



October 20, 2015 5:30 pm

1. Call to Order by Mayor Jan J. Moore
2. Invocation and Pledge of Allegiance by Councilman Gary Lewis
3. Recognitions/Public Presentations
 - A) Proclamation for Georgia Retired Educators Day
 - B) Presentation by Parker Engineering regarding storm water and utility improvements made in the Gordon Street area of District 1 pursuant to the City of Statesboro's \$500,000 award of Community Development Block Grant funds.
4. Public Comments (Agenda Item):
5. Consideration of a Motion to approve the Consent Agenda
 - A) Approval of Minutes
 - a) 10-06-2015 Council Minutes
 - b) 10-06-2015 Executive Session Minutes
 - B) Consideration of a motion for the surplus and disposal of a 1997 Ford dump truck in the Public Works & Engineering Department.
 - C) Consideration of a Motion to approve a site access agreement between the City of Statesboro and Verizon Wireless for the purpose of assessing the suitability of the property for its intended use.
6. Public Hearing and first reading of **Ordinance 2015-06**: An ordinance amending Chapter 18 of the Statesboro Code of Ordinance regarding Temporary Vendors.
7. A) Public Hearing and Consideration of a Motion to approve **APPLICATION # RZ 15-09-03**: Bill Simmons requests a zoning map amendment for 3.34 acres of property located at 0 Hill Pond Lane from the R-4 (High Density Residential) and CR (Commercial Retail) zoning districts to PUD/CR (Planned Unit Development with Commercial Overlay) zoning district (Tax Parcel # MS74 000198A 030).

B) Public Hearing and Consideration of a Motion to approve **APPLICATION # RZ 15-09-08**: Bill Simmons requests a zoning map amendment for .74 acres of property located at 0 Brampton Avenue from R-4 (High Density Residential) to PUD/CR (Planned Unit Development with Commercial Overlay) zoning district (Tax Parcel # MS74 000198A 021).

C) Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-02**: Bill Simmons requests a variance from Article XIV of the Statesboro Zoning Ordinance to reduce the lot regulations from the required 10 acres to 4.08 acres for the

requested PUD (Planned Unit Development) zoning district (Tax Parcel # MS74 000198A 030 and MS74 000198A 021).

D) Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-09**: Bill Simmons requests a variance from the buffering requirements when a nonresidential use abuts a residential zoning area as required by Article XXIII of the Statesboro Zoning Ordinance (Tax Parcel # MS74 000198A 030).

8. A) Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-01**: Pankaj Patel requests a variance from Article X of the Statesboro Zoning Ordinance to increase the maximum building height from 35' to 60' to construct a hotel (Tax Parcel # MS63 000026 022).

B) Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-07**: Pankaj Patel requests a variance from Article XVI to decrease the required parking spaces from 98 to 94 for the referenced hotel (Tax Parcel # MS63 000026 022).

9. A) Public Hearing and Consideration of a Motion to approve **APPLICATION # SE 15-09-06**: Trenton Beard requests a special exception to allow for the utilization of the property located at 606 South Zetterower Avenue as an automotive enhancement services retail use. The subject site is zoned CR (Commercial Retail), which does not permit automotive enhancement services by right (Tax Parcel # S31 000021 003).

B) Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-05**: Trenton Beard requests a variance from Article X of the Statesboro Zoning Ordinance to reduce the required side yard setback from 15' to 5' to allow for the proposed addition to be aligned with the existing building (Tax Parcel # S31 000021 003).

10. Public Hearing and Consideration of a Motion to approve **APPLICATION # V 15-09-04**: John Wayne Figg requests a variance from Article IV of the Statesboro Zoning Ordinance to reduce the required accessory structure setback from 10' to 2.5' for the rear and right side setback to allow for an 18' X 24' open front wood and metal shed to be constructed to store recreational vehicles (Tax Parcel # S26 000019 000).

11. Consideration of a Motion to approve a Memorandum of Understanding regarding the Georgia Southern University E-Zone and Innovation Incubator.

12. Other Business from City Council

13. City Managers Comments

14. Public Comments (General)

A) Amber Friske request to speak to Council in regards to Fletcher Drive with wildlife, drainage and traffic.

B) Ms. Annie Bellinger request to speak with Council regarding the habits in the community.

15. Consideration of a Motion to Adjourn

A Proclamation by the Mayor and City Council of Statesboro, Georgia

GEORGIA RETIRED EDUCATORS DAY

WHEREAS: The Governor of the State of Georgia has proclaimed the day of Sunday November 1, 2015 as Retired Educators Day in Georgia; and

WHEREAS: There are more than 113,000 retired educators in Georgia, 25,000 plus of whom are members of the Georgia Retired Educators Association; and

WHEREAS: The retired educators of Georgia donate thousands of hours of volunteer service and make invaluable contributions to the welfare of their respective communities across the state; and

WHEREAS: It is appropriate that a day be designated for citizens to express their appreciation for the contributions that retired educators have made and continue to make for the betterment of human lives and for society; and

WHEREAS: Local churches will recognize those lasting contributions made by retired educators in this community; now

THEREFORE: I, Jan J. Moore Mayor of the City of Statesboro, do hereby proclaim the day of November 1, 2015 as

“RETIRED EDUCATORS DAY”

and I call upon the citizens of the City of Statesboro to observe that day in an appropriate manner honoring retired educators.

Given unto my hand and seal at Statesboro, Georgia, on this 20th day of October, in the year of our Lord, 2015.

Jan J. Moore, Mayor



**CITY OF STATESBORO
Council Minutes
October 06, 2015**

A regular meeting of the Statesboro City Council was held on October 06, 2015 at 9:00 a.m. in the Council Chambers at City Hall. Present were Mayor Jan J. Moore, Council Members: Phil Boyum, John Riggs and Travis Chance. Also present were Deputy City Manager Robert Cheshire, City Clerk Sue Starling, City Attorney Alvin Leaphart, Assistant City Engineer Jason Boyles and Director of Planning and Development Mandi Cody. Councilman Will Britt and Councilman Gary Lewis were absent.

The meeting was called to order by Mayor Jan J. Moore

The Invocation and Pledge of Allegiance was led by Mayor Jan Moore.

Recognitions/Public Presentations

A) Pat Jones, Election Superintendent, will update Council regarding the election.

Pat Jones informed Council there would not be an election held for 2015. The qualifying candidates were unopposed.

B) President of the Chamber of Commerce, Phyllis Thompson, invites Council to represent "America's Best Communities"

Phyllis Thompson invited Mayor and Council to ride on the float of the replica of the Bulloch County Courthouse, along with the Bulloch County Commissioners and staff, in the Kiwanis Fair Parade.

Public Comments (Agenda Item): None

Consideration of a Motion to approve the Consent Agenda

A) Approval of Minutes

- a) **09-15-2015 Council Minutes**
- b) **09-15-2015 Executive Session Minutes**
- c) **09-21-2015 Work Session Minutes**

B) Consideration of a Motion to approve Special Event Permit

- a) **Springhill Suites - Charity Fundraiser for the Humane Society of Statesboro & Bulloch Co. on November 6, 2015**

C) Consideration of a Motion to award the purchase of a CUES Sewer TV Inspection Truck to Atlantic Machinery, Inc. via the NJPA Contract in the amount of \$214,980.00. This item is budgeted under CIP number WWD-60 in the amount of \$225,000.00 and will be funded by Water Sewer operational funds. This will replace the 1998 unit.

D) Consideration of a motion to approve a contract for the installation of fiber optic cable to Network Cabling Infrastructures in the amount of \$35,530. This contract is based on unit pricing previously bid out by GSU. This item is part of the Capital Improvement Project number IT-3 Fiber Optic from COS to GSU budgeted in the 2013 SPLOST Fund. The total budget for this project was \$350,000 budgeted in FY 2015. To date, \$157,544 has been spent.

Councilman Riggs made a motion, seconded by Councilman Chance to approve the consent agenda in its entirety. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Administrative Hearing for alleged alcohol violation as pursuant to the City of Statesboro Alcohol Ordinance: Chapter 6 Sec. 6-159 – Ration of alcoholic/nonalcoholic sales. Should the total sales from food and nonalcoholic beverages reported by any licensee for consumption on the premises not equal those from the sale of all alcoholic beverages for any two reporting periods in any 12-month period, the license may be suspended or revoked by the mayor and city council.

**A) Farid Gharachorloo/Sepideh Mesri
Moonshiners
125 Gata Drive**

Mayor Moore sworn in all parties involved in this case.

Attorney Wes Taulbee, representing Mr. Gharachorloo, stated the reports were filled out incorrectly due to Mr. Gharachorloo not understanding the process. Detective Winskey stated he had concerns with the amended reports submitted regarding the decrease on wine and malt beverage sales. Mr. Gharachorloo stated the button on the machine they use was coded wrong but now has been corrected to show the right code. He also stated the system was changed around the first of September. Mayor Moore questioned Mr. Gharachorloo as to how he could go back and recalculate the sales after the machine was changed. There was no clear understanding of how that was done. Mr. Taulbee asked for the case to be continued until the next meeting. Mayor Moore also asked Mr. Gharachorloo about food sales. He replied that he rarely sells food and has no kitchen. He also stated if he did sell food, it was only cold cut sandwiches and if hot food was ordered, it would be brought in from next door. Mr. Gharachorloo also stated that on Thursday, Friday and Saturday night, only people over the age of 21 years of age are allowed. He stated this requirement started in August.

Councilman Chance made a motion seconded by Councilman Riggs to continue the administrative hearing until the first Council Meeting in November. As part of the motion, Mr. Gharachorloo was also instructed by Council to bring Certified CPA reports for the first and second quarter for Moonshiners. Council also requested the reports be submitted to Council and the Police Department, no less than a week before the next Council meeting. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Administrative Hearing for alleged alcohol violation as pursuant to Chapter 6 of the City of Statesboro Alcohol Ordinance:

A) Enforcement from the Statesboro Police Department:

	Offense in 12 month period	Citation Date
a) Matthew Skinner Applebees 804 Highway 80 East	1st offense	September 10, 2015
b) Heath Robinson Big Show Burgers 200 Lanier Drive Suite 1	1st offense	September 19, 2015
c) J. E. McCormack & Jay Hilderbrand Gate #226 240 South Main Street	2nd offense	September 10, 2015
d) Farid Gharachorloo GATA's 2 LLC 67 Gata Drive	1st offense	September 10, 2015
e) Farid Gharachorloo GATA's 2 LLC 67 Gata Drive	2nd offense	September 19, 2015
f) Jason Franklin Shenanigans 1 University Plaza	2nd offense	September 10, 2015
g) Jason Franklin Shenanigans 1 University Plaza	3rd offense	September 19, 2015

Mayor Moore conducted the hearing and all participants were sworn in by Mayor Moore.

Matthew Skinner, the alcohol license holder of Applebee's waived his right to a hearing and agreed to the violation of furnishing alcohol to under age persons. Mayor Moore then asked for a motion and Mr. Skinner agreed that based on the evidence presented here today that Council finds that the licensee, his agents, and or employees did violate Chapter 6 if the Code of Ordinances of the City of Statesboro in the twelve month period immediately preceding this hearing. Councilman Boyum made the motion seconded by Councilman Chance to accept the guilty plea from Mr. Skinner. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

For the penalty of the violation, Councilman Boyum made a motion seconded by Councilman Riggs to consider this a first offense with a warning. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Heath Robinson, owner of Big Show Burgers was not present but thru Detective Winskie did waive his right to a hearing and agreed to the violation of furnishing alcohol to under age persons. Mayor Moore then asked for a motion and Mr. Robinson agreed that based on the evidence presented here today that Council finds that the licensee, his agents, and or employees did violate Chapter 6 if the Code of Ordinances of the City of Statesboro in the twelve month period immediately preceding this hearing. Councilman Riggs made the motion seconded by Councilman Chance to accept the guilty plea from Mr. Robinson. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

For the penalty of the violation, Councilman Boyum made a motion seconded by Councilman Riggs to consider this a first offense with a warning. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Jay Hilderbrand, owner of Gate #226 waived his right to a hearing and agreed to the violation of furnishing alcohol to under age persons. Mayor Moore then asked for a motion and Mr. Hilderbrand agreed that based on the evidence presented here today that Council finds that the licensee, his agents, and or employees did violate Chapter 6 if the Code of Ordinances of the City of Statesboro in the twelve month period immediately preceding this hearing. Councilman Boyum made the motion seconded by Councilman Riggs to accept the guilty plea from Mr. Hilderbrand. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

For the penalty of the violation, Councilman Riggs made a motion seconded by Councilman Boyum to approve a 3 day suspension as punishment for this 2nd offense. The suspension of the alcohol license will start on 12:01am on Thursday October 8th 2015 and run until midnight on Sunday October 11th 2015. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Farid Gharachorloo, owner of GATA's waived his right to a hearing and agreed to the violation of furnishing alcohol to under age persons. Mayor Moore then asked for a motion and Mr. Gharachorloo agreed that based on the evidence presented here today that Council finds that the licensee, his agents, and or employees did violate Chapter 6 if the Code of Ordinances of the City of Statesboro in the twelve month period immediately preceding this hearing. Councilman Boyum made the motion seconded by Councilman Chance to accept the guilty plea from Mr. Gharachorloo. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

For the penalty of the violation, Councilman Riggs made a motion seconded by Councilman Chance to consider this a first offense with a warning. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Farid Gharachorloo, owner of GATA's waived his right to a hearing and agreed to the violation of furnishing alcohol to under age persons. Mayor Moore then asked for a motion and Mr.

Gharachorloo agreed that based on the evidence presented here today that Council finds that the licensee, his agents, and or employees did violate Chapter 6 if the Code of Ordinances of the City of Statesboro in the twelve month period immediately preceding this hearing. Councilman Boyum made the motion seconded by Councilman Chance to accept the guilty plea from Mr. Gharachorloo. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

For the penalty of the violation, Councilman Riggs made a motion seconded by Councilman Chance to approve a 3 day suspension as punishment for this 2nd offense. The suspension of the alcohol license will start on 12:01am on Thursday October 8th 2015 and run until midnight on Sunday October 11th 2015. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Jason Franklin, owner of Shenanigans, was present along with his Attorney Michael Classens. Mr. Classens argued the point that he could not offer a defense while the violators (servers) had not yet been convicted. Mr. Classens asked that the case be continued until a later date. Detective Winskey stated that he had all the witnesses' present and ready to testify. Mayor Moore asked Jason if he had spoken to any of the Councilmembers regarding his case. He stated that he had spoken to Councilman Britt, Riggs and Chance. He also stated that he only asked them if a case like this has ever been tabled. Councilman Riggs confirmed he had spoken to Jason but only to tell him he made no decisions until hearing the facts at the Council meeting. Councilman Chance also confirmed his contact with Jason and also stated he told Jason he did not remember if a case like this had been tabled but if he had a lawyer then the lawyer could ask the question. After more discussion between Council, City Attorney Alvin Leaphart Mr. Classens and Detective Winskey, Mayor Moore asked for a motion to continue the case until the next meeting. There was no motion. Councilman Chance stated, to the Mayor, that hearing no motion, let's move on to the next option. Mayor Moore stated we will move to an administrative hearing. Detective Winskey proceeded to give evidence from videos and reports which led to the violation of the alcohol ordinance. City Attorney Alvin Leaphart stated the video and copies of all the reports need to be identified as part of the record and entered into the record in case other hearings develop. Detective Winskey called Police Sgt. Harrelson as a witness in the case. Ashley Lanier, Sarai Sanchez Reyes and Michelle Glaton were also witnesses in the case as they stated they were all underage and was sold an alcoholic beverage with no identification or wrist band presented to the server at Shenanigans. After the testimonies, Detective Winskey asked Police Sgt. Harrelson to present the video. Because of the length of the video, City Attorney Alvin Leaphart suggested that Sgt. Harrelson give a foundation of the video and allow Mr. Classens to ask questions. Detective Winskey did not show or enter the video into the record because of the lengthy time it would take to view the tape as he stated the video could be shown at a later time if needed. At this time, Mr. Classes asked for a 10 minute recess to talk with his client. Mayor Moore called for a 10 minute recess. Mayor Moore called the meeting back to order. City Attorney Alvin Leaphart and Attorney Michael Classens presented a proposal to settle the case. The proposal would be; without admission of any allegations, the penalty would be a ten day suspension of alcohol sales. Shenanigans alcohol sales would be suspended for a period of three days to begin on Thursday October 8, 2015 with the condition that admission of patrons into the premises shall be restricted to citizens age 21 or above, the final seven days of the license suspension shall be held in abeyance, such that licensed sales of alcohol may resume on Monday, October 12, 2015. Shenanigans will continue the 21 and over age for a minimum of 12 months at

which time the remaining suspension of 7 days shall abate if there are no additional violations of such ordinance.

