

STATESBORO PLANNING COMMISSION

October 9, 2012

5:00 p.m.

City Hall Council Chambers

MEETING AGENDA

1. Call to Order
2. Motion to Approve Order of the Meeting Agenda
3. Approval of Minutes
 - a. August 14, 2012 Regular Meeting—Note: Only those members present and returning to the Planning Commission should vote on this item.
 - b. September 11, 2012—Cancelled Meeting
 - c. October 2, 2012—Orientation and Training
4. New Business
 - I. a. **APPLICATION # RZ 12-06-04**: DNA Properties requests a zoning map amendment from R-15 (Single-Family Residential) District to PUD (Planned Unit Development) District for property located on Zetterower Road (Tax Parcel # S14000028001).

b. **APPLICATION # V 12-06-05**: DNA Properties requests a variance from Section 1402 of the Statesboro Zoning Ordinance regarding lot regulations for PUD (Planned Unit Development) for property located on Zetterower Road (Tax Parcel # S14000028001).
 - II. **APPLICATION # V 12-09-02**: Vaden Nissan of Statesboro, Inc., requests a variance from Article XV of the Statesboro Zoning Ordinance regarding signs for property located at 686 Brannen Street. (Tax Map # MS84000100000).
 - III. **APPLICATION # SE 12-09-03**: Gracious Development, LLC requests a special exception be granted pursuant to the *Statesboro Zoning Ordinance* to allow the applicants to utilize the property located at 323 Johnson Street (Tax Parcel Number S11000011000) as a convenience store and/or a restaurant and that the property qualify

for consideration for issuance of an alcohol license by the Mayor and City Council of the City of Statesboro.

5. Announcements

6. Adjourn

STATESBORO PLANNING COMMISSION

August 14, 2012

5:00 P.M.

City Hall Council Chambers

Minutes

Present: Planning Commission Members: Rick Barr, Andrew Hansen, Nick Propps, Teresa Concannon, and Ray Hendley. City of Statesboro staff: Director of Planning and Development Mandi Cody, City Manager Frank Parker, Development Clerk Cindy Steinmann, and Administrative Assistant Debra Wiese.

Absent: Planning Commission Members: Brian Hulsey and Jonathan McCollar

1. Approval of Meeting Agenda

Motion made to approve the order of the meeting agenda by Commissioner Concannon; second by Commissioner Barr. Motion carried 5 to 0. Order of meeting agenda approved.

2. Approval of Meeting Minutes

a. July 10, 2012 meeting.

Motion made to approve by Commissioner Concannon; second by Commissioner Hansen. Motion carried 5 to 0. Minutes approved.

3. New Business

- a. **APPLICATION # RZ 12-06-10**: James M. Hood requests a zoning map amendment from R-20 (Single-Family Residential) District to R-4 (High Density Residential) District for property located at 444 South College Street (Tax parcel # S21000011001).

Commissioner Hendley recused himself. Cindy Steinmann presented the staff report. Virginia Russell from 12 West Kennedy Street spoke of concerns with noise and traffic. Mr. Hood spoke in favor of the application. Mr. Hendley stated that students or families could rent and that he was going with a lower density than what was requested. There will be two exits one at Main and one at College. Planning Commission recommended approval. Motion

to approve made by Teresa Concannon; second by Rick Barr. Motion carried 4 to 0. Motion approved.

- b. **APPLICATION # RZ 12-07-01**: Josh Whitfield requests a zoning map amendment from O (Office) District to CR (Commercial Retail) District for property located at 56 Zetterower Avenue (Tax Parcel # S38000056000).

Commissioner Hendley rejoined the Commission. Cindy Steinmann presented staff report. Mr. Whitfield spoke in favor and answered questions. Ms. Cody stated that an Office zone is more restrictive than a Commercial Retail zone. A sign company would not be allowed in an Office zone but would be in a Commercial Retail zone. Approval is being recommended by City staff. Commissioner Barr made a motion to approve then amended his motion to include the following staff recommended condition: Applicant must reconstruct driveway to meet GDOT specifications. Motion made to approve by Rick Barr; second by Ray Hendley. Motion carried a 5 to 0. Motion approved.

- c. **APPLICATION # RZ 12-07-02**: Copper Beech Town Home Communities, LLP, requests a zoning map amendment from CR (Commercial Retail) District to R-4 (High Density Residential) District for property located on Statesboro Place Circle.

Cindy Steinmann presented staff report. John Dotson represented the application spoke in favor of rezone and answered questions. Commissioner Concannon questioned the need for sidewalks or bike lane. Mr. Dotson said he would request with his client. Approval recommended by City staff. Motion made by Teresa Concannon to approve; second by Rick Barr. Motion carried a 5 to 0. Motion approved.

4. Adjourn

Motion made by Ray Hendley to adjourn meeting; second by Andrew Hansen. Motion carried 5 to 0. Meeting adjourned.

These minutes were adopted by the City of Statesboro Planning Commission at its October 9, 2012 meeting.

Chair – Nick Propps

Secretary – Mandi Cody, Director of
Planning and Development

DRAFT

STATESBORO PLANNING COMMISSION
September 11, 2012
5:00 P.M.
City Hall Council Chambers

The September 11, 2012 Planning Commission meeting was cancelled due to lack of agenda items for consideration.

Chair – Nick Propps

Secretary – Mandi Cody, Director of
Planning and Development

STATESBORO PLANNING COMMISSION
New Member Orientation and Training
October 2, 2012
4:00 P.M. to 6:00 P.M.
City of Statesboro Development Annex

Minutes

Present: City of Statesboro staff: Director of Planning and Development Mandi Cody, City Manager Frank Parker, Mayor Brannen, Development Clerk Cindy Steinmann, Administrative Assistant Debra L. Wiese, and Nichole Mitchell, Research Assistant.
Planning Commission Members: Nick Propps, Rick Barr, Holmes Ramsey, April R. Stafford, and R. Jeremy Ragan.

Absent: Planning Commission Members: Jonathan McCollar and Jim Benton

New Business

Mayor Brannen and City Manager Parker thanked the Planning Commission members for their service to the city and welcomed the new appointees. Mandi Cody conducted training. Handouts were given out: 1) business cards for Mandi Cody and Cindy Steinmann; 2) Right Start brochures; 3) Power Point presentation; 4) contact list, and 5) annual Planning Commission/City Council 2013 meeting schedule. All handouts are attached as exhibits.

No official business taken.

Meeting adjourned.



City of Statesboro – Department of Community Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
 Statesboro, Georgia 30458

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

RZ 12-06-04 & V 12-06-05
ZONING MAP AMENDMENT & VARIANCE REQUEST
ZETTEROWER ROAD

LOCATION: Zetterower Road

REQUEST: Rezone from R15 (Single Family Residential) to PUD (Planned Unit Development) and a variance from 10 acre minimum for PUD.

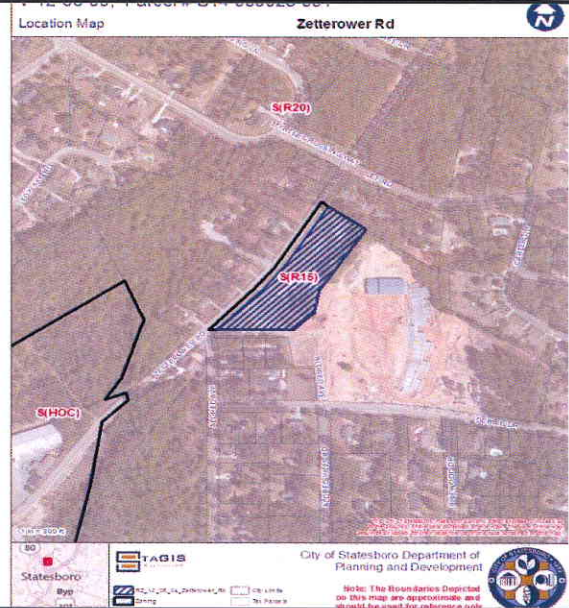
APPLICANT: DNA Properties

OWNER(S): DNA Properties

LAND AREA: 2.84 acres

PARCEL TAX MAP #s: S14000028001

COUNCIL DISTRICT: District 1



PROPOSAL:

The applicant is requesting a zoning map amendment of approximately 2.84 acres located on Zetterower Road from R15 (Single Family Residential) District to PUD (Planned Unit Development) as well as a variance from Article XIV, Section 1402 of the *Statesboro Zoning Ordinance* which requires a ten (10) acre minimum lot size for a PUD (Planned Unit Development). The intent of the zoning map amendment is to apply zoning regulations that accommodate the unique land use needs associated with this type of development. (See **Exhibit B** – Location Map & **Exhibit C** – Sketch Plan)

BACKGROUND:

The subject site is currently zoned R15 (Single Family Residential). This vacant lot was rezoned in 2004 from R20 (Single Family Residential) with 20,000 square foot minimum lot sizes to R15 (Single Family Residential) with 15,000 square foot minimum lot sizes with the anticipation of possible subdivision of the parcel into seven smaller lots for single family homes.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	R20 (Single Family Residential)	Residential
SOUTH:	R20 (Single Family Residential)	Residential
EAST:	R20 (Single Family Residential)	Residential & Educational Facilities
WEST	R20 (Single Family Residential) & HOC (Highway Oriented Commercial)	Vacant, Residential, & Commercial

The subject property is located in a primarily residential use area with the property's eastern property line surrounded by parcels zoned R20 (Single Family Residential) and utilized by Mattie Lively Elementary School as an educational learning facility. The southern, northern, and western parcels are also zoned R20 (Single Family Residential) and

includes several single family homes, a daycare, and a major residential subdivision while much of the southwestern portions remain vacant zoned HOC (Highway Oriented Commercial). (See Exhibit C)

COMPREHENSIVE PLAN:

The subject site lies within the "Developing" character area as identified by the City of Statesboro Future Development Map adopted by the *City of Statesboro Comprehensive Plan*. The "Developing" character areas are identified as being primarily residential consisting largely of single family homes. Undeveloped areas are under pressure to grow in a suburban manner. Development patterns should be evaluated to maximize opportunities for appropriate blending of residential, office, and commercial development.

