

CITY OF HOSCHTON
CITY COUNCIL
THURSDAY, SEPTEMBER 14, 2023 AT 6:00PM
HOSCHTON COMMUNITY CENTER
65 CITY SQUARE, HOSCHTON



PUBLIC HEARING

AGENDA

WELCOME AND CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ADMINISTER THE OATH OF OFFICE TO COUNCILMEMBER SAM WAITES

AGENDA APPROVAL

NEW BUSINESS:

1. **Z-23-06 Rezoning:** G.P.'s Enterprises, Inc., applicant and property owner, by Charles "Chuck" Ross, seeks to rezone property (Map/Parcels 113/030 and 113/018) (54.99 acres) fronting on the north side of State Route 53, the east and west sides of Nancy Industrial Drive, and the end of Amy Industrial Lane from M-1 (Light Industrial) District to PUD (Planned Unit Development) District. Proposed use: Mixed use planned unit development consisting of 712 (360 apartments and 352 fee simple townhouse) units and 63,000 square feet of retail, restaurant, office and civic space. (Development of Regional Impact # 4047) [planning staff recommendation: denial]
2. **Z-23-07 Rezoning:** Stanton E. Porter, applicant, Whitworth Realty Advisors, Ashishkumar Patel and Stewart Christian, property owners, seeks to rezone property (approximately 1.38 acres) (part of Map/Parcel 119/004N1 totaling 3.38 acres) fronting on the west side of State Route 53 north of East Jefferson Street/ West Jefferson Street from MU (Mixed Use) District to C-3 (Commercial Motor Vehicles Service and Repair District). Proposed use: car wash. [planning staff recommendation: denial]
3. **Resolution 2023-14:** A Resolution Amending the Comprehensive Plan to adopt an "Official Corridor Map" as a part of the transportation component/chapter so as to designate land to be reserved for the construction of future or improvement of existing transportation facilities, including streets, highways, bikeways, sidewalks, and multi-use trails.

4. **Ordinance O-23-05:** An Ordinance Amending the Subdivision and Land Development Ordinance, Article VI, "Access and Design Requirements for Roads," Section 602, "Conformance to Adopted Major Thoroughfare and Other Plans" to provide reference to a new code section and to provide reference to an official corridor map; and to amend Article IX, "Development Plans and Permits," to add a new Section 910, "Official Corridor Map."
5. **Ordinance O-23-06:** An Ordinance Amending the Subdivision and Land Development Ordinance, Article VI, Access and Design Requirements for Roads, Section 620, "Residential Driveways," and Section 621, "Non-Residential Driveways" to modify standards and specifications.
6. **Ordinance TA-23-02:** An Ordinance Amending the Zoning Ordinance Adopted January 4, 2016, as amended, to amend Article VII, "Nonconformities," Section 7.03, "Nonconforming Use," to authorize the replacement of a nonconforming manufactured home with a new manufactured home per amendment to the Zoning Procedures Law.
7. **Ordinance TA-23-03:** An Ordinance Amending the Zoning Ordinance Adopted January 4, 2016, as amended, to amend Article VI, "Specific Use Provisions" to add a new Section 6.50, "Small Wireless Facility;" to amend Article IV, "Zoning Districts," "Table 4.1, "Permitted and Conditional Uses for Residential and Agricultural Zoning Districts" and Table 4.3, "Permitted and Conditional Uses in Non-Residential Zoning Districts" to add "small wireless facility" as a permitted use to all zoning districts; and to amend Article XII, "Definitions" to add definitions of terms relating to small wireless facilities.

ADJOURN

PUBLIC HEARING
ITEM #1

Z-23-06 REZONING

**CITY OF HOSCHTON, GEORGIA
ZONING ADMINISTRATOR'S
REPORT**



TO: Honorable Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting City Planner

DATE OF REPORT: September 5, 2023

SUBJECT REQUEST: **Z-23-06:** Rezoning from M-1 (Light Industrial District) to PUD (Planned Unit Development District)

COMPANION APP: Development of Regional Impact #4047 (completed)

CITY COUNCIL HEARING: September 14, 2023 @ 6:00 p.m.

VOTING SESSION: September 18, 2023 @ 6:00 p.m.

APPLICANT: G.P.'s Enterprises, Inc. by Charles "Chuck" Ross

OWNER(S): G.P.'s Enterprises, Inc.

PROPOSED USE: Mixed use development including consisting of 712 units (360 apartments and 352 fee simple townhouses) and 63,000 square feet of retail, restaurant, office and civic space

LOCATION: Fronting on the north side of State Route 53, the east and west sides of Nancy Industrial Drive, and the end of Amy Industrial Lane

PARCEL(S) #: 113/030 and 113/018

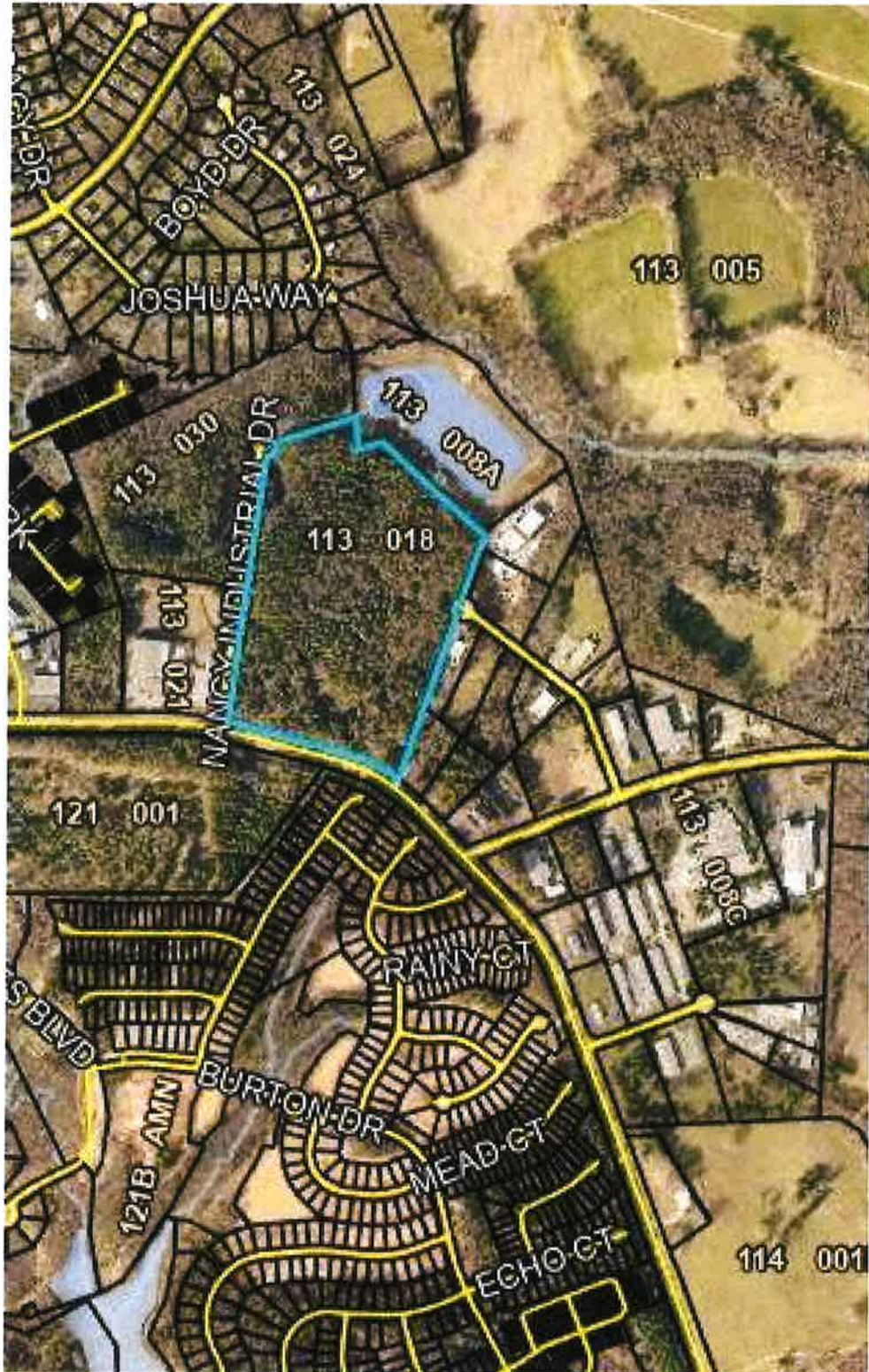
ACREAGE: 54.99

EXISTING LAND USE: Vacant

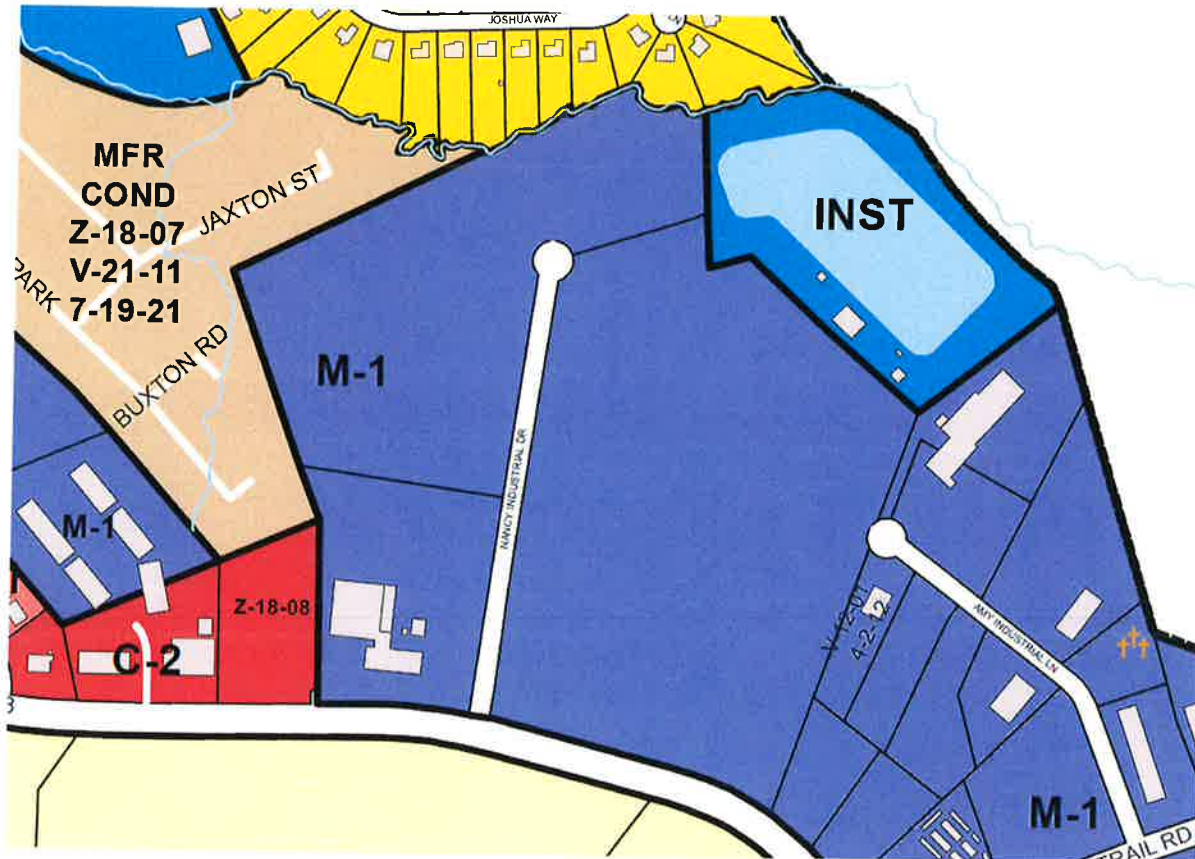
SURROUNDING LAND USE AND ZONING:

North: Fee simple townhouses, MFR (Multi-family Residential District) Conditional (Z-18-07) (platted); open space, Cambridge at Towne Center common area, MFR Conditional, Single-family dwellings (Town Park Subdivision), R-2 (Single-family Suburban Residential District); wastewater treatment facility, INST (Institutional District)

East: Wastewater treatment facility, INST; Storage/warehouse/ light industrial, M-1 (Light Industrial District) (Hoschton Business Park), M-1; vacant, M-1



Tax Map/Aerial Photograph: 2 of 2



Zoning Map Excerpt

PROPOSED PLAN AND LAND USES

The overall PUD is 55 acres of private land in two tracts. The applicant's letter of intent indicates the applicant is requesting that the city abandon the 1.19 acres of right of way constituting Nancy Industrial Drive, redesign/reconfigure it, and then dedicate the new road back to the city. Counting the right of way of Nancy Industrial Drive between the two tracts, the total area of the PUD is approximately 56.1 acres. The PUD would be developed in three phases: fee simple townhouses (phase 1), apartments (phase 2) and commercial (phase 3).

Commercial

The PUD concept plan proposes three commercial buildings (retail/office/ restaurant) along the frontage of SR 53 east of Nancy Industrial Drive. Total area for commercial would be approximately 6.6 acres. Total building space in the commercial component would be 63,000 square feet, for a commercial development intensity of approximately 9,500 square feet of building space per acre. The commercial buildings would be two stories or at least have the appearance of two stories, per the architectural examples submitted with the application.

The three commercial buildings would access Nancy Industrial Drive via a curb cut close to (within 100 feet of) the intersection of Nancy Industrial Drive and SR 53, and via one proposed new connection onto SR 53. The curb cut onto SR 53 would be for a public or private street that would provide access to the commercial area and would also wrap around behind the

commercial component and intersect with Nancy Industrial Drive about 200 feet north of the proposed commercial driveway.

Apartments

The public or private access road, described above, would also provide access at a cul-de-sac or traffic circle to the multi-family residential portion of the Planned Unit Development (three apartment buildings totaling 360 units on approximately 11.4 acres for an overall density of approximately 31.5 apartment units per acre).

An elevation drawing for the multi-family portion for the PUD shows a four-story building. The maximum height proposed is 50 feet. Some if not all of the dwelling units would have porches.

Municipal

Behind (north of) the commercial component, the site plan shows a park and four municipal office buildings on approximately 5 acres. Three of the buildings would be on the east side of Nancy Industrial Drive, and one would be on the west side of Nancy Industrial Drive. The community benefit statement provided by the applicant indicates that the municipal property could consist of utility, public safety and administrative facilities, in addition to a central green.

Fee Simple Townhouses

Fee-simple townhouses would comprise most of the northern part of the two tracts, except for a detention pond tract along the north property line. Except for one proposed municipal building, the entire western side of Nancy Industrial Drive would be a neighborhood of fee-simple townhouses. Townhouses would also be developed along the east side of Nancy Industrial Drive, north of the municipal area. An amenity area would be incorporated into the development north of the municipal area. A total of 352 fee-simple townhouse units are shown on the site plan, to be developed on approximately 33.1 acres for an overall density of approximately 10.6 townhouse units per acre.

The fee-simple townhouse lots are proposed to be of two varieties: "front loaded" and "alley loaded." The city's townhouse regulations do not necessarily apply within a PUD, since the applicant can propose a unique set of regulations. The improvements requirement comparison shows the minimum lot size for townhouses would be 1,680 square feet, whereas the city's requirements are for 2,400 square foot lots. The proposed lot width is 20 feet, whereas if developed under the city's townhouse regulations a 24-foot lot width would be required. The site plan indicates that some of the fee-simple townhouse buildings will consist of eight (8) units, whereas the townhouse rules would otherwise limit the units to six (6) per building. Townhomes are proposed to be two-story and three-story, per elevation drawings submitted.

Open Spaces and Recreation

The site plan does not demonstrate that 20% of the site area (11 acres) would consist of open space as required by the PUD zoning district regulations in the Hoschton zoning ordinance. Further, it does not appear the 55-acre site can accommodate all of the uses proposed and meet the 20% open space requirement for the PUD zoning district.

The largest open space area would be approximately one acre or more in the municipal area. A linear open space would be incorporated into the townhouse portion of the PUD west of Nancy

Industrial Drive. An open space buffer would be maintained between the proposed townhouses and the city's wastewater treatment plant. Other open spaces are proposed, including an amenity area which would consist of a swimming pool, restroom building, and pickleball courts. Detention ponds are proposed but cannot count toward PUD minimum open space requirements per the PUD regulations in the city's zoning ordinance.

Other Notes Regarding Access

The proposed roads would be 50 foot rights of ways with 26 feet of pavement from back of curb to back of curb. Rolled-type curbs are proposed rather than vertical curbs. The application proposes the extension of Amy Industrial Lane as a street, some of which would have on-street parking. Detention ponds would be constructed at the very north end of the site and along the eastern property line north of where Amy Industrial Lane terminates in a cul-de-sac.

The city's wastewater treatment facility's access is through the subject property. Plans show a relocation of that access with a public or private street also serving fee simple townhouses.

STANDARDS GOVERNING EXERCISE OF ZONING POWER

Note: The City Council may adopt the findings and determinations of staff as written (provided below), or it may modify them. The council may cite one or more of these in its own determinations, as it determines appropriate. Council may modify the language provided here, as necessary, in articulating its own findings. Or, the council can reject these findings and make its own determinations and findings for one or more of the criteria provided below. Council does not need to address each and every criterion, but only those that are relevant to support its own determination.

Criteria Adopted in the Hoschton Zoning Ordinance (Section 8.03) are shown below followed by staff findings: (note: the applicant has provided responses to these criteria which are included at the end of this staff report):

Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Finding (general land use): Abutting uses and zoning are described on the cover page of this report. They consist of a variety of uses, including detached, single-family dwellings to the north, fee-simple townhouses to the west, the city's waste water treatment plant to the north, and light industrial uses to the east and along the west side of Nancy Industrial Drive. The tracts proposed to be developed as a PUD are within an area designated for light industrial development, and zoned for light industrial uses. As noted, Nancy Industrial Drive has one existing commercial/ industrial use on the west side of it, fronting SR 53. The only other use currently accessing Nancy Industrial Drive is the city's wastewater treatment facility, which has a gravel drive running across the subject property, between city property and Nancy Industrial Drive (running along the common property line of the two PUD tracts). Generally, the mixture of residences with light industrial uses on the same street is not recommended (***does not support request***).

Finding (commercial uses): Commercial uses fronting on SR 53 are considered appropriate and suitable as an alternative to light industrial uses on the site (***supports request in part***).

Finding (fee simple townhouses): The fee-simple townhouses would be smaller in lot size and lot width than those existing or authorized to be constructed in the abutting townhouse project, Cambridge at Towne Center. While the townhouses proposed would generally be compatible in terms of use, the PUD project is considered somewhat incompatible with the Cambridge at Towne Center project due to smaller lot sizes and lot widths, more units in a building, and an overall higher density (**does not support request**). The proposed PUD would provide a strip of open space between the townhouses and the city's waste water treatment facility, but dozens of townhouse units would abut the city's waste water treatment facility. Residential uses adjacent to a sewer treatment plant are considered generally unsuitable and to be discouraged where possible (**does not support request**). Furthermore, the city has institutional/utility buildings within 20 to 30 feet of the property line, and dozens of townhouse units are proposed to be located within approximately 50 feet of the plant's property line (**does not support request**).

Finding (apartments): The location of the proposed apartments next to Hoschton Business Park (with its light industrial uses) and connecting to Amy Industrial Lane, is considered unsuitable, given potential for impacts by light industrial uses on residences and households (**does not support request**). The density proposed for the apartments (at 30+ dwelling units per acre) and buildings with more than 100 units in them is considered unsuitable (**does not support request**).

Finding (municipal uses): The proposed municipal uses and park would be across the street from a heavy commercial/ light industrial use (heavy equipment sales). The municipal uses and park could be considered potentially unsuitable given the incompatibility of such uses with the open air nature vehicle storage, unimproved parking area, and other characteristics of the abutting commercial/ light industrial site (**does not support request**).

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

Finding: The single-family lots north of the proposed PUD would be buffered from the PUD by a stream buffer and impervious surface setback. This suggests that the proposal would not adversely affect the existing use or usability of the detached residential dwellings north of the PUD (**supports request**).

Finding: Because the townhouse units proposed in the PUD are on smaller, narrower lots and at a higher density than the adjacent Cambridge at Towne Center townhome project, it may have some adverse effects on abutting units in that development (**does not support request**).

The existing commercial/ light industrial use at the northeast corner of SR 53 and Nancy Industrial Drive has expansion potential to the north, and that property may also be adversely affected in the sense that future development would be incompatible with abutting townhouses and out of character with the proposed municipal building complex (**does not support request**).

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

Finding: The property has reasonable economic uses under the current M-1 zoning, including several commercial uses (e.g., automobile sales and service), and a wide variety of light industrial and light manufacturing uses (**does not support request**).

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

Finding (generally): With 712 dwelling units, the residential components of the PUD would result in a new residential population of anywhere between an estimated 1,200 and 2,000 persons (a discrete estimate is 1,500). The 63,000 square feet of office/commercial/restaurant space could generate employment of approximately 150, in staff's estimation. Municipal uses would generate additional employment within the PUD.

Findings: (streets): A traffic impact study has been submitted with the application, and a Development of Regional Impact (DRI) report has also been completed. The traffic impact study assesses an impact of 770 dwelling units (more than the 712 units proposed) and 63,000 square feet of commercial, office and restaurant space. The traffic study recommends improvements at the two project intersections (including Nancy Industrial) with SR 53 as well as improvements at the intersection of Peachtree Road and SR 53 (including traffic signalization if warranted). Peachtree Road at SR 53 already operates at deficient levels of service, with an LOS "D" during a.m. peak hours and LOS "F" at p.m. peak hours. Similarly, Twin Lakes Boulevard at its intersection with SR 53 also currently operates at deficient levels of service, with an LOS "D" during a.m. peak hours and LOS "E" at p.m. peak hours. Hence, there are already delays getting onto SR 53 from these two roads without considering any additional trips generated by the proposed development. The traffic study assumes traffic count increases in the magnitude of 3% annually, which likely results in a vast underestimation in planning staff's view.

Without any reductions for mixed use factored in (but with pass by trip reductions assumed), the proposed PUD at buildout is expected to generate 11,521 vehicle trips in a given 24-hour time period. With mixed use factored into trip reduction, the estimate is 8,537 vehicle trips per day. As noted, these numbers may slightly overstate the overall impact, given the number of units evaluated was 770 rather than 712. For the peak hours, with mixed use reductions accounted for, the PUD at buildout is expected to generate 586 a.m. peak hour trips and 699 p.m. peak hour trips. The project at buildout will result in unacceptable levels of service at the Jopena Boulevard/ Twin Lakes Boulevard intersection with SR 53 ("E's" and "F's"), Nancy Industrial Drive and SR 53 ("D's" and "F's"), and at Peachtree Road and SR 53 (LOS "F's") ***(does not support request; requires conditions of approval to mitigate traffic impacts)***.

Findings: (utilities): The subject request has not been factored into the city's expansion plans for water and sanitary sewer. For planning purposes, water consumption of 250 gallons per day is used to account for peak usage. At that rate, the residential part of the project along will consume an estimated 178,000 gallons of water per day during peak conditions. Actual average water usage would be probably about half that. The city is increasingly concerned about securing future water supplies to serve future development and has efforts ongoing to explore for and develop municipal wells and to increase purchases of water from other local governments ***(does not support request)***. Similarly, the anticipated sanitary sewer demand has not been factored into expansion plans, and the city has not fully planned out the expansion of the city's wastewater treatment plan to 2.0 mgd that would be needed to support this PUD if approved and other anticipated development if approved ***(does not support request)***. As a result, sewer capacity is not currently available and cannot be guaranteed. Whether the project can be accommodated with regard to future water and sewer systems depends on a number of factors, including whether other projects are approved which will compete for available water and sewer system capacities.