Councilman Riggs made a motion, seconded by Councilman Chance to accept the quasi plea argument as presented by Mr. Classens. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Consideration of a Motion to approve/deny a 90 day temporary alcohol license to Andy Aldred, owner of Geeda's Table, formally known as "Chops", in accordance with Chapter 6 (Alcohol) Sec.6-34 (a) of the City of Statesboro Code of Ordinance.

Councilman Riggs made a motion, seconded by Councilman Boyum to approve a 90 day temporary alcohol license to Andy Aldred, owner of Geeda's Table, formally known as "Chops", in accordance with Chapter 6 (Alcohol) Sec.6-34 (a) of the City of Statesboro Code of Ordinance. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Consideration of a Motion to approve a water agreement between the Mayor and City Council of Statesboro and the Board of Regents of the University System of Georgia

Councilman Riggs made a motion, seconded by Councilman Boyum to approve a water agreement between the Mayor and City Council of Statesboro and the Board of Regents of the University System of Georgia and authorize the Mayor to sign a non-exclusive agreement contained in Exhibit A. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Consideration of a motion to approve Resolution 2015-41: A Resolution authorizing the Mayor to sign an MOU between the City of Statesboro and Georgia Southern University for right of entry and access by City Storm Water Management staff for the purpose of inspecting storm water facilities.

Councilman Riggs made a motion, seconded by Councilman Boyum to approve Resolution 2015-41: A Resolution authorizing the Mayor to sign an MOU between the City of Statesboro and Georgia Southern University for right of entry and access by City Storm Water Management staff for the purpose of inspecting storm water facilities. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Public Hearing and first reading of Ordinance 2015-06: An ordinance amending Chapter 18 of the Statesboro Code of Ordinance regarding Temporary Vendors.

Councilman Riggs made a motion, seconded by Councilman Boyum to postpone this item until a later date. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Consideration of a Motion to approve Resolution 2015-42: A resolution to adopt the second amendment to the fiscal year 2016 budget for each fund of the city of Statesboro, Georgia, appropriating the amounts shown in each budget as expenditures/expenses, adopting the

several items of revenue anticipations, and prohibiting expenditures or expenses from exceeding the actual funding appropriated.

Councilman Riggs made a motion, seconded by Councilman Boyum to approve **Resolution 2015-42**: A resolution to adopt the second amendment to the fiscal year 2016 budget for each fund of the city of Statesboro, Georgia, appropriating the amounts shown in each budget as expenditures/expenses, adopting the several items of revenue anticipations, and prohibiting expenditures or expenses from exceeding the actual funding appropriated. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Update on the current status of the Storm water Management and Utility Program.

Mayor Moore postponed this item until a later date.

Other Business from City Council: None

City Managers Comments

A) City Clerk's Dept. (Notice of alcohol application)

- a) Wild Wings Café is applying for new ownership for the alcohol license pending the background investigation. The new owners will be Allison Judge and Tom Scarborough.**

City Manager updated Council on the application for Wild Wings Café and also stated the contractors have started on the Savannah Avenue project.

Public Comments (General): None

Consideration of a Motion to enter into Executive Session to discuss "Potential Litigation" in accordance with O.C.G.A. §50-14-3 (2012)

At 12:35 pm, Councilman Riggs made a motion, seconded by Councilman Chance to enter into Executive Session. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

At 1:00 pm, Councilman Riggs made a motion, seconded by Councilman Boyum to close the Executive session. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote.

Mayor Moore called the regular meeting back to order with no action being taken in Executive Session.

Consideration of a Motion to Adjourn

At 1:01 pm, Councilman Boyum made a motion, seconded by Councilman Riggs to adjourn the meeting. Councilman Boyum, Riggs and Chance voted in favor of the motion. The motion carried by a 3-0 vote. The meeting was adjourned.



City of Statesboro
Public Works & Engineering Department

P.O. Box 348
Statesboro, Georgia 30459

912.764.0681 (Voice)
912.764.7680 (Fax)

MEMORANDUM

To: Sue Starling, City Clerk

From: Jason Boyles, Director of Public Works & Engineering

Cc: Robert Cheshire, PE, Deputy City Manager
Cindy West, Finance Director
Darren Prather, Purchasing Director

Date: October 12, 2015

Re: Surplus and Disposal Request

The Public Works and Engineering Department requests the surplus and disposal of a 1997 Ford dump truck, vehicle # 6546. This truck has exceeded its useful life and its replacement unit should arrive within the next week or two. I respectfully request that this truck be placed on the next City Council agenda for consideration of approval for surplus and disposal by city council.

Should you need any additional information from me please do not hesitate to let me know.

SITE ACCESS AGREEMENT

This Site Access Agreement (this “**Agreement**”) is executed by **VERIZON WIRELESS (VAW) LLC d/b/a Verizon Wireless** (the “**Licensee**”), with a business address of 180 Washington Valley Road, Bedminster, NJ 07921, and **CITY OF STATESBORO** (the “**Licensor**”), whose mailing address is 50 East Main Street, Statesboro, GA 30054.

BACKGROUND

As part of Licensee’s consideration of real property (the “**Property**”) located at 289 A.J. Riggs Road, Statesboro, Bulloch County, Georgia, for the placement, maintenance and use of a communications facility and appurtenant uses, the Licensor has agreed to grant to Licensee and other persons described herein, a license, to enter upon the Property to conduct activities to help Licensee assess the suitability of the Property for its intended use. These activities may include, among other things, environmental inspection, testing and sampling activities (“Site Investigations”) at the Property.

The purpose of this Agreement is to enter into a site access license governing the Site Investigations that may be conducted by Licensee’s authorized agents, contractors, consultants and employees.

Licensee and Licensor agree as follows:

1. **Authority to Grant a License.** Licensor represents that it has the authority to grant the access allowed by this Agreement and that there is no need to obtain the approval or consent of any other party. The Licensor hereby grants a license to Licensee to conduct the Site Investigation.
2. **Access to Property and Licensor’s Consent.** Licensor grants to Licensee and its agents, advisors, employees, consultants, representatives, and independent contractors, including environmental contractors and consultants hired directly or indirectly by Licensee (collectively, the “**Licensee Representatives**”), the right, but not the obligation, of ingress to, egress from, and access under, above, and through, the Property for the purpose of performing the Site Investigation. The Site Investigation may include, but is not necessarily limited to, activities intended to (1) review environmental, safety and health conditions;(2) conduct radio tests, including the placing of radio broadcast/receive equipment on the Property for necessary periods; (3) conduct physical, structural and geotechnical testing; and (4) perform boundary and other surveys. These activities may, among other things, include the collection and testing of samples of soil, water, building materials and other substances. Without limiting the generality of the foregoing, the Licensee Representatives may drill into the soil, drill through pavement, remove reasonable amounts of soil, install and sample monitoring wells, and perform other tests, actions, evaluations, procedures, and treatments to complete its investigations. The Licensee Representatives shall undertake all activities on the Property in compliance with all applicable laws and shall use commercially reasonable efforts to minimize the extent and duration of any interference with Licensor’s business operations on the Property. The cost of all such activities

shall be the responsibility of Licensee (or the Licensee Representatives as arranged between the Licensee Representative and the Licensee) and not Licensor.

3. **Advance Notice.** Licensee or Licensee Representatives shall give Licensor at least twenty four (24) hours advance notice, either orally (by telephone or in person) or by electronic message of a planned activity that can reasonably be expected to require invasive activities into the Property's subsurface, including notice of the areas of the Property that are expected to be materially affected by any sampling, monitoring, installation, or similar action. Licensee Representatives shall cooperate with Licensor to schedule the activities so as to minimize the extent and duration of any interference with Licensor's operations.

4. **Installation, Sampling, and Removal.** Licensor shall cooperate with the Licensee Representatives regarding all installation, monitoring, sampling, removal and related activities that Licensee Representatives desire to conduct on the Property. Licensor shall cooperate in locating buried utilities and improvements on the Property at the request of Licensee Representative and shall assist the Licensee Representatives in avoiding impacts to such buried or concealed features. At the Licensor's specific request, Licensee Representatives shall use commercially reasonable efforts to schedule its activities to avoid times of peak business activity on the Property. Licensor authorizes Licensee Representatives to obstruct temporarily, but for a reasonable period of time, access to, or use of, limited areas of the Property to conduct Site Investigations. Licensee Representatives may use any electrical or other utility outlets or connections on the Property to conduct its activities. Licensee Representatives shall split all samples with Licensor upon Licensor's request, so long as Licensor pays for any and all additional costs incurred by the Licensee Representatives in this regard. After completing the activities contemplated by this Agreement, Licensee or Licensee Representatives shall remove their equipment and restore any part of the Property that was affected by its activities to a condition that is reasonably similar to the condition of the Property at the time immediately preceding the commencement of said activities.

5. **Indemnification.**

(a) Licensee shall indemnify and hold harmless Licensor for any penalties, damages or costs that result from the negligence or willful misconduct, misrepresentation or breach of warranty in this agreement by Licensee or Licensee representatives.

(b) The indemnification in this agreement shall only apply if prompt notice is provided to the indemnifying party. The indemnity is conditioned on the following: (i) the indemnifying party has the opportunity to fully manage any indemnified matter as it deems appropriate (including any required remediation or defense of claims) with employees, agents, contractors, consultants and attorneys of the indemnifying party's choosing and (ii) the reasonable cooperation of any indemnified party (including the signing of any properly completed forms that will allow for the continued current use of the property).

(c) The site access granted to the Licensee and/or Licensee Representatives pursuant to this Agreement extends to any repair or restoration work required to remediate any damage to the Property that is indemnified pursuant to this Section.

6. **Test Results.**

(a) Licensor understands and acknowledges that the environmental testing to be undertaken may create legal duties applicable to Licensor if conditions of pollution are discovered and that except to the extent required by law, neither Licensee nor Licensee Representatives have an obligation to report any test results or conditions to any party as a result of this Agreement. Licensee and Licensee Representatives will provide copies of test results to Licensor unless Licensor specifically requests, in writing, prior to the start of testing, not to receive the test results from Licensee's review. Licensor acknowledges that these tests are performed for Licensee's specific purposes and cannot be relied on by Licensor in any way as being accurate or sufficient for any purposes. Licensor agrees and acknowledges that it is not authorized to share, provide, disseminate, present, and/or make available the test results to any third party unless required by law.

(b) In certain cases test results regarding the environmental conditions of the property may result in a reporting obligation specific to Licensee or Licensee Representatives. In any of those cases, Licensee or Licensee Representative shall, if reasonably possible, notify Licensor at least twenty four (24) hours prior to making the notification but in any case within seventy two (72) hours after making the notification to the appropriate agency. Licensor agrees that Licensee and Licensee Representatives bear no responsibility for the costs resulting from that reporting and that Licensee shall not become responsible for any conditions that it discovers during the Site Investigation.

(c) Licensor acknowledges and agrees that any samples that are taken during the activities undertaken pursuant to this Agreement and any investigation-derived media (i.e., drill cuttings, well purge water) generated by the investigation may require off-site disposal based upon test results. Licensor agrees to execute all properly completed waste manifests or other documents required for proper disposal of test results. Licensor's obligation to sign any properly completed waste manifests or other documents required for proper disposal survives this Agreement so long as those items that require disposal were generated pursuant to this Agreement. The cost of off-site disposal of media will be paid for by Licensee or the appropriate Licensee Representative, not Licensor.

(d) Licensee may use the results of the Site Investigation as it deems appropriate and may share the results with third parties, including, but not necessarily limited to attorneys, consultants, contractors, employees and regulators.

7. **Termination.** This Agreement shall terminate automatically on the earlier of: (1) execution of a lease agreement for any part of the Property between Licensee and Licensor, or (2) a decision by Licensee that the site is unsuitable.

8. **Waiver; Modification; Severability.** An extension, amendment, modification, cancellation, or termination of this Agreement will be valid and effective only if it is in writing and signed by each party to this Agreement, except as provided otherwise in this Agreement. In addition, a waiver of any duty, obligation, or responsibility of a party under this Agreement will be valid and effective only if it is evidenced by a writing signed by, or on behalf of, the party against whom the waiver or discharge is sought to be enforced. Whenever possible, each

provision of this Agreement should be construed and interpreted so that it is valid and enforceable under applicable law. However, if a provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, that provision will be deemed severable from the remaining provisions of this Agreement and will not affect the validity, interpretation, or effect of the other provisions of this Agreement or the application of that provision to other circumstances in which it is valid and enforceable.

9. **Assignment; Third Party Beneficiaries.** Neither the entry of this Agreement or any action taken by Licensee hereunder shall create any third party beneficiary or third party beneficiary rights.

10. **Legal Matters.** The validity, construction, enforcement, and interpretation of this Agreement are governed by the laws of the State where the Property is located and the federal laws of the United States of America.

11. **Notices.** Except for oral notices specifically authorized in this agreement, notices permitted by this Agreement will be valid only if such notice is in writing, delivered personally or by e-mail, telecopy, commercial courier, or first class, postage prepaid, United States mail (whether or not certified or registered and regardless of whether a return receipt is requested or received by the sender), and addressed by the sender to the intended recipient at its address set forth in the first paragraph of this Agreement, or to such other address as the intended recipient may designate by notice given to the sender in accordance with this section. A validly given notice, consent, demand, request, or approval will be effective on the earlier of its receipt, if delivered personally or by e-mail, telecopy, or commercial courier, or the third day after it is postmarked by the United States Postal Service, if delivered by first class, postage prepaid, United States mail. Each party promptly shall notify the other of any change in its mailing address or telephone contact number stated in this Agreement.

12. **Complete Agreement; Survival.** This Agreement records the entire understanding between the parties regarding the subjects addressed in it and supersedes any previous or contemporaneous agreement, understanding, or representation, oral or written, by either of them.

13. **Execution and Effectiveness.** The parties may execute this Agreement in counterparts. Each executed counterpart will constitute an original document, and all executed counterparts, together, will constitute the same agreement. This Agreement will become effective upon the last signatory's delivery of the fully executed document to the other party, and the last signatory shall fill in the EXECUTED date below prior to such delivery.

EXECUTED: _____, 20____.

**LICENSOR:
CITY OF STATESBORO**

By: _____

Name: _____

Title: _____

Date: _____

LICENSEE:

**VERIZON WIRELESS (VAW) LLC d/b/a
Verizon Wireless**

By: _____

Name: Michael D. Burke

Title: Executive Director – KSMO Network

Date: _____

The undersigned “Licensee Representative” has reviewed this Agreement and hereby agrees to comply with all obligations pertaining to, and imposed on, Licensee Representatives contained herein.

Agreed to and accepted by:

TERRACON

(Environmental consulting firm to Verizon Wireless)

By: _____

Name: _____

Title: _____

Date: _____

Ordinance 2015- 06

**An Ordinance Amending Chapter Eighteen of the Statesboro Code of Ordinances
(Temporary Vendors and Transient Merchants)**

WHEREAS, the Mayor and City Council have determined there is sufficient reason and need to amend Chapter 18 of the Code of Ordinance, City of Statesboro, Georgia to promote the general welfare of the citizens of Statesboro;

NOW THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Statesboro, Georgia, in regular session assembled as follows:

Section 1:

Chapter 18 of the Code of Ordinances, City of Statesboro, Georgia is hereby amended by adding the following pertaining to temporary vendors and transient merchants, including garage, yard, and stall sales, temporary businesses, and seasonal sales:

ARTICLE X. Temporary Vendors and Transient Merchants

Sec. 18-285. - Definitions.

As used herein, the following words or phrases shall have the following meaning:

Garage sale/yard sale means the display and offer for sale of any goods, wares or merchandise, on the premises of any residential lot within the city limits of the city, which goods, wares or merchandise are household furnishings or personal possessions of persons residing in the household upon which they are displayed and offered for sale, under circumstances where many such items are displayed upon the premises at the same time, and persons are invited to come upon the premises to view such items for the purpose of sale.

Nonprofit organization means a registered 501(c)(3) non-taxable organization or agency.

Personal property means property which is owned, utilized, and maintained by an individual or members of his or her own residence and acquired in the normal course of living or in maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Seasonal Sales shall mean ~~.....~~ [a sale characteristic of a time that recurs or repeats over a year period and are generally associated with an event unique to that time of year. Seasonal Sales may include the Summer Produce Season, Fall Harvest, and Christmas.](#)

Temporary business means the sale of goods or services by a person or business being operated out of a vehicle, trailer or tent/other similar temporary structure or in the open air for a specified period of time. A household selling its personal property at the residential location of that household is *not* a temporary business.

Tent means a portable shelter consisting of canvas or other material stretched over poles or other like devices attached to stakes or anything suggestive of a portable shelter.

Transient vendor means any person, firm or corporation whether as owner, agent or employee that sells, offers or exhibits for sale any goods, wares or services from private premises, but remains at one place for a temporary period only.

Sec. 18-286. - Temporary business; temporary vendor license and occupation tax certificate required.