Small to mid-size retail and commercial, office, single family, and multifamily residential are all appropriate land uses for properties within the Developing character areas. Some suggested development and implementation strategies for the area include the following:

- Large new developments should be master-planned to include mixed-uses wherever appropriate.
- New developments should provide recreational facilities and open space to meet the needs of their residents.
- Promote street design that fosters traffic calming such as narrower residential streets, on-street parking, and addition of bicycle and pedestrian facilities.

Statesboro Comprehensive Plan, Community Agenda pages 16-17.

As illustrated in the *Comprehensive Plan*, master planned development in this area is favorable. This development is proposing a unique and innovative design including a narrower roadway with interconnected sidewalks for pedestrian access to a community courtyard. Utilizing the subject site as a Planned Unit Development containing smaller homes on smaller lots contributes to realizing the aforementioned goals set forth by the *Comprehensive Plan* with the subject site being surrounded by single family residential with larger lot sizes, commercial uses, and a school to the east. See **Exhibit B**.

"Planned Unit Developments, or PUDs, typically offer greater flexibility in development standards than a conventional zoning district. With this flexibility, there is also an opportunity to include housing diversity, mixed uses, and amenities. 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. The City may grant more leeway in the certain areas of the regulations for a PUD, but in exchange, there are expectations of the development community for additional design features, amenities, etc." *Statesboro Comprehensive Plan, Community Agenda pages 41-42.*

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

The subject site is currently served by city utilities including water and sewer, sanitation, and public safety services. No significant impact is expected on community facilities 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 are no unusual environmental issues expected should this request be granted. Any potential issues will be brought forth and discussed during standard permitting and review procedures.

ANALYSIS:

The 2.84 acre subject site is currently zoned R15 (Single Family Residential) as a result of a decision by Mayor and City Council to grant a rezone due to the applicant's anticipation of subdividing the parcel into seven lots. The applicant's request to rezone the property from R15 (Single Family Residential) to PUD (Planned Unit Development) containing only residential uses would allow for a planned development of approximately 17 single family homes on a minimum of 4,000 square foot lot sizes rather than the required 15,000 square foot lot sizes. Article XIV of the *Statesboro Zoning Ordinance* requires a minimum lot size of 10 acres for a Planned Unit Development; thus, as a 2.84 acre site, the applicant has requested a variance from the PUD lot size requirement in addition to the rezone.

A Planned Unit Development, hereafter referred to as "PUD", is defined as an area of land to be developed for a number of dwelling units, the plan for which does not correspond in lot size, type of dwelling, density, lot coverage, required open space, etc. to the regulations established in any one or more districts created under the provisions of the zoning ordinance. The purpose of a PUD district is to achieve great flexibility in the use and design of structure and land while providing a more desirable living environment than would be possible through the application of the zoning ordinance requirements. In addition, a PUD zoning designation encourages developers to use a more creative approach and desirable use of open land.

The applicant's proposed PUD is intended to address the unique needs associated with the residential development proposed by this application. The applicant wishes to develop the site with a unique and innovative approach similar to the increasingly popular conservation subdivisions known as "pocket" or "cluster neighborhoods".

"Many Planned Unit Developments use cluster development as a technique, but the planned unit development concept typically encompasses more". *Land Use Planning & Development Regulation Law* page 286.

The request to rezone the 2.84 acre subject property from R15 (Single Family Residential) district to PUD (Planned Unit Development) district 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 residential 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;**
 - o Existing uses and zoning of nearby property range from commercial and educational facilities to single family residential homes. According to the *Statesboro Comprehensive Master Plan*, this area is under pressure to grow in a mixed use manner. Mixed use can be defined as the use of a building or neighborhood for more than one purpose. Mixed use developments provide a range of commercial and residential unit sizes and options while maintaining the intent and character of the area.
 - o "Spot Zoning is or may be the rule in a PUD, rather than something to be avoided." *Land Use Planning & Development Regulation Law* page 286.
 - o Although this property is surrounded by mostly R20 (Single Family Residential) Districts that require 20,000 square foot lots, many of those lots are, in fact, smaller than the standard with sizes ranging from 10,000 to 16,000 square foot lots.
- (2) **The extent to which property values are diminished by the particular zoning restrictions.**
 - o Property values should be expected to increase with the development of the proposed unique neighborhood with an open courtyard.
- (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.**
 - o Safety is believed to be enhanced in pocket neighborhoods with a sense of closeness and familiarity of the surrounding neighbors.
- (4) **The relative gain to the public, as compared to the hardship imposed upon the property owner.**
 - o This type of development offers the public a sense of community, particularly in an area that is undeveloped and under pressure to grow.
- (5) **The suitability of the subject property for the zoned purposes.**
 - o The proposed land use does not meet the provisions of the *Statesboro Zoning Ordinance*; and, therefore, requires a PUD to address the unique needs associated with the proposed residential development with a variance to sanction such PUD.
 - o The proposed land use not only meets but also implements recommended provisions of the *Comprehensive Plan*.
 - o The property is currently a vacant residential zoned area that strives to develop in a residential manner with smaller homes and communal areas on smaller lot sizes to allow for a better use of the property as a planned development with a unique design. If subdivided, the parcels created would be inconsistent with the *Statesboro Zoning Ordinance* at its current zoning designation.
- (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.**
 - o The property has been vacant and zoned single family residential for numerous years while the surrounding properties have developed in major ways, particularly the adjacent school.
- (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;**
 - o Traffic counts for the immediate area (and thereby relative to the subject property's proposed use) states that the total average annual daily trips reached approximately 1,810 trips both ways for the year 2011 which is not expected to increase significantly with the applicant's request. Although the

- addition of Mattie Lively school has since developed, no thru traffic enters or exits Zetterower Road for purposes of the school with the exception of school buses.
- The Bulloch County/City of Statesboro Long Range Transportation Plan does not express the need for pedestrian amenities along Zetterower Road. This segment of Zetterower Road is not currently served by sidewalks, curbs, or gutters but the proposed development is expected to contain interconnected sidewalks.
 - The proposed use is not expected to have a negative impact on population density, community facilities, living conditions, traffic patterns and property values in adjacent areas given its residential nature with an access road, and is not expected to be negative or burdensome to the general public or surrounding property owners.
- (8) Consistency with other governmental land use, transportation, and development plans for the community.**
- The requested zoning map amendment is consistent with the policies articulated within the 2035 *Bulloch County/City of Statesboro Long Range Transportation Plan*.
 - As illustrated on the sketch plan submittal, the subject property can be developed in conformance with the requirements for the proposed PUD (Planned Unit Development) zoning district as set forth in the *Statesboro Zoning Ordinance*, given a variance is granted waiving the lot size requirement for PUD. **Exhibit A** lists general provisions particular to this development in regards to setback, parking, buffering, and other development requirements set forth in the *Statesboro Zoning Ordinance*.
 - The *Statesboro Comprehensive Plan* adopts a goal of “promot[ing] infill and redevelopment” stating that “infill development, which consists of developing vacant lots dispersed in developed areas, strengthens neighborhoods and reinvests money into infrastructure which is already in place”. (*Community Agenda, page 51*). The requested utilization of the subject site would achieve this goal and apply the suggested development and implementation strategies for this property’s character area.

In addition, the proposed PUD may only be considered and/or permitted if a variance from Section 1402 is granted to allow a PUD on a parcel that is less than 10 acres. Section 1801 of the *Statesboro Zoning Ordinance* lists four factors that the Mayor and City Council may 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;**
 - The subject site is 2.84 acres and does not meet the PUD lot regulations..
 - This subject site is irregular in shape and has uneven topography, making portions of the property undevelopable.
- (2) The special conditions and circumstances do not result from the actions of the applicant;**
 - The shape, topography, and most importantly size of the property are not the result of any actions of the applicant.
- (3) The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - Applying the 10 acre minimum lot size requirement for PUD (Planned Unit Developments) would deny the applicant the opportunity to create a unique residential design due to the irregular shape and size of the lot.
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the zoning regulations.**
 - This request, if granted, would not cause substantial detriment to the public good. This proposal would apply the intent of the zoning regulations by permitting unique design to a vacant undeveloped property as well as implement adopted strategies of the *Comprehensive Plan*.

STAFF RECOMMENDATION:

Should a Zoning Map Amendment be granted, staff has suggested development regulations for City Council to consider in **Exhibit A**.

(Please note: Unless otherwise stated in any formal motion by City Council, staff considers the conceptual site plan (Exhibit C) 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).