Finding (schools): The school impact policy in the Hoschton comprehensive plan reads as follows: "Evaluate impacts of residential development on the public school systems. Where impacts are evident, seek a development agreement to provide school site(s) or otherwise mitigate the impact of residential development on the public school system." The Jackson County 2050 comprehensive plan has school student generation multipliers (year 2019) that are recommended for use in evaluating development proposals. For all grades, the data show that a residential development will generate 0.5291 public school students per household. At that multiplier, the proposed PUD would generate 376 additional public school students. That is a functional equivalent of almost 19 classrooms at 20 students per classroom. Apartment and townhouse units are probably not going to generate public school students at this rate of 0.5291 students per household. Therefore, this is most likely an overstatement of the impact the proposed units would have on the county school system. Nonetheless, whatever impacts the PUD would have on the county school system are not mitigated by the proposal, and the county public school system is reportedly already overcrowded and expected to continue being overcrowded even considering current capital spending programs (**does not support request**).

Findings (other facilities): Hoschton has adopted impact fees for police and park and open space land. Also, in its comprehensive plan the city has adopted by reference certain county level of service standards for public facilities and services. These include the following. The impact of the development on those standards for public facilities and services is also provided below:

- **Law enforcement:** two officers per 1,000 population. The proposed development would create an additional population of an estimated 1,500 people and hence a demand for 2.5 additional police officers. Those additional officers are also required to be equipped with vehicles and other equipment. While the proposed development upon construction will generate property taxes for the city, the overall impact on the police department's operations will not be fully mitigated (**does not support request**).
- **Police capital facilities:** A per residential unit impact fee (city) would be required and assessed for police capital facilities. Thus, that impact will be mitigated (**supports request**). In addition, the applicant proposes to dedicate municipal land which could be used to build a police headquarters large enough to support all long-term projected municipal law enforcement needs (**supports request**).
- **Park and open space land.** A per residential unit impact fee (city) would be required and assessed for park and open space land. In addition, the project is proposed to include active recreational amenities in addition to open spaces controlled by a homeowners association. Thus, the impact on park and open space land and recreational facilities is expected to be mostly if not entirely mitigated (**supports request**). However, as already noted, the PUD site plan does not demonstrate compliance with the requirement to provide a minimum of 20% open space (**does not support request**).
- **Emergency medical services (EMS):** Jackson County adopted an EMS impact fee in 2022. Although it does not apply in Hoschton, the level of service standard of 0.1926 square feet of EMS space per functional population is utilized here for purposes of assessing impacts. The project will generate a need for approximately 317 square feet of EMS facility space. Although municipal property proposed to be dedicated to the city

could be utilized for fire and emergency medical services needs, the EMS impact would not be mitigated with the subject proposal (**does not support request**).

- **Fire stations and rolling stock.** Hoschton adopted a fire impact fee in 2020, but it has been discontinued as of 2023. The level of service standard for fire facilities adopted in the city's capital improvements element (now discontinued) is 0.87 square feet of fire and rescue building per functional population and 0.41 fire and rescue vehicle per 1,000 functional population. The county's level of service standard for fire, as adopted in its comprehensive plan, is one square foot of fire department building space per functional population and one fire engine per 4,000 functional population (comprehensive plan). Utilizing the city's standard, the project will generate a need by the West Jackson Fire District for 1,435 square feet of additional fire building space, and 0.67 fire vehicle. These impacts will be partially mitigated by the project via property taxes paid to the West Jackson Fire District, but such taxes are also utilized to pay for administrative and operating costs of the fire district. Therefore, although municipal property proposed to be dedicated to the city could be utilized for fire and emergency medical services needs, the project is anticipated to only partially mitigate the project's proportionate share of fire service capital and operating costs to the fire district (**does not support request**).
- **Administrative space:** 0.5 square feet per functional population. Estimated impact is approximately 825 square feet of administrative space. Although municipal property proposed to be dedicated to the city could be utilized for general government, this impact would, at best, be only partially mitigated with property taxes if the project is approved (**does not support request**).

Whether the proposal is in conformity with the policy and intent of the comprehensive plan including the character area map and/or future land use plan map.

Finding: The city's future land use plan map shows the site as being suitable for industrial use. The requested PUD is inconsistent with that recommendation (**does not support request**).

Finding (adequate public facilities): One comprehensive plan policy that is relevant is as follows: "*Development should not occur or be approved which will or could cause an excessive or burdensome use of existing streets, ... Major subdivisions and major land developments that cannot demonstrate all such facilities are available or planned at the time of development or within a reasonable period of time thereafter may gain approval only if they mitigate the lack of such facilities, through the dedication of land in the subdivision or off-site, on-site and/or off-site improvements, ...*" Even though the application proposes the dedication of land to the city, the project does not meet this policy without additional proposals to mitigate public facility and service impacts (**does not support request**). All in all, this policy forms a substantial basis for disapproval of the project, or a reduction in density (**supports disapproval or conditional approval**).

Finding (economic development): The comprehensive plan suggests that "the city may need to take more aggressive measures to preserve its nonresidential land supply and prevent conversion to residential that would impede future economic development" (p. 7). That warning in the comprehensive plan, written initially in 2020, is even more applicable today. The proposed PUD would replace some future light industrial development with more intensive commercial development (**supports request**), but the conversion of nonresidential zoning and vacant land to townhouse and multi-family residential development would be inconsistent with the city's need to preserve sufficient land for nonresidential development (**does not support request**).

Finding (street connectivity): The comprehensive plan provides that "local streets should be planned where possible with more than one connection to the existing public road network." The proposed PUD would provide for a connection of the development with Amy Industrial Lane (**supports request**). While in most instances such a connection is desirable, in the subject case the connection would result in mixtures of residential developments going through a business park developed with mostly light industrial uses, which implies some potential conflicts (**does not support request**).

Finding (multi-family residential density): The comprehensive plan provides that the maximum density for multi-family residential is 12 units per acre (per the zoning ordinance). The PUD zoning district allows the applicant to propose different development standards and therefore there is no beginning density maximum for PUD projects. However, the proposed apartment density of more than 30 units per net acre is inconsistent with this provision of the comprehensive plan (**does not support request**).

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

Finding: The extensive residential development already approved in the city, including two townhouse projects already approved on property controlled by the applicant (193 on West Jefferson Street and 24 units on Henry Street), tend to give supporting grounds for disapproval of this request (**does not support request**). While there may be housing demand for the proposed townhouse product, there is not any sort of residential housing market information provided in the application to support the request. The applicant already has sufficient opportunity to construct fee-simple townhouses in the city (217 units), and it might be prudent for the city to see those projects get underway and developed and occupied prior to rezoning for more than 300 additional townhouse units as proposed in the subject project (**does not support request**).

Finding: The housing mix would be improved with regard to multi-family units (apartments) if the subject request were approved. In planning staff's view, apartments are a necessary part of the future housing mix in Hoschton. However, the density proposed and the location are both considered unsuitable and inappropriate (**does not support request**).

Whether the proposal would create an isolated zoning district unrelated to adjacent and nearby districts.

There is PUD zoning across SR 53 to the south. Therefore, a PUD zoning if approved would not be considered an isolated zoning district (**supports request**). However, zoning districts that are not fully supported by the comprehensive plan policies and future land use map can and are considered to be isolated to the extent that they do not relate to abutting and adjacent zoning districts (**does not support request**).

Whether the proposal would have an impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

Finding: The project, if zoned and developed would not be expected to have a detrimental impact on the environment (**supports request**), although it would result in extensive deforestation since the subject property is heavily wooded.

CONCLUSION

The applicant, G.P.'s Enterprises, has significant residential development permissions in Hoschton, with 217 fee simple townhouse units already approved and able to be permitted. Until those units are developed, it is worth seriously examining whether the city desires to entitle another 700+ units for the same developer, at least until the others are constructed and begin to be occupied. Otherwise, the PUD proposal may be considered too speculative in nature. The proposed PUD, with mostly residential uses, is not the most ideal fit in staff's view given for the site, because of the industrial development existing to the east along Amy Industrial Lane. The road network would be forced to accept residential traffic mixed with light industrial traffic. The introduction of residential uses within a mostly light industrial area is not the most desirable land use pattern.

The proposed PUD is too intense for Hoschton in all respects, and the concept plan does not demonstrate it will meet 20% minimum open space requirements for the PUD zoning district. The development of 360 apartment units in three buildings with four stories each (100 or more units in each building), at a total net density of more than 30 units per acre, is excessive and would be out of character with the city, which still strives to retain some of its small town character. The proposal in this PUD rezoning application for hundreds more fee-simple townhouse units, with smaller and narrower lots than approved for other townhouse projects in the city and at a net density of about 10 or more units per acre, is similarly considered to be excessive. Even the commercial development proposed would be at an intensity (almost 9,500 square feet per acre) that would exceed what would typically be expected in other commercial zones of the city. The city has already approved hundreds of future dwelling units and has many areas of the city where additional residential development is approved or expected to occur. Taking away land from nonresidential uses is inconsistent with the overall need for the city to preserve its existing commercial and industrially zoned land. Conversion of more nonresidential land for more residential use is not in the long-term interests of the city, in the consulting planner's opinion. Replacement of light industrial land with commercial development is acceptable.

The city has not planned for the water and sanitary sewer capacity that would be needed for this development, if approved. Even if the city begins immediately to fully implement another phase of capacity expansion to 2 mgd at the city's treatment plant, it appears that it is going to be some time (18-24 months) before the city could serve the dwelling units proposed with sewer. It is not desirable for the city to plan and program treatment plant expansion too far in advance, particularly if there is any risk of economic recession or economic downturn. The city must protect itself against having to pay debt on facility expansion that might not be utilized right away, in the case of an extended economic recession or downturn. As the traffic study submitted with the application indicates, existing development and regional traffic conditions are such that street intersections in the vicinity along SR 53 are already at levels of service that exceed the city's standards of acceptance during most peak a.m. and pm. peak hours. The addition of 8,500+ more vehicle trips per day promises to swamp existing intersections unless improved. Even with improvements proposed, traffic conditions would worsen considerably if this project is approved.

The impact on other public facilities, in addition to roads, is not fully mitigated. For all of these reasons, consulting planner recommends **DENIAL**. However, conditions of approval are specified in the event the City Council elects to approve the subject request.

RECOMMENDED CONDITIONS OF APPROVAL

If this request for PUD zoning is approved, it should be approved PUD conditional, subject to the applicant's agreement to abide by the following:

1. **Permitted uses.** The PUD shall be limited to fee-simple townhouses, apartments, and office, institutional, and commercial uses, as well as accessory uses and structures normally incidental to such uses, and including open space and active recreation facilities, as more fully authorized and restricted in these conditions of zoning approval.
 - a. There shall be no more than 400 dwelling units total in the PUD.
 - b. No more than 136 of the dwelling units may be apartments. The remaining units shall be fee-simple townhouse units.
 - c. Except for the subdivision declarant, no more than 20 percent of the homes in the townhouse portion of the PUD shall be owned by any one individual, firm, or corporation. A deed restriction shall be incorporated to this effect in the project conditions, covenants and restrictions.
 - d. Commercial uses shall be limited to uses permitted in the C-2 zoning district of the Hoschton zoning ordinance, and uses listed as conditional in the C-2 zoning district may be authorized as conditional uses following conditional use procedures of the Hoschton zoning ordinance.
 - e. The following commercial uses are specifically prohibited: Adult establishment, automobile-oriented use (sales, service, repair), check cashing/ payday loan facility, gas station, dollar store, fireworks sales, funeral home, hookah/vapor bar or lounge, self-storage or mini-warehouse; smoke or vape shop, tattoo or body piercing parlor, and title loan facility.
 - f. Open space tracts shall be required to be delineated separately from stormwater detention tracts, unless the zoning administrator accepts calculations of open space that separate stormwater facilities from lands authorized to be counted as open space per the PUD requirement for open space in the city's zoning ordinance.
2. **Dimensional requirements and improvement standards generally.**
 - a. The PUD shall be subject to the dimensional requirements specified by these conditions of zoning approval.
 - b. Where the PUD application or these conditions of zoning approval fail to articulate a given regulation, such as accessory building setbacks, maximum lot coverage, and the like, residential uses in the project shall be required to adhere to dimensional requirements of the MFR zoning district and general provisions of the Hoschton zoning ordinance, unless a variance is applied for and obtained.
 - c. Commercial uses shall be required to adhere to dimensional requirements for the C-2 zoning district.

- d. The PUD shall be subject to the improvement requirements specified in the application, except as modified by these conditions of zoning approval. Where the PUD application or these conditions of zoning fail to articulate a given improvement standard, such as the depth of sidewalk concrete and the like, the project will be required to adhere to the Hoschton subdivision and land development regulations, unless a variance is applied for and obtained.

3. Dimensional requirements – apartments.

- a. Building height for apartments buildings shall not exceed three (3) stories or 50 feet.
- b. No more than 36 apartment units shall be included in any one building.
- c. Building setbacks for apartment buildings shall be 20 feet front, 10 feet side, and 20 foot rear.
- d. Minimum separation between apartment buildings: 30 feet.
- e. Each apartment unit shall have an external balcony or (if on ground level) a patio.
- f. The minimum heated floor area for an apartment unit shall be 700 square feet, and the maximum heated floor area per unit shall be 1,400 square feet.
- g. No more than fifty percent (50%) of the apartment units shall be two or more bedrooms.
- h. The owner/developer shall submit management plans and occupancy/ maintenance rules and regulations for apartment tenants to follow, to the zoning administrator for review and approval by the City Council. There shall be a single entity established to manage the apartment units. There shall be an on-site apartment manager office with dedicated space within the PUD project boundary and with a 24-hour phone contact posted at the management office.

4. Dimensional requirements – fee simple townhouses.

- a. Building height for apartments buildings shall not exceed three (3) stories or 40 feet.
- b. The minimum lot size shall be 2,400 square feet.
- c. The minimum lot width shall be 24 feet.
- d. The number of units per building shall be limited to six.
- e. The minimum heated floor area per dwelling unit for fee simple townhouses shall be 1,400 square feet.
- f. Building setbacks for townhouse buildings shall be 20 feet front, 0 feet side, and 20 foot rear.
- g. Minimum separation between townhouse buildings: 20 feet.

- h. Each townhouse unit shall have at least a one-car garage.

5. Improvement requirements for streets.

- a. Whether public or private, the streets within the PUD shall be required to meet or exceed the right of way, pavement width, radii, and cul-de-sac right of way and paving specifications, sidewalks, curbing (rolled curbs authorized) of the City of Hoschton subdivision and land development regulations, as may be amended from time to time.
- b. If alleys are proposed and included, they shall be private. Easements for alleys shall be a minimum of 30 feet in width. The minimum pavement width for alleys shall be a 16 feet.
- c. Street stubs (dead-ends) within fee-simple townhouse portions of the PUD, if authorized during preliminary plat approval, shall not exceed 150 feet in length measured from the centerline of the intersecting street.
- d. Any on-street parking, if provided, shall be located outside the right of way of any public street.

6. Minimum/maximum required entrances/exits.

- a. There shall be no more than one street or driveway connection to SR 53 other than the existing Nancy Industrial Drive. The location of such new curb cut/street connection is subject to the approval of Georgia Department of Transportation.
- b. The road network within the PUD shall be required to connect to Amy Industrial Lane.
- c. The road network shall be configured in a way that provides vehicular access to the city's wastewater treatment facility in more or less the same existing access location. The owner/developer shall be required to maintain access throughout the construction process.

7. Road improvements.

- a. The owner/developer shall install road improvements along SR 53 as recommended in the traffic study submitted as part of Development of Regional Impact (DRI) application, dated June 13, 2022, as approved by the Georgia Department of Transportation and the zoning administrator.
- b. Prior to the issuance of a final plat for more than 50 townhomes or prior to the issuance of a development permit for commercial uses or apartments, the owner/developer shall contribute at no cost to the city \$125,000 toward the cost of installing a traffic signal at the intersection of SR 53 and Peachtree Road.

- 8. Architectural elevations and external building material finishes.** The owner/developer shall submit for City Council's consideration and approval, prospective front, side and rear elevations of fee simple townhouse buildings, apartment buildings, and commercial buildings, prior to issuance of a building permit for any such building. Once approved, the

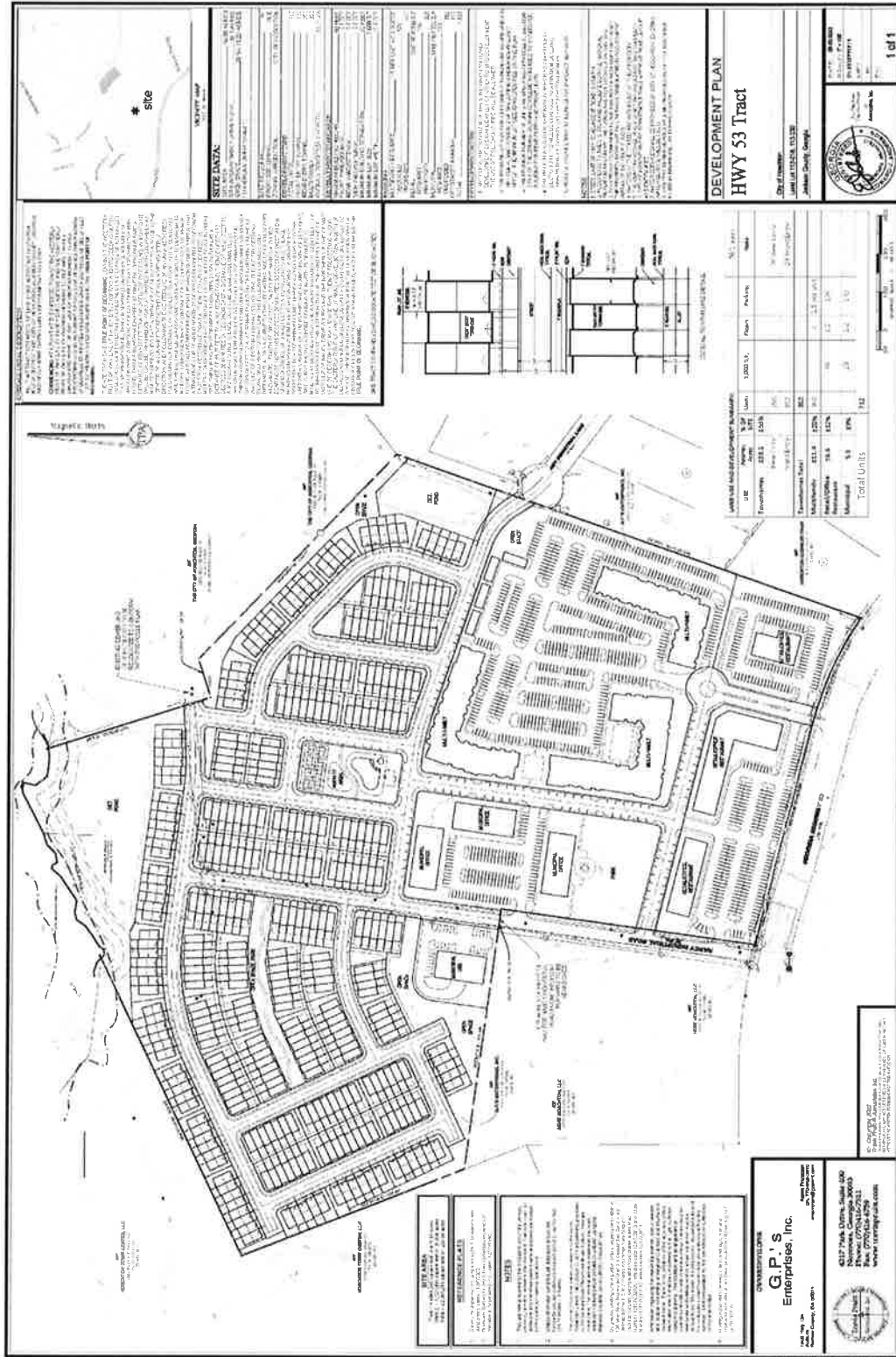
elevation drawings shall be binding on all builders and enforceable at the time of building permit issuance.

9. **Recreational amenities.** There shall be recreational amenities for the PUD provided by the owner/ developer to include, at minimum, a swimming pool with surface area commensurate with the number of residential units served, a bathroom, and four pickleball courts.
10. **Municipal land.** The owner/developer shall dedicate at no cost to the city no less than three (3) acres of land for purposes of mitigation of project impacts on public safety and general government facilities. Said land shall be platted and dedicated to the city no later than final plat approval for more than 50 townhouse units or prior to the issuance of a development permit for apartments, whichever occurs first. The owner/developer and city may negotiate an earlier dedication date.
11. **Residential development phasing; sewer capacity.**
 - a. Prior to approval of any preliminary plat for subdivision for fee-simple townhouse units, and prior to issuance of a development permit for apartment units, the owner/ developer shall submit a phasing plan for the residential development components that provides discrete numbers of units to be constructed for each phase and year intervals (start and finish years) for each phase proposed.
 - b. In order to have the capital funds needed to construct wastewater treatment plant capacity to serve the subject PUD, the city may, prior to and as a condition of preliminary plat approval or development permit approval require the owner/ developer to pay in advance of building permitting a certain number of water connection and sanitary sewer connection fees during each specified phase.
 - c. The owner/developer shall acknowledge as part of these conditions of approval that the PUD project is not vested with rights to connect to sanitary sewer until the connection fees are paid. No sewer capacity will be available until the 2.0 MGD facility is on line and operating.

12. Sewage system lift station requirements.

- a. The PUD shall be designed so that, if gravity sewer cannot be accomplished, there is no more than one sanitary sewer lift station to serve the entire development.
- b. The sewage lift station, if required to serve the development, shall be constructed by the owner/developer at no cost to the city.
- c. Unless otherwise approved by the city, the sewage lift station if constructed shall be dedicated to the city of Hoschton, shall be on a lot twice the size needed for the lift station to allow for expansion, or replacement while still being operational as approved by the city engineer, and said lift station lot shall be deeded in fee simple title to the city within one year of final construction approval. Said lot shall have at least 30 feet of frontage on a public street.

- d. The applicant shall be required to pay sewage lift station maintenance fees as adopted by the Hoschton City Council, if a sewage lift station is included in the project.
13. **No waiver of codes.** Unless specified otherwise or in conflict with these conditions of approval, the PUD shall be governed by city ordinances in effect at the time of development, as may be amended, including but not limited to applicable portions of the zoning ordinance, subdivision and land development ordinance, development impact fee ordinance, stream buffer ordinance, stormwater management ordinance, stormwater utility ordinance, flood damage prevention ordinance, sign ordinance, building and life safety codes, and adopted water and sewer specifications and standard drawings.

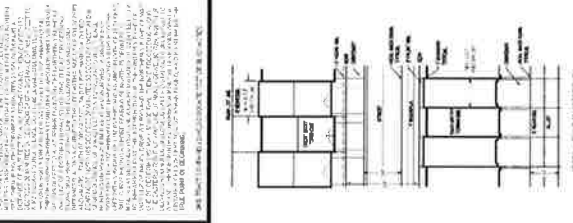


SITE DATA:
 PROJECT: HWY 53 TRACT
 TRACT: 23.06
 ZONING: M-1
 AREA: 48.31 AC
 DISTRICT: 11.1
 COUNTY: DEKALB
 CITY: JOHNS CREEK
 PROJECT NO.: 18-19031-23-06
 SHEET NO.: 1 OF 1

DEVELOPMENT PLAN:
HWY 53 Tract

CITY ENGINEER:
 JOHN B. THOMAS, III, P.E.
 JOHNS CREEK, GEORGIA

GENERAL NOTES:
 1. ALL UTILITIES SHOWN ARE BASED ON RECORD PLANS AND FIELD SURVEY.
 2. THE DEVELOPER SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND DEPTH OF ALL UTILITIES.
 3. THE DEVELOPER SHALL OBTAIN ALL NECESSARY PERMITS FROM THE CITY OF JOHNS CREEK AND THE STATE OF GEORGIA.
 4. THE DEVELOPER SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 5. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING TREES AND LANDSCAPE FEATURES.
 6. THE DEVELOPER SHALL MAINTAIN A 10' CLEARANCE FROM ALL UTILITIES AND STRUCTURES.
 7. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES FROM EROSION AND SEDIMENTATION.
 8. THE DEVELOPER SHALL MAINTAIN A 5' CLEARANCE FROM ALL PROPERTY LINES.
 9. THE DEVELOPER SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL ADJACENT PROPERTIES FROM FIRE HAZARD.
 10. THE DEVELOPER SHALL MAINTAIN A 5' CLEARANCE FROM ALL ADJACENT PROPERTIES.