Any person desiring to operate a temporary business within the City shall be required to obtain a Temporary Vendor Permit and shall be subject to all provisions set forth herein. It shall be unlawful for any person, agent, servant or employee of any person to engage in, carry on or conduct a temporary business without having first obtained a permit as provided herein.

Sec. 18-287. - Garage, yard, or stall sales; temporary vendor license and occupation tax certificate required.

Any person desiring to sell personal property of every kind and character, not at their own residence, shall obtain a Temporary Vendor Permit and shall be subject to all provisions set forth herein.

- (a.) It shall be unlawful for any person, agent, servant or employee of any person to engage in, carry on or conduct a garage, yard, or stall sale, not at their own residence, without having first obtained a permit as provided herein. All merchandise or items associated with any sale shall be removed immediately at the end of the sale.
- (b.) It shall be unlawful for any person to hold a garage sale except upon premises to which he has the right to possession and of which he is a member of the household. It shall be unlawful to hold a garage sale of longer duration than three consecutive days.
- (c.) Garage/yard sales, where permitted, shall not exceed seventy-two (72) hours for each yard sale. A garage/yard sale on a particular property shall not occur more frequently than four (4) times annually. All merchandise must be the property of those holding the sale and not be purchased for the purpose of resale.

Sec. 18-288. - Application for temporary vendor permit required.

Any person required to procure a temporary vendor permit under the provisions of this Article shall submit an application for such permit to the City of Statesboro upon a form to be supplied by the City. The application shall include, but shall not be limited to the following information:

- (a.) Name under which business is to be conducted and the business's state of incorporation;
- (b.) Name of the applicant;
- (c.) Permanent residential address of applicant and length of time at such address;
- (d.) Address where business is to be conducted;
- (e.) Property owner's name, address, telephone number and email address;
- (f.) Written consent of property owner for the use of the property in the nature of that applied for, or his agent and any conditions to lease agreement;
- (g.) Nature of the business;
- (h.) Type of merchandise;

- (i.) Description and number of vehicles and/or tents to be used;
- (j.) Dates and times within which the temporary business or garage, yard or stall sale will be operated;
- (k.) Name and contact information of the person and/or persons who will be in direct charge of conducting the temporary business or garage, yard or stall sale.
- (l.) Site plan clearly demonstrating the property; the layout of any temporary structures; or parking; toilet facilities; ingress/egress; drive lanes; and any other proposed use of area including the division of property into "stalls" or other defined areas.

Sec. 18-289. - Fees.

Regulatory fees, administrative fees, and/or application fees for Temporary Vendor Permits shall be levied in accordance with the most recently adopted Schedule of Fees or as otherwise adopted by the City of Statesboro Mayor and City Council.

Sec. 18-290. - Exemptions.

The following shall be exempt from the provisions of this Article:

- (a.) Participants in any City or other governmental agency sanctioned event.
- (b.) Any nonprofit organization sanctioned event provided that:
 - (1.) No sale shall last more than two consecutive days.
 - (2.) All merchandise or items associated with any sale shall be removed immediately at the end of the sale.
 - (3.) No more than two events per property, per year, may be held.
- (c.) Any person desiring to sell personal property of their own and at their own residence provided that:
 - (1.) No sale shall last more than two consecutive days.
 - (2.) No more than two sales of own personal property at each own residence within a 30-day period; and no more than four times per year total.
 - (3.) All merchandise or items associated with any sale shall be removed immediately at the end of the sale.

Sec. 18-291. - Transfer of Temporary Vendor Permit.

A Temporary Vendor Permit issued hereunder shall not be transferable.

Sec. 18-292. - Location.

- (a.) Any Temporary Business which sells its goods or services from more than one location within the City shall submit a separate application for each location and pay a separate fee for each location.

- (b.) Any Business regulated hereunder which moves to another location after the expiration of the temporary period shall obtain a new Temporary Vendor Permit from the City and pay the required fees for such permit.
- (c.) Temporary Vendors may only locate in zones allowing commercial or industrial uses; Temporary Vendors and Transient Merchants shall not locate within the right-of-way.

Sec. 18-293. - Regulations.

- (a.) The premises where such Temporary Business is located shall be kept in a clean and sanitary condition.
- (b.) The Temporary vendor shall have sufficient parking on the premises to provide parking for the customers and must not allow parking on the streets or adjoining property. Parking plans and ingress/egress plans must be approved by the City Engineer for safety.
- (c.) The vendor may not sell any goods or services by means of any outcry, sound, speaker or amplifier of any kind.
- (d.) The Temporary Vendor Permit shall be posted in conspicuous location at the Temporary Business site. License shall be shown to any peace officer or agent of the City of Statesboro or State of Georgia requesting it.
- (e.) Any structures or mobile units utilized by the Vendor shall comply with all fire and life safety code provisions and any additional requirements established by the authority having jurisdiction.
- (f.) The vendor shall not be located within any public right of way.
- (g.) Any Temporary Vendor or Transient Merchant required to obtain health permits, bonds, certificates of qualification, certificates of competency, state licensing, zoning approval, fire approval, certificates of occupancy, or other regulatory matter, shall first, before the issuance of a Temporary Vendor Permit or Occupation Tax Certificate, show evidence of such qualification.
- (h.) Any temporary business operating with duration of more than two consecutive days shall provide proper sanitary facilities consisting of one lavatory with running water for each ten thousand square feet of utilized site area. There shall be one or more hose connections to an adequate supply of water for each ten thousand square feet of utilized area and located so that all parts may be serviced by a hose. The Building Official shall approve such facilities.

Sec . 18-294. Seasonal Sales.

A person selling only seasonal merchandise associated with the following recognized seasons may qualify for a Seasonal Sales Permit, rather than a Temporary Vendor Permit: Summer Produce Season; Fall Harvest; and Christmas.

- a. For the purposes of this exception to this subsection seasonal merchandise does not include food, produce flowers balloons, and general retail items detailed with holiday accents, decorations, or other accessories.
- b. Seasonal Sales must abide by the same regulations of Temporary Vendors.
- c. Seasonal Sales may be permitted for a period of no more than 45 days immediately surrounding the season for which the permit is applied for.
- d. No Seasonal Sale vendor shall be issued more than two (2) Seasonal Sale Permits per calendar year.
- e. No property site shall be issued more than two (2) Seasonal Sale Permits per calendar year.

Sec. 18-294. - Signs.

Any signs erected in conjunction with the operation of a Temporary Business must be permitted in accordance with Statesboro Zoning Ordinance.

Sec. 18-____. – Toilet Facilities.

Any temporary business with a duration of more than two consecutive days shall provide proper sanitary facilities consisting of one lavatory with running water for each ten thousand square feet of utilized site area. There shall be one or more hose connections to an adequate supply of water for each ten thousand square feet of utilized area and located so that all parts may be serviced by a hose.

Sec. 19-296. - Penalties for operation without a Temporary Vendor Permit.

Any Temporary Business or Temporary Vendor which operates within the City without first registering with the City and obtaining a Temporary Vendor Permit as provided herein shall be charged with violation of this ordinance. Each day any violation of this article shall continue shall constitute a separate offense.

Sec. 18-297. - Revocation of a Temporary Vendor Permit.

Any Temporary Vendor Permit issued to conduct a Temporary Business may be revoked by the City Clerk due to the failure of the vendor, his agent or employees to comply with the provisions herein; fraud, misrepresentation or false statement contained in the application for license; or for any violation of any other ordinance of the City or of any state or federal law.

Sec. 18-298. - Duration

Any Temporary Vendor Permit issued to a Temporary Business shall be valid for the dates stated upon the Temporary Vendor Permit or 30 consecutive days, whichever is shorter.

Sec. 18-299. - Limits of issuance.

- (a.) No Temporary Vendor or Transient Merchant shall be issued more than three (3) Temporary Vendor Permits per calendar year.

No property site shall be issued more than three Temporary Vendor Permits per calendar year.

~~(b.)f.~~

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Sec. 18- : Nonconforming vendors and uses

- (a.) Any Temporary Business or Temporary Vendor in use at the time of passage of this ordinance and having been in operation within the City of Statesboro at a consistent location for the last six (6) months and which does not conform with the regulations of this ordinance at the date of adoption shall be considered a nonconforming Temporary Vendor or Temporary Business. A nonconforming Temporary Business or Temporary Vendor may continue in the same form and fashion, in its present location, but shall be subject to all the other pertinent regulations covering nonconforming Temporary Vendors and Temporary Businesses.**
- (b.) Any structure, alternation, extension, or addition to the Temporary Vendor or Temporary Business shall conform with the regulations of this ordinance and the municipal code of the City of Statesboro.**
- (c.) A nonconforming Temporary Vendor or nonconforming Temporary Business, once discontinued, may be resumed at any time within thirty days (30) from such discontinuance, but not thereafter. The resumption may be of the same class of use but shall not be resumed as a nonconforming use of a lower class.**

Sec. 18-300 – 305. - Reserved.

Section 2. All other sections of the Code of Ordinances, City of Statesboro, Georgia not expressly amended here remain in full force and effect.

Section 3. Should any section, subsection, or provision of this ordinance be rendered invalid by a court of competent jurisdiction, then all other sections, subsections, and provisions of this ordinance shall remain in full force and effect.

Section 4. Except as modified herein, City of Statesboro Code of Ordinances, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall be and remain in full force and effect from and after its adoption on two separate readings.

First Reading: June 2, 2015

Second Reading: June 16, 2015

The Mayor and City Council of the City of Statesboro, Georgia

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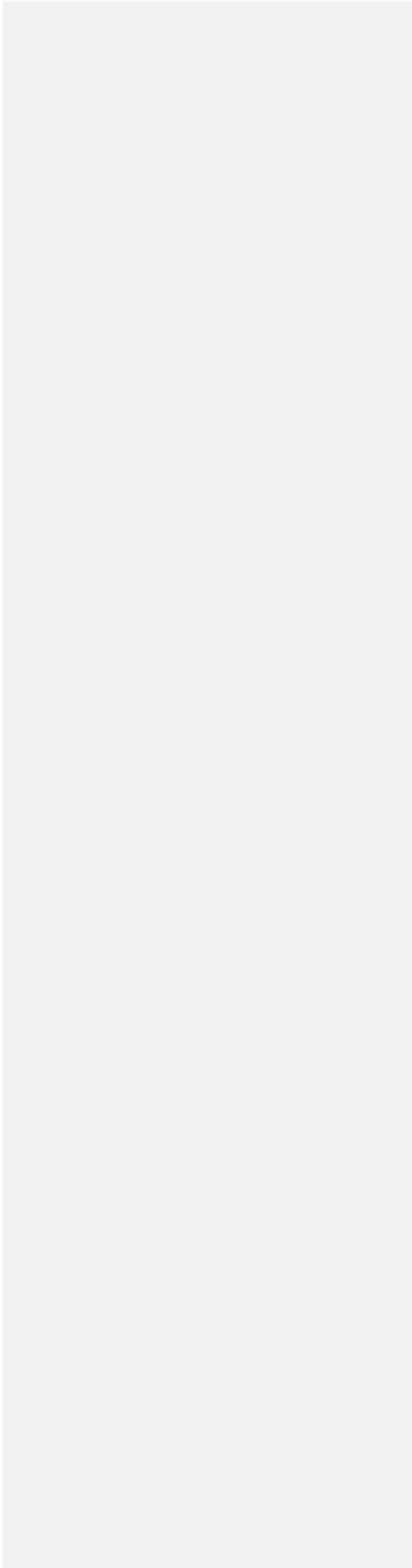
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By: Jan J. Moore, Mayor

Attest: Sue Starling, City Clerk

DRAFT 3





City of Statesboro-Department of Planning and Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
Statesboro, Georgia 30458

(912) 764-0630
(912) 764-0664 (Fax)

**RZ 15-09-03, RZ 15-09-08, V 15-09-02 & V 15-09-09
ZONING MAP AMENDMENTS & VARIANCE REQUESTS
0 Hill Pond Lane & 0 Brampton Avenue**

LOCATION: 0 Hill Pond Lane & 0 Brampton Avenue

REQUEST: Rezone from split zoning of CR (Commercial Retail) & R4 (High Density Residential) districts to a PUD/CR (Planned Unit Development/Commercial Retail) zoning district; request for a variance from the 10-acre PUD minimum requirement and request for a variance from Section 2301 regarding landscape buffering.

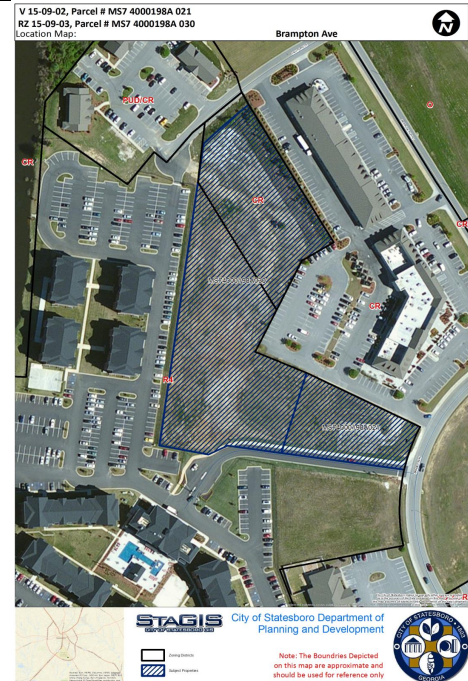
APPLICANT: Bill Simmons

OWNER(S): Sea Coast Enterprises, Inc.

ACRES: 4.08 Acres

PARCEL TAX MAP #: MS74 000198A 030 (3.34 acres) & MS74 000198A 021 (.74 acres)

COUNCIL DISTRICT: 5 (Chance)



PROPOSAL:

The applicant is requesting a zoning map amendment for two parcels; a 3.34 acre lot of land located at 0 Hill Pond Lane (MS74 000198A 030) to be rezoned from R-4 (High Density Residential) and CR (Commercial Retail) zoning districts to the PUD/CR (Planned Unit Development/Commercial Retail) zoning district and a .74 acre lot of land located at 0 Brampton Avenue (MS74 000198A 021) to be rezoned from R-4 (High Density Residential) to PUD/CR (Planned Unit Development/Commercial Retail).

Tax parcel MS74 000198A 030 is currently split zoned; the southern portion of the lot, which fronts Brampton Avenue and lies adjacent to the Grove Apartments, is zoned R4 (High Density Residential); the northern portion of the lot, which fronts Hill Pond Lane, is zoned CR (Commercial Retail).

In addition, the applicant would like to request a variance (per companion case number V 15-09-02), from Article XIV (Planned Unit Development) of the *Statesboro Zoning Ordinance*, which requires a minimum lot size of ten (10) acres; the subject property is a combined 4.08 acres.

The applicant's final request is a variance from Article XXIII (Buffer Requirements) Section 2301 (per companion case number V 15-09-09), with regard to buffer requirements when a nonresidential use abuts a residential zoning area. The applicant would like to utilize the subject site as a PUD for future development. (See **Exhibit A** – Location Map, **Exhibit B** – Proposed Site Plan, **Exhibit C**—Proposed Interior Concept Plan)

BACKGROUND:

In 2005, tax parcel MS74 000198A 30A, at 17.2 acres, was rezoned from CR (Commercial Retail) to R4 (High Density Residential), per case RZ 05-03-05. The referenced case also granted a 5' variance to allow for a 40' maximum building height for the development of Campus Edge Apartments. This variance expired October 5, 2005.

In 2008, 3.24 acres of the 17.2 acre lot of land was rezoned from R4 (High Density Residential) to CR (Commercial Retail), per case RZ 07-12-02. In addition, a variance to increase the maximum density from 12 units per acre to 17 units per acre and an increase in building height to allow for a 55' building was granted in January 2008, per case V 07-12-03, subject to conditions on the number of allowed bedrooms (512) and that the development would comply with Concept Plan C-6 dated December 10, 2007.

In 2009, 1.263 acres were rezoned from R4 to CR, per case RZ 09-07-04. Finally, a variance to increase the number of allowed bedrooms from 512 to 536 was granted in November 2009, per case V 09-10-02.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	PUD/CR (Planned Unit Development/Commercial Retail) & CR (Commercial Retail)	Healthcare facilities; food service facilities
SOUTH:	R4 (High Density Residential), CR (Commercial Retail) & PUD/CR (Planned Unit Development/Commercial Retail)	Apartments; professional offices
EAST:	CR (Commercial Retail)	Food service facilities; hotel; retail establishments
WEST	R4 (High Density Residential); CR (Commercial Retail)	Apartments

Properties to the north, south, and west are predominantly apartments, food service facilities, and professional offices. There are several commercial retail businesses, health care facilities and food service facilities located to the east, including the Walmart Neighborhood Market, McDonald’s and East Georgia Regional Medical Center. (See **Exhibit D**—Photos of Subject Site and **Exhibit E**—Photos of Surrounding Properties).

COMPREHENSIVE PLAN:

The subject site lies within the “Activity Centers/Regional Centers” character area as identified by the City of Statesboro 2014 Future Development Map (See **Exhibit F**—2014 Future Development Map) within the City of Statesboro Updated 2014 Comprehensive Plan.