EXHIBIT A – GENERAL PROVISIONS FOR RZ 12-06-04

The PUD (Planned Unit Development) District for the property proposed within Zoning Map Amendment RZ 12-06-04, and listed in the case file at the time of adoption by Statesboro City Council as Zetterower Road or Tax Map Parcel S14000028001, shall adhere to all applicable provisions of the Statesboro Zoning Ordinance not addresses herein, and the general requirements contained within this defining narrative. Where the general requirements of this Planned Unit Development conflict with the provisions of the *Statesboro Zoning Ordinance* and other applicable chapters of City Code, the more stringent shall apply. Where particular development regulations are not addresses herein, the General Provisions of the Statesboro Code of Ordinances shall apply.

A. **Administration:** In addition to the provisions of Article XVII (Administration) of the Statesboro Zoning Ordinance, the following shall be applicable to the subject property.

1. The Director of Planning and Development shall have the duty and power to administer the provisions of RZ 12-06-04 unless otherwise provided. Where referenced herein, the term "Director of Planning and Development" may also include her/his designee.
2. The City Engineer shall have those specific and necessary duties and powers referenced herein to administer the provisions of RZ 12-06-04. Where referenced herein, the term "City Engineer" may also include her/his designee.
3. *Minor Amendments.* In addition to the provisions of Article XIV (Planned Unit Development District), the Director of Planning and Development shall have the authority to approve minor amendments to the PUD District created by action of the Statesboro City Council for RZ 12-06-04. Minor amendments shall not include changes that intensify the use of the property as otherwise permitted in the Single Family Residential Districts, or changes that conflict with the requirements listed herein as determined by the Director. Where the Director of Planning and Development determines that a proposed amendment to PUD cannot be classified as "minor" in nature, such amendments shall be deemed as major amendments and will require the submittal of a zoning map amendment by the applicant consistent with the provisions of Article XX (Amendments) of the *Statesboro Zoning Ordinance*.
4. *Major Amendments.* Deemed a deviation of more than twenty percent (20%) from the standard, or any other deviation, that the Director of Planning and Development feels exceeds the scope of approval of City Council.
5. *Permits/Subdivision.* A major subdivision plat shall be approved by the City of Statesboro and shall be recorded by subdividing the parcels subject to RZ 12-06-04 prior to the approval of any building permits for this site.

B. **Land Uses:**

1. *Permitted Uses.* Single family residential structures. All structures must be constructed of a wooden frame.

C. **Area, Width and Yard Regulations:**

1. *Lot Area and Width.* A minimum lot area of 4,000 square feet shall be provided for every parcel dedicated to use for a building hereafter erected, altered or used in whole or in part as a dwelling.
2. *Front Yard.* There shall be a front yard on each lot which shall not be less than five (5) feet in depth from the property line.
3. *Side Yards.* There shall be two side yards, each having a width of not less than six (6) feet.
4. *Rear Yard.* There shall be a rear yard in each lot the depth of which shall not be less than twelve (12) feet, except that an accessory use structure may be erected within the rear yard not closer than five (5) feet to the rear property line.
5. *Distance between Buildings:* There shall be a distance of at least twelve feet (12') between any buildings.
6. *Building Coverage:* Not more than sixty five percent (65%) of any lot shall be occupied by buildings.

D. **General Provisions:**

1. In addition to the provisions of Article XXII (General Provisions), each single family detached dwelling shall be at least 1,000 square feet in minimum size (heated space).

E. **Buffers:**

In addition to the provisions of Article XXIII (Buffer Requirements), City Council may decide whether the subject property shall implement one (1) or all of the following along Zetterower Road:

1. *Landscape Buffer Strip.* A strip at least ten (10) feet wide, densely planted with shrubs and/or trees at least six (6) 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.
2. *Landscape Buffer Wall.* A buffer strip, containing an opaque wall or barrier or uniformly painted fence at least six (6) feet in height. The buffer strip shall have 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.

F. **Subdivision Regulations - Streets:**

In addition to Appendix B (Subdivision Regulations), the following shall be applicable to the subject property subject to the City Engineer's approval:

1. *Street Right-of-Way Widths.* Section 4.3(13) states that the minimum street right-of-way widths shall be sixty (60) feet for a two (2) lane local street. The subject property of RZ 12-06-04 shall provide at least a forty (40) foot right-of-way to be deeded to the City comprised of the following:
 - Minimum width of twenty (20) feet of pavement.
 - Minimum width of four (4) feet of sidewalk on each side of the right of way rather than the required five (5) feet required by Section 4.3(20). Sidewalks must comply with ADA standards.

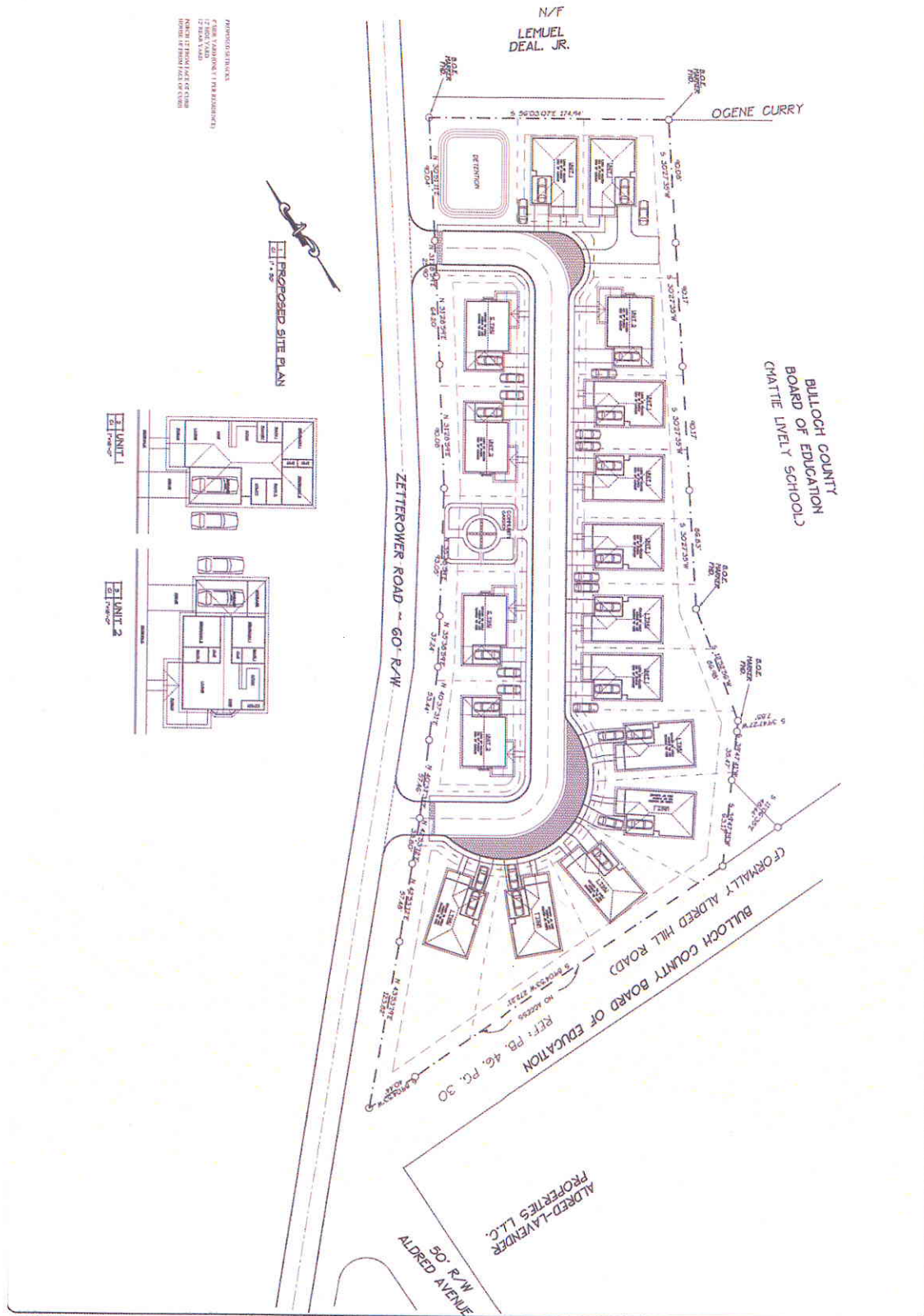
Note: The City of Statesboro Right-of-Way does not include parking spaces. All cars must remain parked off of the Right-of-Way.

2. *Utility Easements.* Section 4.3(18) states easements having a minimum width of twenty (20) feet located along the side or rear lot lines shall be provided for utility lines and underground mains and cables. The subject property of RZ 12-06-04 shall be exempt from this provision.
3. Storm water detention related structures/facilities located outside of the City of Statesboro's street rights of way will not be the responsibility of the City to maintain.
4. All infrastructure standards stated in the City of Statesboro Subdivision Regulations must be adhered to unless specifically noted otherwise by Mayor and City Council.