TOTAL UNITS							
TYPE	APPROX. AREA (SQ. FT.)	EST. COST (\$)	EST. COST PER SQ. FT. (\$/SQ. FT.)	EST. GROSS SQ. FT.	EST. NET GROSS SQ. FT.	EST. NO. OF UNITS	EST. NO. OF PARKING SPACES
Residential	125,000	12,500,000	100	125,000	125,000	125	125
Commercial	50,000	5,000,000	100	50,000	50,000	50	50
Public	10,000	1,000,000	100	10,000	10,000	10	10
Total		18,500,000	100	185,000	185,000	185	185

PROPOSER'S CERTIFICATION:
 I hereby certify that the information provided in this development plan is true and correct to the best of my knowledge and belief.

DEVELOPER'S CERTIFICATION:
 I hereby certify that the information provided in this development plan is true and correct to the best of my knowledge and belief.

CONTRACTOR'S CERTIFICATION:
 I hereby certify that the information provided in this development plan is true and correct to the best of my knowledge and belief.

G.P.'s Enterprises, Inc.
 4127 Park Drive, Suite 100
 Norcross, Georgia 30093
 Tel: 770.442.8721
 www.gpsenterprises.com

NOTICE TO THE PUBLIC:
 This development plan is filed with the City of Johns Creek for public review. The public is invited to review and comment on this plan during the public hearing period.

Tony Powell
Brian Edwards
Nathan Powell
W. Charles Ross



Jay Crowley
Mandy Williams
Laura Walsh
Laura Shoop

August 3, 2023

City of Hoschton
Planning and Zoning Department
Received

AUG 03 2023

Dr. Jerry Weitz
City Planner
City of Hoschton
79 City Square
Hoschton, Georgia 30548

**RE: REZONING APPLICATION AND LETTER OF INTENT FOR TAX
PARCELS 113-018 & 113-030**

Dear Dr. Weitz:

Powell & Edwards, P.C. submits this Letter of Intent on behalf of G.P.'s Enterprises (the "Applicant") to request a rezoning from the M-1, Light Industrial District down to the PUD, Planned Unit Development District to allow for a true mixed-use development to be created upon Applicant's industrial zoned property located at Highway 53 and Nancy Industrial Drive and further identified as tax parcels 113-018 and 113-030.

Hoschton, like the rest of Jackson County, and the surrounding counties, continues to experience significant residential growth. Along with that comes the demand for a diversity of housing styles, restaurants, retailers, public spaces and services to support that growth and quality of life. The south end of the city where this site is located is currently dominated by industrial uses which present a compatibility challenge and use imbalance with the adjacent single-family housing. Rather than developing this fifty-five (55) acre site with a by-right use such as a trucking distribution hub, the Applicant's proposal would be considerably more harmonious and useful to the surrounding residential areas by providing a transition between the existing single family homes and the industrial properties.

This application proposes a walkable "town center" aesthetic currently missing in Hoschton, offering community-based, lifestyle-centric uses. Housing options would include a mix of multi-family and townhome residences with facades that blend in to the "town center" theme. Proposed public open spaces could serve for outdoor lawn concerts, street festivals, and passive recreation. Proposed commercial development would complement the gathering spaces with restaurants, pubs, shops, or boutiques. The Applicant also anticipates dedicating a portion of the property to provide for needed city infrastructure and services in this area of Hoschton. The Applicant believes this fifty-five (55) acre site provides Hoschton with an opportunity to provide its citizens with an iconic destination that its citizens will be proud of for decades to come.

A PROFESSIONAL CORPORATION

P.O. Box 1390 • Lawrenceville, Georgia 30046-1390 • powelledwards.com • 770.962.0100
Street Address For Direct Deliveries Only • 10 Lumpkin Street Lawrenceville, GA 30046

As elaborated in the attached Community Benefit Statement, the PUD designation would be consistent with the surrounding areas and provide a much-needed buffer between the industrial areas and adjacent single family residential properties. Adjacent properties owners would enjoy not only access to these new amenities, but also an increased value in their property as being adjacent to a vibrant community hub is certainly more attractive to a potential buyer than being next to a trucking company or other industrial use currently permitted by right on the property.

As observed in the site plan, Applicant is submitting property on both sides of Nancy Industrial Drive. The City of Hoschton owns the road and right of way across the Applicant's property where it leads to a cul-de-sac at the north end of the property and also a dirt road leading to the City's wastewater treatment facility. The Applicant is proposing that the City abandon this 1.19 acres of right away to allow for the Applicant to reconfigure Nancy Industrial Drive to go slightly past the existing cul-de-sac and to also build a paved road that will lead to the wastewater facility. Upon completion, the Applicant will dedicate these new and improved roads back to the City.

It is proposed that the development will occur through three (3) distinct phases. The exact starting date is subject to many variables including the timing of approval of the PUD by the Mayor and City Council, architectural design, review and engineering and the issuance of land disturbance permits. Based upon previous experience in similar developments it is anticipated that Phase 1, which will consist of the construction of the single-family townhouses, will begin approximately August 2024 and last until August 2026. Phase 2 will begin in December 2024 and will consist of the construction of multi-family residences. Phase 3 will see the retail, restaurant and commercial properties take shape and should be completed in the first half of 2027. During these phases, it is expected that there would be construction of municipal infrastructure projects and development amenities.

The Applicant and its representatives welcome the opportunity to meet with you to answer any questions or to address any concern relating to the matters set forth in this Letter of Intent or in its Application for Rezoning filed herewith. The Applicant respectfully requests your approval of this Application.

Respectfully submitted,

POWELL & EDWARDS, P.C.



W. Charles "Chuck" Ross
Attorney for Applicant

Enclosures

Tony Powell
Brian Edwards
Nathan Powell
W. Charles Ross



Jay Crowley
Mandy Williams
Laura Walsh
Laura Shoop

**COMMUNITY BENEFIT STATEMENT FOR
NANCY INDUSTRIAL DRIVE PLANNED UNIT DEVELOPMENT**

G.P.'s Enterprises (the "Applicant") is excited to present its application for the proposed Planned Unit Development District because it believes that this project will truly benefit the entire community of Hoschton. While most developments provide benefit primarily to the property owner and sometimes community members through the offering of services, the Nancy Industrial Drive Project is something that the entire City of Hoschton can be proud of and will provide a destination for both locals and out of town visitors to come and see what all the City of Hoschton has to offer.

The City of Hoschton has invested considerably in designing and implementing its Comprehensive Plan. The Future Land Use Map shows that Highway 53 as it runs through town serves as a clear demarcation line separating land uses. The southeast portion of Hoschton on the north and eastern side of Highway 53 are designated entirely industrial with one small pocket of commercial property. The other side of Highway 53 on the southside of Hoschton is reserved entirely for Twin Lake PUD. As one travels toward the downtown area along Highway 53, after passing the Nancy Industrial Drive, the properties become commercial and multi-family. This is no accident, but the product of careful review and study of not just current uses, but future trends. The Nancy Industrial Project seeks to build upon this strategic planning and provide a mix of residential, commercial, and institutional uses as a transition between industrial property and the residential/commercial properties closer to town.

This project proposes a true mixed-use development to benefit the community. While offering the traditional "mixed-use" of residential and commercial, this project adds provision for institutional uses as well. In particular, the Applicant recognizes the infrastructure required to provide City services to this new community and has set aside dedicated space for utility, public safety and administrative facilities to assist in providing public services to the Nancy Industrial Project. While the significant property set aside for municipal use is more valuable to the Applicant if it could be used for commercial or residential purposes, the Applicant recognizes this as an opportunity to create synergy from a true city center. It is an investment in the future of the project and provides better access to services for all Hoschton.

The Applicant looks forward to the upcoming rezoning process and working together with the City Staff to make this dream project a reality.

PLANNING DEPARTMENT
RECEIVED

AUG 03 2023

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P.O. Box 1390 • Lawrenceville, Georgia 30046-1390 • powelledwards.com • 770.962.0100
Street Address For Direct Deliveries Only • 10 Lumpkin Street Lawrenceville, GA 30046

Improvement Requirement Comparison

Improvement	PUD	M-1: Light Industrial
1 Right-of-way width	50 feet	50 feet
2 Street Type	Residential	Industrial
3 Pavement width	26 feet	26 feet
4 Curb type	Roll back curb	NA
5 Sidewalk location and dimensions	4' Sidewalk with 4' grass strip	NA
6 Open Space (Landscaped areas)	20%	15%
7 Building Height	50 feet	75 feet
8 Front building setback	2 feet	40 feet
9 Rear building setback	5 feet	40 feet
10 Side Building setback	2 feet	20 feet
11 Minimum building separation	20 feet	20 feet
12 Minimum lot size	1,680 sf	40,000 sf
13 Minimum lot width	20 feet	100 feet
14 Parking	1,168 spaces	1 per 1,300 sf
15 Amenity area	Bathroom building, pool, Pickleball courts	NA

City of Hoehnton
 Planning and Zoning Department
 Received

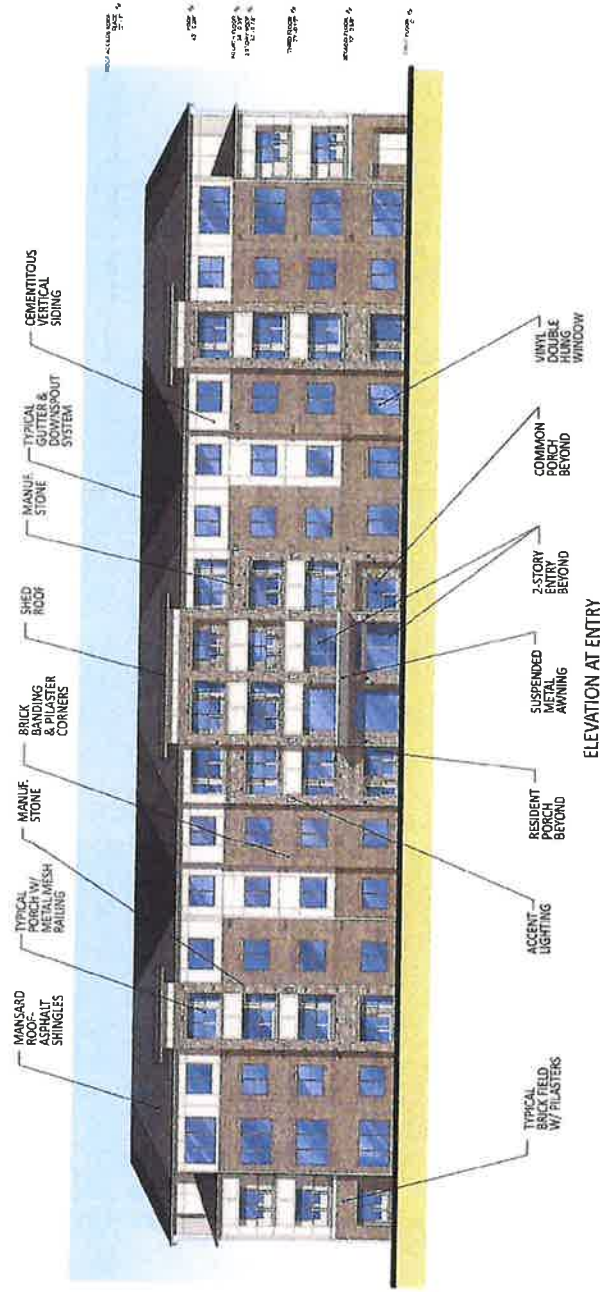
AUG 03 2023

ALL REPRESENTATIVE ELEVATIONS OF RESIDENTIAL AND COMMERCIAL ARCHITECTURE
SHOULD BE CONSIDERED AS GENERAL, NOT SPECIFIC IN NATURE
FINAL ELEVATIONS TO BE APPROVED BY PLANNING STAFF AT TIME OF BUILDING PERMIT



City of Hoschton
Planning and Zoning Department
Received

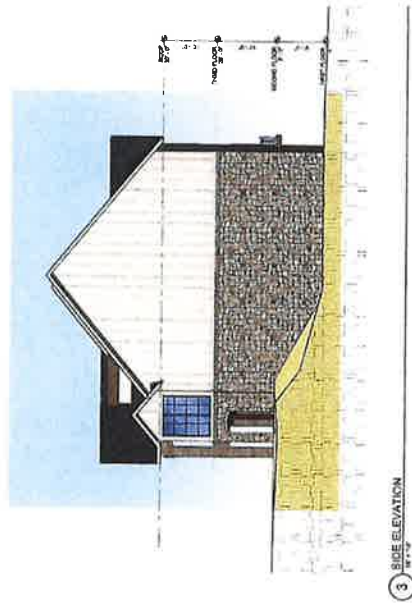
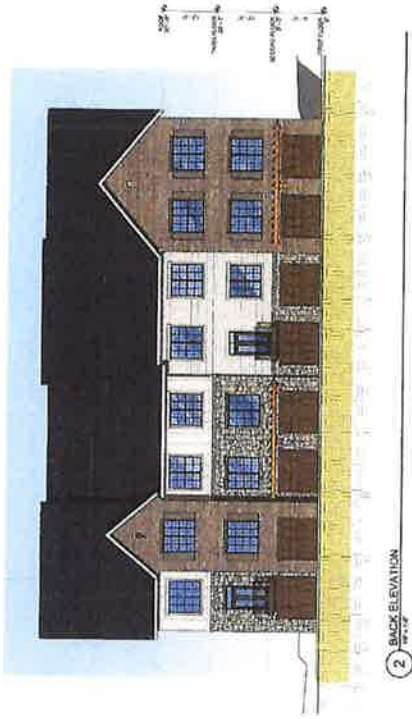
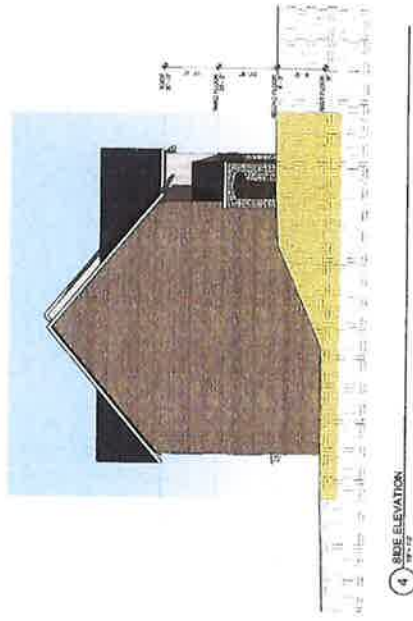
AUG 03 2023



7.13.2023
 G.P.'s Enterprises, Inc.
 1300 Hwy 124
 Auburn, Barrow County, GA 30011

HWY 53 / NANCY INDUSTRIAL - MULTI-FAMILY
 City of Hicochote, Jackson County, GA

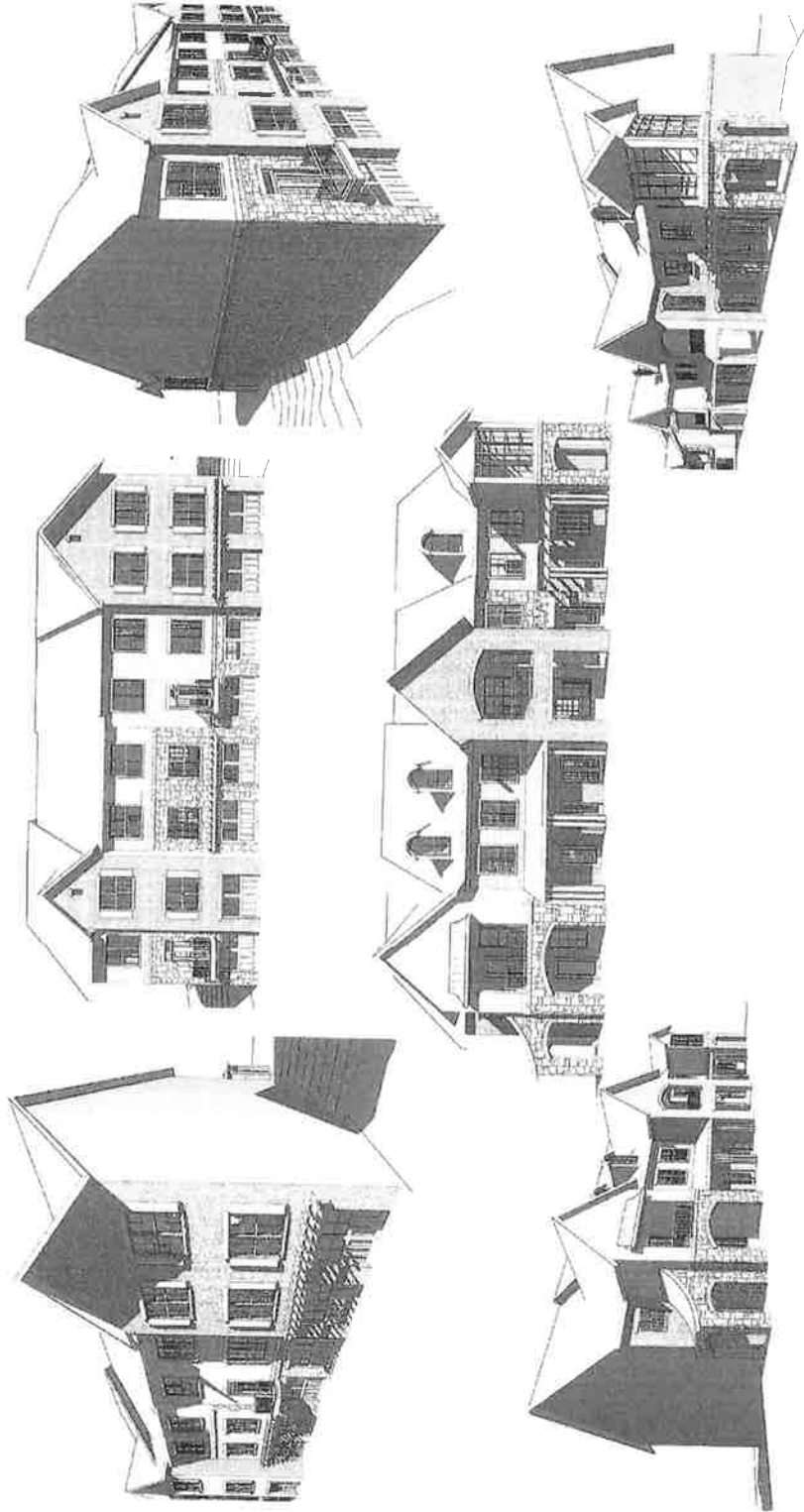
FOLEY DESIGN
 www.foleydesign.com



FOLEY DESIGN
www.foleydesign.com

HWY 53 / NANCY INDUSTRIAL - TOWNHOMES
City of Houston, Jackson County, GA

7.13.2023
G.P.'s Enterprises, Inc.
1509 Hwy 224
Auburn, Barrow County, GA 30011



7.13.2023

G.P.'S Enterprises, Inc.
1500 Hwy. 24
Auburn, Barrow County, GA 30011

HWY 53 / NANCY INDUSTRIAL - TOWNHOMES

City of Hooahon, Jackson County, GA

FOLEY DESIGN
www.foleydesign.com

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE NO. Z-23-06

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF
HOSCHTON AND FOR OTHER PURPOSES

WHEREAS, G.P.'s Enterprises, Inc., applicant and property owner, by Charles "Chuck" Ross, has filed a complete application to rezone property (Map/Parcels 113/030 and 113/018) (54.99 acres) fronting on the north side of State Route 53, the east and west sides of Nancy Industrial Drive, and the end of Amy Industrial Lane from M-1 (Light Industrial) District to PUD (Planned Unit Development) District; and

WHEREAS, the Property rezoned consists of all that tract or parcel of land lying and being in Jackson County Georgia, as described in more detail in Exhibit A which by reference is incorporated herein; and

WHEREAS, The rezoning application qualifies for review as a Development of Regional Impact, and such review has been completed in accordance with applicable state administrative rules (Development of Regional Impact # 4047)

WHEREAS, the City Council of the City of Hoschton has authority pursuant to the Hoschton Zoning Ordinance to amend the City of Hoschton's Official Zoning Map; and

WHEREAS, the Hoschton City Council held an advertised public hearing on the application and has complied with all applicable laws and ordinances with respect to the processing of such application; and

WHEREAS, it has been determined by the City Council that it is desirable, necessary and within the public's interest to approve the rezoning application and to amend the City of Hoschton's Official Zoning Map accordingly;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING
AUTHORITY OF THE CITY OF HOSCHTON AS FOLLOWS:**

Section 1. The Property, legally described in Exhibit A attached to this ordinance, is hereby rezoned from M-1, Light Industrial District, to PUD, Planned Unit Development District, Conditional, subject to conditions of zoning approval specified in Exhibit B which by reference is incorporated herein.

Section 2. The City Clerk is hereby directed to amend the Official Zoning Map to reflect the zoning classification of the subject property.

So ORDAINED this __ DAY OF SEPTEMBER, 2023.