Vision:

Currently dominated by auto-oriented design and large surface parking lots, the Activity Centers will evolve into pedestrian-oriented shopping, office, and entertainment places that may also accommodate high-density residential development. Where excess parking is located, infill development can break up large surface lots. Tree plantings and landscaping will be generous to soften the development intensity in these areas. Access to these activity centers will be easily achieved for pedestrians, cyclists, and drivers alike.

Appropriate land uses include:

- Small, mid-size, and regional retail and commercial, including big box stores.
- Redeveloped shopping center should be encouraged to include diverse uses and pedestrian-scaled elements.
- Diverse mix of higher density housing types, such as multifamily, town houses, apartments, lofts, and condos.
- Entertainment
- Services
- Employment Centers
- Office
- Medical
- Multi-Family

Suggested Development & Implementation Strategies

- Infill and redevelopment in these areas should occur according to a master plan that allows for mixed uses, transportation choices and urban design that mitigates the appearance of auto-dependence (such as screening parking lots or locating parking areas primarily to the sides and rear of buildings).
- Encourage infill, new, and redevelopment to build close to the street.
- Future developments and highway improvements within these areas should include pedestrian and bicycle access to surrounding neighborhoods.
- Connect these areas with existing and proposed networks of bicycle paths, sidewalks and multiuse trails (such as the McTell Trail, the Julius Abraham Trail, and the S&S Greenway Trail).
- Require shade trees to be planted in parking lots and along highway corridors.
- Evaluate parking ordinances for appropriate standards, including maximum standards and shared parking
- Focus on redevelopment in areas of disinvestment (such as those that have become or are in danger of becoming greyfields). Development strategy should encourage uses and activities that are suitable for the immediately-surrounding character areas.
- Incorporate inter-parcel connectivity, especially along major thoroughfares.
- Include community gathering places, such as squares, plazas, etc. into commercial and mixed use developments.
- New residential development that reflects traditional neighborhood design principles, such as smaller lots, orientation to street, mix of housing types, pedestrian access to neighborhood commercial centers.
- New developments that contain a mix of residential, commercial uses and community facilities at small enough scale and proximity to encourage walking between destinations.
- Use infrastructure availability to steer development away from areas of natural, cultural, and environmentally sensitive resources.

Statesboro Updated 2015 Comprehensive Plan, Community Agenda page 25.

COMMUNITY FACILITIES AND TRANSPORTATION:

The subject property is currently serviced by city utilities, sanitation, and public safety. No significant impact is expected on community facilities or services as a result of this request.

ENVIRONMENTAL:

The subject property does not contain wetlands and is not located in a special flood hazard area. There is no expected environmental impact associated with this request. Any potential issues will be brought forth and discussed during standard permitting and review procedures.

ANALYSIS:

The entire 4.08 acre site is currently split zoned; the northern portion of the subject property is zoned CR (Commercial Retail) and the southern portion of the site is zoned R4 (High Density Residential). The applicant's request is to rezone the property from Commercial Retail and High Density Residential districts to PUD/CR (Planned Unit Development/Commercial Retail) to allow for the development of a commercial complex featuring individually owned parcels for development and shared parking and common areas. In addition, the applicant is requesting a variance from Article XIV, which requires a 10-acre minimum for the development of a PUD. Finally, the applicant is requesting a variance from Section 2301, regarding landscape buffering requirements.

Current Zoning Compared to Requested Zoning

R4 – High Density Residential District uses are restricted to apartments, single-family attached dwelling units, non-commercial recreational facilities and accessory uses. In addition, construction in R4 districts limits buildings to a maximum height of 35 feet and the district is intended to maintain the desirable benefits of residential areas of this nature.

CR – Commercial Retail Districts allow for general retail, wholesale, office, and personal service establishments and health care uses. This district allows for more intense and less dense development, but allows for uses that are not as automobile dependent as the Highway Oriented Commercial District in which the principal use of land is for establishments offering accommodations and supplies or services to motorists and the traveling public and require more land area.

PUD – Planned Unit Development Districts provide greater flexibility in development goals, including the opportunity to mix uses, within a defined, contained development.

1. Applications RZ 15-09-03 and RZ 15-09-08: Request to rezone 3.34 acres of property and .74 acres of property, respectively

The request to rezone the subject properties should be considered in light of the standards for determination of zoning map amendments given in Section 2007 of the *Statesboro Zoning Ordinance*; the vision and community policies articulated within the city's two (2) primary land use policies: *The Statesboro Comprehensive Plan* and the *2035 Bulloch County/City of Statesboro Long Range Transportation Plan*; and the potential for the property to develop in conformance with the requirements of the proposed PUD (Planned Unit Development) zoning district for uses as set forth in the *Statesboro Zoning Ordinance*.

Section 2007 of the Statesboro Zoning Ordinance provides eight (8) standards for the Mayor and City Council to consider “in making its determination” regarding a zoning map amendment and “balancing the promotions of the public health, safety, morality (morals), and general welfare against the right of unrestricted use of property.” Those standards are numbered below 1-8. Staff findings regarding some of the factors are given for Council’s consideration of the application:

- (1) **Existing uses and zoning or (of) property nearby;**
 - a. Adjacent property to the west, south and east is zoned R4 (High Density Residential) and CR (Commercial Retail). Property to the northeast is zoned O (Office and Business District) and property to the northwest is zoned PUD/CR (Planned Unit Development/Commercial Retail).
- (2) **The extent to which property values are diminished by the particular zoning restrictions.**
- (3) **The extent to which the description of property values of the property owner promotes the health, safety, morals or general welfare of the public.**
- (4) **The relative gain to the public, as compared to the hardship imposed upon the property owner.**
- (5) **The suitability of the subject property for the zoned purposes.**
 - a. The subject site can be developed in conformance with the Commercial Retail zoning requirements and other development regulations of the City of Statesboro.
- (6) **The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property.**
 - a. The property is undeveloped.
- (7) **The extent the proposed change would impact the following: population density in the area; community facilities; living conditions in the area; traffic patterns and congestion; environmental aspects; existing and future land use patterns; property values in adjacent areas;**
 - a. No impact is expected on population density.
- (8) **Consistency with other governmental land use, transportation, and development plans for the community.**
 - a. Appropriate infill within established areas of the City is supported by the Comprehensive Plan. However, the plan also supports that the placement and scale of infill compliment surrounding uses and zones and requires it to occur in a manner which protects established residential areas. A finding of fact should be made regarding whether zoning the subject site PUD (Planned Unit Development) (with or without conditions) is consistent with the City of Statesboro Comprehensive Plan.

The subject site is a cleared undeveloped area (known as Parcel 30 and Parcel 21 of the Market District subdivision) surrounded by the R4 (High Density Residential) and Commercial Retail (CR) zoning districts and appropriate CR and R4 land uses to the south, west, and east. An established PUD with commercial retail overlay lies at the northern most portion of the 3.34 acre property (MS74000198A030) across Hill Pond Lane. East Georgia Regional Hospital (zoned Office) is to the northeast of the site.

“A PUD should be viewed as an alternative available for regulating development when existing land use regulations may not adequately address unique circumstances or opportunities for a particular development.” Statesboro Comprehensive Plan, Community Agenda page 41. No such need exists here. As illustrated on the sketch plan submittal, see Exhibit B, the subject property can be developed and utilized in conformance with the requirements of CR zoning district as set forth in the Statesboro Zoning Ordinance. That being said, the flexibility offered by a PUD is being requested in this case to allow for development of a medical office complex with independently owned building

pads and shared common areas and parking spaces. City Council has allowed for similar arrangements at other sites within the City. Additionally, the PUD allows for the elimination of various setbacks and other requirements that will permit for greater infill intensity at this site. Furthermore, staff review of the proposed zoning map amendment found no outstanding safety or site design issues nor anticipated any negative impact associated with the requested zoning map amendment. Examples of other sites where this has been permitted include the following:

Previously reviewed cases under the 2009 Comprehensive Plan request zoning map amendments from Commercial Retail to Planned Unit Development:

- A. RZ 10-07-02: Brampton Avenue granted a rezone from Commercial Retail to create a “condominium” lot arrangement, to provide for the sale of individual building pads.
- B. V 10-07-01: Gopher Hole Investments granted a variance from Section 1402 for a PUD with less than 10 acres.
- C. RZ 05-05-01: Bermuda Run granted a rezone from CR to PUD/CR.

2. Application V 15-09-02: PUD Variance Request (Section 1402)

The proposed variance request from Section 1402 regarding the reduction in required acreage from 10 acres to 4.08 acres should only be considered and/or permitted if the rezone from Section 2007 is granted. Section 1801 of the Statesboro Zoning Ordinance lists four factors that the Mayor and City Council should consider to be true when determining whether to grant a variance:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
 - a. The lots which are the subject of this request are irregular in shape and surrounded by similar commercial development.
- (2) The special conditions and circumstances do not result from the actions of the applicant;**
 - a. This project is to infill available land.
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - a. For a variance to be granted, a showing of hardship that is particular—as distinguished from a mere inconvenience or a desire to make a profit—should be shown by the applicant.
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
 - a. Staff is unaware of substantial detriment to the public good or the zoning ordinance resulting if this request is granted.

3. Application V 15-09-09: Landscape Buffering Variance Request (Section 2301)

The proposed variance request from Section 2301 regarding deviation from the requirement of a buffer whenever a nonresidential use abuts a residential zoned area may be considered independently of the other two requests.

The subject property abuts The Grove Apartments along the western portion of the 3.34 acre parcel (MS74000198A030). There exists wrought iron fencing, which separates the properties at the property line. It is arguable that Section 2301 allow for the existing fence to act as the only buffer between the sites; however, this request is placed before City Council for clarification purposes. Section 2301 states as follows:

“Whenever any nonresidential use abuts a residential zoned area, or when multifamily residences are adjacent to single-family or two-family residences or districts, or a mobile home park, one of the following buffers shall be installed on the lot with the more intensive and least restrictive use along the common lot lines.

- 1. Natural buffer strip. A strip at least 50 feet wide, having and [an] existing natural growth equivalent to a densely planted evergreen screen. A landscape plan identifying all existing trees of six-inch caliper or greater which are to be retained inside the 50-foot natural buffer strip along with any proposed trees and shrubs must be approved by the zoning enforcement official prior to any site construction. The zoning enforcement officer may require additional planting to acquire a uniform buffer strip.
- 2. Landscape buffer strip. A strip at least ten feet wide, densely planted with shrubs and/or trees at least three feet high at the time of planting, of a type that will possess growth characteristics of such a nature as to produce a dense, compact evergreen planting screen capable of growing to a height of at least six feet within three years. A landscape plan identifying all plants to be incorporated in the buffer strips must be approved by the zoning administrator prior to any site construction. The zoning administrator may require additional planting to acquire a uniform buffer strip.

3. Landscape buffer wall. A buffer strip at least ten feet wide, containing an opaque wall or barrier or uniformly painted fence at least six feet in height. Buffer strip shall have five feet of landscape plantings on the exterior side of the wall and shall be planted with appropriate trees, shrubs, and groundcover as to provide a transition from the wall to both edges of the buffer strip. A landscape plan identifying the location and construction of the wall or barrier, and all plants to be incorporated in the buffer strip must be approved by the zoning administrator prior to any site construction. The zoning administrator may require additional planting to acquire a uniform buffer strip.

This ordinance will allow any of these three buffers or a combination thereof to provide flexibility in design.”

Section 2303 (1) states the following:

“The landscaping and buffering requirements set forth in this regulation shall be subject to the following exceptions:

1. Prescribed fence or Walls may be waived if a building, fence, or wall of at least equivalent height, capacity, and maintenance exists immediately abutting and on the opposite side of said lot line.”

Section 1801 of the Statesboro Zoning Ordinance lists four factors that the Mayor and City Council should consider to be true when determining whether to grant a variance:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
 - a. The lots which are the subject of this request are irregular in shape and surrounded by similar commercial development.
- (2) The special conditions and circumstances do not result from the actions of the applicant;**
 - a. This project is to infill available land.
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - a. For a variance to be granted, a showing of hardship that is particular—as distinguished from a mere inconvenience or a desire to make a profit—should be shown by the applicant.
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
 - a. Staff is unaware of substantial detriment to the public good or the zoning ordinance resulting if this request is granted.

STAFF RECOMMENDATION:

Staff has no objection to the requested zoning map amendment and variances. However, staff would suggest the following conditions be applied to this site:

1. Utility easements along the property will be granted to the City of Statesboro.
2. A system should be constructed to tie into the existing detention pond.
3. The subject site shall be subject to the private development covenants and architectural standards of the Market District.
4. Hill Pond Lane should be dedicated to the City of Statesboro to facilitate public access.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 6-0 to approve the zoning map amendments, with staff recommendations, requested by applications RZ 15-09-03 and RZ 15-09-08. Planning Commission voted 6-0 to approve the variances requested by applications V 15-09-02 and V 15-09-09.

EXHIBIT A: LOCATION MAP

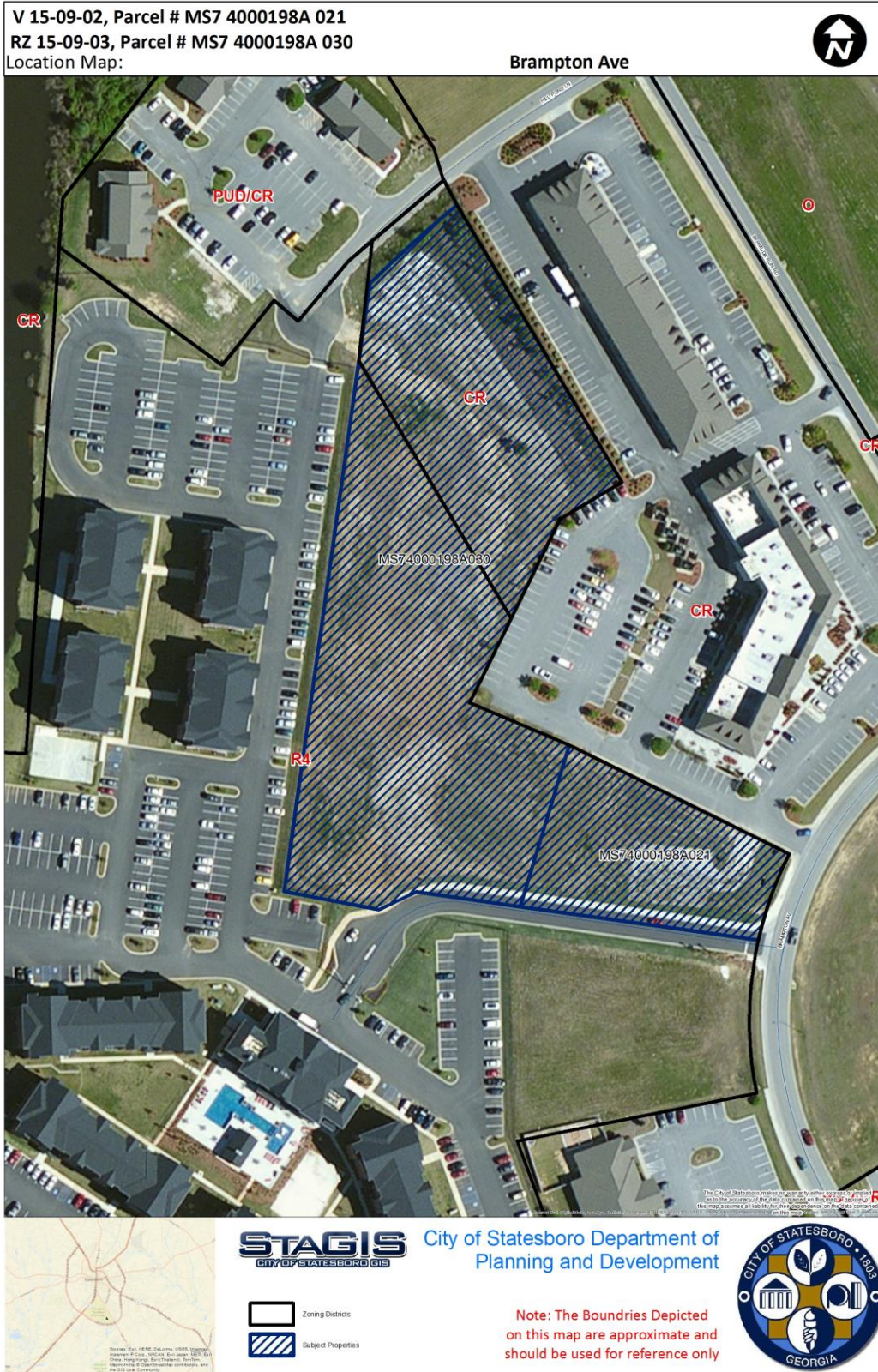


EXHIBIT B: PROPOSED SITE PLAN



EXHIBIT D: PHOTOS OF SUBJECT SITE



Picture 1 Subject Property Facing East South East Adjacent to the Grove Apartments