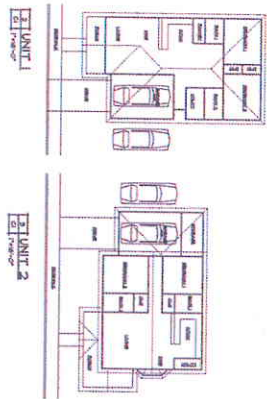
EXHIBIT B: LOCATION MAP



EXHIBIT C: SKETCH PLAN



APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF BULLOCH, GEORGIA, ON 12/12/12. THE BOARD OF SUPERVISORS HAS REVIEWED THE PLAN AND HAS APPROVED THE PLAN AS SHOWN ON THIS SHEET.



SHEET NO. C1	MARTIN PAUL & ASSOCIATES ARCHITECTS	12A E. GRADY ST. P.O. BOX 1382 912-764-6288 FAX: 488-2440 STATESBORO GEORGIA 30458	POCKET COMMUNITY for D.N.A. PROPERTIES ZETTEROWER ROAD, STATESBORO GEORGIA	FILE NAME: 0641
				DRAWN BY: 9-24-12

EXHIBIT D: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY.



Figure 1: The Subject Property from Zetterower Road.



Figure 2: Subject Property.

EXHIBIT D: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 4: Residential Homes and Daycare across Zetterower Road from the Subject Property.



Figure 5: Mattie Lively School and Bus Access Adjacent to the Subject Property.

EXHIBIT D: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 6: Subject Property from Mattie Lively School.



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 12-09-02
VARIANCE REQUEST
686 BRANNEN STREET

LOCATION: 686 Brannen Street

REQUEST: Variance from Section 1509 (Tables 2 and 5) regarding sign style and sign height in Sign District 3.

APPLICANT: Vaden Nissan or Statesboro, Inc.

OWNER(S): Statesboro Dealership Properties, LLC

LAND AREA: 12.56 acres

PARCEL TAX MAP #s: MS84000100016

COUNCIL DISTRICT: District 5 (Chance)



PROPOSAL:

The applicant is requesting a variance from Section 1509B (Table 2) which requires monument style freestanding signs and Section 1509C (Table 5) which restricts maximum freestanding sign height to eight feet (8') for property located at 686 Brannen Street, defined as Sign District 3 by Article XV (Signs) of the *Statesboro Zoning Ordinance*. (See **Exhibit C** for table) The applicant wishes to move the two (2) freestanding signs that do not meet the provisions of the Ordinance from the original Vaden Nissan site on South Main Street to this location. Both signs were permitted by grant of a variance by Mayor and City Council in 2000 to locate at the existing location on South Main Street. Both the South Main Street and the Brannen Street locations are classified as being in Sign District 3. One of the aforementioned signs is a stanchion style sign with a height of twenty four feet (24'), while the other is a monument style sign with a height of thirty five feet (35'). (See **Exhibit A** – Location Map & **Exhibit B** – Sign Rendering)

BACKGROUND:

The subject site is currently zoned CR (Commercial Retail) with a Special Exception granted by Mayor and City Council on October 4, 2011 to allow for the use of the property as auto sales.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	CR (Commercial Retail)	Retail and Food Services
SOUTH:	R15 (Single Family Residential)	Undeveloped
EAST:	CR (Commercial Retail)	Retail and Food Services
WEST:	CR (Commercial Retail)	Retail and Food Services

The subject property is located in a primarily commercial use area with the property's northern, eastern, and western property lines surrounded by parcels zoned CR (Commercial Retail) and include a mix of restaurants and retail sale sites, including Wal-Mart, Statesboro Mall, Gently Square, and Statesboro Crossing. The southern parcels are zoned R15 (Single Family Residential) but remain vacant and undeveloped. (See **Exhibit E**)

COMPREHENSIVE PLAN:

The subject site lies within the "Activity Centers" character area as identified by the City of Statesboro Future Development Map within the *City of Statesboro Comprehensive Plan*. The "Activity Centers" character areas are identified as areas that incorporate (or will incorporate) a wide range of land uses, but have historically developed in a manner that is auto-oriented with an abundance of large surface parking lots. The long-term development pattern preferred for Activity Centers is to incorporate features that mitigate these expanses of surface parking by incorporating new landscaping, framing parking areas with street-oriented infill construction, and including features that support other transportation options.

The *Statesboro Comprehensive Plan* also lists strategies which should be considered throughout the city, regardless of character area. One of those strategies is to reduce visual clutter of signs by incorporating uniform design features. Additionally, the *Statesboro Comprehensive Plan* indicates that "development decisions should be fair and predictable, relying on well-crafted development regulations."

As illustrated in the *Comprehensive Plan*, the recently permitted retail use in this area is favorable. Allowing this property to increase sign height rather than allowing additional smaller signs contributes to the reduction of visual clutter.

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

The subject site is currently served by city utilities including water and sewer, sanitation, and public safety services. No significant impact is expected on community facilities as a result of this request. Frontage and physical access is granted to the site by Brannen and the forthcoming street currently being constructed by the applicant for dedication as public right of way.

ENVIRONMENTAL:

The subject property does contain wetlands and is located in a special flood hazard area; however, all environmental issues related to the development of the property have been addressed during the standard permitting and inspection procedures. This request is not expected to have any impact on the wetlands.

ANALYSIS:

The subject site is located in Sign District 3 and is currently zoned CR (Commercial Retail) with a Special Exception granted by Mayor and City Council on October 4, 2011 to allow for the use of the property as auto sales. Since then, the property has been cleared and construction began with anticipation to begin operations within the next month. The applicant is requesting to move two (2) existing freestanding signs from the original Vaden Nissan site at 807 South Main Street to this location. Such action necessitates a variance from Section 1509B (Table 2) which requires a monument style sign and Section 1509C (Table 3) which restricts maximum height of freestanding signs to eight feet (8') for signs in Sign District 3.

The *Statesboro Zoning Ordinance* lists regulations for erecting signs within the City of Statesboro by grouping areas into Sign Districts. This property is located in Sign District 3 which generally requires monumental signs limited to eight feet (8') in height, limiting one freestanding style sign to each road frontage per parcel. In making this dimensional restriction on signage, the ordinance does not consider the physical dimensions and characteristics of the parcel (lot size) or the building coverage of the site.

The original Vaden Nissan located at 807 South Main Street also falls within Sign District 3. (See **Exhibit C** for table) Both proposed signs are currently at 807 South Main Street. Although these signs do not meet the provisions of the ordinance if erected presently, both were deemed compatible in Sign District 3 by issuance of a variance by Mayor and City Council in 2000. The applicant wishes to simply relocate the approved signage to the newly constructed location at Brannen Street. Article XV of the *Statesboro Zoning Ordinance* defines a monument sign as "a freestanding sign which forms a solid structure from the ground to the top of the sign." The applicant is requesting to relocate one (1) monument style sign with a height of thirty five feet (35') and an additional stanchion style sign twenty four feet (24') in height to this location.

The subject site on Brannen Street contains uneven topography and makes the business virtually invisible from Veterans Memorial Bypass which serves as an access corridor. Many of the surrounding developments have historically been permitted for taller signs due to the visibility and topography issues from the Bypass, including the recently granted Steak N Shake restaurant, the old Carey Hilliards restaurant, and the adjacent Statesboro Crossing Development whose freestanding sign is permitted at a height of thirty one feet (31') - just four feet (4') shy of this request. The subject site is anticipated to be interconnected with Statesboro Crossing in the future, making most signs in the area uniform in nature.

Section 1503(G), as amended effective July 1, 2009, states that no variances shall be permitted from the terms of Article XV regarding signs in the *Statesboro Zoning Ordinance*. It continues to states that “specifically, no variances under Article XVIII (regarding consideration and approval of variances) of this ordinance shall be applicable to the standards contained within this Article [XV].” However, Article XV regarding signs in part of the *Statesboro Zoning Ordinance*, which provides for the award of variances by the City Council from the zoning regulations stating that “approval of a variance must be in the public interest, the spirit of the ordinance must be observed, public safety and welfare secured, and substantial justice done” and Section 1801 states that the Mayor and Council [should] consider if the following are 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;**
 - o This subject site has uneven topography, making the site invisible from Veterans Memorial Bypass. Visibility from the Bypass is essential to inform traffic of the businesses existence. (See **Exhibit D**)
 - o At 12.84 acres, this property is larger than the typical commercial site in Sign District 3.
 - o Theoretically, if subdivided into smaller lots, one freestanding sign per lot could clutter the road frontage. As such, it may be more sensible to permit one taller sign rather than several smaller signs due to lot size to height ratio.
- (2) **The special conditions and circumstances do not result from the actions of the applicant;**
 - o This property has a low uneven topography in relation to Veterans Memorial Bypass. The topography is not the result of the applicant.
- (3) **The application of the ordinance to this particular piece of property would create an unnecessary hardship; and**
 - o Both proposed signs are designed to corporate standards.
 - o Applying the ordinance to the proposed signs could, perhaps, drive away corporations who wish to locate within the City of Statesboro.
- (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. This proposal would achieve the intent of the zoning regulations by reducing clutter of multiple small signs while granting visibility to the nearby access corridor.
 - o Recent installation of traffic lights at this intersection should remedy any traffic concerns.
 - o The preamble of Article XV (Signs) states that the intent of the sign ordinance is to avoid “the interference with the ability of property owners to enjoy or use their property without undue visual obstruction, distraction or hazard”.
 - o Much of the commercial signage height and style in the immediate area is in line with the applicant’s request. For example, the recently issued Steak N Shake sign and the existing Moe’s, Statesboro Crossing, and BI-LO signs.

