mayor and Council for the management and operation of the business of the City of Fairburn.

FACTS AND ISSUES: The Mayor and Council make appointments of the City Administrator pursuant to the City's Charter.

RECOMMENDED ACTION: For Mayor and Council to appoint De'Carlton Seewood as City Administrator for the City of Fairburn.


Elizabeth Carr-Hurst, Mayor



APPOINTMENT OF CITY ADMINISTRATOR

Per Article IV, Section 30 of the Fairburn City Charter, the Mayor and Council have the right and power to elect officers or employers in the opinion of the said Mayor and Council for the management and operation of the business of the City of Fairburn. On February 25, 2019, De'Carlton Seewood is appointed City Administrator for the City of Fairburn per contract beginning on March 6, 2019.

Elizabeth Carr-Hurst, Mayor

EMPLOYMENT AGREEMENT

This Employment Agreement ("this **Agreement**") is entered into this 25th day of February, 2019, by and between the City of Fairburn, Georgia ("the **City**"), a municipal corporation of the State of Georgia, by and through its duly elected Mayor and City Council ("**Governing Body**"), and De'Carlon Seewood ("**Seewood**"), the City and Seewood hereinafter sometimes referred to as "the **Parties**".

Whereas, subject to the terms and conditions set forth in this Agreement, the City desires to elect, appoint and employ Seewood as City Administrator of the City of Fairburn, Georgia; and,

Whereas, subject to the terms and conditions set forth in this Agreement, Seewood desires to accept employment as City Administrator of the City of Fairburn, Georgia.

NOW, THEREFORE, in consideration of the premises, mutual promises, and obligations set forth and contained herein, the City and Seewood, desiring and intending to be so bound, now agree as follows:

Section 1. Effective Date.

This Agreement shall become effective on February 25, 2019, and upon execution by the Parties.

Section 2. Applicable Law.

In all respects, this Agreement shall be governed by and interpreted according to the laws of the State of Georgia. This Agreement is also subject to and governed by certain specific laws governing the creation, election, term, duties and powers of the position of City Administrator of Fairburn, Georgia, and the City and Seewood understand and agree that this Agreement may not be interpreted so as to represent an agreement to any terms and conditions contrary thereto.

Section 3. Appointment and Position; Term.

Subject to the terms and conditions of this Agreement, the City, by and through the Governing Body, elects and appoints Seewood, who accepts such election and appointment, to serve as City Administrator of the City of Fairburn beginning on March 6, 2019. Unless extended or sooner terminated in accordance with Section 8, this Agreement shall expire at 11:59 p.m. on January 31, 2021.

Section 4. Duties and Responsibilities.

As City Administrator, Seewood shall be the Chief Administrative Officer of the City of Fairburn, Georgia, whose duties and responsibilities shall include, without being limited to, the following:

- (1) Direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by the City Charter or by other applicable law.
- (2) Attend all meetings of the Governing Body and, as directed by same, participate in discussions regarding matters before the Governing Body for action.
- (3) Attend to and ensure that all provisions of the City Charter, ordinances of the City, as well as all resolutions and directives of the Governing Body are faithfully enforced and carried out.
- (4) Supervise all purchasing and contracting activities of the City. In this regard, after the expiration of the sixth (6th) month of this Agreement, Seewood will be eligible to be added as a signatory on financial accounts belonging to the City.
- (5) Prepare and submit an annual budget and capital improvement program to the Governing Body for its consideration and action for each fiscal year beginning on October 1.
- (6) Submit to the Governing Body and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year and from time to time as directed by the Governing Body.
- (7) Make such other reports as the Governing Body may require concerning the operations of City departments, offices and agencies subject to Seewood's direction and supervision.
- (8) Keep the Governing Body fully advised as to the financial condition and operational needs of the City and make such recommendations to the Governing Body regarding same as Seewood may deem appropriate and as Seewood may be directed by the Governing Body. In this regard, Seewood will provide a monthly written report to the Governing Body and such other reports as may be requested by the Governing Body.
- (9) Direct the administrative and technical activities of the personnel administration system as provided in the personnel ordinances.
- (10) Perform such other duties as are specified in the City Charter or as may be required by the Governing Body.