Picture 2 Subject Property Facing South Adjacent to the Grove Apartments

EXHIBIT D: PHOTOS OF SUBJECT SITE CONTINUED



Picture 3 Subject Property Facing West North West behind McAlister's Deli



Picture 4 Subject Property Facing Northwest

EXHIBIT D: PHOTOS OF SUBJECT SITE CONTINUED



Picture 5 Subject Property Facing West Southwest toward the Grove Apartments



Picture 6 Subject Property Facing East North East

EXHIBIT D: PHOTOS OF SUBJECT SITE CONTINUED



Picture 7 Subject Property Facing East South East behind McAlister's



Picture 8 Subject Site Facing North Abutting The Grove Apartments Depicting Landscape Buffer Variance Request

EXHIBIT D: PHOTOS OF SUBJECT SITE CONTINUED



Picture 9 Subject Site Facing South Abutting The Grove Apartments Depicting Landscape Buffer Variance Request

EXHIBIT E: PHOTOS OF SURROUNDING PROPERTIES



Picture 10 Northern Portion (CR) of Subject Site Facing Hill Pond Professional Park



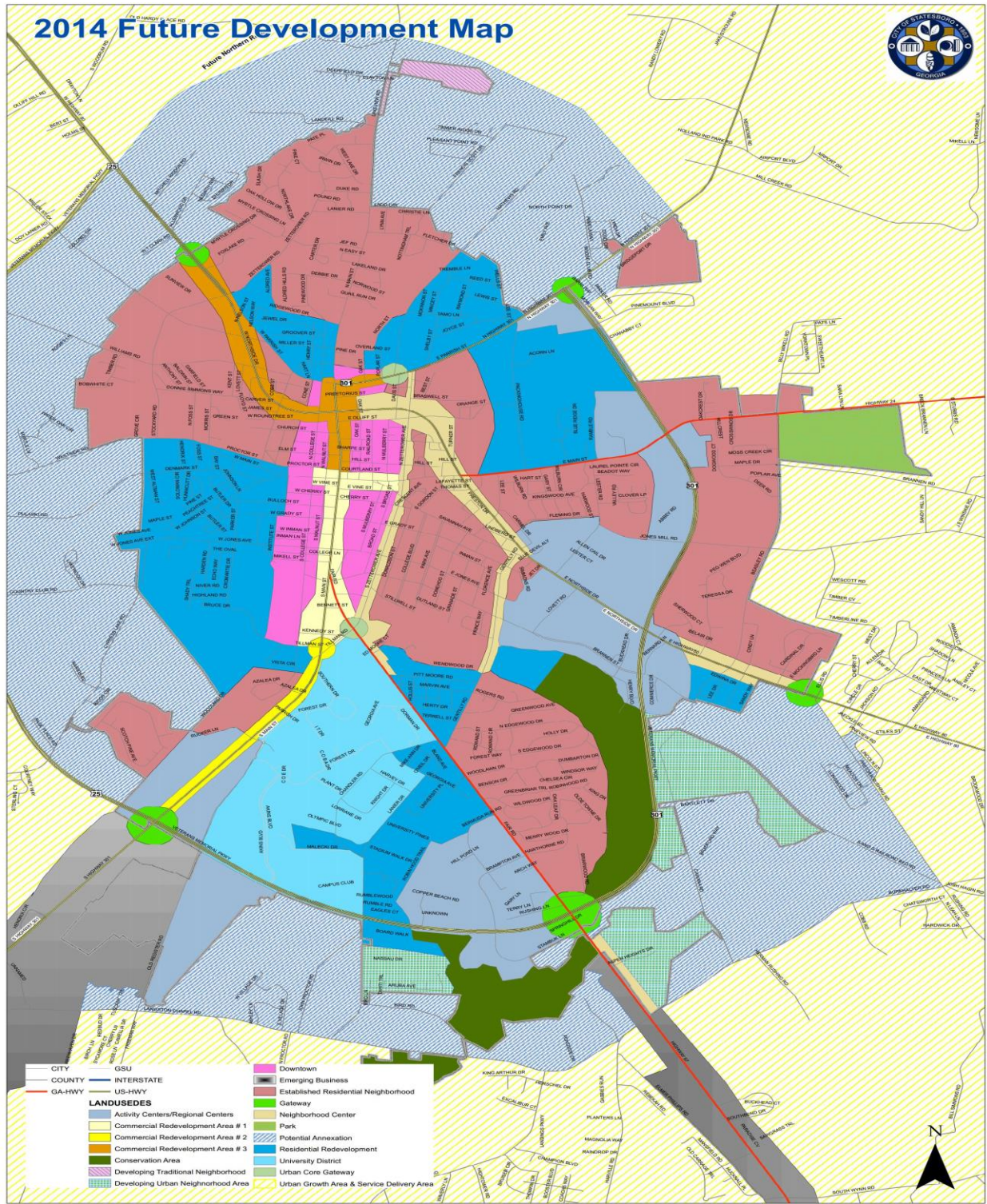
Picture 11 Subject Site (CR portion) facing SSW toward the Grove depicting fencing at property line.

EXHIBIT E: PHOTOS OF SURROUNDING PROPERTIES CONTINUED



Picture 12 Detention Pond behind the Grove Apartments Facing West

EXHIBIT F: 2014 FUTURE DEVELOPMENT MAP





City of Statesboro-Department of Planning and Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
 Statesboro, Georgia 30458

(912) 764-0630
 (912) 764-0664 (Fax)

**V 15-09-01 & V 15-09-07
 VARIANCE REQUEST
 Lot 2 1588 Brampton Avenue**

LOCATION: Lot 2 1588 Brampton Avenue

REQUEST: Variance from Section 1002 regarding building height and variance from Section 1600 regarding parking requirements for a proposed hotel.

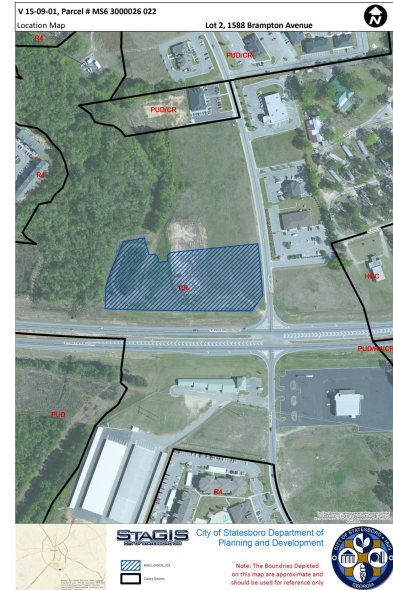
APPLICANT: Pankaj Patel

OWNER(S): Greg Parker (Drayton Parker Companies, LLC)

ACRES: 2.435 Acres

PARCEL TAX MAP #: MS63 000026 022 (Lot 2)

COUNCIL DISTRICT: 5 (Chance)



PROPOSAL:

The applicant is requesting a variance from Article X (Commercial Retail District) Section 1002 Height Regulations of the *Statesboro Zoning Ordinance* to increase the maximum building height from 35' to 60' for the construction of a hotel. The applicant is also requesting a variance from Article XVI (Off Street Parking and Loading) Section 1600 Off Street Parking Facilities to decrease the required parking spaces from 98 to 94, due to the parcel's size and an existing detention pond. (See **Exhibit A** – Location Map, **Exhibit B** – Proposed Concept Plan, **Exhibit C**- Topographic Site Survey Depicting Detention Pond)

BACKGROUND:

In November 2013, a variance was granted to Gregory M. Parker, pursuant to case number V 13-10-04, to allow for the construction of American Way as a 50' right-of-way, as opposed to a 60' right-of-way. The applicant was required to install curb and gutter, submit a subdivision plat which showed a cul-de-sac (at least 80' in diameter with a minimum 5' right-of-way from back of curb), deed the right-of-way to the City of Statesboro as a public right-of-way and install a sidewalk on the southern side of the proposed road.

In December 2013, a subdivision plat was recorded identifying the subject site as Lot 2 of tax map number MS63 000026 022 and reflecting the referenced variance.

SURROUNDING ZONING/LAND USES:

ZONING:		LAND USE:
NORTH:	CR (Commercial Retail) & PUD/CR (Planned Unit Development & Commercial Retail)	Healthcare facilities; food service facilities
SOUTH:	CR (Commercial Retail)	Apartments; retail establishments
EAST:	CR (Commercial Retail) & HOC (Highway Oriented Commercial)	Healthcare facilities; apartments; hotels
WEST	R4 (High Density Residential) & CR (Commercial Retail)	Apartments; food service facilities

Properties to the north, south, and west are predominantly food service facilities, healthcare facilities, apartments and hotels. There are several personal and food services facilities located to the east, including the Walmart Neighborhood Market, newly constructed Parker's (which is Lot 1 of the subject site), McDonald's and East Georgia Regional Medical Center. (See **Exhibit D**—Photos of the Subject Site and **EXHIBIT E**—Surrounding Properties).

COMPREHENSIVE PLAN:

The subject site lies within the "Activity Centers/Regional Centers" character area as identified by the City of Statesboro 2014 Future Development Map (See **Exhibit F**) within the *City of Statesboro Updated 2014 Comprehensive Plan*.

Vision:

Currently dominated by auto-oriented design and large surface parking lots, the Activity Centers will evolve into pedestrian-oriented shopping, office, and entertainment places that may also accommodate high-density residential development. Where excess parking is located, infill development can break up large surface lots. Tree plantings and landscaping will be generous to soften the development intensity in these areas. Access to these activity centers will be easily achieved for pedestrians, cyclists, and drivers alike.

Appropriate Land Uses

- Small, mid-size, and regional retail and commercial, including big box stores.
- Redeveloped shopping center should be encouraged to include diverse uses and pedestrian-scaled elements.
- Diverse mix of higher density housing types, such as multifamily, town houses, apartments, lofts, and condos.
- Entertainment
- Services
- Employment Centers
- Office
- Medical
- Multi-Family

Suggested Development & Implementation Strategies

- Infill and redevelopment in these areas should occur according to a master plan that allows for mixed uses, transportation choices and urban design that mitigates the appearance of auto-dependence (such as screening parking lots or locating parking areas primarily to the sides and rear of buildings).
- Encourage infill, new, and redevelopment to build close to the street.
- Future developments and highway improvements within these areas should include pedestrian and bicycle access to surrounding neighborhoods.
- Connect these areas with existing and proposed networks of bicycle paths, sidewalks and multiuse trails (such as the McTell Trail, the Julius Abraham Trail, and the S&S Greenway Trail).
- Require shade trees to be planted in parking lots and along highway corridors.
- Evaluate parking ordinances for appropriate standards, including maximum standards and shared
- Focus on redevelopment in areas of disinvestment (such as those that have become or are in danger of becoming greyfields). Development strategy should encourage uses and activities that are suitable for the immediately-surrounding character areas.
- Incorporate inter-parcel connectivity, especially along major thoroughfares.
- Include community gathering places, such as squares, plazas, etc. into commercial and mixed use developments.
- New residential development that reflects traditional neighborhood design principles, such as smaller lots, orientation to street, mix of housing types, pedestrian access to neighborhood commercial centers.
- New developments that contain a mix of residential, commercial uses and community facilities at small enough scale and proximity to encourage walking between destinations.
- Use infrastructure availability to steer development away from areas of natural, cultural, and environmentally sensitive resources.

Statesboro Updated 2015 Comprehensive Plan, Community Agenda page 25.

COMMUNITY FACILITIES AND TRANSPORTATION:

The subject property is currently serviced by city utilities, sanitation, and public safety. No significant impact is expected on community facilities or services as a result of this request.

ENVIRONMENTAL:

The extreme western portion of the subject property is within a wetlands area, which includes a detention pond. The subject site is not located in a special flood hazard area. Any potential issues will be brought forth and discussed during standard permitting and review procedures.

ANALYSIS:

Lot 2 of the subject site is currently zoned CR (Commercial Retail). The applicant is requesting variances from Section 1002 regarding building height and Section 1600 regarding the minimum number of required parking spaces.

A. Application V 15-09-01: Section 1002 Height Variance

Section 1102 of the Statesboro Zoning Ordinance restricts the height of buildings in the CR (Commercial Retail) zoning district to three (3) stories or 35 feet in height. Section 1002 states that the City Council may provide for building heights up to 50 feet in the CR zoning district provided that a finding be made that any height over 35 feet "will not be detrimental to the light, air, privacy, or architectural scheme of any other structure or use currently existing or anticipated, provided that for every foot in height in excess of 35 feet there shall be added to each yard requirement one corresponding foot of width or depth. The applicant is requesting an allowable height to roughly 60 feet and four (4) stories and exemption from the requirement of adding additional building setbacks.

The Statesboro Zoning Ordinance defines "height of building" as "a building's vertical measurement from the mean level of the ground surrounding the building to a point midway between the highest and lowest points on the roof" Section 201 (15).

It should be noted that any development above three (3) stories in height is subject to enhanced life safety standards in building construction and design. These standards have been reviewed with the applicant and further review of these building requirements will be undertaken by City staff at the permitting and inspection phases of the project. Furthermore, the City of Statesboro Fire Department has been consulted in this review and agrees that the City has the appropriate equipment to service the needs of a sixty (60) foot structure.

The proposed variance request from Section 1002, regarding building height, from the allowed 35' maximum to a 60' maximum should be considered in light of the standards for determination of variances given in Section 1801 of the *Statesboro Zoning Ordinance*, which provides four (4) standards for the Mayor and City Council to consider "in making its determination" regarding a variance and "balancing the promotions of the public health, safety, morality (morals), and general welfare against the right of unrestricted use of property." Those standards are numbered below 1-4. Staff findings regarding some of the factors are given for Council's consideration of the application:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
- (2) The special conditions and circumstances do not result from the actions of the applicant;**
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - a. For a variance to be granted, a showing of hardship that is particular—as distinguished from a mere inconvenience or a desire to make a profit—should be shown by the applicant.
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
 - a. This request, if granted, should not cause substantial detriment to the public's safety as the Statesboro Fire Department can provide adequate life safety provisions for a four (4) story building.
 - b. Multiple variances have been granted for a four (4) story building, including the following in the general vicinity of the subject property:
 - A. V 07-12-03: Hill Pond Lane/Campus Crest granted a 20' height variance (to 55')
 - B. RZ 05-03-05: The Grove at Brampton Avenue awarded a 5' height variance (to 40')
 - C. V 10-11-03: The Forum at Highway 301 South awarded a 3' height variance (to 38')

B. Application V 15-09-07: Section 1600 Parking Variance

The proposed variance request from Section 1600 to reduce parking from 98 spaces to 94 spaces should be considered in light of the standards for determination of variances given in Section 1801 of the *Statesboro Zoning Ordinance*, which provides four (4) standards for the Mayor and City Council to consider "in making its determination" regarding a variance and "balancing the promotions of the public health, safety, morality (morals), and general welfare against the right of unrestricted use of property." Those standards are numbered below 1-4. Staff findings regarding some of the factors are given for Council's consideration of the application:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
- (2) The special conditions and circumstances do not result from the actions of the applicant;**

- (3) **The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
- a. For a variance to be granted, a showing of hardship that is particular—as distinguished from a mere inconvenience or a desire to make a profit—should be shown by the applicant.
- (4) **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
- a. Article XVI, Section 1600 requires that hotels, motels or other lodging facilities have a minimum of one (1) paved parking space per guestroom, and spaces for additional uses, including restaurants and meeting areas. The proposed hotel will contain 97 guest rooms and 688 square feet of meeting space—a minimum requirement of 98 spaces. A reduction of four (4) spaces should not have a negative effect on the character of the area or negatively impact the public safety.
 - b. At least one variance has been granted for a reduction in parking requirements under the current Comprehensive Plan:
 - A. V 11-07-05: Northside Drive West granted a reduction of 14 spaces to 55 spaces in PUD with Commercial Overlay district.

STAFF RECOMMENDATION:

Staff has no objection to the requested variance. However, staff would suggest the following conditions be applied to this site:

1. The developer is required to complete American Way during development of the parcel, to include a hammerhead turnaround and other features as shown on the attached Exhibit C and to the specifications of the City Engineer.
2. American Way should be constructed pursuant to all City ordinances and standards and then be deeded to the City of Statesboro as a public right of way.
3. The applicant must install a sidewalk on the southern side of the proposed road.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 6-0 to grant approval of the variances requested, with staff recommendations, by applications V 15-09-01 and V 15-09-07.