Given concerns that a staff denial to present an applicants’ variance request for a hearing and consideration before the governing body poses a potential violation of an applicants’ right to due process, the requested variance regarding sign style and height for Sign District 3 has been included in this report and presented for Council consideration despite Article XV’s stated prohibition against variances.

STAFF RECOMMENDATION:

Based on the factors of consideration for a variance given in Section 1801 and *the Comprehensive Plan*, staff recommends approval of the variance requested by V 12-09-02 with a sign height of thirty feet (30’) to provide consistency and compatibility with the commercial signage near the subject site.

(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).

EXHIBIT A: LOCATION MAP

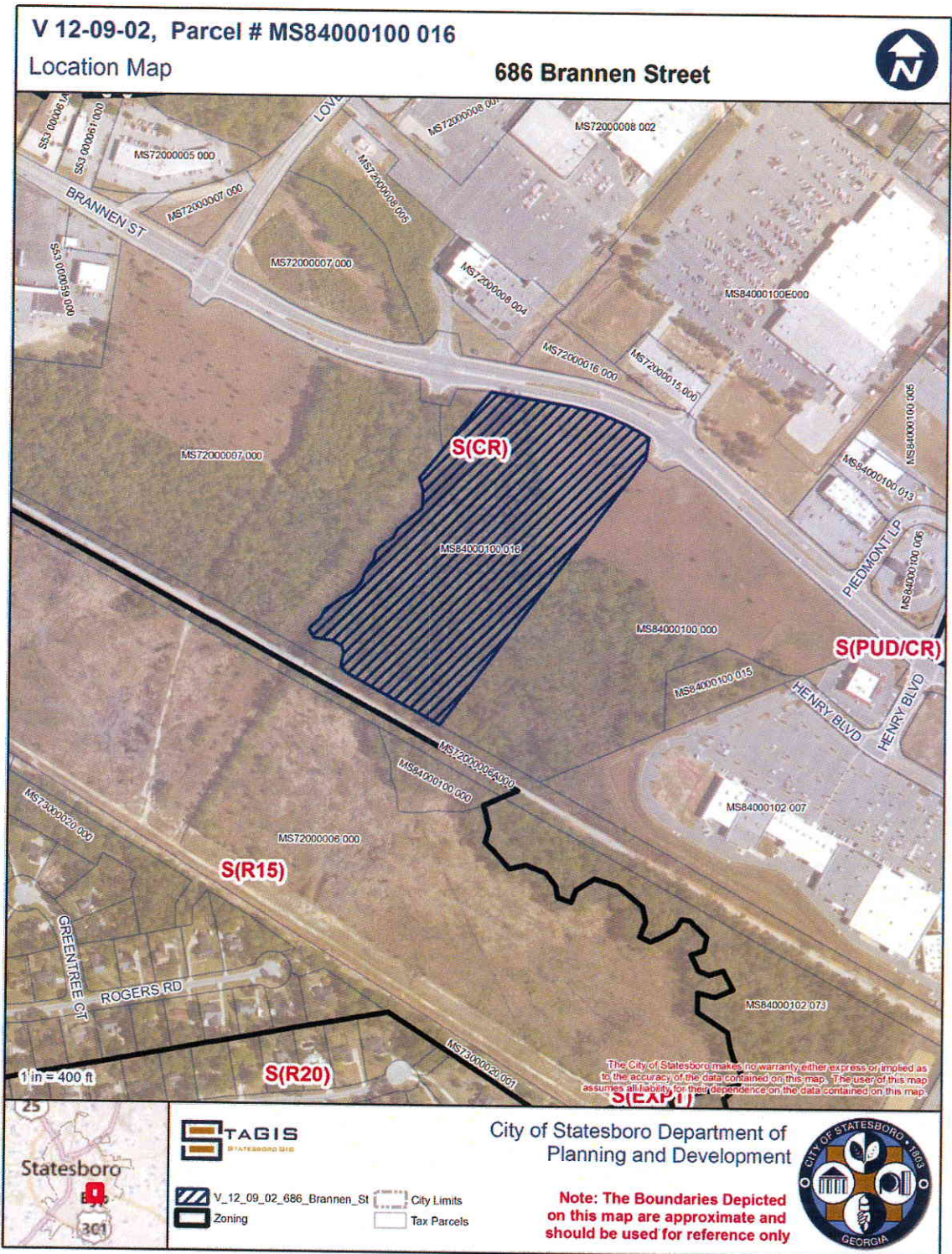
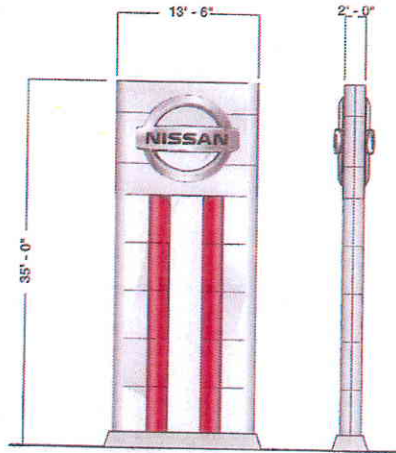


EXHIBIT B: SIGN RENDERINGS

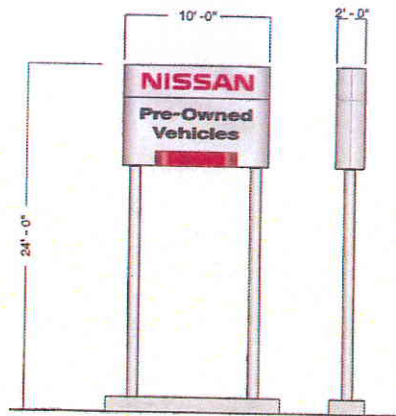
NISSAN NORTH AMERICA, INC.
Nissan Retail Environment Design Initiative
Sign Program



III. SCHEDULE OF SIGNS CONTINUED



A MBS-150 Pylon
150 Sq. Ft. Main Brand Sign (Total of 1) 35' OAH
RELOCATE



B POV-70 Pylon
70 Sq. Ft. Pre-Owned Vehicle Sign (Total of 1) 24' OAH
RELOCATE

Vaden Nissan of Statesboro
Statesboro, GA (5284)
08/07/2012
Initial

EXHIBIT C: PERMITTED SIGNS BY TYPE AND DISTRICT.

SIGN TYPE	SIGN DISTRICT 1			SIGN DISTRICTS 2 & 3	SIGN DISTRICT 4
	Residence on an individual lot	Residential development or subdivision	Nonresidential property		
FREESTANDING:					
Incidental	No permit needed	No permit needed	No permit needed	No permit needed	No permit needed
Billboard	Prohibited	Prohibited	Prohibited	Needs a permit in Area 2; Prohibited in Area 3	Prohibited
Monument	Prohibited	Needs a permit	Needs a permit	Needs a permit	Needs a permit
Stanchion	Prohibited	Prohibited	Prohibited	Needs a permit in Area 2; Prohibited in Area 3	Prohibited
Standard informational sign	No permit needed (Subject to provisions contained in Table 3)	Prohibited	Prohibited	Prohibited	Prohibited
BUILDING:					
Canopy	Prohibited	Prohibited	Prohibited	Needs a permit	Needs a permit
Incidental	Prohibited	No permit needed	No permit needed	Needs a permit	Needs a permit
Marquee	Prohibited	Prohibited	Prohibited	Needs a permit	Needs a permit
Projecting	Prohibited	Prohibited	Prohibited	Prohibited	Needs a permit
Roof*	Prohibited	Prohibited	Prohibited	Needs a permit*	Needs a permit*
Suspended	Prohibited	Prohibited	Prohibited	Prohibited	Needs a permit
Wall	Prohibited	Needs a permit	Needs a permit	Needs a permit	Needs a permit
Window	No permit needed	No permit needed	No permit needed	No permit needed	No permit needed
MISCELLANEOUS**:					
Banner	Prohibited	Needs a permit	Needs a permit	Needs a permit	Needs a permit
Flag***	No permit needed***	No permit needed***	No permit needed***	No permit needed***	No permit needed***
Portable****	Prohibited	Prohibited	Prohibited	Prohibited	No permit needed****

Temporary	Prohibited	Needs a permit	Needs a permit	Needs a permit	Needs a permit
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**Roof signs, where permitted, shall be subject to the provisions of section 1508 (8).*
***Signs listed as "miscellaneous" within this Table do not form part of the "aggregate sign area" for a parcel as defined in section 1501, or Tables 3, 4, 5 and 6 as provided within this article.*
****Flags shall be subject to the provisions of section 1506(A).*
*****Portable signs, where permitted, shall be subject to the provisions of section 1506(C).*