James Lawson, Acting Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

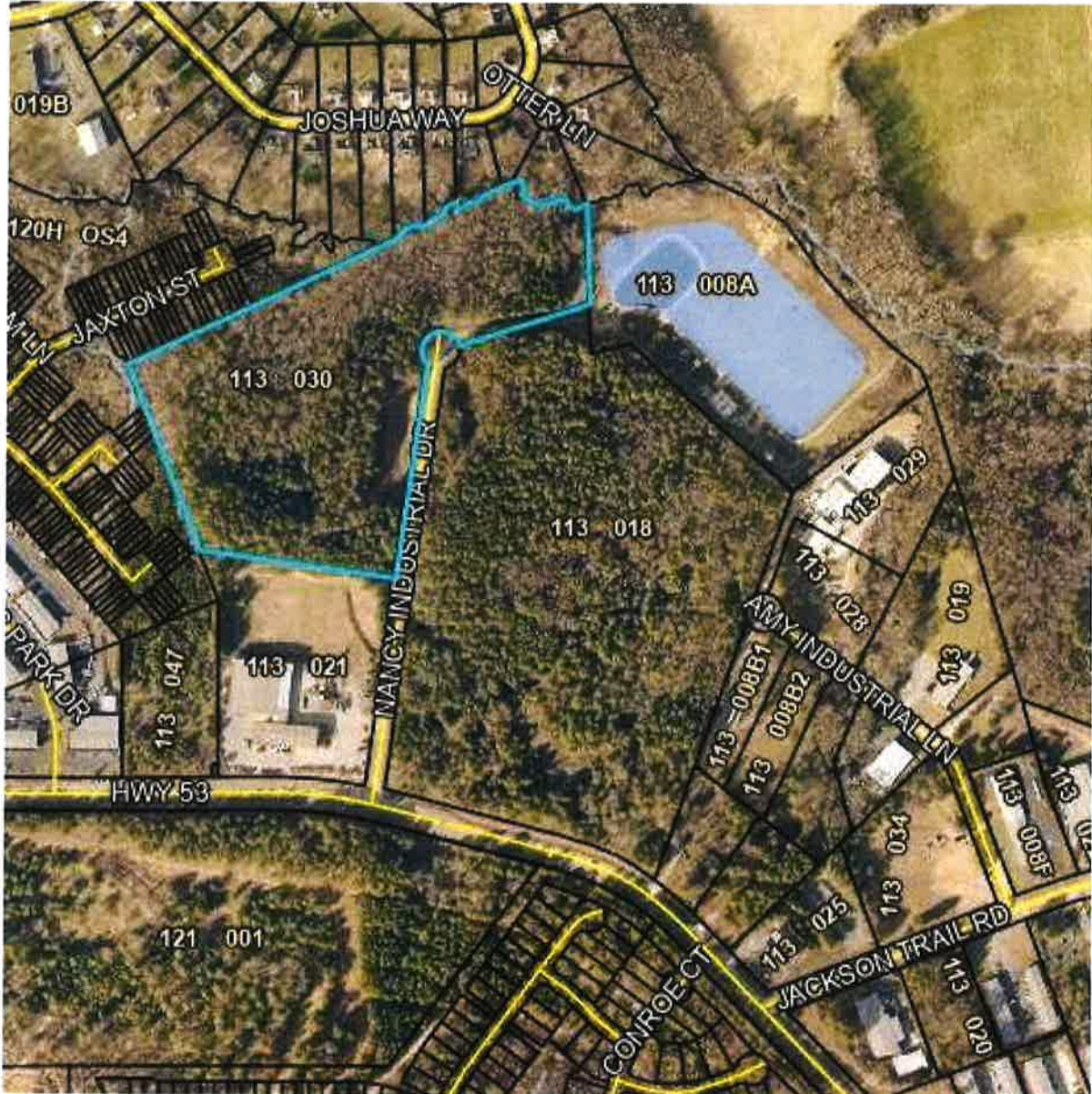
Jennifer Kidd-Harrison, City Clerk

Approved as to Form:

Abbott S. Hayes, Jr., City Attorney

EXHIBIT A LEGAL DESCRIPTION OF PROPERTY REZONED

All that tract or parcel of land lying and being in Jackson County, consisting of Map/Parcels 113/030 and 113/018 (54.99 acres) fronting on the north side of State Route 53, the east and west sides of Nancy Industrial Drive, and the end of Amy Industrial Lane records of the Jackson County Tax Assessor, shown on the attached tax maps which are hereby made a part of this exhibit; also including the right of way of Nancy Industrial Drive between the two subject tax parcels.



Tax Map of Property Rezoned (1 of 2)



Tax Map of Property Rezoned (2 of 2)

EXHIBIT B
CONDITIONS OF ZONING APPROVAL

1. **Permitted uses.** The PUD shall be limited to fee-simple townhouses, apartments, and office, institutional, and commercial uses, as well as accessory uses and structures normally incidental to such uses, and including open space and active recreation facilities, as more fully authorized and restricted in these conditions of zoning approval.
 - a. There shall be no more than 400 dwelling units total in the PUD.
 - b. No more than 136 of the dwelling units may be apartments. The remaining units shall be fee-simple townhouse units.
 - c. Except for the subdivision declarant, no more than 20 percent of the homes in the townhouse portion of the PUD shall be owned by any one individual, firm, or corporation. A deed restriction shall be incorporated to this effect in the project conditions, covenants and restrictions.
 - d. Commercial uses shall be limited to uses permitted in the C-2 zoning district of the Hoschton zoning ordinance, and uses listed as conditional in the C-2 zoning district may be authorized as conditional uses following conditional use procedures of the Hoschton zoning ordinance.
 - e. The following commercial uses are specifically prohibited: Adult establishment, automobile-oriented use (sales, service, repair), check cashing/ payday loan facility, gas station, dollar store, fireworks sales, funeral home, hookah/vapor bar or lounge, self-storage or mini-warehouse; smoke or vape shop, tattoo or body piercing parlor, and title loan facility.
 - f. Open space tracts shall be required to be delineated separately from stormwater detention tracts, unless the zoning administrator accepts calculations of open space that separate stormwater facilities from lands authorized to be counted as open space per the PUD requirement for open space in the city's zoning ordinance.
2. **Dimensional requirements and improvement standards generally.**
 - a. The PUD shall be subject to the dimensional requirements specified by these conditions of zoning approval.
 - b. Where the PUD application or these conditions of zoning approval fail to articulate a given regulation, such as accessory building setbacks, maximum lot coverage, and the like, residential uses in the project shall be required to adhere to dimensional requirements of the MFR zoning district and general provisions of the Hoschton zoning ordinance, unless a variance is applied for and obtained.

- c. Commercial uses shall be required to adhere to dimensional requirements for the C-2 zoning district.
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3. Dimensional requirements – apartments.

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- c. Street stubs (dead-ends) within fee-simple townhouse portions of the PUD, if authorized during preliminary plat approval, shall not exceed 150 feet in length measured from the centerline of the intersecting street.
- d. Any on-street parking, if provided, shall be located outside the right of way of any public street.

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- a. There shall be no more than one street or driveway connection to SR 53 other than the existing Nancy Industrial Drive. The location of such new curb cut/street connection is subject to the approval of Georgia Department of Transportation.
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- a. The owner/developer shall install road improvements along SR 53 as recommended in the traffic study submitted as part of Development of Regional Impact (DRI) application, dated June 13, 2022, as approved by the Georgia Department of Transportation and the zoning administrator.

- b. Prior to the issuance of a final plat for more than 50 townhomes or prior to the issuance of a development permit for commercial uses or apartments, the owner/developer shall contribute at no cost to the city \$125,000 toward the cost of installing a traffic signal at the intersection of SR 53 and Peachtree Road.
8. **Architectural elevations and external building material finishes.** The owner/developer shall submit for City Council's consideration and approval, prospective front, side and rear elevations of fee simple townhouse buildings, apartment buildings, and commercial buildings, prior to issuance of a building permit for any such building. Once approved, the elevation drawings shall be binding on all builders and enforceable at the time of building permit issuance.
9. **Recreational amenities.** There shall be recreational amenities for the PUD provided by the owner/ developer to include, at minimum, a swimming pool with surface area commensurate with the number of residential units served, a bathroom, and four pickleball courts.
10. **Municipal land.** The owner/developer shall dedicate at no cost to the city no less than three (3) acres of land for purposes of mitigation of project impacts on public safety and general government facilities. Said land shall be platted and dedicated to the city no later than final plat approval for more than 50 townhouse units or prior to the issuance of a development permit for apartments, whichever occurs first. The owner/developer and city may negotiate an earlier dedication date.
11. **Residential development phasing; sewer capacity.**
 - a. Prior to approval of any preliminary plat for subdivision for fee-simple townhouse units, and prior to issuance of a development permit for apartment units, the owner/ developer shall submit a phasing plan for the residential development components that provides discrete numbers of units to be constructed for each phase and year intervals (start and finish years) for each phase proposed.
 - b. In order to have the capital funds needed to construct wastewater treatment plant capacity to serve the subject PUD, the city may, prior to and as a condition of preliminary plat approval or development permit approval require the owner/ developer to pay in advance of building permitting a certain number of water connection and sanitary sewer connection fees during each specified phase.
 - c. The owner/developer shall acknowledge as part of these conditions of approval that the PUD project is not vested with rights to connect to sanitary sewer until the connection fees are paid. No sewer capacity will be available until the 2.0 MGD facility is on line and operating.

12. Sewage system lift station requirements.

- a. The PUD shall be designed so that, if gravity sewer cannot be accomplished, there is no more than one sanitary sewer lift station to serve the entire development.
- b. The sewage lift station, if required to serve the development, shall be constructed by the owner/developer at no cost to the city.
- c. Unless otherwise approved by the city, the sewage lift station if constructed shall be dedicated to the city of Hoschton, shall be on a lot twice the size needed for the lift station to allow for expansion, or replacement while still being operational as approved by the city engineer, and said lift station lot shall be deeded in fee simple title to the city within one year of final construction approval. Said lot shall have at least 30 feet of frontage on a public street.
- d. The applicant shall be required to pay sewage lift station maintenance fees as adopted by the Hoschton City Council, if a sewage lift station is included in the project.

13. No waiver of codes. Unless specified otherwise or in conflict with these conditions of approval, the PUD shall be governed by city ordinances in effect at the time of development, as may be amended, including but not limited to applicable portions of the zoning ordinance, subdivision and land development ordinance, development impact fee ordinance, stream buffer ordinance, stormwater management ordinance, stormwater utility ordinance, flood damage prevention ordinance, sign ordinance, building and life safety codes, and adopted water and sewer specifications and standard drawings.

The Northeast Georgia Regional Commission (NEGRC) has completed its review of the following Development of Regional Impact (DRI). This report contains the NEGRC's assessment of how the proposed project relates to the policies, programs, and projects articulated in the Regional Plan and Regional Resource Plan. Also included is an assessment of likely interjurisdictional impacts resulting from the proposed development, as well as all comments received from identified affected parties and others during the fifteen-day comment period.

The materials presented in this report are purely advisory and under no circumstances should be considered as binding or infringing upon the host jurisdiction's right to determine for itself the appropriateness of development within its boundaries.

Transmittal of this DRI report officially completes the DRI process. The submitting local government may proceed with whatever final official actions it deems appropriate regarding the proposed project, but it is encouraged to take the materials presented in the DRI report into consideration when rendering its decision.

Project I.D.:	DRI #4047
Name of Project:	Nancy Industrial Drive Tract
Name of Host Jurisdiction:	City of Hoschton

Background

The developer's request to the City of Hoschton for rezoning initiated the review. The site would be rezoned from M-1 (Light Industrial) to PUD (Planned Unit Development). Potentially affected parties were asked to submit comments on the proposal during the 15-day period of 8/15/23–8/30/23.

Proposed Development

G.P.'s Enterprises, Inc., is proposing construction of a mixed-use planned unit development on a 56-acre site on the north side of State Route 53 at Nancy Industrial Drive in Hoschton. The parcel numbers are 113 030 and 113 118. A 1.2-acre portion of the current right-of-way for Nancy Industrial Drive would also be included within the project site. The development would include 352 townhouses, 360 multi-family housing units, 43,000 square feet of commercial and office space, and 20,000 square feet of civic space. The project would be completed in one phase with an estimated completion date in 2027.

According to the site plan, the multi-family residential housing would consist of three apartment buildings surrounding a central parking lot. At the north end of the parking lot, four smaller, unlabeled buildings are shown that might be either covered parking or storage buildings, based on their size and location. The townhouse area is depicted with a traditional gridded street pattern and includes an amenity area, including what appears to be a swimming pool. Four municipal buildings would surround a shared parking lot, with a small park area next to one of the municipal buildings. The municipal buildings would be directly accessible from Nancy Industrial Drive. Three retail/office/restaurant buildings are shown on the portion of the site

fronting State Route 53. Two are shown as strip-style buildings with parking in front, and the third is shown as a standalone building with parking on all four sides.

A creek forms part of the property line on the northern end of the site, and a small portion of the northern end of the site is within the 100-year floodplain; no construction is proposed within the floodplain or creek. Two detention ponds are shown on the site plan, the larger of which would be next to the creek and floodplain.

Currently the site is forested, except that a portion of an existing road (Nancy Industrial Drive) is within the site. Nancy Industrial Drive currently provides vehicular access to the City of Hoschton’s wastewater treatment facility, which is located immediately northeast of this site. The northern end of Nancy Industrial Drive would be rerouted slightly as part of this project, and 1.2 acres of right-of-way for Nancy Industrial Drive would be abandoned, as noted on the site plan. The site plan also notes that there are existing sewer lines and other utilities on the site that would be relocated to conform with the plan.

Compatibility with Existing Plans

In the City of Hoschton Comprehensive Plan (dated 2/15/21), the site is identified as “Industrial” on the Future Land Use Map. The proposed development is not consistent with the Future Land Use Map, as summarized in the table below:

City of Hoschton Future Land Use Compatibility

FUTURE LAND USE	LAND USE CATEGORY DESCRIPTION	PROPOSED DEVELOPMENT’S COMPATIBILITY WITH CHARACTER AREA
INDUSTRIAL	“Manufacturing facilities, processing plants, factories, warehouses and wholesale trade facilities.”	<p>The proposed development would include a mix of residential, commercial, office, and civic uses. None of these uses are compatible with the plan’s description of Industrial land uses.</p> <p>Furthermore, the parcels immediately to the east of the project site are also shown as Industrial on the Future Land Use Map. Because of this, significant vegetative buffering is recommended along the east side of the development to separate the proposed residential and office uses from the sights and noise of current and potential future industrial uses of the adjoining parcels.</p> <p>If the City of Hoschton determines that it is in the best interest of the city to have a mixed-use development on this site, instead of the industrial uses envisioned in the comprehensive plan, then it should amend its comprehensive plan to change the designated future land use for this parcel to “PUD” prior to taking action to approve the proposed development.</p>

The site is identified as “Developed” on the Regional Land Use Map in the Northeast Georgia Regional Plan (dated 6/15/2023). The Regional Plan recommends developments that contain six characteristics that benefit the region’s people, economy, environment, and communities. The proposed project’s compatibility with these recommendations is summarized below:

Regional Plan Compatibility

REGIONAL PLAN RECOMMENDATIONS	PROPOSED PROJECT’S COMPATIBILITY WITH RECOMMENDATION
Enhance economic mobility and competitiveness	The applicant states that the regional work force is sufficient to fill the demand created for the proposed project.
Elevate public health and equity	<p>As a mixed-use development, the proposed development has the potential to elevate equity and public health by enabling residents to be able to walk or bike to access goods, services, and potential employment nearby, especially if at least some of the housing units are available at price points that are affordable for people who work within the development.</p> <p>The site plan shows “open space” between this site’s residential units and adjoining industrial and utility sites, including the city’s wastewater treatment plant. However, it is unclear from the site plan whether this open space will include tall-enough and thick-enough vegetation to buffer residents from neighboring industrial and wastewater treatment uses.</p>
Support and add value to existing communities	<p>As a dense development with a well-connected street network that uses existing road and utility infrastructure where possible, this proposal represents an efficient use of land.</p> <p>However, as noted in the application, wastewater treatment capacity is a current concern in Hoschton. The proposed development would add many new users to an already-stressed wastewater treatment system. Before approving this project, Hoschton should confirm that the waste generated by this project would not exceed the capacity increases expected from its ongoing wastewater treatment plant upgrades.</p> <p>No information was provided about the project’s architectural design elements. The Regional Plan recommends new development that contributes to the region’s character and sense of place, and that uses context-sensitive design principles.</p>
Create housing that is diverse, adequate, equitable, and affordable	<p>This project would add to the diversity of housing within Hoschton, as the proposal includes townhouses and multi-family housing units, which are both currently uncommon in the city. The different types of housing units are likely to be available at different price points. Further variation in home prices could be realized by including a range of finish levels for each housing type.</p> <p>No information was provided that would enable evaluation of whether this development would create affordable housing, except to note that multi-family housing is typically more affordable than single-family housing.</p>
Include transportation choices and is well-connected with existing and planned transportation options	<p>The street network is well-connected, both within the site (i.e., gridded streets) and between the project site and neighboring parcels (i.e., two street stubs facing neighboring parcels, multiple entrances from State Route 53, and a new connection with Amy Industrial Lane, which currently ends in a cul-de-sac).</p> <p>As a mixed-use site, this project has the potential to reduce the number of vehicular trips somewhat, if residents can walk or bike to access goods and services on the site.</p>
Protect natural and historic resources	A small portion of the site is within the 100-year floodplain, but no structures are proposed within the floodplain or stream buffers.

Potential Interjurisdictional Impacts

Natural Resources:

The applicant states that the project is unlikely to affect any of the environmental quality factors identified on the DRI Additional Form, including water supply watersheds, groundwater recharge areas, wetlands, protected mountain and river corridors, floodplains, historic resources, and other environmentally sensitive resources.

The chart below summarizes the number of acres within the site area as well as within a one-mile buffer around the site that contain: 1) wetlands, 2) conservation land, 3) Regionally Important Resources, and 4) threatened Regionally Important Resources. Please refer to the footnotes for definitions for each of these terms. No specific Regionally Important Resource sites are identified within one mile of the proposed site.

Wetland, Conservation, and Regionally Important Resources

	AREA TYPE	AREA (ACRES)	PERCENT OF AREA
SITE AREA (56.3 Acres)	Wetland Acres ¹	0.7	1%
	Conservation Land ²	1.2	2%
	Regionally Important Resources Land ³	1.2	2%
	Threatened Regionally Important Resources Land ⁴	0.7	1%
1 MILE BUFFER AROUND SITE (2,853.9 Acres)	Wetland Acres	46.3	2%
	Conservation Land	576.1	20%
	Regionally Important Resources Land	233.3	8%
	Threatened Regionally Important Resources Land	20.8	1%

Water Supply and Wastewater:

The project would be served by the City of Hoschton water and sewer systems with an estimated daily demand of 0.25 MGD for each system. The applicant states that these demands cannot be covered by existing capacity. For water supply, the applicant notes that the city purchases water from the Town of Braselton and the Jackson County Water and Sewerage Authority and is actively engaged in efforts to increase available water supply. For wastewater, the applicant notes that the city is in the process of upgrading the capacity of its sewage treatment plant. No water or sewer line extensions are anticipated.

Stormwater Management:

According to the applicant, an estimated 80% of the site would be covered in impervious surfaces. Two detention ponds for managing stormwater runoff are shown on the site plan. A stream forms a portion of the northern property border, and required buffers are shown on the site plan. No buildings or roads are proposed within the riparian buffer. The proposal should be designed to minimize disruption to the existing streams, associated wetlands, and floodplains to avoid future erosion, flooding, and degraded water quality onsite and downstream from the site. Low impact design measures, like bioswales, rain gardens, and other green infrastructure should be incorporated into the project design. At minimum, the project should be in accordance

¹ Wetland acres are derived from the National Wetland Inventory (NWI)

² Conservation land is derived from the Northeast Georgia Regional Plan’s Conservation and Development Map (6/15/2023).

³ Regionally Important Resources were identified as a part of the Northeast Georgia Resource Management Plan for Regionally Important Resources (2/15/2018).

⁴ This area represents the intersection between Conservation areas (identified on the Conservation and Development Map, 6/15/2023), adopted Regionally Important Resources (RIR), and “Developed” and “Developing” Regional Land Use areas (identified on the Regional Land Use Map,6/15/2023).

with the latest edition of the Georgia Stormwater Management Manual (Blue Book) and meet all relevant EPD requirements.

Transportation:

A&R Engineering completed a traffic impact study that projects 8,537 new daily trips resulting from the proposed development, including 586 new AM peak hour trips and 699 new PM peak hour trips. The traffic study recommends that both full access driveways on State Route 53 be configured to include one entering lane and two exiting lanes consisting of left and right turn lanes, a stop sign on the driveway approach, and a left turn lane for entering traffic. One of the two entrances already includes a deceleration lane for entering traffic, and the study recommends adding a deceleration lane for entering traffic at the second entrance. Highway 53 would remain free flow at both entrances.

Additionally, the study recommends system improvements at the intersection of State Route 53 and Peachtree Road, which is located west of the proposed development. This intersection's northbound approach is already operating at level-of-service F in the "existing" condition. The study recommends that a detailed traffic engineering study be prepared for this intersection to see whether a traffic signal is warranted, and if so, that a signal be installed at this location. The study also recommends the construction of turn lanes on Peachtree Road and State Route 53.

Solid Waste:

The applicant estimates the project would generate 950 tons of solid waste annually and that sufficient landfill capacity exists to handle this waste. According to annual tonnage reports from the Georgia Environmental Protection Division, almost all municipal solid waste (MSW) generated in Jackson County is disposed of in a landfill in Banks County. The applicant states that no hazardous waste would be generated.

Lifecycle Costs and Revenues:

The applicant estimates that the project would be worth \$240 million at build-out in 2027 and generate \$4 million in annual local taxes. On a per-acre basis, the project would be worth approximately \$4.3 million and generate approximately \$71,000 in tax revenue. Prior to approval, the City should measure the life cycle costs of the infrastructure needed to serve this project to ensure that they would not be committing to more maintenance expenses than the new tax revenue can cover.

Comments from Affected Parties

Jamie Dove, Public Development Director, Jackson County
(See attached)

Alan Hood, Airport Safety Data Program Manager, Georgia Department of Transportation

The proposed construction of 352 townhouses, 360 multi-family housing units, 43,000 square feet of commercial/office space, in the city of Hoschton is 12 miles from Jackson County Airport (JCA). It is located outside any FAA approach or departure surfaces, and airport compatible land use areas, and does not appear to impact the airport.

If any construction equipment or construction exceeds 200' AGL, an FAA Form 7460-1 must be submitted to the Federal Aviation Administration according to the FAA's Notice Criteria Tool found here (<https://oeaaa.faa.gov/oeaaa/external/gisTools/gisAction.jsp?action=showNoNoticeRequiredToolForm>). Those submissions for any associated cranes may be done online at <https://oeaaa.faa.gov>. The FAA must be in receipt of the notifications, no later than 120 days prior to construction. The FAA will evaluate the potential impacts of the project on protected airspace associated with the airports and advise the proponent if any action is necessary.



DEPARTMENT OF PUBLIC DEVELOPMENT

Planning Division • Engineering Division • Code Enforcement Division

August 24, 2023

Carol Flaute, Community Planner
Northeast Georgia Regional Commission
305 Research Drive
Athens, GA 30605

RE: DRI # 4047 – Nancy Industrial Drive Tract, City of Hoschton

Dear Ms. Flaute,

Jackson County Public Development staff has reviewed the DRI package distributed for review and wishes to provide the following comments:

1. The proposed mixed-use development would be detrimental to the tax-base by ridding the chance of utilizing the property as industrial.
2. The development proposal calls for 712 residential units and if this 56-acre project were to be zoned and utilized for multi-family residential within unincorporated Jackson County, our maximum density would be 448 units. We have high concerns that the 712 residential units is significantly over our density and it is utilizing a much smaller acreage.
3. All stream buffers should be adhered to and protected. The County would like for a 75-foot undisturbed State water buffer to be maintained as well as no construction within wetlands or floodplains, as per the Unified Development Code for unincorporated Jackson County.
4. Currently, there are 20+ developments either under construction or in the process of going under construction soon within the West Jackson Elementary School zone. According to Dr. Philip Brown, Jackson County School System Superintendent, "the impact of growth to our district will leave our community strained to house all our students in permanent classrooms." Due to redistricting and residential growth, we ask that the school system be considering during the decision-making process.

We are appreciative of the opportunity to comment and the job you do in coordinating these reviews.