EXHIBIT A: LOCATION MAP

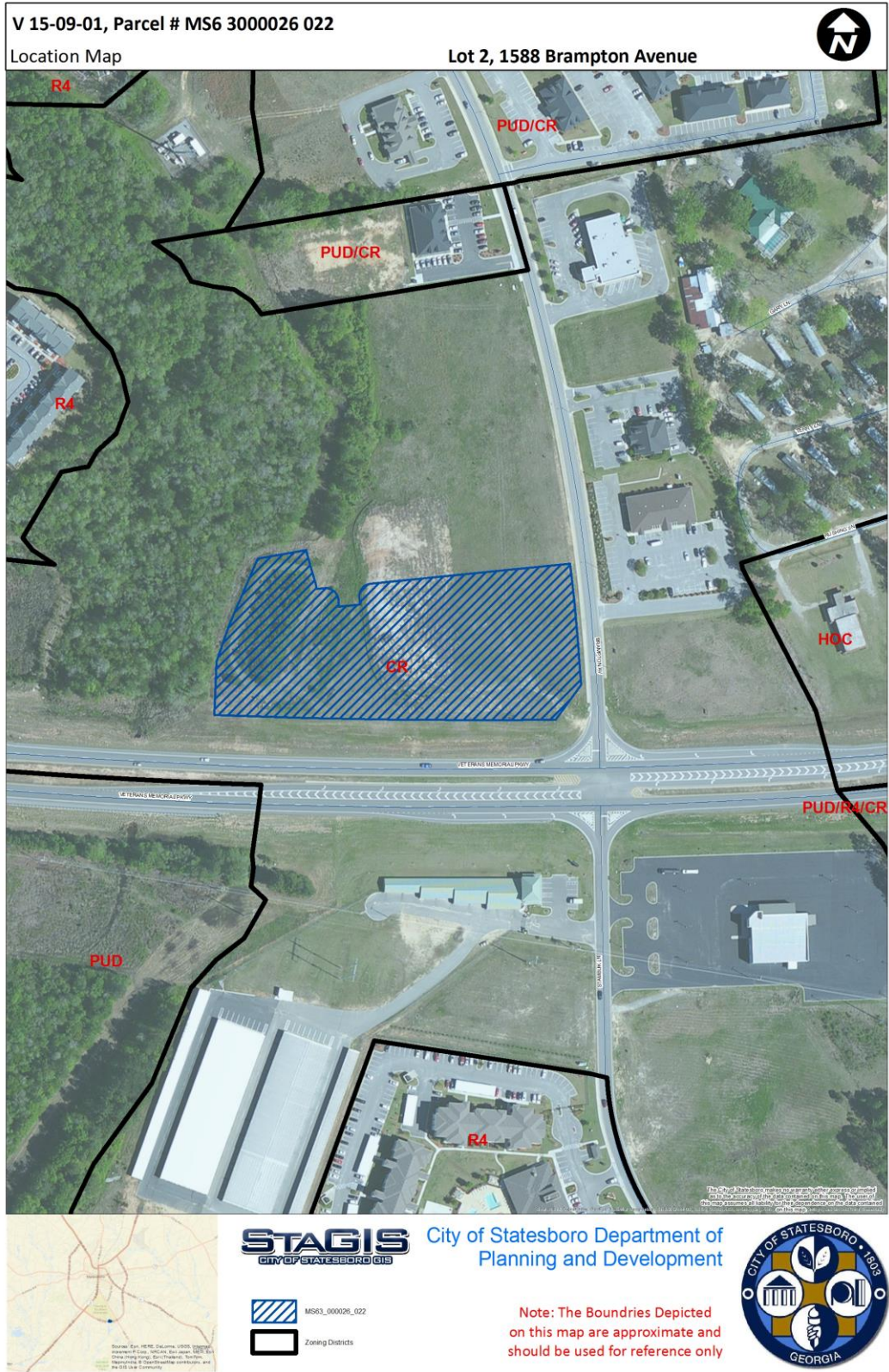
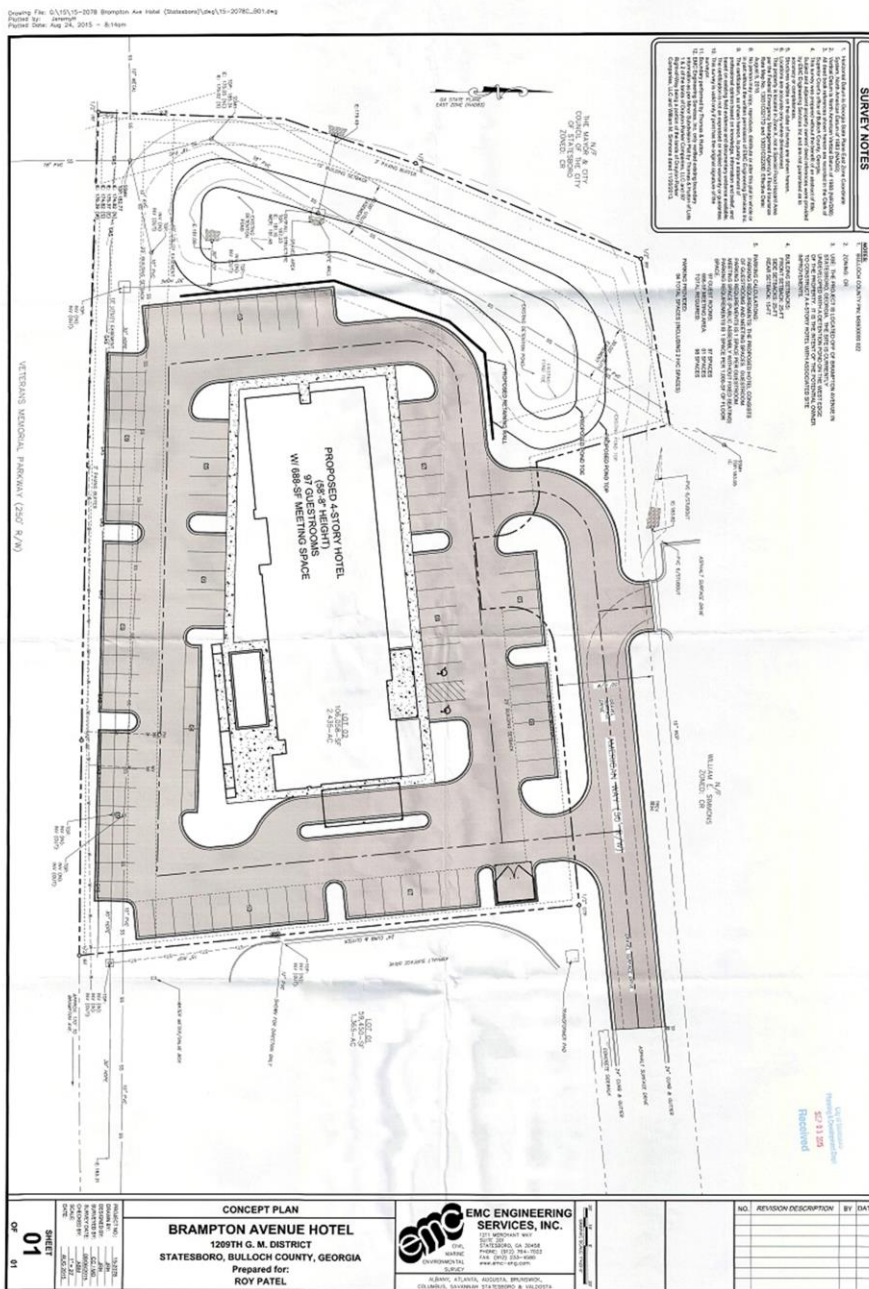


EXHIBIT B: PROPOSED CONCEPT PLAN



SURVEY NOTES

1. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
2. The survey was conducted on or about the date indicated on the title block.
3. The survey was conducted by the undersigned, a duly licensed Professional Surveyor in the State of Georgia.
4. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
5. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
6. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
7. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
8. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
9. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.
10. The survey was conducted in accordance with the Georgia Surveying and Mapping Act of 1997, as amended.

<p>CONCEPT PLAN BRAMPTON AVENUE HOTEL 1209TH G. M. DISTRICT STATESBORO, BULLOCH COUNTY, GEORGIA Prepared for: ROY PATEL</p>	<p>EMC ENGINEERING SERVICES, INC. 1209TH G. M. DISTRICT STATESBORO, BULLOCH COUNTY, GEORGIA PREPARED BY: ROY PATEL DATE: 08/29/2015</p>	NO.	REVISION DESCRIPTION	DATE

EXHIBIT C: TOPOGRAPHIC SITE SURVEY DEPICTING DETENTION POND

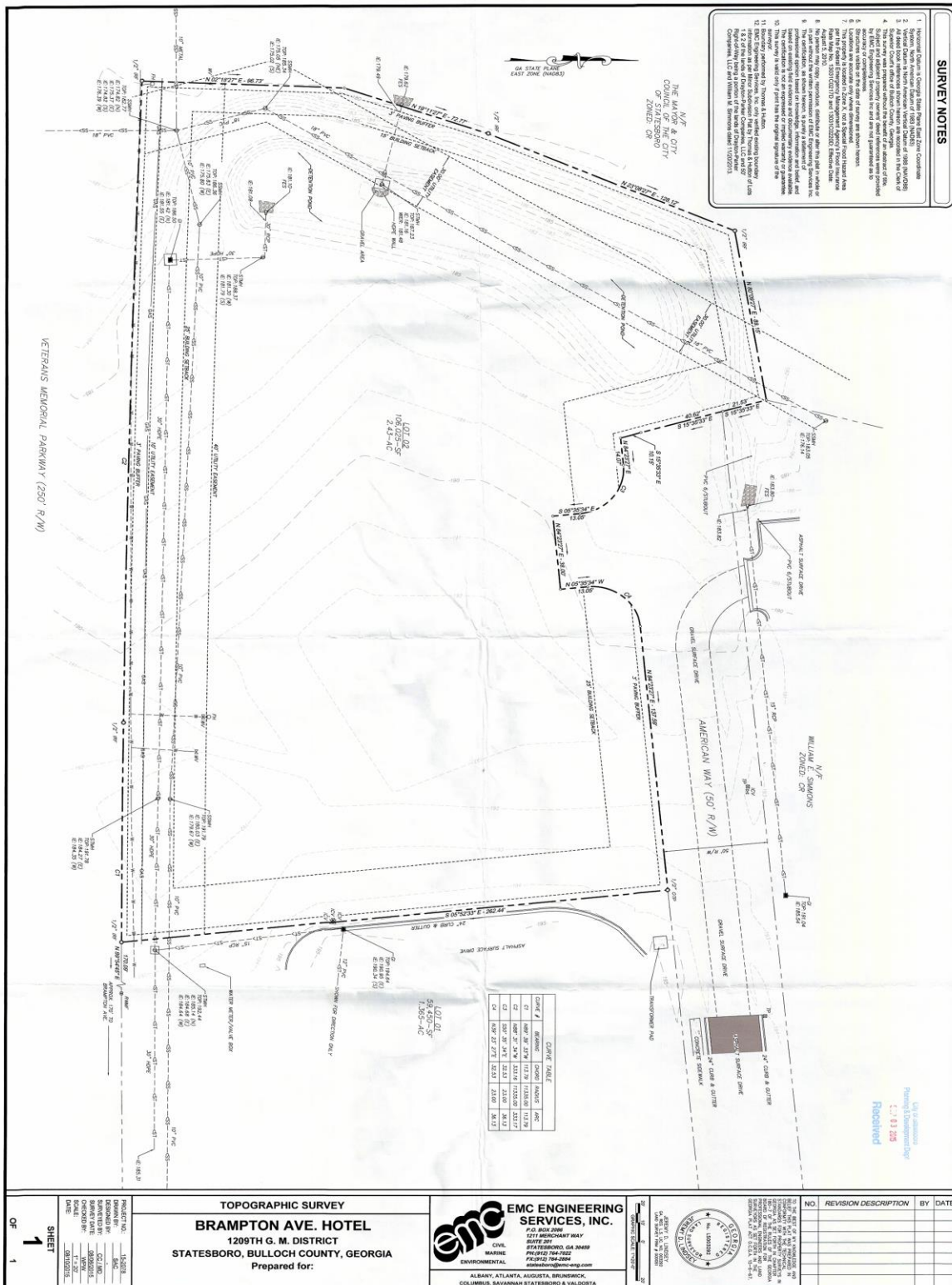


EXHIBIT D: PHOTOS OF SUBJECT SITE



Picture 1 Subject Property Facing West toward Veterans Memorial Parkway



Picture 2 Subject Property Facing West toward Parker's

EXHIBIT D: PHOTOS OF SUBJECT SITE CONTINUED



Picture 3 American Way to the north of Parker's, abutting the Vidalia Women's Center and other healthcare services facilities



Picture 4 Detention Pond

EXHIBIT E: SURROUNDING PROPERTIES

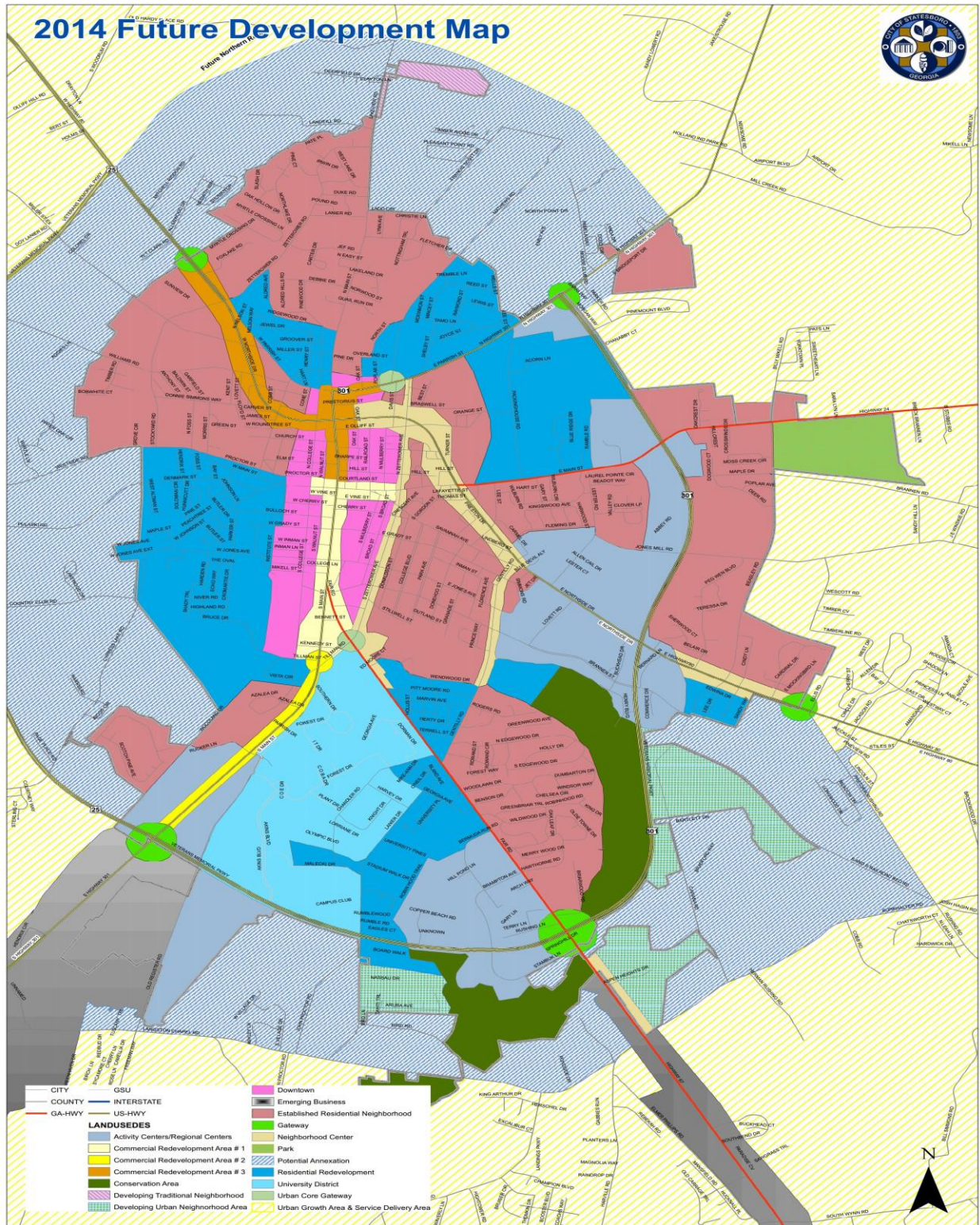


Picture 5 Subject Property Adjacent Healthcare Facilities, including Statesboro Pediatrics



Picture 6 Parker's Located on Lot 1 of the Subject Property Facing West

EXHIBIT F: City of Statesboro 2014 Future Development Map





City of Statesboro – Department of Planning & Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
 Statesboro, Georgia 30458

(912) 764-0630
 (912) 764-0664 (Fax)

**SE 15-09-06 & V 15-09-05
 SPECIAL EXCEPTION & VARIANCE REQUEST
 606 SOUTH ZETTEROWER AVENUE**

LOCATION: 606 South Zetterower Avenue

REQUEST: Allow a business with automobile service to operate inside a CR (Commercial Retail) district; and variance from Section 1003 regarding the side yard setback.