DIMENSIONAL STANDARDS

SIGN DISTRICT 3 (As defined in subsection 1509[A.3])	SIGN FOR AN INDIVIDUAL ESTABLISHMENT ON AN INDIVIDUAL LOT	MAJOR SIGN FOR PLANNED COMMERCIAL OR INDUSTRIAL CENTER OR DEVELOPMENT	BUSINESS SIGN FOR AN INDIVIDUAL ESTABLISHMENT, SHOP, ETC., WITHIN A PLANNED COMMERCIAL OR INDUSTRIAL CENTER OR DEVELOPMENT
AGGREGATE SIGN AREA*:			
1. Maximum Number of Total Square Feet (SF)	150 square feet including freestanding and building signs	Size is based upon the overall floor space of the center as follows: 0-50,000 sf = 100 sf > 50,000 sf = 150 sf	Not applicable
FREESTANDING SIGNS**:			
2. Freestanding Sign Maximum Square Feet	60 square feet	Varies per overall floor space of the center (See "Aggregate Sign Area" herein)	Not applicable
3. Maximum Height	8 feet	15 feet	Not applicable
4. Setback Requirement	5 feet from property line	5 feet from property line	Not applicable
5. Number of Signs Allowed	One sign structure per road frontage not to exceed the maximum allowable square footage & a total of two (2) such signs	One sign structure per road frontage not to exceed the maximum allowable square footage & a total of two (2) such signs	Not allowed
BUILDING SIGNS:			
1. Maximum Number of Total Square Feet	Wall length of 100 feet or less: 50 square feet. Wall length of greater than 100 feet: 100 square feet.	60 square feet	The greater of 60 sf or 5% of wall areas, allotted to the individual establishment
2. Maximum Height	Building elevation	Building elevation	Building elevation
3. Number of Building Signs Allowed***	One per elevation	One sign per common entrance	One per building elevation per tenant
<p><i>*As provided in Section 1501 and Table 2 herein, "aggregate sign area" includes all freestanding or building signs regardless of whether or not a permit for a particular type of sign is required.</i> <i>**Limited to monument and standard informational signs. Billboards and stanchion signs prohibited as provided in Table 2 herein.</i> <i>*** Two (2) per building elevation where one (1) sign is in the form of a canopy/awning, and where the cumulative square footage of both does not exceed the "maximum number of total square feet" for building signs.</i></p>			

EXHIBIT D: TOPOGRAPHY PROFILE OF SIGN TO BYPASS PROVIDED BY APPLICANT.

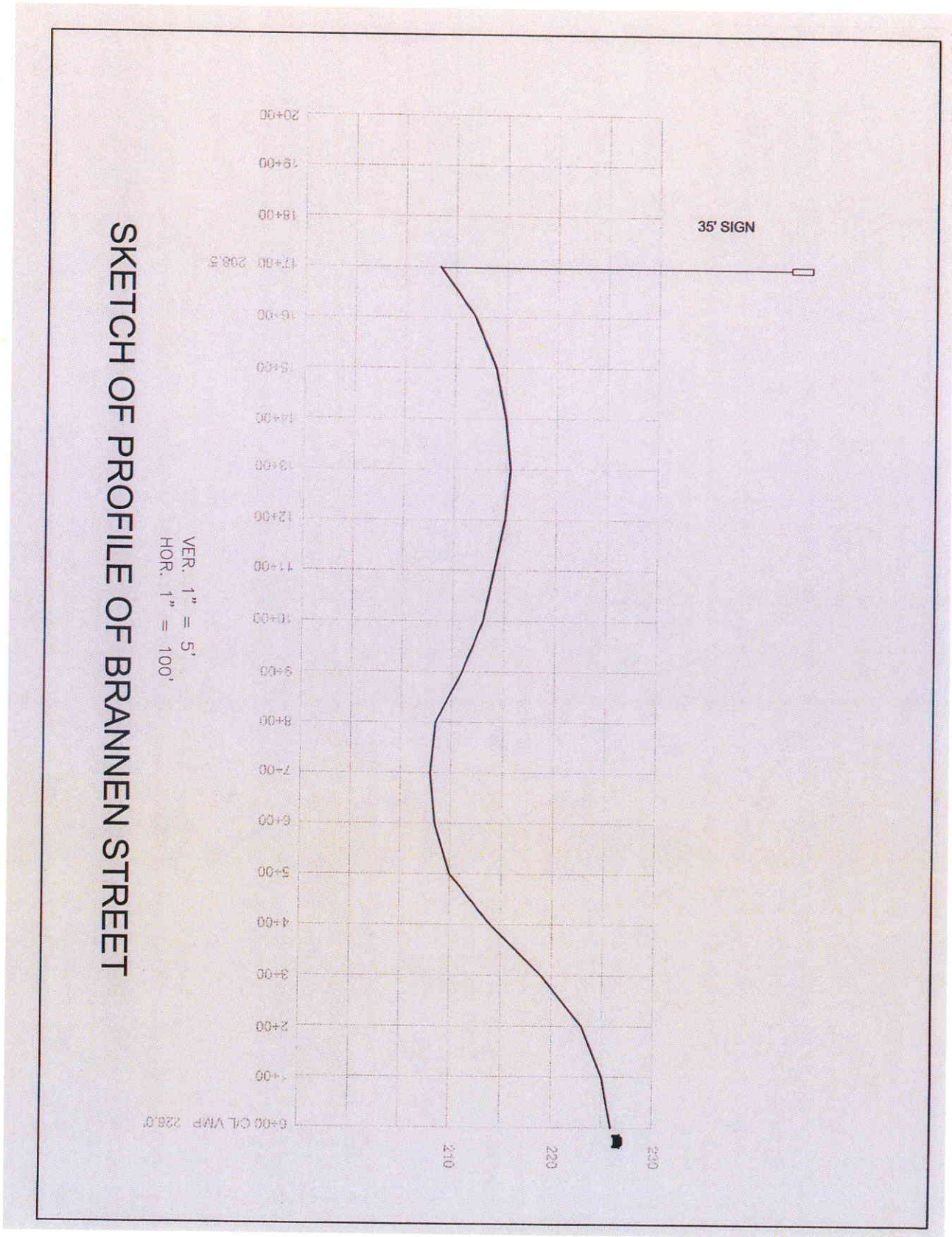


EXHIBIT E: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY.



Figure 1: Existing Signs at South Main Street Site to be relocated to Subject Site.



Figure 2: The Subject Property under Construction from Brannen Street.

EXHIBIT E: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 3: Statesboro Crossing & Bypass to the West of the Subject Property – Uneven Topography.



Figure 4: Adjacent Statesboro Crossing Sign (31' Tall).

EXHIBIT E: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 5: Moe's Stanchion Style Sign at 31' height on Brannen Street.

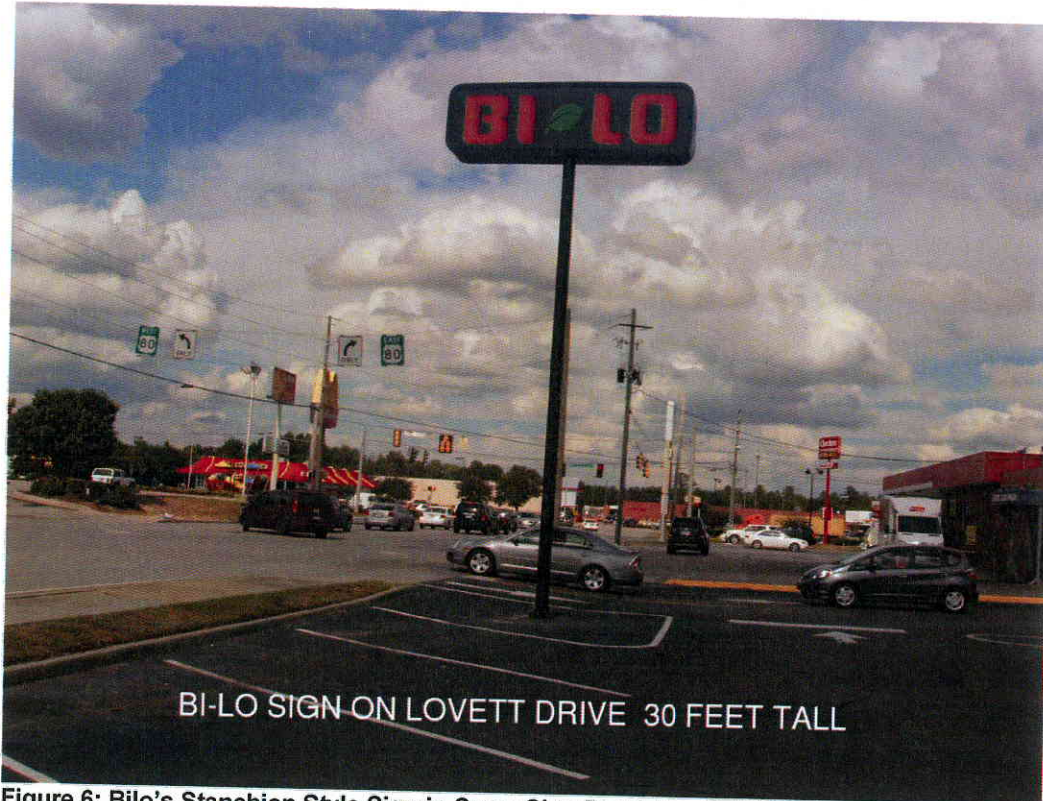


Figure 6: Bi-Lo's Stanchion Style Sign in Same Sign District as Subject Site – 30' Tall Sign.



City of Statesboro – Department of Community Development
DEVELOPMENT SERVICES REPORT

P.O. Box 348
 Statesboro, Georgia 30458

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

**SE 12-09-03
 SPECIAL EXCEPTION REQUEST
 323 JOHNSON STREET**

LOCATION: 323 Johnson Street

REQUEST: Special Exception to allow a convenience store and restaurant in R8 (Single Family Residential) District.