Sincerely,

Jamie Dove
Public Development Director

**PUBLIC HEARING
ITEM #2**

Z-23-07 REZONING

**CITY OF HOSCHTON, GEORGIA
ZONING ADMINISTRATOR'S
REPORT**



TO: Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting City Planner

DATE OF REPORT: September 5, 2023

SUBJECT REQUEST: **Z-23-07:** Rezoning from MU (Mixed Use) to C-3 (Commercial Motor Vehicles Service and Repair District)

ZONING HISTORY: Z-22-10: Rezoning from MU (Mixed Use) to C-3 (Commercial Motor Vehicles Service and Repair District) (Withdrawn)

CITY COUNCIL HEARING: September 14, 2023 @ 6:00 p.m. (work session)

VOTING SESSION: September 18, 2023 @ 6:00 p.m. (regular session)

APPLICANT: Stanton Porter

OWNER(S): Whitworth Realty Advisors, Ashishkumar Patel, and Stewart Christian

PROPOSED USE: Car wash

LOCATION: West side of SR 53 south of Eagles Bluff Way

PARCEL(S) #: Part of 119/004N1

ACREAGE: 1.38

EXISTING LAND USE: Vacant

SURROUNDING LAND USE AND ZONING:

North: Vacant, MU (Mixed Use) District (part of subject parcel)

East: Across SR 53: Apartments, MFR (Multiple Family Residential District)

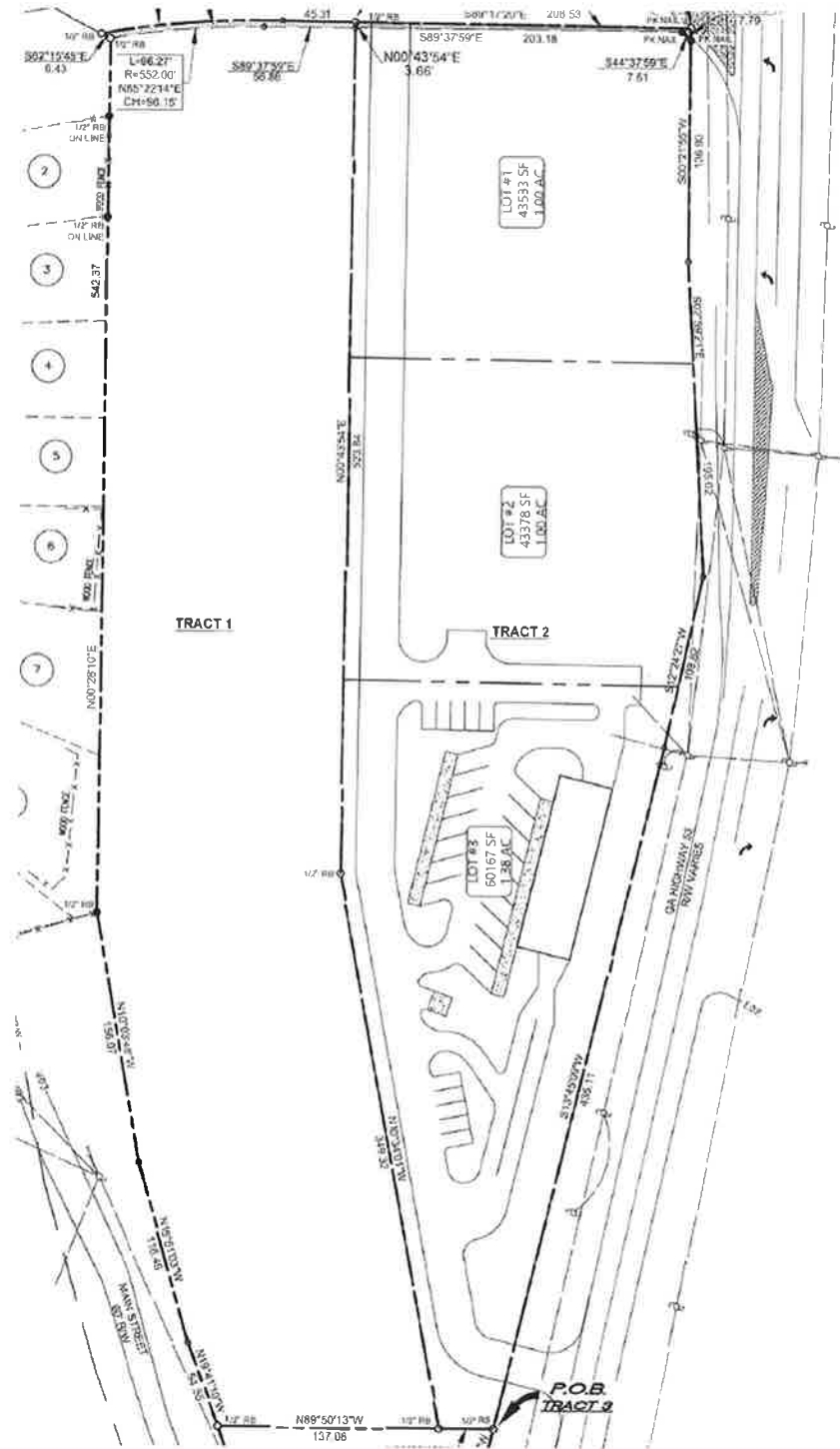
South: Vacant, MU (City of Hoschton)

West: Multi-family residential (under development, MU (3.03 acres))

RECOMMENDATION: Denial



Tax Map/Aerial Photograph (Part of 119/004N1)



Site plan and Survey: The subject property is Lot #3 identified above. Eagles Bluff Way is immediately to the north but not shown. Tract 1 is proposed for multi-family residential.

APPLICATION SUMMARY

The applicant seeks to rezone 1.38 acres of a site that is zoned MU (Mixed Use) in order to construct a car wash. Two other pieces of property, fronting on SR 53 north of the subject site, are expected or anticipated to be utilized for commercial.

MIXED USE (MU) ZONING

The Mixed Use Zoning District was not a part of the original zoning ordinance adopted by Hoschton in 2016. It was added as an amendment when Justin Kilgore was planning director. The MU zoning district may have been tailor-written to accommodate the subject property, for which a combination of multi-family residential and commercial was sought by the second developer of Creekside Village. When written and adopted, the MU zoning district was made to appear in both the residential uses table (Table 4.1) and the nonresidential uses table (Table 4.3).

The purpose of the MU zoning district is to “provide locations for office, neighborhood commercial, personal service, single-family, and multifamily residential uses, accessory uses or structures, and essential public services. Lots and parcels may be used for a single use, or may contain a mixture of uses within a single development site (Sec. 4.14 zoning ordinance). As noted by the purpose and intent statement for the MU zoning district, the intent is to limit commercial uses to neighborhood-compatible buildings. This does not include auto-sales or auto-service uses, which are prohibited in the MU zoning district.

Listed as follows are some of most of the commercial uses that are permitted outright in the MU zone: Business service establishment less than 2,500 square feet in area; clinic; finance, insurance and real estate establishment; fitness center; laundry or laundromat; lodging service (hotel); office (professional or medical); most personal service establishments; restaurant without drive through; retail trade establishment, enclosed; and microbrewery.

In contrast, the C-3 zoning district permits outright the following uses, among others: appliance repair; auto parts store; tire store; automobile sales; automobile repair or service (including car wash); construction contractor's establishment; fitness center; fuel tank sales; funeral home, mortuary or mausoleum; furniture repair and reupholstering; greenhouse; landscaping company; lawn and garden store; lodging service (motel); open air business; self-service storage facility (mini-warehouses); taxi-cab or limousine service; tow service; utility company; ambulance service; and armored car service.

STANDARDS GOVERNING EXERCISE OF ZONING POWER

Note: The City Council may adopt the findings and determinations of staff as written (provided below), or it may modify them. The council may cite one or more of these in its own determinations, as it determines appropriate. Council may modify the language provided here, as necessary, in articulating its own findings. Or, the council can reject these findings and make its own determinations and findings for one or more of the criteria provided below. Council does not need to address each and every criterion, but only those that are relevant to support its own determination.

Criteria Adopted in the Hoschton Zoning Ordinance (Section 8.03) are shown below followed by staff findings:

Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Finding: The existing MU zoning limits commercial uses to those that are mostly operated inside a building without extensive outdoor parking of vehicles other than customers. In other words, most of the commercial uses authorized on the site now are potentially compatible with a residential neighborhood and may serve the immediate needs of a residential neighborhood. The proposed C-3 zoning district, as noted with the list of permitted uses above, allows for regional and highway oriented facilities and services that generally do not have much value or utility to occupants of adjacent residents; or, in other words, C-3 uses are not the kinds of uses residents would want to walk or drive from their houses to frequent. Therefore, because of the abutting multi-family and single-family uses to the west of the site, staff considers the requested C-3 zoning district to be unsuitable **(does not support request)**.

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

Finding: The subject parcels backs up very close to proposed multi-family dwellings, and there is no established buffer if the properties are developed for MU commercial uses. No buffer or additional building setback would be required if rezoned to C-3. The subject property is already relatively shallow in depth from the highway (SR 53), leaving little room from a practical standpoint to provide for natural buffering between the proposed multi-family dwellings and commercial uses on the subject site. This is primarily because the general site is being used for two different purposes (multi-family residential and commercial) when there is not enough room to effectuate a transition from one use to another. In staff's view, C-3 zoning and development will adversely affect the use or usability of the proposed multi-family dwellings and could also have some adverse effects on detached single-family dwellings further west, in Creekside Village **(does not support request)**.

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

Finding: In staff's opinion, the MU zoning district provides for several reasonable economic uses of the subject property **(does not support request)**.

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

Finding: There would be no impact on schools. Utility impacts would be negligible. The site plan indicates and intent to obtain an additional driveway access onto/from SR 53. The site would also maintain access to Eagles Bluff Way (curb cut already exists and access to the site has been contemplated for many years now). Any commercial development, not just C-3 zoning uses, will contribute to some extent to congestion at and near the intersection of SR 53 and Eagles Bluff Way **(inconclusive)**.

Whether the proposal is in conformity with the policy and intent of the comprehensive plan including the character area map and/or future land use plan map.

Finding: The future land use plan map indicates the subject site is suitable for commercial land uses (*supports request*). However, the comprehensive plan does not distinguish between the three different zoning districts of the city (C-1 neighborhood, C-2 general, and C-3 auto service). One therefore has to look more closely at the written policies to discern what types of commercial are consistent with the comprehensive plan.

Finding: The "Residential neighborhood" policy of the comprehensive plan suggests that the city "Protect residential areas (whether rural, suburban, or urban) from nuisances (e.g., excessive noise, odor, traffic and lighting) and from encroachment by incompatible land uses. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight in all rezoning decisions." Because the C-3 zoning district can result in noises, odors, glare, radiation, and light trespass, as well as aesthetic impacts, the C-3 zoning district is considered incompatible with this adopted plan policy (*does not support request*).

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

Finding: The subject property has been vacant for many years. It was intended to develop as a neighborhood commercial shopping center supporting the Creekside Village subdivision. Now that the houses are built out in the single-family subdivision, and the multi-family dwellings are about to be constructed, there is stronger market support for neighborhood service retail at the subject location. These trends appear to support maintaining MU zoning with strict limits on commercial uses, as opposed to opening the door to auto service and other regional-type commercial facilities that do relatively little to serve adjacent residential areas (*does not support request*).

Whether the proposal would create an isolated zoning district unrelated to adjacent and nearby districts.

Finding: C-3 zoning would be an isolated zoning district (*does not support request*); the nearest C-3 zoning district is northeast of the subject site at West Jackson Road and SR 53 and is conditionally zoned for a climate controlled storage facility.

Whether the proposal would have an impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

Finding: No adverse impacts on the environment are anticipated (*supports request*).

CONCLUSION

Staff's findings with regard to the criteria specified in the Hoschton zoning ordinance for rezoning decisions reveal that the requested C-3 zoning request does not meet many of the criteria. Therefore, *staff recommends denial*. However, in the event that the Council elects to approve the request, it should be approved with conditions specified in the next section.

RECOMMENDED CONDITIONS OF ZONING APPROVAL

If the request is approved, it should be rezoned C-3 (Conditional, subject to the owner's agreement to abide by the following conditions:

1. **Use limitations.** A car wash shall be the only C-3 permitted use that is permitted on the subject property. No other auto service or repair or auto sales use shall be permitted. All other commercial uses shall be those permitted in the MU (Mixed Use) and C-1 (Neighborhood Business) zoning districts as established in the Hoschton zoning ordinance.
2. **Hours of operation limitations.** Any establishment authorized on the premises shall not be open 24 hours a day, and all outdoor activities shall cease by no later than 11:00 p.m.
3. **Dumpster service.** Servicing of dumpsters (emptying) shall not occur between the hours of 11:00 p.m. and 7:00 a.m.
4. **Fence or wall.** Along the entire west property line abutting MU zoning (i.e., proposed multi-family dwellings) the owner/developer shall construct a minimum six-foot-high masonry wall and install a five-foot-wide landscape strip with evergreen trees and shrubs, prior to issuance of a certificate of occupancy.
5. **State route improvements.** If an additional access driveway is authorized by the Georgia Department of Transportation, the applicant shall install road improvements specified by GDOT as a condition of such driveway or encroachment authorization.
6. **Multi-use path.** The owner/developer shall construct an eight-foot-wide multi-use path along the entire property frontage along SR 53 as approved by the Georgia Department of Transportation and the zoning administrator, prior to issuance of a certificate of occupancy.

STANTONPORTER
LAW

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P.O. Box 88
Winder, Georgia 30680
478.997.2010
stanton@stantonporter.com

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

July 31, 2023

City of Hoschton
Planning and Development
79 City Square
Hoschton, Georgia 30548

Re: Rezoning Application for 1.38 Acres of Parcel 119 004N1 from Mixed Use to C-3

Greetings:

This rezoning request concerns a 1.38 acres of a 3.38 acre tract of land located at the West side of State Route 53 South of Eagles Bluff Way. The property owner would like to develop a car wash.

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

1. This zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.
2. This zoning proposal would not adversely affect the existing use or usability of adjacent or nearby property.
3. This zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. Furthermore, fear of increased traffic is not a proper justification for the denial of this rezone.
4. This zoning proposal is in conformity with the policy and intent of the comprehensive land use plan. The area surrounding the subject property is already commercial in character.

The denial of this proposed zoning, or the grant to a different zoning category, or the grant with unreasonable conditions, will result in substantial monetary damage to the owner. The subject property has been vacant for many years and cannot economically support the present value of the land as presently zoned. Furthermore, the denial of this request will violate the owner's rights of due process and equal protection, procedural and substantive, and violation of Article I, Section I, Paragraphs 1 and 2, and Article I, Section III, Paragraph 1 of the Georgia Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Denial of the rezoning will destroy owner's property rights without first paying just compensation. A denial of this application would


constitute an arbitrary and capricious act by the City of Hoschton without any rational basis therefor, constituting an abuse of discretion. A refusal to rezone the subject property so as to permit the only feasible economic use of the property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the owner and owners' of similarly situated property. This application meets the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning as an expression of the government's police power.

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

Sincerely,

STANTON PORTER LAW, LLC

By: _____


Stanton E. Porter

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE NO. Z-23-07

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF
HOSCHTON AND FOR OTHER PURPOSES

WHEREAS, Stanton Porter, applicant, Whitworth Realty Advisors, Ashishkumar Patel, and Stewart Christian, property owners, have filed a complete application to rezone from MU (Mixed Use District) to C-3 (Commercial Motor Vehicles Service and Repair District) property (1.38 acre) (part of Map/Parcel 119/004N1) fronting on the west side of SR 53 south of Eagles Bluff Way; and

WHEREAS, the Property to be rezoned consists of all that tract or parcel of land lying and being in Jackson County Georgia, as described in more detail in Exhibit A which by reference is incorporated herein; and

WHEREAS, the City Council of the City of Hoschton has authority pursuant to the Hoschton Zoning Ordinance to amend the City of Hoschton's Official Zoning Map; and

WHEREAS, the city's planning consultant has prepared a report evaluating the criteria for zoning decisions as they pertain to the requested zoning; and

WHEREAS, the Hoschton City Council held an advertised public hearing on the application and has complied with all applicable laws and ordinances with respect to the processing of such application; and

WHEREAS, it has been determined by the City Council that it is desirable, necessary and within the public's interest to approve the rezoning request, and to amend the City of Hoschton's Official Zoning Map accordingly;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING
AUTHORITY OF THE CITY OF HOSCHTON AS FOLLOWS:**

Section 1. The Property, legally described in Exhibit A attached to this ordinance, is hereby rezoned from MU (Mixed Use District) to C-3 (Commercial Motor Vehicles Service and Repair District) subject to conditions of zoning approval specified in Exhibit B which by reference is incorporated herein.

Section 2. The City Clerk is hereby directed to amend the Official Zoning Map to reflect the zoning classification of the subject property.

So ORDAINED this 18th DAY of September, 2023.

James Lawson, Acting Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Jennifer Kidd-Harrison, City Clerk

Approved as to Form:

Abbott S. Hayes, Jr., City Attorney

EXHIBIT A LEGAL DESCRIPTION OF PROPERTY REZONED

Part of Map/Parcel 119/004N1 fronting on the west side of State Route 53 south of Eagles Bluff Way, being more particularly described as lot 3 as shown on the attached boundary survey and as described by metes and bounds below:

Lot 3 Legal Description, 1.38 Acres

Beginning at a PK Nail on the southwestern right of way intersection of Eagles Bluff Way (R/W Varies) and GA. HWY. 53 (R/W Varies), thence continuing along the western right of way line of GA. Hwy. 53 (R/W Varies) $S00^{\circ} 21' 55'' W$ a distance of 136.90 feet to a point, thence $S02^{\circ} 59' 21'' E$ a distance of 195.02, thence $S12^{\circ} 24' 27'' W$ a distance of 69.72 feet to a point, that point being the POINT OF BEGINNING (P.O.B.), thence continuing along said right of way $S12^{\circ} 24' 27'' W$ a distance of 39.10 feet to a point, thence $S13^{\circ} 45' 09'' W$ a distance of 435.11 feet to a point, thence leaving said right of way $N89^{\circ} 50' 13'' W$ a distance of 33.63 feet to a point, thence $N10^{\circ} 34' 01'' W$ a distance of 349.32 feet to a point, thence $N00^{\circ} 43' 54'' E$ a distance of 120.00 feet to a point, thence $S89^{\circ} 16' 06'' E$ a distance of 208.00 feet to a point on the western right of way line of GA. HWY. 53 (R.W Varies), that point being the POINT OF BEGINNING (P.O.B.).

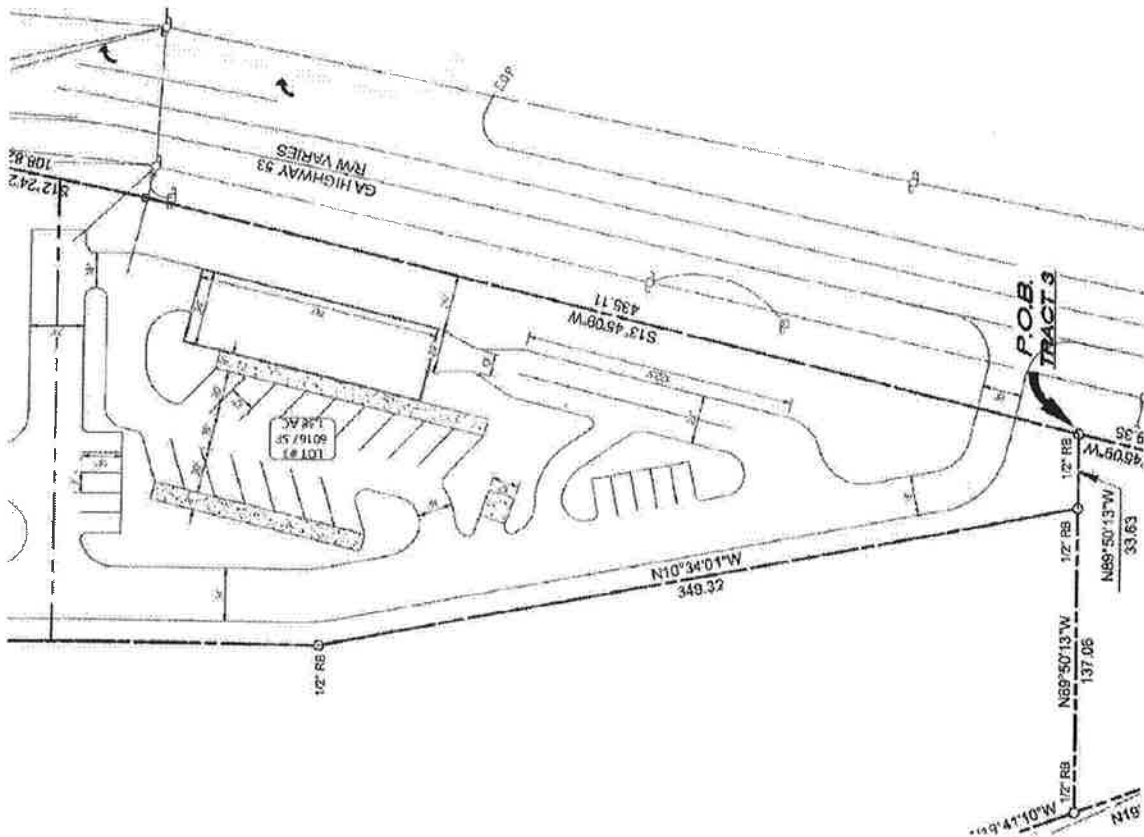


EXHIBIT B
CONDITIONS OF ZONING APPROVAL

1. **Use limitations.** A car wash shall be the only C-3 permitted use that is permitted on the subject property. No other auto service or repair or auto sales use shall be permitted. All other commercial uses shall be those permitted in the MU (Mixed Use) and C-1 (Neighborhood Business) zoning districts as established in the Hoschton zoning ordinance.
2. **Hours of operation limitations.** Any establishment authorized on the premises shall not be open 24 hours a day, and all outdoor activities shall cease by no later than 11:00 p.m.
3. **Dumpster service.** Servicing of dumpsters (emptying) shall not occur between the hours of 11:00 p.m. and 7:00 a.m.
4. **Fence or wall.** Along the entire west property line abutting MU zoning (multi-family dwellings under development) the owner/developer shall construct a minimum six-foot-high masonry wall and install a five-foot-wide landscape strip with evergreen trees and shrubs, prior to issuance of a certificate of occupancy.
5. **State route improvements.** If an additional access driveway is authorized by the Georgia Department of Transportation, the applicant shall install road improvements specified by GDOT as a condition of such driveway or encroachment authorization.
6. **Multi-use path.** The owner/developer shall construct an eight-foot-wide multi-use path along the entire property frontage along SR 53 as approved by the Georgia Department of Transportation and the zoning administrator, prior to issuance of a certificate of occupancy.

PUBLIC HEARING

ITEM #3

Resolution 2023-014

Acting Mayor
Mr. James Lawson

City Manager/Clerk
Ms. Jennifer Kidd-Harrison



Post 2
Mr. Tracy Carswell

Post 3
Ms. Fredria Carter-Sterling

Post 4
Ms. Debbie Martin

Post 6
Mr. James Lawson

Hoschton City Hall, 79 City Square, Hoschton, Georgia 30548
City Hall (706) 654-3034 | Fax (706) 654-9834
www.cityofhoschton.com

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Jerry Weitz, Consulting Planner

DATE: September 5, 2023

RE: **Resolution 2023-14:** A Resolution Amending the Comprehensive Plan to adopt an “Official Corridor Map” as a part of the transportation component/chapter so as to designate land to be reserved for the construction of future or improvement of existing transportation facilities, including streets, highways, bikeways, sidewalks, and multi-use trails.

Ordinance O-23-05: An Ordinance Amending the Subdivision and Land Development Ordinance, Article VI, “Access and Design Requirements for Roads,” Section 602, “Conformance to Adopted Major Thoroughfare and Other Plans” to provide reference to a new code section and to provide reference to an official corridor map; and to amend Article IX, “Development Plans and Permits,” to add a new Section 910, “Official Corridor Map.”

In advance of the September 14th public hearing of City Council, on **September 7, 2023**, at 6:00 p.m., the city planner held an information session at the Community Center, 65 City Square, Hoschton, GA, 30548, on these matters. The city planner also met with certain property owners who requested meetings, to discuss the proposed corridor map. The rest of this memo provides information that was sent to affected property owners and other interested parties.

Why is this action by the city necessary?