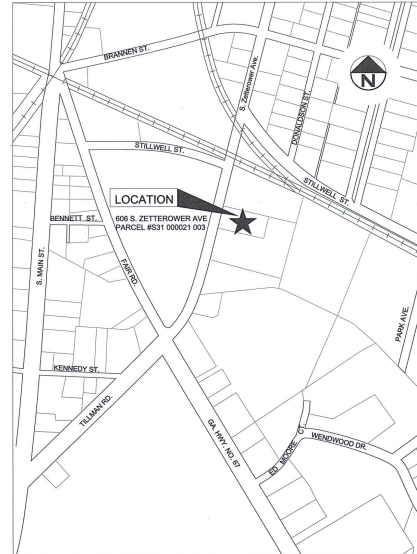
APPLICANT: Trenton Beard

OWNER(S): Stephen E. Cummings

ACRES: 1.02 Acres

PARCEL TAX MAP #: S31 000021 003

COUNCIL DISTRICT: District 3 (Britt)



PROPOSAL:

The applicant requests a Special Exception to allow for the utilization of the property located at 606 South Zetterower Avenue as a retail automotive parts and enhancement services as well as a variance from Section 1003 regarding side yard setback from the required 15' to 5' as to be aligned with the existing building. The subject site is zoned CR (Commercial Retail), which does not permit automotive services by right. (See **Exhibit A** – Location Map)

BACKGROUND:

City Council approved RZ 00-02-02 on March 7, 2000, rezoning the property from LI (Light Industrial) to CR (Commercial Retail). The City Council approved V 01-11-03 on December 4, 2001 allowing a variance to Section 1003A to allow for three (3) commercial uses on a lot less than 60,000 SF of land that is an un-subdivided property. (Note: This provision is no longer included within the Statesboro zoning ordinance.)

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	CR (Commercial Retail)	Business or professional offices
SOUTH:	CR (Commercial Retail)	Automotive Service Center and Used Car Sales
EAST:	CR (Commercial Retail)	Automotive Service Center and Used Car Sales
WEST:	HOC (Highway Oriented Commercial)	Public Park and Recreation Area

The subject property is located within a Commercial Retail district and across the street from the DSDA (Downtown Statesboro Development Authority) area. Since the proposed improvements to the property are less than 50% of the fair market value of property the DSDA design standards would not apply to the improvements.

The property to the east and south is occupied by Express Tune and Lube and Express Auto Sales. The property north of the site is currently a medical billing office. The property to the west is Bulloch County Parks and Recreation softball

fields and tennis courts. Please see **Exhibit A** – Location Map, **Exhibit B**-Site Plan and **Exhibit C**-Photos of Subject Site.

COMPREHENSIVE PLAN:

The subject site lies within the “Neighborhood Center” character area as identified by the City of Statesboro Future Development Map within the *City of Statesboro Comprehensive Master Plan*. The “Neighborhood Center” character areas are characterized by a blend of lower to medium density residential and commercial, personal service, and offices that are neighborhood scale in size and intensity. This character area often acts as a buffer or transition area between single family residential areas and more intense commercial areas. These areas are likely to experience uncontrolled strip development if growth is not properly managed. This character area strives to balance the provision of neighborhood services with the protection of nearby residential areas. Some suggested development and implementation strategies for the University District character area include the following:

- A mix of approximately scaled retail, services, and offices to serve neighborhood residents day to day need.
- Pedestrian oriented, with strong walkable connections between different uses.
- Encourage compatible architecture styles that maintain local character

Statesboro Comprehensive Master Plan, Community Agenda page 23.

COMMUNITY FACILITIES:

The subject site is currently served by city services including water, sewer, sanitation, and public safety. No significant impact is expected on community facilities or services as a result of this request.

ENVIRONMENTAL:

The subject property does not contain wetlands and is not located in a special flood hazard area. There is no expected environmental impact associated with this request. Any potential issues will be brought forth and discussed during standard permitting and review procedures.

ANALYSIS:

1. Special Exception Request

The applicant is requesting a Special Exception to permit the property to be utilized as an auto enhancement service (and various other retail outlets) within the CR (Commercial Retail) district. Special Exceptions allow for land uses that are not permitted as right within a zoning district but which may be granted where the requested use makes a special showing of particular circumstances affecting the subject property that merit taking it out of the general legislative rules of zoning and where that use may be deemed appropriate and compatible with the surrounding neighborhood. In this case, an auto service is not a use permitted by right within the CR (Commercial Retail) zoning district; thus necessitating this request for approval of the proposed use by the Mayor and Council.

A similar example of this situation would be case # CUV 02-04-05 for property located at 612 South Zetterower Avenue (Tax Parcel Number S31 000021 004). Statesboro City Council approved May 7, 2002 to allow for an automotive repair business as a permitted use in the CR (Commercial Retail) District. On June 19, 2012 the City Council approved an amendment to this variance to allow for use of vehicle sales from the property.

Another example of this situation would be case # CUV 04-05-02 for the property located at 1723 Northside Drive (Tax Parcel Number S38 000044 000). Statesboro City Council approved June 1, 2004 to allow for an automotive service and tire repair business as a permitted use in the CR (Commercial Retail) District.

Section 1802 of the *Statesboro Zoning Ordinance* outlines the qualifications needed to grant a special exception to the zoning ordinance. These include uses that are consistent with the purpose and intent of the zoning ordinance and district in which the use is proposed to be located; uses that do not detract from neighboring property; and uses that are consistent with other uses in the area. In order to meet these qualifications, approval of any special exception for the proposed use at the subject parcel should (if necessary) include conditions that will ensure that development along this corridor remains consistent with the *Statesboro Comprehensive Plan* and the *Statesboro Zoning Ordinance* and that serve to mitigate negative effects of the use to the surrounding area’s character, uses, and zones.

Section 2406 of the *Statesboro Zoning Ordinance* lists seven (7) factors that should be considered by Mayor and City Council “in determining compatibility” of the requested use with adjacent properties and the overall community for considerations of Conditional Use Variances, or Special Exceptions as follows:

A. Adequate provision is made by the applicant to reduce any adverse environmental impact of the proposed use to an acceptable level.

- Staff is unaware of any environmental impacts this request would cause.

- B. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered.**
 - The proposed use is not expected to cause a negative impact on vehicular traffic and pedestrian movement on adjacent streets.
 - The site has a private entrance on the north off South Zetterower and also shares access on south off South Zetterower with the adjacent property.
- C. Off street parking and loading, and the entrances to and exits from such parking and loading, will be adequate in terms of location, amount, and design to serve the use.**
 - The subject site will use the existing driveway on the north side of the property and the existing driveway on the south shared with Express Tune and Lube.
 - The proposed use requires one (1) parking space per every 500 square feet of customer space. The site currently has a paved parking area. The paved parking is striped and provides adequate spaces as required by the Statesboro development regulations.
- D. Public facilities and utilities are capable of adequately serving the proposed use.**
 - Building Inspections by the Building Inspections Division (Building Official) have not been conducted but may be required in the permitting stage.
- E. The proposed use will not have significant adverse effect on the level of property values or the general character of the area.**
 - The proposed use is not expected to have an adverse effect on property values in the area given the uses of surrounding structures.
- F. Unless otherwise noted, the site plan submitted in support of an approved conditional use shall be considered part of the approval and must be followed.**
 - The applicant plans to add a 60' x 70' extension to the rear of the existing building for the use of performing auto enhancement services.
- G. Approval of a proposed use by the mayor and council does not constitute and [an] approval for future expansion of or additions or changes to the initially approved operation. Any future phases or changes that are considered significant by the planning commission and not included in the original approval are subject to the provisions of this section and the review of new detailed plans and reports for said alterations by the governing authority.**
 - This request, if approved, is personal to the applicant. Any future changes to this proposal must be approved by City Council.

Additionally, § 2406 also requires consideration of the following factors given for standards for determination in a zoning change in “balancing the promotions of the public health, safety, morality [morals] and general welfare against the right of unrestricted use of property” given in § 2007 of the *Statesboro Zoning Ordinance*”:

- A. Existing uses and zoning or [of] property nearby.**
Surrounding properties are zoned CR (Commercial Retail), CR (Commercial Retail) and HOC (Highway Oriented Commercial) and uses range from automotive car servicing and used car sales to medical billing office and a public park.
- B. The extent to which property values are diminished by the particular zoning restrictions.**
- C. The extent to which the description of property values of the property owner promotes the health, safety, morals or general welfare of the public.**
- D. The relative gain to the public, as compared to the hardship imposed upon the property owner.**
- E. The suitability of the subject property for the zoned purposes.**
 - This property should meet the zoning regulations set forth by the *Statesboro Zoning Ordinance* as necessary.
- F. The length of time the property has been vacant as zoned, considered in the context of land development in the area in the vicinity of the property.**
 - Surrounding developed properties are occupied.

G. The extent the proposed change would impact population density in the area, community facilities, living conditions in the area, traffic patterns and congestion, environmental aspects, existing and future land use patterns, and property values in adjacent areas.

- The proposed use should not negatively impact any of the above.

2. Variance Request

The proposed variance request from Section 1003 (D) regarding side yard setbacks from the allowed 15' to 5' should only be considered and/or permitted if the Special Exception is granted. Section 1801 of the *Statesboro Zoning Ordinance* lists four factors that the Mayor and City Council should consider to be true when determining whether to grant a variance:

- **There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;**
 - The existing building was constructed with a 5' side yard setback. If the proposed addition to the rear of the existing building adheres to the current 15' setback limits, the proposed addition will be offset 10' from the existing building line. This will have a negative effect to the building aesthetics.
- **The special conditions and circumstances do not result from the actions of the applicant;**
- **The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - Application of the ordinance to this particular piece of property would not create an unnecessary hardship in terms of land use and ordinance application.
- **Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
- Relief, if granted, would not cause substantial detriment to the public good nor would it impair the purposes and intent of the zoning regulations.

STAFF RECOMMENDATION:

Staff recommends approval of the special exception request to allow automobile enhancement services to operate within a CR (commercial retail) district and also recommends approval of variance application from Article X Section 1003 (D) to allow for a 10' reduction in the side yard setback distance.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 6-0 to grant approval of the special exception requested by application SE 15-09-06 and the variance requested by application V 15-09-05.

Exhibit A: Location Map

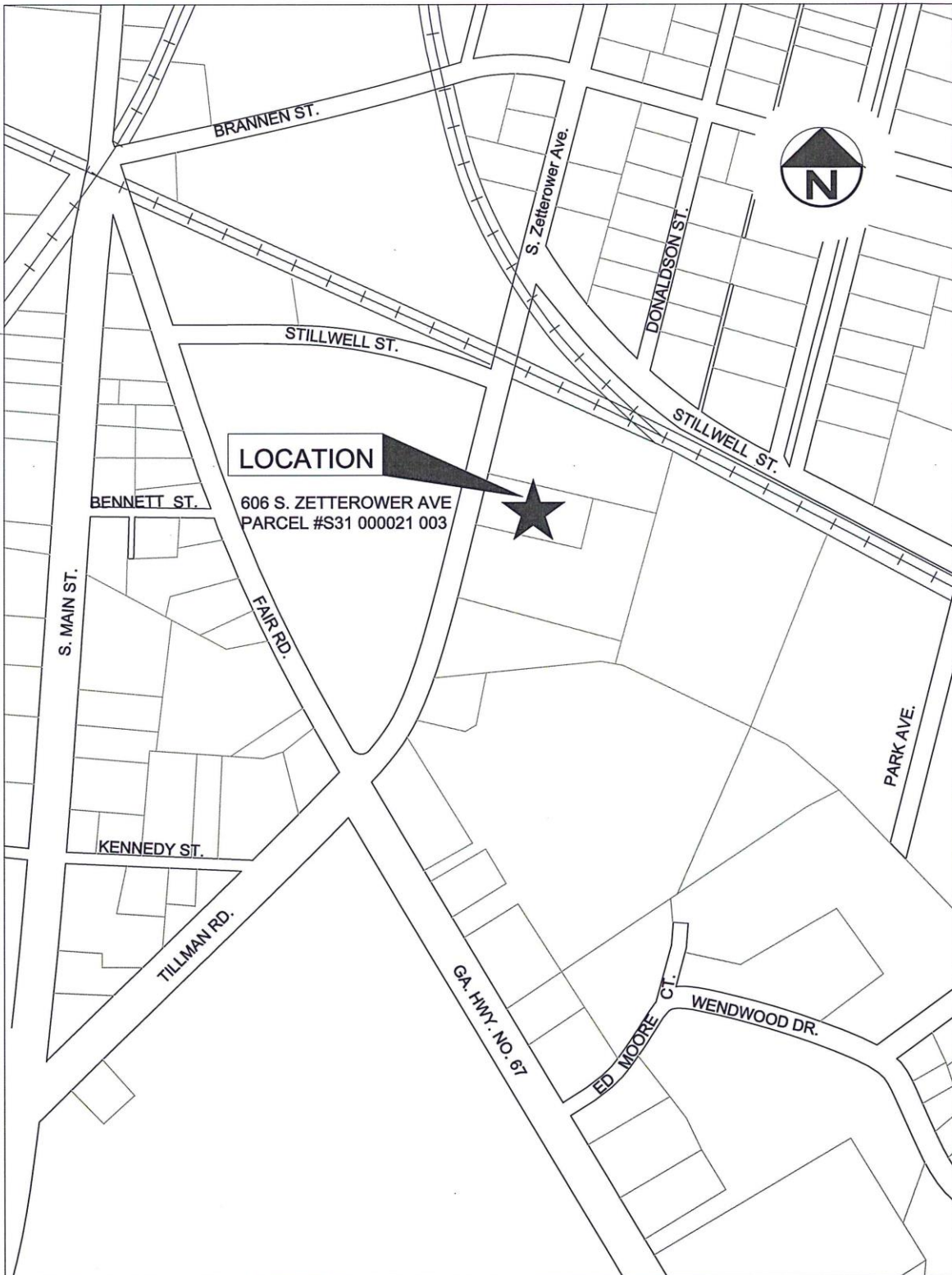


Exhibit C: Site Photos



Subject Property



North edge of building along existing 5' setback limit.



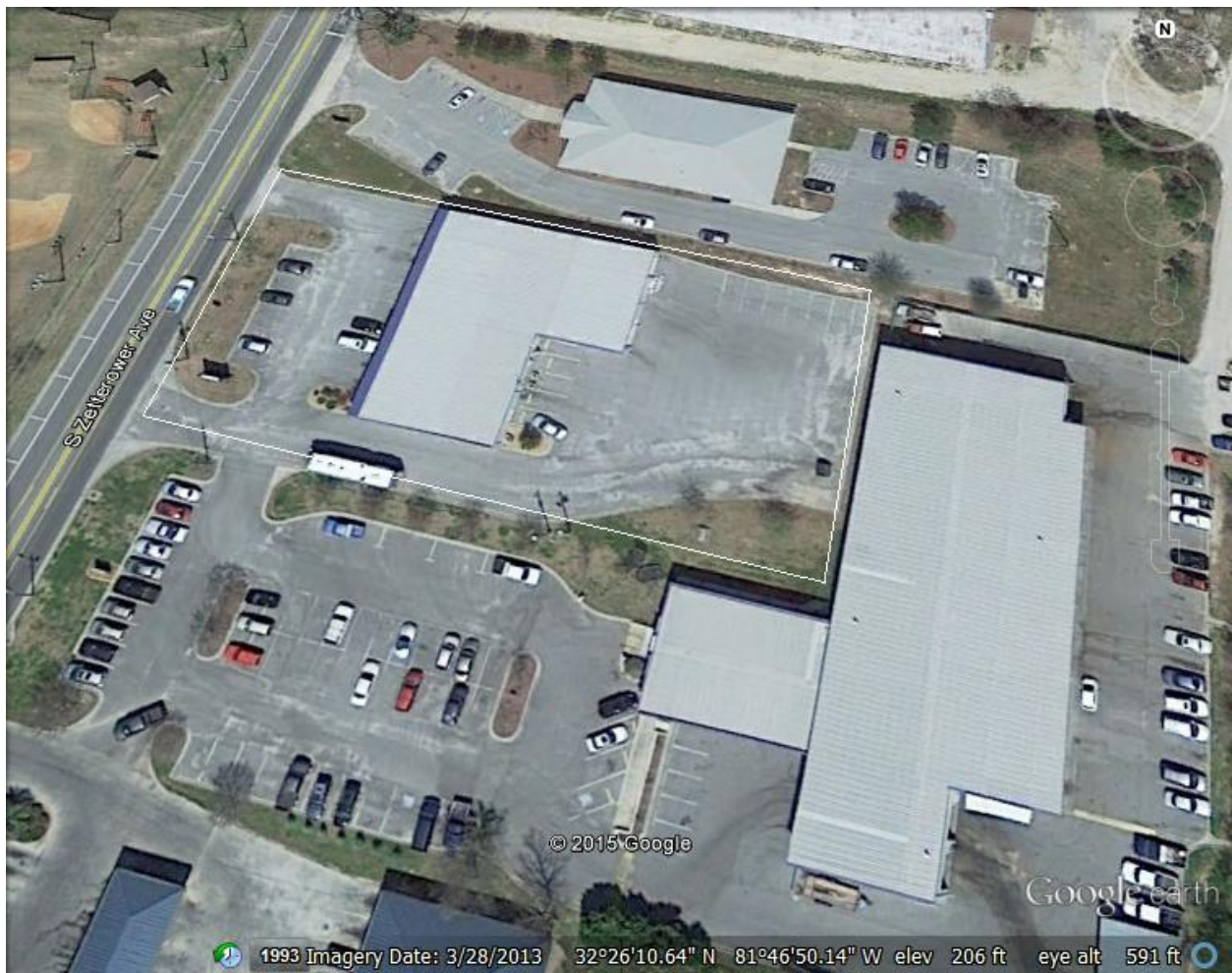
Rear of Property.