APPLICANT: Gracious Development, LLC

OWNER(S): Jerry's Enterprises, Inc.

LAND AREA: .16 acres

PARCEL TAX MAP #s: S11000011000

COUNCIL DISTRICT: 2 (Lewis)



PROPOSAL:

Gracious Development, LLC requests a Special Exception to allow for the utilization of the property located at 323 Johnson Street as a convenience store and restaurant and for the property to qualify for consideration for issuance of an alcohol license by the Mayor and City Council. The subject site is zoned R8 (Single Family Residential). The proposed uses and licenses are not permitted in the R8 (Single Family Residential) zoning district. (See Exhibit A – Location Map)

BACKGROUND:

The subject area is a .16 acre single lot located at 323 Johnson Street and is currently zoned R8 (Single Family Residential). The existing use of the property as a convenience store is the result of Council's decision in 1998 to grant a Conditional Use Variance to allow the property owner, Mr. Jerry Washington, to operate a convenience store at the location. City Council's grant of a Conditional Use Variance was personal to Mr. Washington and limited to use as a convenience store.

The uses proposed in this application are beyond the scope of City Council's previous approvals, both in use and licensees/applicants. It should be noted that the purpose of this application is to consider whether the land uses and licenses proposed at the site may qualify this applicant for a zoning recommendation of approval at the site for the requested uses and licenses. A grant of a Special Exception would not automatically qualify the property or the applicant for issuance of business license (Occupational Tax Certificate) or an alcoholic beverage license. Qualification for these matters and compliance with all other applicable portions of the *Statesboro Code of Ordinances* must be demonstrated in the appropriate processes.

SURROUNDING LAND USES/ZONING:

	ZONING:	LAND USE:
NORTH:	R6 (Single Family Residential), R4 (High Density Residential)	Single Family Homes and Government Housing

SOUTH:	R8 (Single Family Residential)	Single Family Homes
EAST:	R8 (Single Family Residential)	Single Family Homes
WEST	R8 (Single Family Residential)	Single Family Homes

The subject property is located in a residential area with the property's boundaries surrounded by single family homes and the Statesboro Housing Authority to the north. (See Exhibit B)

COMPREHENSIVE PLAN:

The subject site lies within the "Established" character area as identified by the City of Statesboro Future Development Map adopted by the *City of Statesboro Comprehensive Plan*. The "Established" character areas are identified as being traditionally residential in nature. Some neighborhoods within this character area are facing decline and issues with blight. Extra efforts should be made to return them to viable neighborhoods.

Neighborhood-scaled retail and commercial, small-scale office, neighborhood services, and small-lot single family residential are all appropriate land uses for properties within the Established character area. Some suggested development and implementation strategies for the area include the following:

- Ensure that new development and land uses do not encroach upon or detract from the character of the recognized National Historic Districts within this area.
- Provide support for the creation of neighborhood associations and provide continued support for these organizations once established through the development of initiatives to address unique neighborhood issues/characteristics.
- Strengthen enforcement of code violations for private property, including property maintenance, parking, and structural conditions.
- Add crosswalks and pedestrian signals along busy streets, including Johnson Street.

Statesboro Comprehensive Plan, Community Agenda pages 14-15.

As illustrated in the *Comprehensive Plan*, small-scale retail in this area is favorable. Utilizing the subject site in a less intensive retail manner contributes to the goals set forth in the implementation strategies. Careful attention should be paid to maintaining the residential neighborhoods while reasonably addressing code violations in this area.

COMMUNITY FACILITIES (EXCEPT TRANSPORTATION):

The subject site is currently served by city utilities including water, sewer, and public safety services. No significant impact is expected on utilities as a result of this request; however, the historical use of this property in a similar method proposed by this application has resulted in a significant use of public safety services.

ENVIRONMENTAL:

The subject property does not contain wetlands and is not located in a special flood hazard zone. 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:

I. Matters of a Special Exception:

The .16 acre site is currently zoned R8 (Single Family Residential). A Conditional Use Variance, currently referred to as Special Exception, was granted by the Statesboro Mayor and City Council in 1998 to Mr. Jerry Washington to allow the current use of the property as a convenience store. According to the Bulloch County Tax Assessor, Jerry's Enterprises, Inc. is listed as the property owner of the subject site; however, registration information with the Georgia Secretary of State shows that the aforementioned corporation was administratively dissolved on September 1, 2012.

Special Exceptions (sometimes referred to as Conditional Use Variance) allow for a land use that is inconsistent with uses permitted of right within a zoning district but which may be granted where requested uses may be deemed appropriate and compatible with the surrounding neighborhood. In this case, convenience stores, as well as the requested restaurant, are not uses permitted by right within the R8 (Single Family Residential) zoning district (such uses are restricted to the Commercial Retail zoning district), nor do properties in the R8 (Single Family Residential) zoning district qualify for issuance of an alcohol license. In addition, *Article XXIV of the Statesboro Zoning Ordinance* states that approval of a conditional use variance by the Mayor and Council does not constitute an approval for future expansions, additions or changes to the initially approved operation. Therefore, the proposed change of business

ownership with an increased intensity of use proposed by a restaurant use necessitates additional approval by the Mayor and Council. The applicant has filed an application for a Special Exception and is requesting that the subject site be utilized as a convenience store and restaurant and be qualified for zoning consideration for the issuance of an alcohol license - uses permitted by right within the CR (Commercial Retail) zoning district.

As grants of Special Exceptions are personal to the applicant and do not run with the land, staff must point out that the previous approval was issued to a different applicant than the applicant in this case. The 1998 Conditional Use Variance was granted to Mr. Jerry Washington. It is commonly understood that Mr. Washington is the owner of the property at the subject site and that he previously operated the convenience store permitted at the site. The Bulloch County Tax Assessor lists Jerry's Enterprises, Inc. as the owner - a Georgia corporation that was administratively dissolved on September 1, 2012. Mr. Washington was listed as the CEO, SEC, and Registered Agent for the corporation. The applicant in this case is Gracious Development, LLC. The articles of organization filed with the Georgia Secretary of State's Office filing lists Jerry Washington, Alexandria Fennell, and Anthony Fortunato as the organizers of the applicant LLC. Ms. Walden completed and filed this application and is serving as the City's contact person for this matter. Although Mr. Washington, the presumed property owner, is listed as an organizer for the LLC, he has not joined in the filing of the Special Exception License. Nor has he signed any of the business and alcoholic beverage licenses recently applied for at the site. Numerous attempts by staff to reach Mr. Washington to seek his signature and/or confirm his intent to join this application have been unsuccessful.

II. Land Use Considerations Regarding the Proposed Uses:

The applicant is proposing two (2) land uses at the subject site:

1. Convenience Store:

Convenience stores are a permissible use in commercial retail zoning districts. After the issuance of a Conditional Use Variance in 1998, the subject site has been utilized as a convenience store. The owner and operator, Mr. Washington, held both a business license and alcoholic beverage license for packaged sales until June 30, 2012. In September, 2012, a business license to operate as a convenience store was issued to Mr. Washington and Ms. Lanika Walden, an applicant in this matter.

2. Restaurant:

Like convenience stores, restaurants are restricted to commercial retail zoning districts. A restaurant use was not part of the original Conditional Use Variance approval nor the business license currently issued at the location. The request to add such use to the existing convenience store would intensify the utilization of the property. As a result, the addition of the proposed use may increase concerns for public safety, parking, and traffic. In addition, this type of business would be least likely to comply with regulations regarding packaged sales of alcoholic beverages.

III. Land Use Considerations Regarding Life Safety and Other Qualifications for an Alcoholic Beverage License:

Although alcoholic beverage licenses are not part of a Special Exception approval, the Planning & Development Department is charged with reviewing the proposed use complies with local and state regulations regarding proximity restrictions. Georgia State Statute regulates alcoholic beverages by two (2) classifications:

1. Consumption on Premises (or "pouring" sales) is defined as any person or business who sells distilled spirits (liquor), wine, or malt beverages by the drink only to consumers and not for resale.

O.C.G.A § 3-3-21 provides regulations regarding proximity restrictions of the sale of alcoholic beverages. One of those restrictions states that no person may sell any alcoholic beverages for **consumption on the premises** within **100 yards** of any housing authority property. This provision shall not apply at any location for which a new license is applied for if the sale of alcoholic beverages for consumption on the premises was lawful at such location at any time during the 12 months immediately preceding the application. The subject site is located approximately twenty two (22) yards from Statesboro Housing Authority.

Additionally, Article VII of the *Statesboro Municipal Code* states that any type of consumption on the premises license may be granted to one of two classifications:

A. Restaurant is defined as a business that contains one or more public dining rooms with permanent seating for at least twenty five (25) patrons with adequate and sanitary kitchen

facilities for staff to prepare, cook, and serve suitable food with at least fifty percent (50%) of its total sales being comprised of the sale of food.

- B. **Private Club** is defined as being a veteran organization, fraternal organization, or other nonprofit organization that has at least fifty (50) regular dues-paying members with a suitable kitchen and dining room with staff that prepares and serves meals for its guests.