Development is occurring at an unprecedented pace in Hoschton. The city has a critical public interest in avoiding traffic congestion, especially along the State Route 53 and SR 332 corridors (regional through routes), and to try to help facilitate movement of regional traffic and new vehicle trips resulting from development through the city. The tool proposed, called an “official corridor map,” is intended to provide a mechanism for the city to work with property owners and land developers to reserve land for future connecting public roads in the city, and to hopefully engage in a partnership to get the roads built at the time of development. Unless the city takes a proactive stance to identify and reserve a path for these roads and multi-use trails, development can occur in a manner that would frustrate such necessary future road building or extension or multi-use path routes or extensions, or preclude them altogether.

How might properties be affected?

No immediate action is proposed with regard to individual properties to implement the proposed corridor map. However, if a preliminary plat or development permit is applied for, Ordinance O-23-05 would trigger a requirement to have a public hearing with the Hoschton City Council to consider whether the proposed development can be adjusted in a manner that will accommodate the proposed right of way reservation. Also, if rezoning is proposed, at that time discussion could take place regarding options and alternatives for the city to possibly acquire the reserved right of way, through donation, conditions of approval, sale to the city, or some combination of any acquisition method available. It would be only among the rarest of circumstances that eminent domain (payment of just compensation) would be considered by the city, and such option is by all means a last resort and not contemplated in any event, at this time.

How might future roads, if right of way is reserved, get funded?

The cost of designing and constructing new roads and pathways, and the distribution of those costs to various entities, is not decided at the time of these actions, if approved. However, some combination of state, city, developer, and land owner participation is possible. It is also possible that the city may elect (via future action of City Council) develop and impose an impact fee for roads in the near future.

Revisions Thus Far

Based on prospective property owner input (letter also attached), the proposed extension of Jopena Boulevard was removed from the draft official map, due to topographic and site planning considerations. Both the resolution and ordinance have been amended to account for this change.

Attachments: Resolution 2023-14 and Ordinance O-23-05



SOUTHEASTERN

DEVELOPMENT • BROKERAGE • CONSULTING

September 1, 2023

Dr. Jerry Weitz
Consulting City Planner
City of Hoschton
79 City Square
Hoschton, Georgia 30548

Subject: Proposed Jopena Blvd Expansion

Dear Dr. Weitz,

Regarding proposed Resolution 2023-14 and Ordinance O-23-05, we ask the City Hoschton abandon the proposed expansion of Jopena Blvd as shown on Page 5 of the Resolution and on Page 8 of the Ordinance.

We find it problematic where Jopena Blvd will extend beyond the eastern property line of our development and either be routed to the rear of our retail building or routed in front of our retail building. We are unable to route the boulevard in a northerly direction to the rear of the retail building due to the location of Hoschton's new Water Tower on Jopena Blvd. The boulevard is unable to be routed to the front of the building due to the topography which would result in a slope ranging between 8 to 11 degrees making it difficult for traffic to safely decelerate while approaching the turn and the retail building.

At this time, we are unable to explore other options without the input and cooperation of adjoining property owners. With that said, we are open to connecting with adjoining property owners where it creates a safe and efficient travel corridor for all that would utilize the Jopena Blvd expansion.

Therefore, due to the technical reasons listed above, we are unable to support the Jopena Blvd expansion.

Best regards,

Mark Senn
President
Southeastern
Augusta, Georgia

2743 Perimeter Parkway • Bldg. 100 • Suite 370 • Augusta, Georgia • 30909

Office (706)722.5565 • fax (706)722.6960 • www.southeastern.company

**Official Corridor Map
Public Notice Property owners List**

Paul T. Cheek, Jr.
7654 Pendergrass Road
Hoschton, GA 30548-2339
(map/parcel 113/003A)

Shannon C. Sell
328 East Jefferson Street
Hoschton, GA 30548
(map/parcel 119/019)
(map/parcel 119/019A)

Douglas J. Swafford
7798 Pendergrass Road
Hoschton, GA 30548
(map/parcel 113/004)

Matthew T. and Heidi L. Martin
165 New Street
Hoschton, GA 30548
(map/parcel H02/051B)

Luther S. and Mary Morrison
107 New Street
Hoschton, GA 30548
(map/parcel H02/051D)

Ryan J. and Alyssa Mae Mitchell
203 New Street
Hoschton, GA 30548
(map/parcel 120/016)

Virginia Stepp Ledford
243 New Street
Hoschton, GA 30548
(map/parcel 120/017A)

Mihai F Nicoara and Dorin and Lucia Harasemiuc
2110 Enclave Mill Drive
Dacula, GA 30019
(map/parcel 120/017)

Horace J. Healan
Post Office Box 275
Hoschton, GA 30548-2346
(map/parcel 120/018)

Hoschton Exchange LLC
3425 Duluth Park Lane
Duluth, GA 30096
(map/parcel 120/030)

Michael L. Bagwell
677 Deer Creek Trail
Hoschton, GA 30548-2127
(map/parcel H01/024B)
(map/parcel 120/017C)
(map/parcel H01/024)
(map/parcel H01/024D)

Ryan L. Langford
Post Office Box 293
Hoschton, GA 30548
(map/parcel H01/023)
(map/parcel H01/022)

Davis Automotive, LLC
2292 Saint Kennedy Lane
Buford, GA 30518
(map/parcel 120/013J)

Town Center 53 LLC
3125 Touchton Court
Duluth, GA 30097
(map/parcel 120/013I)

DPLand1 LLC
8935 Laurel Way
Alpharetta, GA 30022
(map/parcel 120/013K)

Hog Mountain Properties, LLC
c/o Brogden Consulting, Inc.
3425 Duluth Park Lane, Suite C
Duluth, GA 30096
(map/parcel 120/010B)

Highway 53 LLC
3955 Highway 53
Hoschton, GA 30548
(map/parcel 120/010A)

Southeast Peachtree Acquisition LLC
383 Madison Avenue
New York, NY 10017
(map/parcel 120/010)

Copy of correspondence and attachments to:

Tracy Jordan
tracyjordanrealtor@gmail.com

Tommy Saul
Tommy.Saul@southeastern.company

Ali Daughtry
Robertson Lola Roof Architects and Engineers
ADaughtry@rlrpc.com

Cal McShan
The Crawford Creek Group of Companies
Cal@crawfordcreekcommunities.com

Brent Hoffman
Berkshire Hathaway
brent@brenthoffman.com

Cole Hudgens
Dchlandinvestments@gmail.com

Bruce Williams
bruce@bwilliamsprop.com

Mayor and City Council and Selected City Staff

CITY OF HOSCHTON
STATE OF GEORGIA

RESOLUTION 2023-14

A RESOLUTION AMENDING THE COMPREHENSIVE PLAN TO ADOPT AN “OFFICIAL CORRIDOR MAP” AS A PART OF THE TRANSPORTATION COMPONENT/CHAPTER SO AS TO DESIGNATE LAND TO BE RESERVED FOR THE CONSTRUCTION OF FUTURE OR IMPROVEMENT OF EXISTING TRANSPORTATION FACILITIES, INCLUDING STREETS, HIGHWAYS, BIKEWAYS, SIDEWALKS, AND MULTI-USE TRAILS.

WHEREAS; The City of Hoschton has prepared an amendment to its comprehensive plan; and

WHEREAS; The City of Hoschton City Council has conducted a public hearing on the proposed amendment to the comprehensive plan; and

WHEREAS; The city is authorized to adopt an amendment to the comprehensive plan when it determines it is appropriate to do so; and

WHEREAS; Advance review by the Northeast Georgia Regional Commission and Georgia Department of Community Affairs of a comprehensive plan amendment is not required;

Now, Therefore, It Is Hereby RESOLVED As Follows:

1.

The attached amendment to the comprehensive plan to include an official corridor map (maps) and explanatory text is hereby adopted and shall be included in the transportation element of the comprehensive plan.

2.

The city clerk shall transmit a copy of this approved resolution and the comprehensive plan amendment to the Northeast Georgia Regional Commission.

So RESOLVED, this the 18th day of September, 2023.

James Lawson, Acting Mayor

Resolution 23-14 Comprehensive Plan Amendment

ATTEST:

Jennifer Kidd-Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney

F:\Planning & Zoning\Jerry Weitz 2020\Subdivision and Land Development\Amendments Sept. 2023\Corridor Map\Resolution 23-14 Comprehensive Plan Amendment Official Corridor Map.docx

**ATTACHMENT TO RESOLUTION 2023-14
AMENDMENT TO HOSCHTON COMPREHENSIVE PLAN
TO ADOPT AN OFFICIAL CORRIDOR MAP**

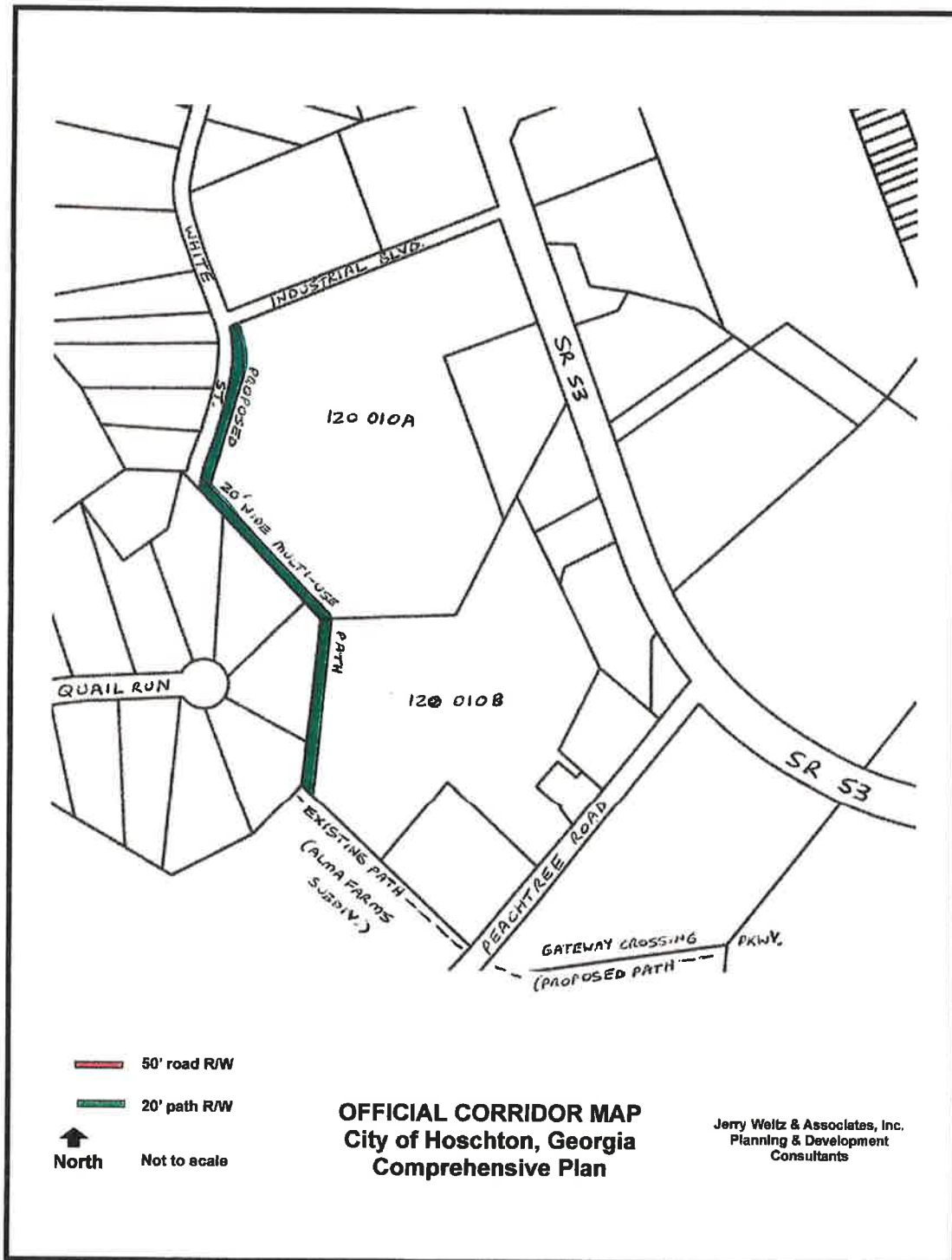
“OFFICIAL CORRIDOR MAP

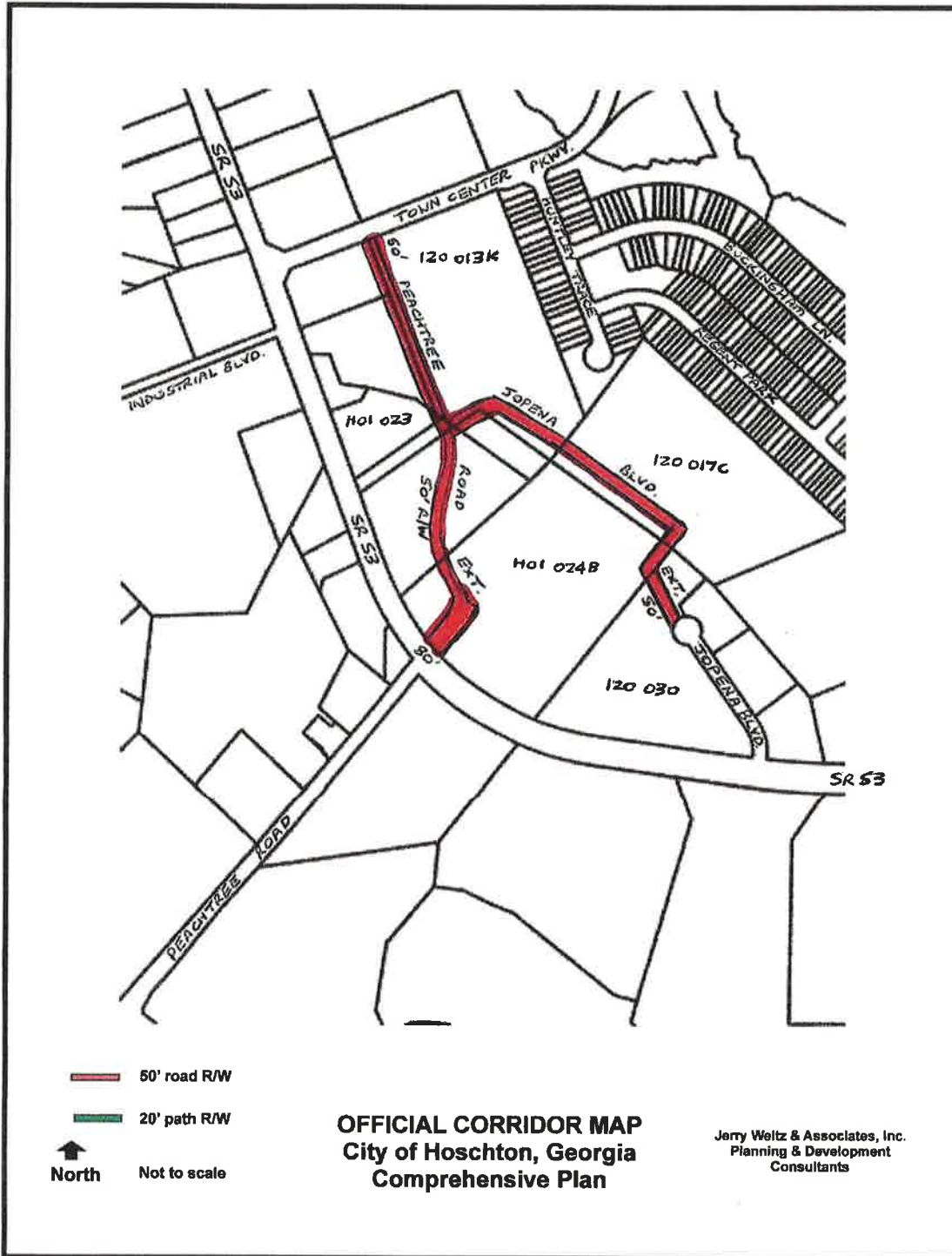
An official corridor map is a growth management technique that seeks to reserve ways for future road connections and multi-use paths needed as development occurs. The technique has its origins in Georgia going back to the planning and zoning enabling act of 1957, and the technique has been utilized since at least the 1920s, though it is not that well known. Modern, model enabling statutes were developed by the American Planning Association in its legislative guidebook in the 2000s to utilize this tool.

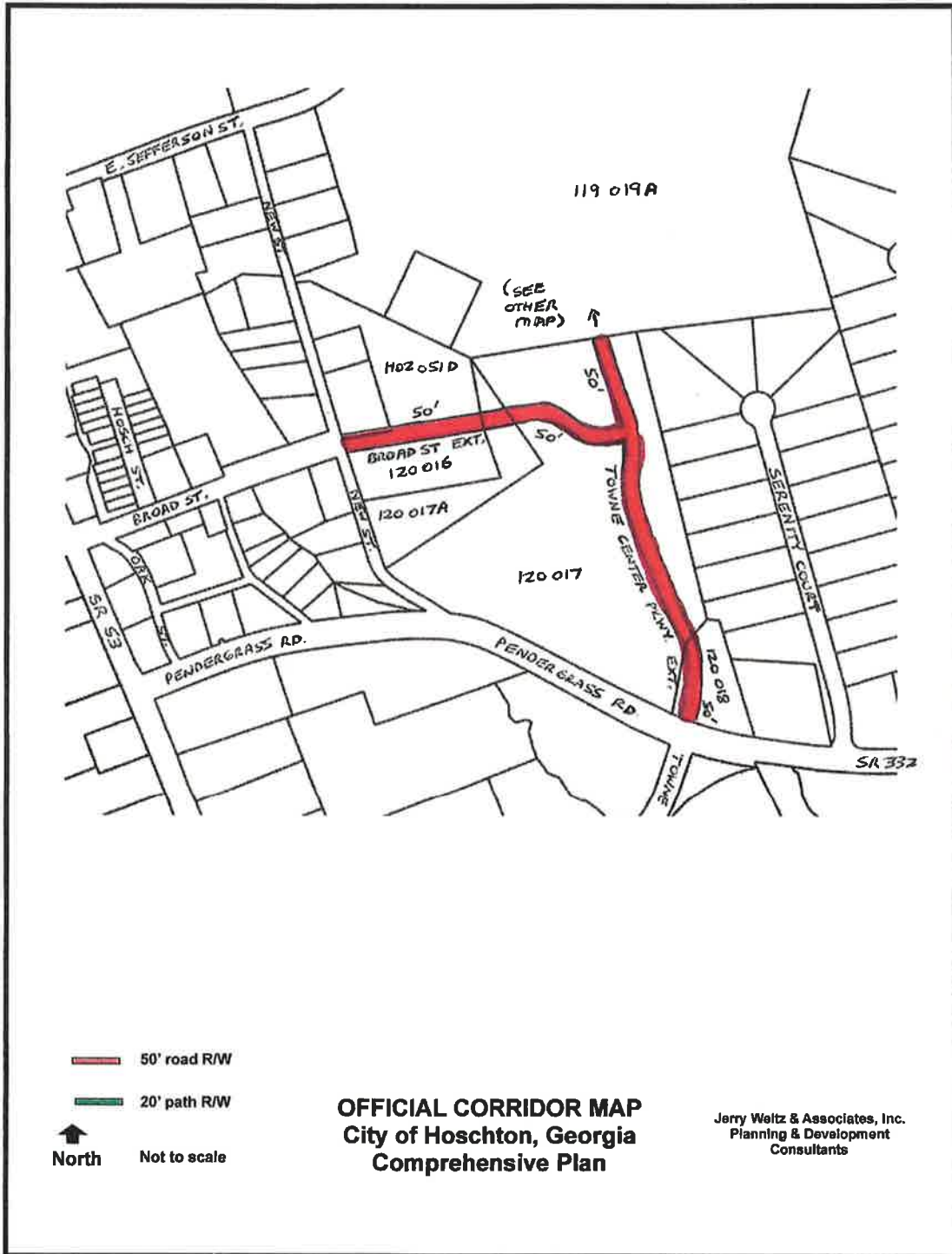
A corridor map establishes point-to-point pathways through certain undeveloped lands where road connectivity is needed. In this sense, it is a precursor to a road or thoroughfare plan. A set of regulations is needed to implement the corridor map including, most importantly, the requirement for private development to “reserve” a road corridor of specified width and preventing issuance of a development permit for development in the reserved corridor until the property owner negotiates with the city for the donation, purchase, or acquisition of the road right of way. Also, the general intent is to explore potential at the time of rezoning, preliminary subdivision or development for the developer to participate in constructing the road. It is not an outright mandate to construct the road at owner/developer cost, but that may be negotiated. The city may participate in funding road (system) improvements called for in the corridor map, as may be negotiated, which would be appropriate in the case of so-called “system” improvements.

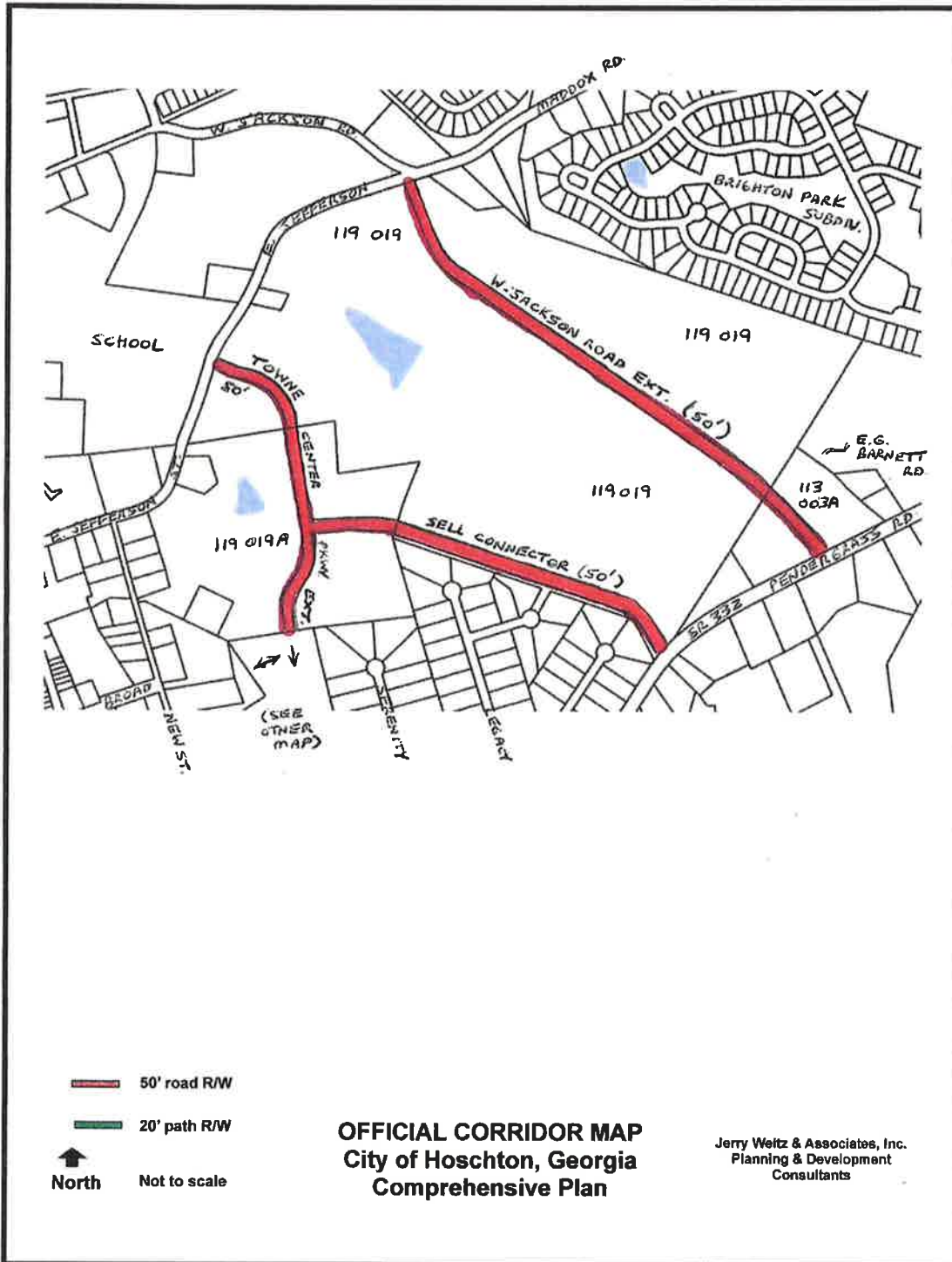
The need for this tool in Hoschton is imminent. It is beneficial that this corridor map and implementing regulations follow immediately, given rezoning proposals pending and in the pre-application stage east of SR 53 and elsewhere. The corridor map can be amended as needed to include other road corridor proposals. The regulations are proposed to be included in the subdivision and land development regulations of the city.