(11) Perform all duties and responsibilities of the position of City Administrator in accordance with all applicable laws and in accordance with all applicable ethical standards.

Section 5. Compensation; Benefits.

5.1 Salary.

As City Administrator, Seewood shall be paid an annual salary of \$125,000.00.

5.2 Car Allowance.

As additional compensation, Seewood will be paid a monthly car allowance in the amount of \$400.00, which shall represent the City's entire obligation to Seewood for use of Seewood's personal vehicle during the performance of duties on behalf of the City.

5.3 Health and Retirement Benefits.

Upon the same terms and conditions as any other City employee, as City Administrator, Seewood shall be entitled to participate in any employee health, disability, dental, or vision insurance program offered by the City, as well as any savings, retirement, deferred compensation, or any other health or financial benefit program offered by the City.

5.4 Leave.

As City Administrator, Seewood shall be entitled to vacation, holiday and sick leave, as well as any other leave established under the City's personnel ordinance, in the same manner and to the same extent as other City employees.

5.5 Allowance for Professional Development Expenses.

Seewood's travel expenses, including expenses either paid by the City or for which Seewood is reimbursed, will be limited to the Governing Body's annual appropriation for such expenses; provided, further, that the City will also pay or reimburse Seewood for all reasonable and necessary expenses required for Seewood to maintain his membership in the International City Manager Association ("ICMA") and for his attendance at ICMA's annual conference.

Section 6. Exclusive Employment; Notice of Resignation.

During the term of this Agreement, the duties and responsibilities of the City Administrator require a full time commitment. As such, Seewood will not seek out or accept other employment; provided, however, Seewood may terminate this Agreement prior to its expiration by giving the Governing Body ninety (90) days prior written notice.

Section 7. Annual Review.

The Governing Body will conduct a review of Seewood's performance as City Administrator at any time the Governing Body deems that such a review is appropriate; and, in any event, at least annually, which annual review will be conducted in the month of October.

Section 8. Termination.

As City Administrator, Seewood will serve at the pleasure of the Governing Body and this Agreement creates no right to continued employment. Seewood may be disciplined or suspended by the Governing Body for cause. Seewood may be terminated and removed from the position of City Administrator by the Governing Body with or without cause. [For purposes of this Section, "cause" means the performance of any illegal act; insubordination; failure to satisfactorily perform the duties and responsibilities of City Administrator as determined in the sole discretion of the Governing Body; and the performance of any act, without regard to its proven or alleged illegality, and without regard to whether the act was performed in the course of conducting City business, if the act, in the sole determination of the Governing Body, harms the City's reputation or places the City in a poor public light.]

Section 9. Termination Without Cause.

The position of City Administrator, pursuant to the City Charter, is subject to an annual appointment in January of each year. For purposes of this Section, failure by the Governing Authority to appoint Seewood to the position of City Administrator in January, 2020 shall be treated as a termination without cause. In the event that Seewood is terminated without cause, for consulting and transitional services, Seewood shall continued to receive the salary and the health and retirement benefits set forth in Section 5.1 and Section 5.3 of this Agreement for a period of three (3) months from the date of the termination.

Section 10. Relocation Expenses.

The City will reimburse Seewood in a total amount not to exceed \$8,000.00 for expenses reasonable and necessary for his relocation; provided, however, that Seewood will provide receipts evidencing his payment of such expenses.

Section 11. Entire Agreement; Modification.

This Agreement constitutes the entire agreement between the City and Seewood, to the exclusion of all other written or verbal communications between same. If any part of this Agreement is determined by an appropriate judicial body to be invalid or unenforceable, the Parties agree that

all other parts of the Agreement will remain in force as written. This Agreement may not be altered, amended, or modified except in writing and in accordance with an action by the Governing Body.

Section 12. Review.

The Parties agree this Agreement is a binding legal document and that both the City and Seewood have had an opportunity to fully review its terms and conditions and to seek legal counsel regarding same.

Wherefore, the City of Fairburn and De'Carlton Seewood have executed this Agreement as follows:

City of Fairburn, Georgia

Elizabeth Carr-Hurst, Mayor

De'Carlton Seewood

ATTEST:

Keshia McCullough, City Clerk

Approved as to Form:

Randy Turner, City Attorney