A recent site visit indicated a floor plan at the site that does not contain permanent fixed seating for patrons nor a kitchen with appropriate equipment installed. The current business contains a minimal number of shelves reserved for convenience store type merchandise and an open floor with two (2) pool tables and several arcade machines. (See **Exhibit B**) It is staff's opinion that this business is not sufficient to be classified as a restaurant or a private club. Therefore, the site would not qualify for consideration of a consumption on premises (or "pouring") license due to proximity restrictions and classification.

2. **Packaged Sales** are defined as any person who sells alcoholic beverages in unbroken packages to be consumed off premises.

If a Special Exception is granted and the applicant wishes to apply for **packaged sales only**, the applicant may qualify for consideration for issuance of an alcoholic beverage license by the Mayor and City Council from a land use and proximity perspective due to regulations that state that the applicant may qualify if sales of such was lawful at such location at any time during 12 months immediately preceding the application. The subject site legally held an alcoholic beverage license for packaged sales from 2001 to June 30, 2012.

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 as 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.**
- B. **Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered.**
- Traffic counts for the area and thereby relative to the subject site were 4,830 trips both ways for the year 2011. Although this business has been in existence for a number of years, the proposed use is being intensified which may cause an impact on vehicular traffic.
 - The *Statesboro Comprehensive Plan* encourages crosswalks and pedestrian signals particularly on Johnson Street. The subject site does not contain either of these recommendations.
 - The Statesboro Police Department has reported incidences of overcrowding on the subject site.
- 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.**
- Although the subject site has adequate parking for all proposed uses as required by Article XVI of the *Statesboro Zoning Ordinance*, the design of such with close proximity to an intersection may cause issues with an intensified use.
- 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 if certain thresholds are surpassed.
- E. **The proposed use will not have significant adverse effect on the level of property values or the general character of the area.**
- This area is in dire need of attention due to issues of blight and criminal activity. The proposed use may not have an adverse effect on property values in the area; however, it is important that we consider ways to enhance property values and control violations in this neighborhood.
 - The Statesboro Police Department has reported criminal activity as recent as July, 2012 on the subject site. Such activities range from noise complaints and simple battery to possession of drugs. The management has been advised to keep alcohol out of the parking lot on several occasions.
 - Although the current business held a packaged alcoholic beverage license until June of 2012, there has been evidence of consumption on the premises for which licenses were not obtained.
- 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.**
- A proposed site plan or floor plan was not submitted as part of this application process; therefore, we have no future site proposals to indicate whether a kitchen, dining facility, etc. will be added.
 - The Official Code of Georgia Annotated (OCGA) states that the Fire Inspector cannot approve a project of this nature until a registered architect designs and takes ownership such.

- The Statesboro Fire Inspector classifies the current use as a mercantile occupancy since they are only selling products and goods. The pool tables are considered to be accessories to the business. If the applicant requests an alcoholic beverage license to consume on premises, the classification would change from mercantile occupancy to assembly and all requirements must be met. According to the National Fire Protection Association (NFPA), an assembly classification requires that the business have two (2) exits within one hundred and fifty (150) feet of any point in the building. The subject site contains two (2) exits; however, the back exit may not be used as such if proposed to be a kitchen or contain pressurized boilers.
 - Site visits indicate that there is no dining facility with permanent seating for at least twenty five (25) patrons and no means of preparing meals with adequate and sanitary kitchen facilities at this time.
- 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.**
- The existing business wishes to add a restaurant use and change ownership; thus, necessitating this request.

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*”:

1. Existing uses and zoning or [of] property nearby.
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.
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.
7. 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.

STAFF RECOMMENDATION:

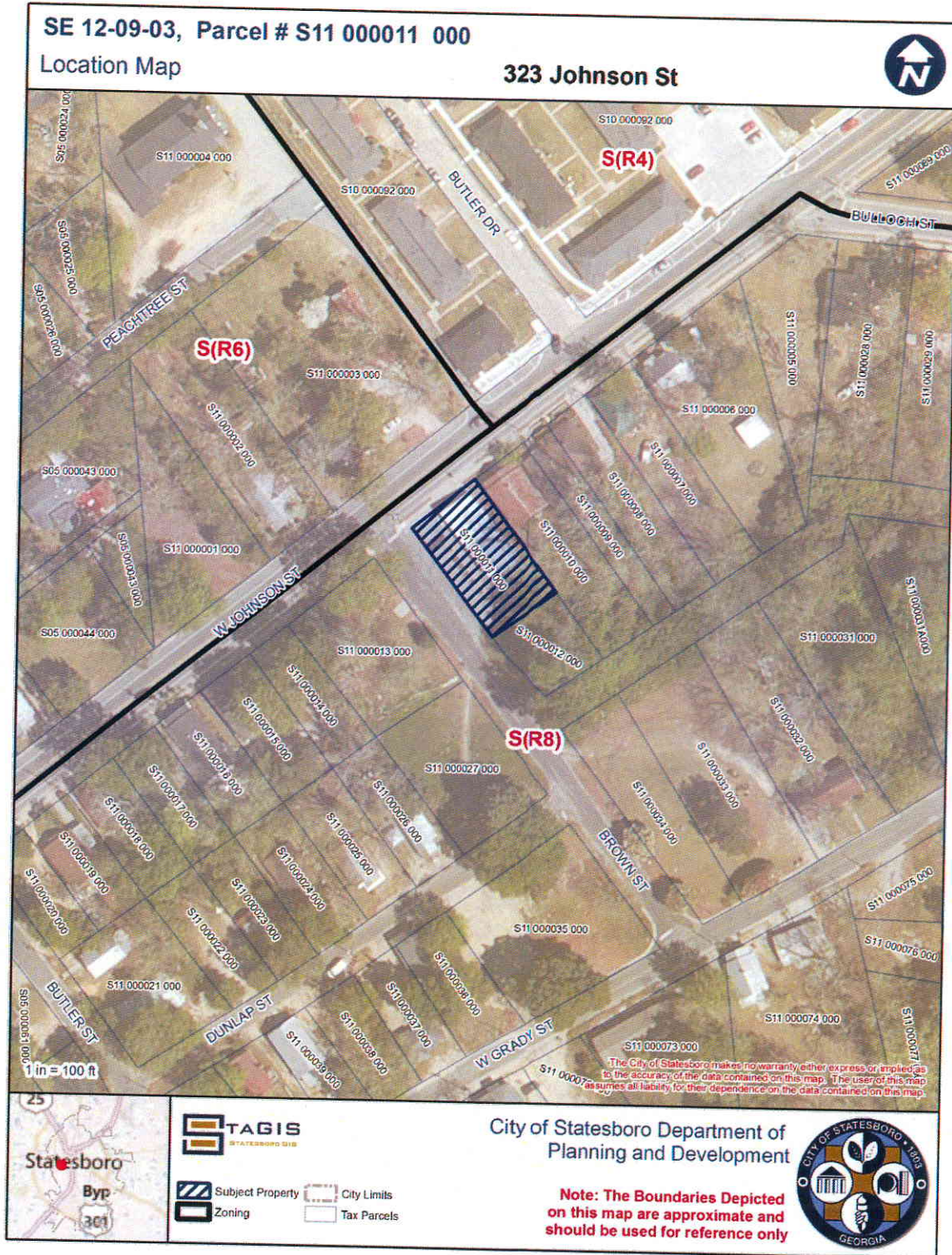
The applicant’s request for a Special Exception places several distinct questions before City Council for consideration and as a Special Exception is personal to the applicant, this becomes both a land use and applicant question. Noting, however, that any approvals granted herein does not remove the requirements of other provisions of the *Statesboro Municipal Ordinance*:

1. Whether the subject site should be granted a Special Exception to qualify the property’s use as a convenience store by this application.
2. Whether the subject site should be granted a Special Exception to qualify the property’s use as a restaurant by this application.
3. Whether the subject site should be granted a Special Exception to allow the property’s use and application to qualify for an alcoholic beverage license regarding package sales.
4. Whether the subject site should be granted a Special Exception to allow the property’s use and application to qualify for an alcoholic beverage license regarding a “pouring” license.

Based on the factors of consideration for Special Exceptions given in Section 2406 of the *Statesboro Zoning Ordinance*, the *Statesboro Comprehensive Plan*, and the *Statesboro Zoning Ordinance*’s purpose of promoting public health, safety, morals, and general welfare, it is the recommendation of the staff that if an approval of any of the requests contemplated herein be granted, the approval should be limited to an appropriate neighborhood scale retail use (convenience store) with the following conditions applied:

1. Use limited to a convenience store.
2. No zoning permission be granted for qualification of an alcoholic beverage license.
3. Any neighborhood commercial uses cease by 10:00 p.m.

EXHIBIT A: LOCATION MAP



STAGIS
STATESBORO GIS

Subject Property
 Zoning
 City Limits
 Tax Parcels

City of Statesboro Department of Planning and Development



Note: The Boundaries Depicted on this map are approximate and should be used for reference only

EXHIBIT B: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY.



Figure 1: The Subject Property from Johnson Street



Figure 2: Residential Home to the North of the Subject Site.

EXHIBIT B: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 3: Housing Authority from the Subject Site.



Figure 4: Pool Tables in Back Room.

EXHIBIT B: PHOTOS OF THE SUBJECT PROPERTY AND GENERAL VICINITY (CONT.).



Figure 5: Pool Table with Arcade Machines in back room.



Figure 6: Proposed Kitchen Area.