The official corridor map, which consists of four separate maps, is shown on the following pages.









PUBLIC HEARING

ITEM #4

Ordinance 0-23-05

ORDINANCE O-23-05

AN ORDINANCE AMENDING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE ADOPTED APRIL 4, 2016, AS MOST RECENTLY AMENDED NOVEMBER 21, 2022, TO AMEND ARTICLE VI, "ACCESS AND DESIGN REQUIREMENTS FOR ROADS," SECTION 602, "CONFORMANCE TO ADOPTED MAJOR THOROUGHFARE AND OTHER PLANS" TO PROVIDE REFERENCE TO A NEW CODE SECTION; TO PROVIDE REFERENCE TO AN OFFICIAL CORRIDOR MAP; AND TO AMEND ARTICLE IX, "DEVELOPMENT PLANS AND PERMITS," TO ADD A NEW SECTION 910, "OFFICIAL CORRIDOR MAP." TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The Hoschton City Council desires to amend the Hoschton Subdivision and Land Development Ordinance to add provisions regarding adoption of an Official Corridor Map to reserve future road right of ways necessitated by new development; and

WHEREAS, The city's comprehensive plan was amended September 18, 2023, to include an "official corridor map" and explanatory matter reserving future rights of ways for roads and multi-use paths;

WHEREAS, Written notice of this proposed ordinance was sent to property owners of record with land showing a reservation of right of way on the Official Corridor Map, along with a copy of a draft of this ordinance for review and comment; and

WHEREAS, city staff provided a public information and comment opportunity on this proposed ordinance, to present the proposed ordinance and allow for public comments prior to the public hearing before City Council; and

WHEREAS, The City Council conducted a public hearing on this matter; and

WHEREAS, The City Council finds that it is necessary and in the public health, safety, welfare, and general interests of the city to amend the subdivision and land development ordinance;

Now, therefore, the City Council of Hoschton hereby ORDAINS as follows:

Section 1.

The City of Hoschton subdivision and land development ordinance, Article VI, "Access and Design Requirements for Roads," Section 602, "Conformance to Adopted Major Thoroughfare and Other Plans, is retitled and amended to read as follows:

"Sec. 602. Conformance to Adopted Major Thoroughfare, **Official Corridor Map** and Other Plans.

- (a) All roads, **multi-use paths**, and other features of the adopted comprehensive plan shall be **shown as reserved land on preliminary plats, when required, and development plans by the subdivider or developer** ~~platted by the subdivider~~ in the location and, if any, to the dimensions indicated in the transportation element of the comprehensive

plan, official corridor map, or other transportation plan applicable in the city-, **as more specifically provided in Section 910 of this ordinance.**

- (b) Any subdivision or land development with property fronting on an existing city or county public road or state highway may be required to provide road improvements to bring the road or highway up to applicable standards and to handle the traffic generated by the subdivision or land development.”

Section 2.

The City of Hoschton subdivision and land development ordinance, Article IX, “Development Plans and Permits,” is amended to add a new Section 910, “Official Corridor Map” as follows:

“Section 910. Official corridor map.

- (a) Purpose and intent. The purpose of an official corridor map is to implement the city’s comprehensive plan, by reserving land needed for future transportation facilities identified in the comprehensive plan. The corridor map is intended to provide a basis for coordinating the provision of transportation facilities with new development by designating corridors of future right of way where the construction and improvement of transportation facilities is expected. The official corridor map is also intended to restrict the construction or expansion of permanent structures in the intended right-of-way of planned transportation facilities as indicated on a corridor map, at least until a determination is made by the city concerning the proposed transportation facility.
- (b) Definitions.
1. Official corridor map: A map or maps adopted by the city, which designates land to be reserved for the construction of future transportation facilities or improvement of existing transportation facilities. The corridor map establishes the width and location of corridors but also provides flexibility in planning the design, location, and width of a transportation facility.
 2. Reserved land: Land shown on the corridor map as “reserved.”
 3. Transportation facilities: Streets, highways, bikeways, sidewalks, and multi-use paths.
- (c) Prerequisites to adoption of an official corridor map or the subsequent inclusion of reserved land on said map. No official corridor map shall be adopted, and no such map shall be amended to include a land reservation, until and unless the requirements of this subsection are met to ensure procedural due process:
1. At least fifteen (15) days before the public hearing, the city shall notify the public of the date, time, place, and nature of the public hearing by publication in a newspaper of general circulation in the territory of the local government.
 2. The city shall notify all owners of record according to the Jackson County tax assessor of parcels of land that include proposed reserved land of the date,

time, place, and nature of the public hearing by mail at least fifteen (15) days before the public hearing.

3. The Hoschton City Council shall hold a public hearing(s) at the date, time, and place advertised, and afford all interested individuals the opportunity to be heard concerning the proposed official corridor map.
- (d) Adoption. That map, or maps, titled "Official Corridor Map for the City of Hoschton," as contained in the adopted comprehensive plan of the City of Hoschton and which is attached to and made a part of this section, is hereby adopted for purposes of subdivision platting, development permitting, and land use regulation in the City of Hoschton.
- (e) Reservation of land. The areas shown on the official corridor map as "future road right of way" and "future multi-use path" shall be interpreted as "reserved land" as defined in this ordinance and shall be shown as such on preliminary plats, if applicable, and on development plans, and final plats (if applicable) in a manner consistent with this section.
- (f) Width of reservation.
 1. Unless otherwise specifically shown on the official corridor map, the required right of way width for a future road right of way shall be fifty (50) feet, and the required right of way width for a future multi-use path shall be twenty (20) feet.
 2. If a road right of way width of greater than fifty (50) feet is specified on the official corridor map, the city may authorize a reduction of the required future road right of way width to fifty (50) feet, depending upon evaluation of traffic and travel impacts of the proposed subdivision or land development.
 3. Where a future road right of way intersects with an existing road right of way such as a state route, the width of said reservation may be required by the city to be increased to eighty (80) feet to accommodate road intersection turning lanes.
 4. The city may authorize a reduction of the required future road right of way width or future multi-use path right of way width reservation on a given parcel of land by one-half (i.e., to 25 feet and 10 feet, respectively), if the subdivider/ developer owns abutting property or if there is a formal legal arrangement by an abutting property owner to reserve one-half the width of the proposed right of way or multi-use path right of way. The intent of this provision is to allow one reservation at the specified width to occur that will traverse a common property line to the benefit of properties along both sides of the proposed reservation.
- (g) Location of reservation. In the case of a future right of way shown on the official corridor map, the City of Hoschton shall consider and may approve an alternative alignment proposed by the subdivider or developer on the same parcel of land as is proposed for subdivision and/or development that accomplishes the same point-to-point interparcel connectivity at the specified width. This provision is

intended to offer flexibility to the subdivider or developer to plan the site with the reserved road right of way in a way that optimizes the site plan's design and/or to account for the possible need to modify the location given existing topographic, riparian, or other environmental or field conditions.

- (h) Permitting restriction. The city shall not issue any permit pertaining to land use, zoning or development on land regulated by this section except pursuant to the procedures of and in compliance with this section. This section does not forbid or restrict the use of any reserved land that does not constitute the development of that land, nor does this section forbid or restrict development on the unreserved portion of any tract or parcel that contains reserved land as shown on the official corridor map.
- (i) Preliminary plat or development permit required. An owner of reserved land who proposes to subdivide reserved land shall apply for a preliminary plat. An owner of reserved land who proposes to develop reserved land shall apply for a development permit. It shall be unlawful to subdivide or develop land shown as reserved on the official corridor map without securing a preliminary plat and/or development permit as required by this section.
- (j) Public hearing and notice for preliminary plat or development permit involving reserved land. Upon receiving an application for a preliminary plat, if subdivision is required, or a development permit if subdivision is not proposed, involving reserved land as shown on an the official corridor map, the city shall arrange for the application to be scheduled for public hearing by the Hoschton City Council. The applicant shall be notified in writing of the date, time, and place of the hearing, by written mail, personal service, or electronic mail, at least fifteen (15) days prior to the public hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in a newspaper of general circulation in the territory of the local government with jurisdiction at least fifteen (15) days prior to the public hearing. The applicant shall, at the hearing, have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application.
- (k) Action. Following the public hearing, the Hoschton City Council may take one of the following actions:
 - 1. Approve the preliminary plat or development permit as proposed, with or without conditions, modify the mapped corridor to remove all or part of the reserved land from the mapped corridor, and issue with or without conditions the preliminary plat authorizing preliminary subdivision or issue a development permit authorizing development on the land removed from the mapped corridor.
 - 2. Modify the proposed preliminary plat or development permit application and issue it for development as modified, with or without conditions, if the development can reasonably be accomplished on the subject parcel without encroaching on the reserved land.

3. Delay action on the development permit for a defined period of time not to exceed ninety (90) days for the purpose of any of the following: negotiating with the property owner for the purchase of all or a part of the reserved land by the city; acquiring the reserved land from the developer voluntarily; acquiring a negative easement over the reserved land that prevents the property owner from building on the reserved land; or taking the reserved land through eminent domain and the payment of just compensation.
- (l) Council authority and action. After considering the preliminary plat or development permit with reserved land pursuant to this section, the Hoschton City Council may, but shall not be obligated to, negotiate for the voluntary dedication of the land, enter into option to purchase, or it may initiate condemnation proceedings subject to applicable state laws and use its powers of eminent domain. If the Hoschton City Council delays action on the preliminary plat or development permit with reserved land as provided by this section, and the Hoschton City Council fails to arrange for the legal acquisition of all or a part of the reserved land within the specified time period which shall not exceed ninety (90) days, then the city shall approve the preliminary plat or the development permit, as the case may be, with or without conditions, or in the absence of such approval, the preliminary plat or development permit as the case may be shall be deemed approved as submitted."

Section 3.

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

Section 4.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 5.

This ordinance shall become effective immediately upon its adoption.

So ORDAINED, this 18th day of September, 2023.

James Lawson, Acting Mayor

Ordinance O-2023-05

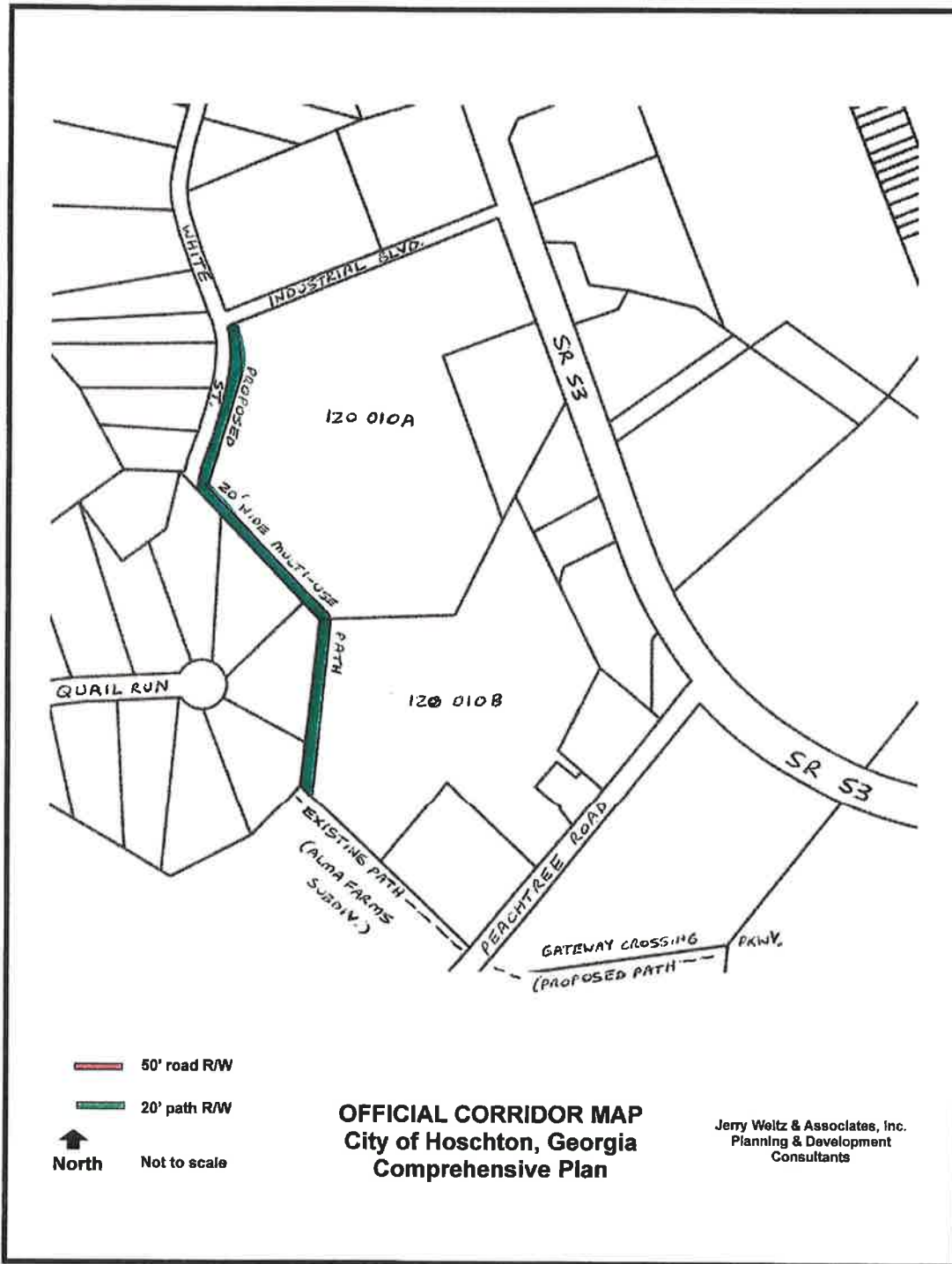
This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

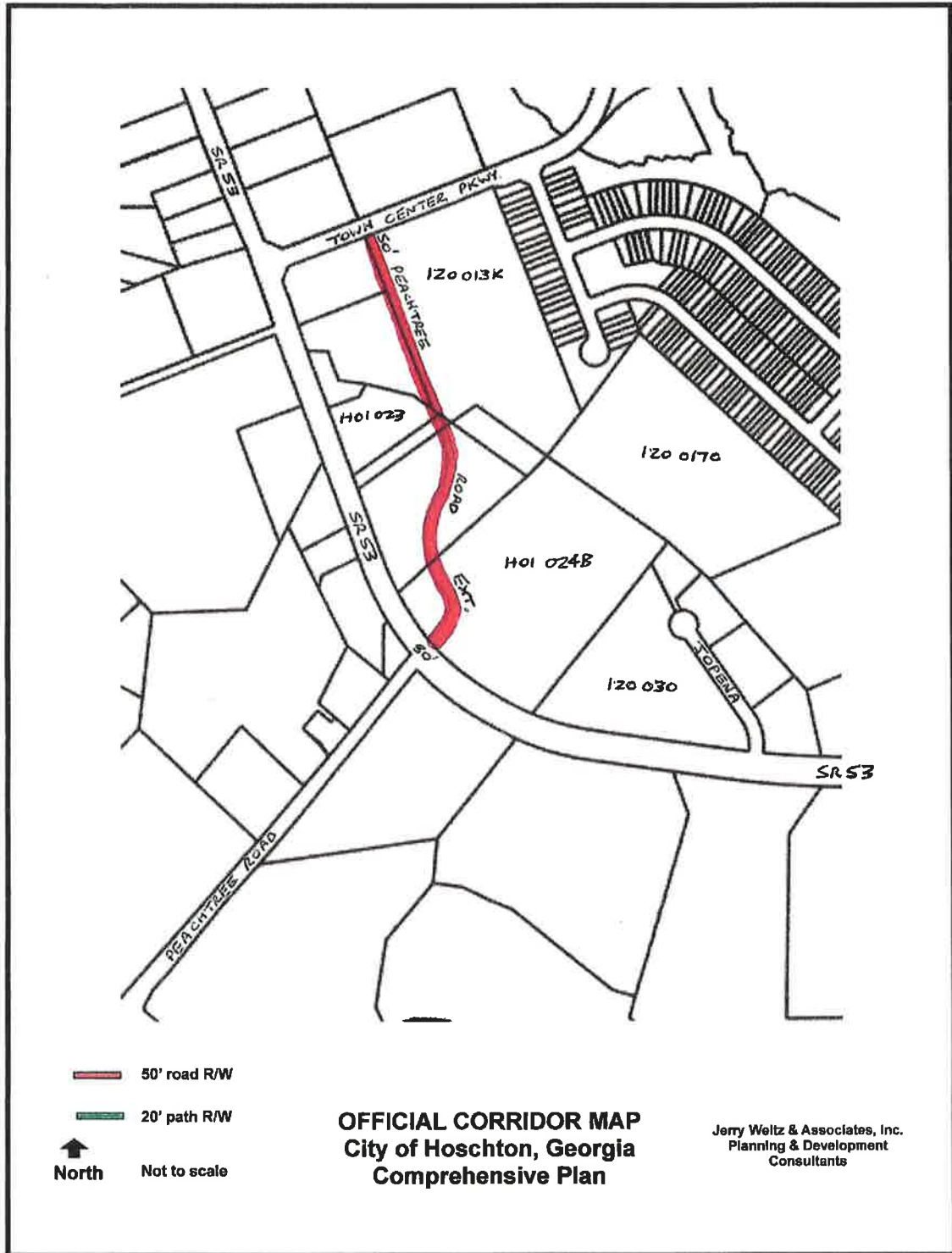
ATTEST:

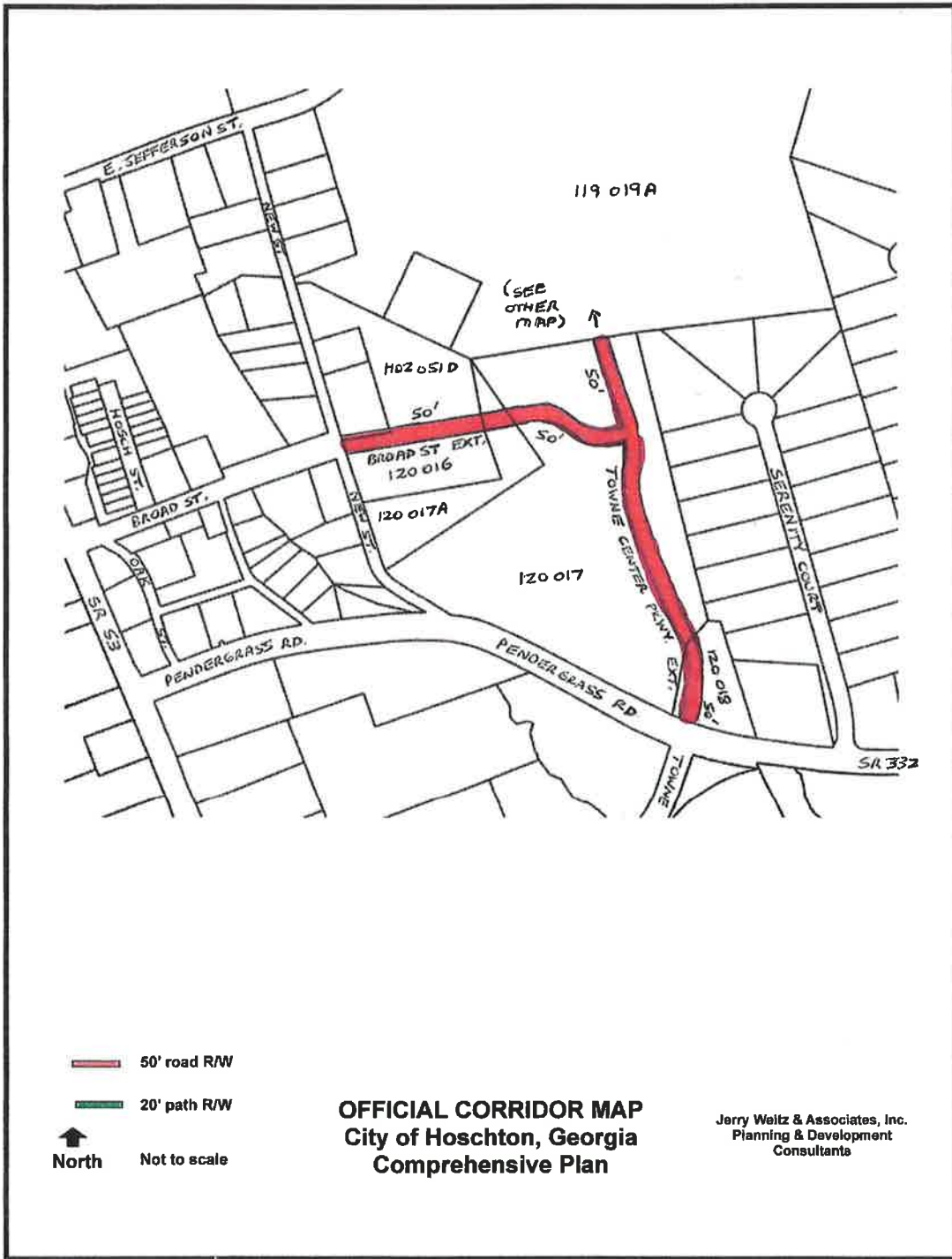
Jennifer Kidd-Harrison, City Clerk

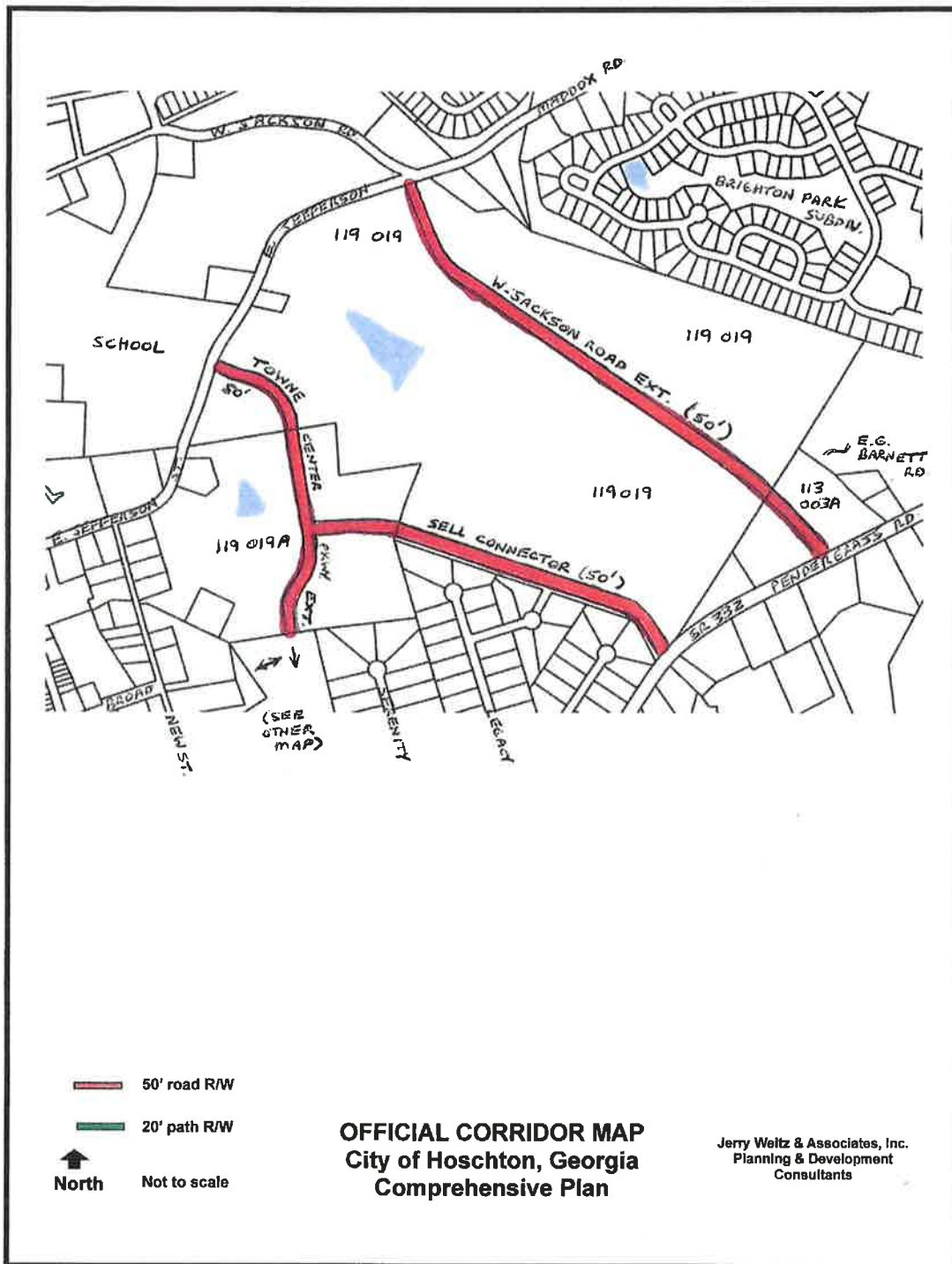
APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney









PUBLIC HEARING

ITEM #5

Ordinance 0-23-06

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE O-23-06

AN ORDINANCE AMENDING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ARTICLE VI, ACCESS AND DESIGN REQUIREMENTS FOR ROADS, SECTION 620, "RESIDENTIAL DRIVEWAYS," AND SECTION 621, "NON-RESIDENTIAL DRIVEWAYS" TO MODIFY STANDARDS AND SPECIFICATIONS; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The Hoschton City Council desires to amend the Hoschton Subdivision and Land Development Ordinance to revise standards and specifications for residential and non-residential driveways; and

WHEREAS, The City Council conducted a public hearing on this matter; and

WHEREAS, The City Council finds that it is necessary and in the public health, safety, welfare, and general interests of the city to amend the subdivision and land development ordinance;

Now, therefore, the City Council of Hoschton hereby ORDAINS as follows:

Section 1.