Rear view of building along 5' setback limit.



Rear view of property.



Aerial view of subject property and adjacent properties.



City of Statesboro – Department of Community Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
 Statesboro, Georgia 30458

» (912) 764-0630
 » (912) 764-0664 (Fax)

V 15-09-04
VARIANCE REQUEST
318 NORTH MAIN STREET

LOCATION: 318 North Main Street

REQUEST: Variance from Article IV regarding accessory setback requirements

APPLICANT: John Wayne Figg

OWNER(S): John Wayne Figg

LAND AREA: .41 acres

PARCEL TAX MAP #s: S26 000019 000

COUNCIL DISTRICT: District 1 (Boyum)



PROPOSAL:

The applicant is requesting a variance from Article IV, Section 401 of the *Statesboro Zoning Ordinance* to reduce the required accessory structure setback from 10' to 2.5' for the rear and right side setback to allow for an 18' X 24' open front wood and metal shed to be constructed to store recreational vehicles. (See **Exhibit A** – Location Map, **Exhibit B** – Photos)

BACKGROUND:

The subject site is zoned R20 (Single-Family Residential) and fronts North Main Street and East Moore Street. No case history could be found.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	R20 (Single-Family Residential)	Residential houses and duplexes
SOUTH:	R20 (Single-Family Residential)	Residential houses and duplexes
EAST:	R20 (Single-Family Residential)	Residential houses and duplexes
WEST	R20 (Single-Family Residential)	Residential houses and duplexes

The subject property is located in a single-family residential area with all property lines surrounded by parcels zoned as Single Family Residential. (See **Exhibit B**- Photos)

COMPREHENSIVE PLAN:

The subject site lies within the “Established Residential Neighborhood” character area identified by the 2014 City of Statesboro Future Development Map within the City of Statesboro 2014 Comprehensive Plan. The Established Residential Neighborhood character areas were developed from the late 19th to mid-20th century and feature connected street grids and sidewalks that transition into major downtown corridors allowing this area to support a mixed use of residential and commercial uses. Residents within this character area help to strengthen the urban core due to the fact that they can live, work, shop and play all within a walkable distance from their residence to downtown.

Appropriate land uses for the “Established Residential Neighborhood” character area as identified by the City of Statesboro 2014 Comprehensive Plan are as listed below:

- Neighborhood-scale retail and commercial
- Small scale office
- Neighborhood services
- Small lot single family residential
- Garage Apartments

2014 Statesboro Comprehensive Plan, Community Agenda page 17.

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

The subject site is currently served by city utilities including water and sewer, sanitation, and public safety services.

ENVIRONMENTAL:

The subject site does not contain wetlands nor is it located in a special flood hazard area.

ANALYSIS:

The subject site is a .41 acre double frontage lot that fronts North Main Street and East Moore Street and is currently zoned R20 (Single Family Residential). The site originally contained a 1528 square foot single family residence and a 360 square foot accessory storage building. In 2013, a building permit was issued for the construction of a 1280 square foot attached carport with a rear covered porch, making the single family principle structure a total of 2808 square feet. The residence and front yard area fronts North Main Street and the north side yard area containing a paved concrete driveway fronts East Moore Street. The existing storage building is located along the rear property line and is only visible from East Moore Street.

The applicant is requesting a variance from Article IV, Section 401 of the *Statesboro Zoning Ordinance* to reduce the required accessory structure setback from 10' to 2.5' for the rear and south side yard setbacks in order to construct an 18' X 24' open front wood and metal shed to store recreational vehicles. By ordinance where a double frontage lot exists, accessory structures shall be setback a distance equivalent to the minimum front yard setback which is 30' from each road frontage. The front and north side yard setbacks which front North Main Street and East Moore Street meet the required 30' double frontage setback. If the requested setback variance is granted, the applicant wishes to locate the accessory structure along the inner rear corner of his property line just passed the existing storage building. (See **Exhibit B**- Photos). The proposed structure would not be visible from North Main Street and the existing storage building would block direct visual sight of the proposed structure from East Moore Street.

It should be noted that desired location for the proposed accessory structure is lined by two individual wooden privacy fences that are owned by the adjoining east and south property owners. In support of the applicant, the adjacent property owners' submitted letters of written support for the applicant's request to be approved (See **Exhibit C**- Letters of Support).

In addition, Section 1801 of the Statesboro Zoning Ordinance lists the following four (4) factors that the Mayor and Council [could] consider to be true in its consideration of a variance request:

- (1) There are special conditions pertaining to the land or structure in question because of its size, shape, topography, or other physical characteristic and that condition is not common to other land or buildings in the general vicinity or in the same zoning district;
- (2) The special conditions and circumstances do not result from the actions of the applicant;
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.
 - o This request, if granted, would not cause substantial detriment to the public good.

STAFF RECOMMENDATION:

(Please note: Unless otherwise stated in any formal motion by City Council, staff considers the conceptual site plan (Exhibit B) submitted on behalf of the applicant for this request to be illustrative only. Approval of the application does not constitute approval of any final building or site plan).

PLANNING COMMISSION RECOMMENDATION:

Planning Commission voted 6-0 to approve the variance requested by application V 15-09-04.

EXHIBIT A: LOCATION MAP



EXHIBIT B: PHOTOS OF SUBJECT SITE & SURROUNDING PROPERTY

PHOTO 1: Subject Site from North Main Street with adjacent South Property beginning at the White Privacy Fence



PHOTO2: Subject Site from East Moore Street



EXHIBIT B: PHOTOS OF SUBJECT SITE & SURROUNDING PROPERTY CONT'D

PHOTO 3: Rear & North Side Yard view of the Subject Property from E. Moore Street & Attached Carport with Paved Driveway



PHOTO 4: Rear Yard View of Subject Site with the Existing Storage Building & Wooden Privacy Fence to Rear and South Side Property Line



EXHIBIT B: PHOTOS OF SUBJECT SITE & SURROUNDING PROPERTY CONT'D

PHOTO 5: Inner Corner Site Layout for the Proposed Shed. The Requested 2.5' Set back Variance would apply along the Fencing of the Rear and Side Property Lines.




PHOTO 6: South Side Yard View from the Inner Corner of the Rear Yard of Subject Site. Wooden Privacy Fence is to the left behind the shrub bushes. Porch is the back side of the Attached Carport



EXHIBIT C: LETTERS OF SUPPORT
LETTER 1: Cover Page & Attachment

9/9/2015 City of Statesboro Mail - Permission for Wayne Figg

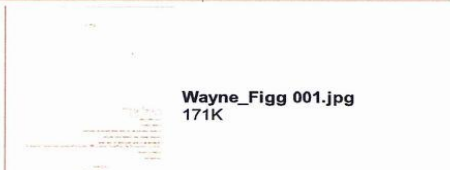
 **The City of Statesboro**
Cindy Clifton <cindy.clifton@statesboroga.gov>

Permission for Wayne Figg
1 message

ced8393@aol.com <ced8393@aol.com> Wed, Sep 9, 2015 at 11:56 AM
To: cindy.clifton@statesboroga.gov

Please find the attached document concerning permission for Wayne Figg to build.

Thanks,
Cathy Davis
ced8393@aol.com



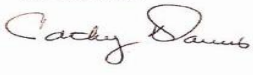
Untitled
9/9/2015

Attention:
Cindy Clifton

This is concerning my neighbor, Wayne Figg, and his proposed structure. I have no problem with him building in the back corner where our properties adjoin.

Please contact me if you need anything further.

Cathy Davis
931-980-2300



Page 1

Wayne_Figg 001.jpg 9/9/2015

EXHIBIT C: LETTERS OF SUPPORT CONT'D

LETTER 2: Email



Cindy Clifton <cindy.clifton@statesboroga.gov>

Wayne Figg permit

1 message

Jonathan Aceto <jaceto@frontiemet.net>
To: cindy.clifton@statesboroga.gov

Wed, Sep 9, 2015 at 11:14 AM

Hello Cindy,

I am the neighbor of Wayne Figg who lives on the corner of N. Main and E. Moore. He has asked for a permit to build a shed on his property next to mine. I understand his plans and approve of them. He has my permission to build.

Thank you!

Jonathan Aceto
316 North Main St.
Statesboro GA 30458
(912) 871-5876
mobile (706) 231-3071

MEMORANDUM OF UNDERSTANDING

RE: Georgia Southern University E-Zone and Innovation Incubator

The purpose of this document entered this _____ day of _____, 2015 is to amend certain provisions of the Memorandum of Understanding between the City of Statesboro (hereinafter referred to as the "City), Georgia Southern University (hereinafter referred to as "GSU"), and the Georgia Southern University Research and Service Foundation, Inc. (hereinafter referred to as "GSURSF") for the creation and funding of business incubation facilities, office space, and innovation laboratories in downtown Statesboro to facilitate economic and workforce development efforts in this region of the State. A copy of that document is attached as Exhibit A.

1.

The provision that shall be amended states in relevant part as follows:

The City intends to...Pay GSU the sum of Fifty Thousand and 00/100 Dollars (\$50,000) per year for a minimum of three years with that payment being made each July 1 beginning in July 2014. Payments will be held in a restricted account in support of the intended purpose. In the event that adequate funding and resources to achieve the intended purpose inclusive of costs of operation and maintenance of incubation facilities and innovation laboratory less Fifty Thousand and 00/100 Dollars (\$50,000) are not available each July 1 beginning in July 2014 from funding sources other than the City, the City shall be relieved of this obligation to pay GSU the sum of Fifty Thousand and 00/100 Dollars (\$50,000) for that year.

2.

The provision referenced directly above is hereby amended in its entirety to read as follows:

The City intends to... Beginning from the date of commencement of the operation of the incubation facilities and incubation laboratory, the City shall pay GSURSF on behalf of GSU the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) per year for a minimum period of three years specifically for costs directly associated with the operation and maintenance of the incubation facilities and incubation laboratory. These payments will be held in a restricted account in support of this specific purpose. For the sake of definition and clarity, the date of commencement of operation of the incubation facilities and incubation laboratory shall be the date of the ceremonial opening of the facilities.

GSURSF acknowledges receipt and possession of the first yearly payment of Fifty Thousand and 00/100 Dollars (\$50,000.00) due under this agreement from the City. This payment shall be credited as the first payment due under this agreement. The second yearly payment of Fifty Thousand and 00/100 Dollars (\$50,000.00) due under this agreement from the City to GSURSF shall be due 365 days after the ceremonial opening of the facilities. The third yearly payment of Fifty Thousand and 00/100 Dollars (\$50,000.00) due under this agreement from the City to GSURSF shall be due 730 days after the ceremonial opening of the facilities.

In any year where the City is obligated to make this payment to GSURSF, and adequate funding and resources to achieve the intended purpose inclusive of costs of operation and maintenance of incubation facilities and innovation laboratory, less Fifty Thousand and 00/100 Dollars (\$50,000), are not available from funding sources other than the City, the City shall be relieved of the obligation to pay GSURSF the sum of Fifty Thousand and 00/100 Dollars (\$50,000) for that year.

3.

All other provisions of the Memorandum of Understanding attached as Exhibit A not expressly amended are adopted here as if fully stated here, and remain in full force and effect.

Georgia Southern University

By: _____
Robert L. Whitaker, VP for Business and Finance

Date: _____

City of Statesboro

By: _____
Jan J. Moore, Mayor

Date: _____

Attest: _____
Sue Starling, City Clerk

Georgia Southern University Research and Service Foundation, Inc.

By: _____
Eleanor Haynes, Interim Director

Date: _____



MEMORANDUM OF UNDERSTANDING



RE: Georgia Southern University E-Zone and Innovation Incubator

The intended purpose of this endeavor is the creation and funding of business incubation facilities, office space, and innovation laboratories in downtown Statesboro to facilitate economic and workforce development efforts in this region of the State,

This purpose of this document is to broadly define the understanding between the City of Statesboro (hereinafter referred to as the “City”), Georgia Southern University (hereinafter referred to as “GSU”), and the Georgia Southern University Research and Service Foundation, Inc. (hereinafter referred to as “GSURSF”) in anticipation of entering appropriate legal agreements to achieve the intended purpose of this endeavor.

The City intends to:

1. Enter into necessary legal arrangements to demonstrate control of title to the building that is the site of the current University Entrepreneur Zone and the offices of the Bureau for Business Research and Economic Development (58 East Main Street), as well as the adjacent building (62 East Main Street).
2. Cooperate with GSU in the pursuit of external funding and to leverage the city’s purchase of the two aforementioned buildings, and other costs as determined reasonable, to meet any and all GSU cost share requirements of potential sponsoring agencies.
3. If sponsor funding is obtained for renovations, the City shall comply with the conditions of the sponsor’s funding.
4. Charge nominal rent to the appropriate lessee for the lease and occupancy of the aforementioned properties with the cost and responsibility for maintenance of these buildings allocated between the City and the lessee per the terms traditionally associated with the lease of commercial property. This lease agreement shall also place limits on the subleasing of space in the aforementioned building by the lessee in order to provide sufficient space for companies in need of incubation, and require that revenue from subleases be recommitted to the operation and maintenance of incubation facilities and the innovation laboratory.

5. Pay GSU the sum of Fifty Thousand and 00/100 Dollars (\$50,000) per year for a minimum of three years with that payment being made each July 1 beginning in July 2014. Payments will be held in a restricted account in support of the intended purpose. In the event that adequate funding and resources to achieve the intended purpose inclusive of costs of operation and maintenance of incubation facilities and innovation laboratory less Fifty Thousand and 00/100 Dollars (\$50,000) are not available each July 1 beginning in July 2014 from funding sources other than the City, the City shall be relieved of this obligation to pay GSU the sum of Fifty Thousand and 00/100 Dollars (\$50,000) for that year.

GSU intends to:

1. Cooperate with the City on the design, oversight and approval of improvements to the City-owned facilities through the use of external funding acquired by the GSURSF for the intended purpose.
2. Provide the City a right of approval on all bids, contracts and improvements to the City-owned facilities.
3. Agree to the appointment of a City representative to the board charged with oversight of the business incubation facilities, office space, and innovation laboratories in downtown Statesboro.
4. Assign associated personnel and resources, and to reallocate sufficient funding to support GSU's efforts toward the intended purpose within these facilities including, but not limited to, operational costs of the incubation facilities and innovation laboratory.
5. Work with City leaders to establish and develop programs leading to advancement of the intended purpose and to establish Statesboro and Bulloch County as a hub of Economic Development for South Georgia.

Georgia Southern University Research and Service Foundation, Inc., intends to:

1. Serve as the authorized party for submission of proposals, receipt of awards and management of award funds for the Intended Purpose, consistent with the GSURSF's mission as the recipient of restricted funding to support Georgia Southern University's mission in research, scholarship and economic development efforts.

2. Use all reasonable efforts to secure external funding to support renovation of these facilities for the intended purpose. Provide GSU and City with copies of award documents for any external funding received.
3. Provide external funding received by the GSURSF to GSU, the City, and other authorized parties for the intended purpose, including but not limited to, operational costs of the incubation facilities and innovation laboratory as well as improvements to the City-owned facilities at 58 East Main Street and 62 East Main Street.
4. Provide the City a right of approval on all bids, contracts and improvements to the City-owned facilities.

Georgia Southern University

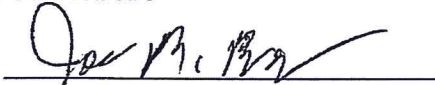
By:



Charles E. Patterson, VP for Research & Economic Development

City of Statesboro

By:



Joe R. Brannen, Mayor

Attest:

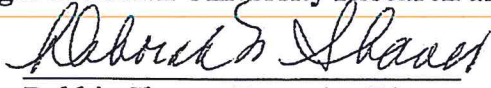


Sue Starling, City Clerk



Georgia Southern University Research and Service Foundation, Inc.

By:



Debbie Shaver, Executive Director