The City of Hoschton subdivision and land development ordinance, Article VI, "Access and Design Requirements for Roads," Section 620, "Residential Driveways," is amended as follows:

"Sec. 620. Residential Driveways.

All entrances or exists of any driveway from or to any state or federal highway shall be subject to the approval of the Georgia Department of Transportation. **No residential driveway shall be connected to a city street or county road, and no curbs or medians on public streets or rights-of-ways shall be cut or altered for access unless approved by the public works director. No residential driveway or other improvement constructed on a city street or county road right of way shall be constructed or relocated or have its dimensions altered without the approval of the public works director.**

Driveways must be permitted. Approval of driveways shown on approved development plans shall constitute driveway approval unless specified otherwise in such approval. Approval of driveways shown on a building permit application shall constitute driveway approval unless specified otherwise by such permit approval. A separate driveway permit shall be required if the driveway proposed has not been shown on an approved development plan or approved as part of a building permit.

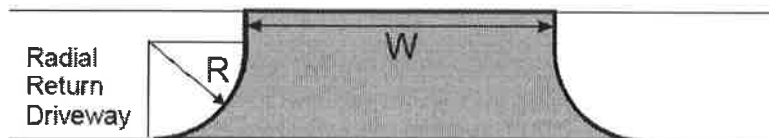
Along city streets, residential driveways shall be designed and constructed to the following standards:

- (a) Width: 8 feet minimum, except for shared driveways which shall be at least 12 feet wide. A residential driveway shall not exceed a width (measured at the right of way line of the street to which the driveway is connected) of 12 feet, unless the driveway serves a

Ordinance O-2023-06 Driveways Amendment

garage or carport designed to park two or more cars located within 40 feet of the right of way, in which case the maximum residential driveway width shall be 20 feet. The maximum driveway widths of this paragraph shall not be construed to prevent additional surfacing for purposes of connecting the driveway to a garage or carport, or for additional uncovered parking, or for additional maneuvering space on the lot.

- (b) Spacing from road intersection: Minimum 40 feet; the public works director may require greater separation depending on the functional classification of the intersecting street and the street from which access will be gained.
- (c) Angle of intersection with street: Right angled (80 degrees to 100 degrees).
- (d) Drainage: As approved by the ~~City Engineer~~ public works director (18-inch culvert typical where curb and gutter do not exist).
- (e) Cross-drain at street: As approved by the ~~City Engineer~~ public works director (18-inch culvert typical).
- (f) Locations: Driveways ~~should~~ will be restricted to locations where movements into and out of them can occur in a safe and orderly manner, as determined by the public works director. Driveways may be required to align with driveways on the opposite side of the street.
- (g) Sidewalk transitions. Where a sidewalk is provided or planned, the driveway shall be designed and constructed with sidewalk transitions as appropriate.
- (h) Paving. Unless otherwise approved by the public works director, installation of a concrete driveway apron shall be required for any driveway connecting to a city street or county road with minimum driveway radius for a residential driveway of 5 feet (see figure). Driveway paving may be waived by the public works director for that part of a driveway beyond the required concrete driveway apron.



Source: Florida Department of Transportation. 2008.
Driveway Information Guide.

- (i) Number of driveways. The public works director may limit the number of residential driveways for any given lot or parcel of land.
- (j) Slope and elevation. Any driveway entering on a roadway or street may be required to be sloped down from the street or roadway at a rate of 1/2 inch per 1 foot for a minimum of 10 feet. In any case, the finished driveway surface within the right-of-way where it abuts the adjacent road must be no higher in elevation than the roadbed. Residential lots in any major subdivision shall have no direct driveway access to a collector or arterial street unless approved by the public works director.

Section 2.

The City of Hoschton subdivision and land development ordinance, Article VI, "Access and Design Requirements for Roads," Section 621, "Non-Residential Driveways" is amended as follows:

"Sec. 621. Non-Residential Driveways.

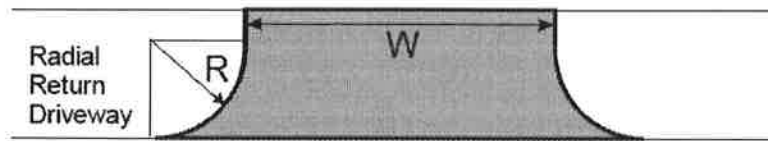
All entrances or exists of any driveway from or to any state or federal highway shall be subject to the approval of the Georgia Department of Transportation. **No non-residential driveway shall be connected to a city street or county road, and no curbs or medians on public streets or rights-of-ways shall be cut or altered for access unless approved by the public works director. No non-residential driveway or other improvement constructed on a city street or county road right of way shall be constructed or relocated or have its dimensions altered without the approval of the public works director.**

Driveways must be permitted. Approval of driveways shown on approved development plans shall constitute driveway approval unless specified otherwise in such approval. Approval of driveways shown on a building permit application shall constitute driveway approval unless specified otherwise by such permit approval. A separate driveway permit shall be required if the driveway proposed has not been shown on an approved development plan or approved as part of a building permit.

Along city streets, non-residential driveways shall be designed and constructed to the following standards:

- (a) Two-Way Width: 24 feet minimum and 32 feet maximum.
- (b) One-Way Width: 12 feet minimum and 18 feet maximum.
- (c) Spacing from street intersection: Minimum ~~50~~ **100** feet; **the public works director may require greater separation, depending on the functional classification of the intersecting street and the street from which access will be gained.**
- (d) Angle of intersection with street: Right angled (80 degrees to 100 degrees).
- (e) Drainage: As approved by the ~~City Engineer~~ **public works director** (18-inch culvert typical).
- (f) Cross-drain at street: As approved by the ~~City Engineer~~ **public works director** (18-inch culvert typical).
- (g) Paving: ~~Required per specifications adopted by the City.~~ **Unless otherwise approved by the public works director, installation of a concrete driveway apron shall be required for any driveway connecting to a city street or county road with minimum driveway radius for a non-residential driveway as specified by the Public Works director which should not be less than 25 feet for a driveway apron serving an office, institutional, or commercial use and shall not be less than 40 feet for a driveway serving an industrial use (see figure). Driveway paving may be waived by**

the public works director for that part of a driveway beyond 50 feet from the front property line.



Source: Florida Department of Transportation. 2008.
Driveway Information Guide.

- (k) Locations: Driveways ~~should~~ **will** be restricted to locations where movements into and out of them can occur in a safe and orderly manner **as determined by the public works director. Driveways may be required to align with driveways on the opposite side of the street.**
- (h) Sidewalk transitions. Where a sidewalk is provided or planned, the driveway shall be designed and constructed with sidewalk transitions as appropriate.”
- (i) **Number of driveways. Lots with 150 feet of frontage or less shall have no more than one point of access to any one public street. The public works director may further limit the number of non-residential driveways for any given lot or parcel of land.**
- (j) **Slope and elevation. Any driveway entering on a roadway or street may be required to be sloped down from the street or roadway at a rate of ½ inch per 1 foot for a minimum of 10 feet. In any case, the finished driveway surface within the right-of-way where it abuts the adjacent road must be no higher in elevation than the roadbed.**

Section 3.

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

Section 4.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 5.

This ordinance shall become effective immediately upon its adoption.

Ordinance O-2023-06 Driveways Amendment

So ORDAINED, this 18th day of September, 2023.

James Lawson, Acting Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Jennifer Kidd-Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney

PUBLIC HEARING
ITEM #6

Ordinance TA-23-02

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE TA 23-02

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF HOSCHTON, GEORGIA, ADOPTED JANUARY 4, 2016, AS AMENDED, TO AMEND ARTICLE VII, "NONCONFORMITIES," SECTION 7.03, "NONCONFORMING USE," TO AUTHORIZE THE REPLACEMENT OF A NONCONFORMING MANUFACTURED HOME WITH A NEW MANUFACTURED HOME PER AMENDMENT TO THE ZONING PROCEDURES LAW; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The Georgia General Assembly in 2023 passed an amendment to the Zoning Procedures Law, O.C.G.A. 36-66, via Senate Bill 213 which prohibits local governments from preventing the replacement of a preexisting manufactured home or mobile home that is a nonconforming use with a new manufactured home; and

WHEREAS; Notice of this proposed amendment to the Hoschton zoning ordinance has been advertised in compliance with the zoning ordinance and the Georgia Zoning Procedures Law; and

WHEREAS, The Hoschton City Council held a public hearing on this matter;

Now, therefore, the Hoschton City Council ORDAINS as follows:

Section 1.

The Hoschton zoning ordinance, Article VII, "Nonconformities," Section 7.03, "Nonconforming Use," is amended to add a new paragraph "5" as follows:

"Section 7.03. Nonconforming Use.

A nonconforming use may be continued even though such use does not conform with the use provisions of the zoning district in which said use is located, except as otherwise provided in this section.

1. Change of Use. A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.
2. Discontinuance or Abandonment. A nonconforming use shall not be re-established after discontinuance or abandonment for three (3) months. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this subsection. If a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed for more than three (3) months, said lapse of business registration shall constitute discontinuance.

3. Expansion. A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which said use is located.
4. Repair. A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding fifty percent of its replacement cost at the time of damage as determined by the Building Inspector, except for a use which conforms with the zoning district in which said use is located, and provided such rebuilding, alteration or repair is completed within one year of such damage.
5. **Exception for manufactured home. Notwithstanding the provisions of this section to the contrary, a pre-existing mobile home or manufactured home that meets the definition of a nonconforming use may be replaced with a new manufactured home, provided that the preexisting mobile home or manufactured home has not been discontinued for more than 12 months, unless such discontinuance is caused by circumstances outside the control of the property owner. For purposes of this paragraph, "new manufactured home" shall mean a manufactured home that is purchased from either the original manufacturer or a dealer in the ordinary course of such dealer's business and has never been titled or previously occupied.**

Section 2.

This ordinance shall become effective immediately upon its adoption.

Section 3.

Ordinances, or parts of Ordinances in conflict with the terms of this Ordinance are hereby repealed.

Section 4.

If any provisions of this Ordinance or the application thereof to any person or circumstance are held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

Section 5.

It is the intent that this ordinance will be incorporated into the Code of Ordinances of the City of Hoschton. The contents of this Ordinance may therefore be reorganized or renumbered to effectuate that intent.

SO ORDAINED THIS 18th DAY OF SEPTEMBER, 2023.

James Lawson, Acting Mayor

Ordinance TA 23-02

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Jennifer Kidd-Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney

Senate Bill 213

By: Senators Burns of the 23rd, Goodman of the 8th, Payne of the 54th, Watson of the 11th,
Dixon of the 45th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to
2 zoning procedures, so as to prohibit local governments from preventing the continuance of
3 lawful nonconforming use of property when a preexisting manufactured home or mobile
4 home is replaced with another such home; to provide for exceptions; to provide for
5 definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 66 of Title 36 of the Official Code of Georgia Annotated, relating to zoning
9 procedures, is amended by adding a new Code section to read as follows:

10 "36-66-7.

11 (a) As used in this Code section, the term:

12 (1) 'Manufactured home' has the same meaning as provided in Code Section 8-2-131.

13 (2) 'Mobile home' has the same meaning as provided in Code Section 8-2-131.

14 (3) 'New home' means a manufactured home or mobile home that is purchased from
15 either the original manufacturer or a dealer in the ordinary course of such dealer's
16 business and has never been titled or previously occupied.

17 (4) 'Single-family dwelling' means a manufactured home or mobile home used as a
18 single-family residence.

19 (b) Notwithstanding any other provision of this chapter, when there is a replacement of a
20 preexisting manufactured home or mobile home with a new home within a manufactured
21 home community or mobile home park, or on any other residential land, a local
22 government shall not adopt or enforce any zoning decision or zoning ordinance, or any
23 other regulation or restriction, or impose any conditions on the new home, the property
24 upon which the home sits, or the owner's property that were not required of the preexisting
25 home, home site, or property, that would prevent the continuance of the property owner's
26 lawful nonconforming use that had existed relating to the preexisting home, the property
27 upon which the home sat, or the owner's property.

28 (c) The provisions of subsection (b) of this Code section shall not apply if:

29 (1) A discontinuance is necessary for the safety of life or property;

30 (2) The nonconforming use has been discontinued for the period of time established by
31 ordinance which shall not be less than 12 months, unless such discontinuance is caused
32 by circumstances outside the control of the property owner;

33 (3) The replacement home would result in a change from the lawful nonconforming use
34 as a single-family dwelling to any other type of dwelling; or

35 (4) The replacement home results in an obstruction to a shared driveway or shared
36 sidewalk providing vehicular or pedestrian access to other homes and uses, unless the
37 property owner makes modifications to such shared driveway or shared sidewalk that
38 extinguishes such obstruction or the effects of such obstruction."

39 **SECTION 2.**

40 All laws and parts of laws in conflict with this Act are repealed.

PUBLIC HEARING
ITEM #7

Ordinance TA-23-03

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE TA-23-03

AN ORDINANCE AMENDING THE HOSCHTON ZONING ORDINANCE ADOPTED JANUARY 4, 2016, AS AMENDED, TO AMEND ARTICLE VI, "SPECIFIC USE PROVISIONS" TO ADD A NEW SECTION 6.50, "SMALL WIRELESS FACILITY;" TO AMEND ARTICLE IV, "ZONING DISTRICTS," "TABLE 4.1, "PERMITTED AND CONDITIONAL USES FOR RESIDENTIAL AND AGRICULTURAL ZONING DISTRICTS" AND TABLE 4.3, "PERMITTED AND CONDITIONAL USES IN NON-RESIDENTIAL ZONING DISTRICTS" TO ADD "SMALL WIRELESS FACILITY" AS A PERMITTED USE TO ALL ZONING DISTRICTS; TO AMEND ARTICLE XII, "DEFINITIONS" TO ADD DEFINITIONS OF TERMS RELATING TO SMALL WIRELESS FACILITIES; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

- WHEREAS; Wireless providers are authorized by Chapter 66C of Title 36 of the Official Code of Georgia Annotated (i.e., the "Streamlining Wireless Facilities and Antennas Act") to collocate small wireless facilities on poles and decorative poles in street rights of ways subject to administrative review; and
- WHEREAS; Wireless providers are authorized by Chapter 66C of Title 36 of the Official Code of Georgia Annotated (i.e., the "Streamlining Wireless Facilities and Antennas Act") to occupy street rights of ways for certain uses, including certain placements of poles and certain collocations of small wireless facilities, subject to administrative review; and
- WHEREAS; Section 36-66C-4 O.C.G.A. provides that a wireless provider may collocate small wireless facilities and install, modify, or replace associated poles or decorative poles per Chapter 66C of Title 36 O.C.G.A. without an agreement with the city and without an implementing ordinance by the city; and
- WHEREAS; Section 36-66C-20(c) provides that the city is precluded from adopting or enforcing any ordinances, regulations, or requirements as to the placement or operation of communications facilities in a right of way by a communications services provider authorized by state or local law to operate in a right of way, except as provided in Chapter 66C of Title 36 of the Official Code of Georgia Annotated (i.e., the "Streamlining Wireless Facilities and Antennas Act") or otherwise expressly authorized by state or federal law; and
- WHEREAS; It is the intent of the city to amend the zoning ordinance to ensure consistency with Chapter 66C of Title 36 of the Official Code of Georgia Annotated; and
- WHEREAS; Notice of this proposed amendment to the Hoschton zoning ordinance has been advertised in compliance with the zoning ordinance and the Georgia Zoning Procedures Law; and
- WHEREAS, The City Council conducted a public hearing on this matter; and
- WHEREAS, The City Council finds that it is necessary and in the public health, safety, welfare, and general interests of the city to amend the zoning ordinance;

Now, therefore, the City Council of Hoschton hereby ORDAINS as follows:

Section 1.

The Hoschton Zoning Ordinance, Article Vi, "Specific Use Provisions" is amended to add a new Section 6.50, "Small Wireless Facility as follows:

"Section 6.50. Small Wireless Facility.

Small wireless facilities and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the right of way as a permitted use in accordance with Georgia Code Section 36-66C-6, subject to applicable codes and the following requirements:

- (a) **Each such new, modified, or replacement pole installed in the right of way in an area zoned primarily for residential use shall not exceed 50 feet above ground level;**
- (b) **Each such new, modified, or replacement pole installed in the right of way not in an area zoned primarily for residential use shall not exceed the greater of: fifty feet above ground level; or ten feet greater in height above ground level than the tallest existing pole in the same government right of way in place as of January 1, 2019, and located within 500 feet of the new proposed pole; and**
- (c) **New small wireless facilities in the right of way shall not exceed the following:**
 - 1. **For a collocation on an existing pole or support structure, more than ten feet above the existing pole or support structure; or**
 - 2. **For a collocation on a new, modified, or replacement pole under paragraph (a) or (b) of this section, the height limit provided in such paragraphs.**
- (d) **An applicant in the right of way shall employ due care during the installation and maintenance process and shall comply with all safety and right of way protection requirements of general applicability set forth in applicable law.**
- (e) **An applicant in the right of way shall not place any small wireless facilities, support structures, or poles, where they will interfere with any existing infrastructure or equipment and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual vehicular or pedestrian traffic patterns or with the rights or reasonable convenience of owners of property that abuts any right of way.**
- (f) **For applications for new poles in the right of way in areas zoned for residential use, the government with jurisdiction may propose an alternate location in the right of way within 100 feet of the location set forth in the application, and the wireless provider shall use the government's proposed alternate location unless the location imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based**

on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

(g) An applicant may collocate a small wireless facility on a pole, or may replace a pole with a new pole, in the event the existing pole will not structurally support the attachment. Any replacement pole shall be substantially similar in height and appearance to the pole being replaced.

Section 2.

The Hoschton Zoning Ordinance, Article IV, "Zoning Districts," "Table 4.1, "Permitted and Conditional Uses for Residential and Agricultural Zoning Districts" is amended to add "Small Wireless Facility" as a permitted use to all such zoning districts as follows:

"Table 4.1

Permitted and Conditional Uses for Residential and Agricultural Zoning Districts

P = Permitted; C = Conditional Use; X = Prohibited

Use Description	Sec. Ref.	A	R-1	R-2	R-3	R-4	MFR	OR	MU
Small wireless facility	6.50	P	P	P	P	P	P	P	P"

Section 3.

The Hoschton Zoning Ordinance, Article IV, "Zoning Districts," "Table 4.3, "Permitted and Conditional Uses in Non-Residential Zoning Districts" is amended to add "Small Wireless Facility" as a permitted use to all such zoning districts as follows:

"Table 4.3

Permitted and Conditional Uses in Non-Residential Zoning Districts

P = Permitted; C = Conditional Use; X = Prohibited

Use	Sec. Ref.	INST	C-1	C-2	C-3	M-1	MU
Small wireless facility	6.50	P	P	P	P	P	P"

Section 4.

The Hoschton Zoning Ordinance, Article XII, "Definitions" is amended to add definitions of terms relating to small wireless facilities as follows:

Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or similar communications equipment used for the transmission, reception, or transmission and reception of surface waves.

Collocate or collocation: To install, mount, modify, or replace a small wireless facility on or adjacent to a pole or support structure.

Pole: A vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way. Such term shall not include a support structure or electric transmission structure.

Small wireless facility: Radio transceivers; surface wave couplers; antennas; coaxial, fiber optic, or other cabling; power supply; backup batteries; and comparable and associated equipment, regardless of technological configuration, at a fixed location or fixed locations that enable communication or surface wave communication between user equipment and a communications network and that meet both of the following qualifications:

(A) Each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and

(B) All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume, measured based upon the exterior dimensions of height by width by depth of any enclosure that may be used. The following types of associated ancillary equipment are not included in the calculation of the volume of all other wireless equipment associated with any such facility:

(i) Electric meters;

(ii) Concealment elements;

(iii) Telecommunications demarcation boxes;

(iv) Grounding equipment;

(v) Power transfer switches;

(vi) Cut-off switches; and

(vii) Vertical cable runs for connection of power and other services.

Such term shall not include a pole, decorative pole, or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and shall not include any wireline backhaul facilities or coaxial, fiber optic, or other cabling that is between small wireless facilities, poles, decorative poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

Wireline backhaul facility: An aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

Section 5.

This ordinance shall become effective immediately upon its adoption.

Section 6.

Ordinances, or parts of Ordinances in conflict with the terms of this Ordinance are hereby repealed.

Section 7.

If any provisions of this Ordinance or the application thereof to any person or circumstance are held invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application and to this end, the provisions of this Ordinance are severable.

Section 8.

It is the intent that this ordinance will be incorporated into the Code of Ordinances of the City of Hoschton. The contents of this Ordinance may therefore be reorganized or renumbered to effectuate that intent.

SO ORDAINED THIS 18th DAY OF SEPTEMBER, 2023.

James Lawson, Acting Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

Jennifer Kidd-Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney