



AGENDA  
COUNCIL MEETING  
4040 S. BERKELEY LAKE RD.  
BERKELEY LAKE, GEORGIA 30096  
JANUARY 18, 2024

7:00 PM Work Session  
8:00 PM Formal Session

*Citizens are encouraged to offer comments on issues of concern as agenda items are reached and at the end of the meeting for all other issues. Please limit citizen comments to 2 minutes. Longer citizen comments are welcome in writing and will be added to the official record of this meeting.*

**WORK SESSION**

**CALL TO ORDER**

**AGENDA**

**SWEARING IN OF NEWLY ELECTED OFFICIALS**

- a) Lois Salter – Mayor
- b) Bob Smith – Council Member At-Large
- c) Rebecca Spitler – Council Member At-Large

**PUBLIC HEARING**

- a) O-24-251, Rezoning of 4477 and 4487 PIB from GC-A (C-1) to M-1

**CONSENT AGENDA**

- a) Minutes of December 6, 2023, Council Meeting
- b) Financial Statements of November 2023 – Unaudited
- c) Atlas Contract for Dam Inspection
- d) CR Tree Experts – Memorandum of Understanding for Tree Services

**OLD BUSINESS**

**NEW BUSINESS**

- a) O-24-251, Rezoning of 4477 and 4487 PIB from GC-A(C-1) to M-1
- b) Code of Conduct Affirmation
- c) Election of Mayor Pro Tem
- d) Mayoral Appointments
- e) ARPA Stormwater Project Easement – 3750/3760 Hermitage Drive

**EXECUTIVE SESSION *(if needed)***

**CITIZEN COMMENTS**

**ADJOURNMENT**

Requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Berkeley Lake government should be made at least five days prior to the event by contacting the ADA Coordinator at 770-368-9484.



**SPECIAL CALLED COUNCIL MEETING  
4040 SOUTH BERKELEY LAKE ROAD  
BERKELEY LAKE, GEORGIA 30096  
DRAFT MINUTES  
DECEMBER 6, 2023**

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**ATTENDANCE**

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Mayor: Lois Salter

Council Members: Rodney Hammond, Scott Lee, Chip McDaniel, Bob Smith and Rebecca Spitler

City Officials: Leigh Threadgill - City Administrator

Dick Carothers – City Attorney

Members of the Public: 0

Members of the Press: 0

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**CALL TO ORDER**

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Salter called the meeting to order at 5:04 PM. A quorum of council members was in attendance.

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**AGENDA**

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Salter solicited motions regarding the agenda.

**Spitler made a motion to accept the agenda as submitted. Hammond seconded the motion. All council members were in favor and the motion passed.**

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**CONSENT AGENDA**

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Salter noted the following as items on the consent agenda and solicited a motion:

- a) Minutes of November 16, 2023, Council Meeting
- b) Financial Statements of October 2023 – Unaudited
- c) Corners Outreach Contract for Roadside and Grounds Maintenance
- d) James Whitaker Audit Engagement Letter

**Lee made a motion to approve all items on the consent agenda. McDaniel seconded the motion. All were in favor and the motion passed.**

## OLD BUSINESS

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a) O-23-249 – Proposed 2024 Budget

Threadgill: O-23-249 is the proposed budget for 2024. This measure as presented anticipates no increase in the real property tax millage rate for 2024 over the rollback rate for 2023. The measure is presented for adoption.

**Smith made a motion to adopt O-23-249, an ordinance to establish the budget for the year 2024, to repeal conflicting ordinances, to provide for an effective date and for other purposes. Spittler seconded the motion. All were in favor and the motion passed.**

b) O-23-250 – Proposed Amendment to Sections 14-20 of the Code of Ordinances to adopt water efficiency standards as an amendment to the state plumbing code as required by the North George Metropolitan Water District.

Threadgill: O-23-250 is a proposed amendment to Chapter 14, Section 20 – Buildings and Building Regulations, Standards adopted. The specific amendment is to the minimum state plumbing code as required by the Metropolitan North Georgia Water Planning District. The Metro Water District provided the changes in a red-line document, along with a Model Findings Resolution. In August the council adopted the findings resolution which directed staff to send the proposed amendment to the Department of Community Affairs for review and comment. I have received confirmation that the Department of Community Affairs received the state plumbing code amendment incorporating the water efficiency standards and has no objection. The standards are required to be adopted by January 1, 2024, and they are presented here tonight for second read consideration and adoption.

**McDaniel made a motion to place O-23-250, an ordinance to amend Section 14-20 (Standards adopted), to adopt regulations pertaining to water efficiency standards prepared by the Metropolitan North Georgia Water Planning District as an amendment to the Georgia state minimum plumbing code, to repeal conflicting ordinances, to provide for an effective date and for other purposes, on second read and adopt the amendment using the model adoption resolution R-23-07. Lee seconded the motion. All were in favor and the motion passed.**

## NEW BUSINESS

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There was no new business to consider.

## PUBLIC COMMENTS

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There were none.

## ADJOURNMENT

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**There being no further business to discuss, Spitler moved to adjourn. Smith seconded the motion. All were in favor and the motion passed.**

Salter adjourned the meeting at 5:11 PM.

Submitted by:

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Leigh Threadgill, City Clerk

DRAFT



# City of Berkeley Lake

## Budget vs. Actuals as of January 9, 2024: 2023 Capital and Operating Budget - FY23 P&L

January - December 2023

	TOTAL			
	ACTUAL	BUDGET	OVER BUDGET	% OF BUDGET
<b>Income</b>				
100 100 General	1,331,185.31	1,108,566.00	222,619.31	120.08 %
230.33.2100 ARP Act 230.33.2100		620,348.00	-620,348.00	
320 320 SPLOST Income	450,774.52	1,449,093.00	-998,318.48	31.11 %
Non Profit Income	150.00		150.00	
<b>Total Income</b>	<b>\$1,782,109.83</b>	<b>\$3,178,007.00</b>	<b>\$ -1,395,897.17</b>	<b>56.08 %</b>
<b>Cost of Goods Sold</b>				
*Cost of Goods Sold	0.00		0.00	
<b>Total Cost of Goods Sold</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>GROSS PROFIT</b>	<b>\$1,782,109.83</b>	<b>\$3,178,007.00</b>	<b>\$ -1,395,897.17</b>	<b>56.08 %</b>
<b>Expenses</b>				
1 Gen Govt	433,273.57	565,826.00	-132,552.43	76.57 %
2 Judicial	969.91	9,190.00	-8,220.09	10.55 %
230 ARP Act Expenses 230	183,446.62	620,348.00	-436,901.38	29.57 %
3 Public Safety	126,977.26	170,031.00	-43,053.74	74.68 %
4 Public Works	113,169.89	158,643.00	-45,473.11	71.34 %
6 Culture and Recreation	8,505.97	22,463.00	-13,957.03	37.87 %
7 Housing and Development	18,948.75	125,102.00	-106,153.25	15.15 %
9000.61.1100 Xfer Out - Reserve Fund		57,315.00	-57,315.00	
SPLOST Expenses	25,803.00	1,449,093.00	-1,423,290.00	1.78 %
<b>Total Expenses</b>	<b>\$911,094.97</b>	<b>\$3,178,011.00</b>	<b>\$ -2,266,916.03</b>	<b>28.67 %</b>
<b>NET OPERATING INCOME</b>	<b>\$871,014.86</b>	<b>\$ -4.00</b>	<b>\$871,018.86</b>	<b>-21,775,371.50 %</b>
<b>NET INCOME</b>	<b>\$871,014.86</b>	<b>\$ -4.00</b>	<b>\$871,018.86</b>	<b>-21,775,371.50 %</b>

# City of Berkeley Lake

## Income & Expense

November 2023

	TOTAL
Income	
100 100 General	83,867.56
320 320 SPLOST Income	41,224.57
<b>Total Income</b>	<b>\$125,092.13</b>
GROSS PROFIT	<b>\$125,092.13</b>
Expenses	
1 Gen Govt	35,629.36
230 ARP Act Expenses 230	4,506.25
3 Public Safety	11,921.40
4 Public Works	8,512.96
6 Culture and Recreation	379.06
7 Housing and Development	1,563.85
<b>Total Expenses</b>	<b>\$62,512.88</b>
NET OPERATING INCOME	<b>\$62,579.25</b>
NET INCOME	<b>\$62,579.25</b>

# City of Berkeley Lake

## Balance Sheet

As of November 30, 2023

	TOTAL
<b>ASSETS</b>	
Current Assets	
Bank Accounts	
Debt Service Fund	0.00
General Fund	4,450,659.27
SPLOST Fund	1,416,786.55
Suspense 1.11.1000	0.00
<b>Total Bank Accounts</b>	<b>\$5,867,445.82</b>
Accounts Receivable	
Accounts Rec 1.11.1900.1	1,646.87
<b>Total Accounts Receivable</b>	<b>\$1,646.87</b>
Other Current Assets	
1.11.27 Grant Receivable	0.00
Accounts Rec - SPLOST 1.11.2000	78,797.67
AccountsRec-OtherTax1.11.1900.2	0.00
Franchise Tax Rec 1.11.1550	132,000.00
Interest Receivable 1.11.1400	0.00
Prepaid Expense 1.11.3600	2,646.27
Prepaid items 1.11.3800	5,286.00
Taxes Receivable 1.11.1600	10,481.70
Undeposited Funds 1.11.1114	9,584.93
<b>Total Other Current Assets</b>	<b>\$238,796.57</b>
<b>Total Current Assets</b>	<b>\$6,107,889.26</b>
Fixed Assets	
Building & Improvements 1.11.7400	1,770,036.08
Computer Equipment 1.11.6700	48,172.61
Furniture & Fixtures 8.11.7700	71,493.47
Land 8.11.7100	9,392,320.74
Machinery & Equipment 1.11.6500	173,026.24
<b>Total Fixed Assets</b>	<b>\$11,455,049.14</b>
Other Assets	
Accum amort - bond cost	0.00
Amt avail 4 debt svc 9.11.9100	0.00
Bond issuance cost	0.00
Loan Receivable - Facilities	0.00
Loan Receivable - Paving	0.00
To be prov 4 debt 1.11.7500	0.00
<b>Total Other Assets</b>	<b>\$0.00</b>
<b>TOTAL ASSETS</b>	<b>\$17,562,938.40</b>

# City of Berkeley Lake

## Balance Sheet

As of November 30, 2023

	TOTAL
<b>LIABILITIES AND EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable 1.12.1100	6,676.81
Operating AP	0.00
SPL2005 Admin Facil- City H-AP*	0.00
SPLOST account - Suntrust-AP*	0.00
<b>Total Accounts Payable</b>	<b>\$6,676.81</b>
Credit Cards	
BOZEMAN, MARTY (0241)	38.24
Hiller Credit Card (4916)	100.05
Hunter Credit Card (8185)	159.11
Threadgill Credit Card (3322)	376.00
Wilhite Credit Card (1132)	0.00
<b>Total Credit Cards</b>	<b>\$673.40</b>
Other Current Liabilities	
*Sales Tax Payable	0.00
1.12.28 Bonds payable - current	0.00
Accounts Payable Accruals-L*	0.00
Accounts payable-L 1.12.1100.2	0.00
Accrued Expenses 1.12.1150	0.00
Accrued Interest Payable	0.00
Accrued Salaries 1.12.1200	0.00
Accrued SPLOST Expenses 2.12.1250	0.00
Deferred revenue 1.12.2500	7,531.07
Direct Deposit Payable	-0.01
MyGov	0.00
Payroll Liabilities	66.10
PR Tax Payable - Fed 1.12.1300	0.00
PR Tax Payable - State 1.12.1310	0.00
PTO Accrual	12,003.46
Regulatory Fees Payable	3,029.39
Retainage Payable	0.00
<b>Total Other Current Liabilities</b>	<b>\$22,630.01</b>
<b>Total Current Liabilities</b>	<b>\$29,980.22</b>

# City of Berkeley Lake

## Balance Sheet

As of November 30, 2023

	TOTAL
Long-Term Liabilities	
Gen Oblig Bond Payable1.12.3000	0.00
GOB Payable - 2009 1.12.3000.2	0.00
GOB Payable - 2011 1.12.3000.3	0.00
GOB Payable - 2012 1 12.3000.4	0.00
SPLOST Loan Payable - Paving	0.00
SPLOST Loan Payable Facilities	0.00
<b>Total Long-Term Liabilities</b>	<b>\$0.00</b>
<b>Total Liabilities</b>	<b>\$29,980.22</b>
Equity	
Fund Bal Unrsvd 1.13.4220	3,740,523.06
Investmt in fixedassets 1.13.4K	11,327,229.85
Opening Bal Equity	0.00
Reserve for prepaids 1.13.4125	7,932.27
Reserved for Debt Service	0.00
Restricted for Debt Svc 1.13.4105	0.00
Restricted4CapitalProj 1.13.4155	1,766,926.96
Retained Earnings 1.13.3000	-195,897.68
Net Income	886,243.72
<b>Total Equity</b>	<b>\$17,532,958.18</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$17,562,938.40</b>



December 12, 2023

**City of Berkeley Lake**

4040 S. Berkeley Lake Road, NW  
Berkeley Lake, Georgia 30096

Attention: Mr. Rob Hiller, City Marshal

**Subject: Proposal for Visual Dam Inspection**

Berkeley Lake Dam  
Berkeley Lake, Georgia  
Atlas Proposal No. 23-13982

Dear Rob:

Atlas Technical Consultants, LLC (Atlas), formerly Piedmont Geotechnical Consultants, LLC, is pleased to present this proposal to provide a visual inspection of the subject dam. Presented in the following is our qualifications, our understanding of the project, a recommended scope of work, and the cost for those services.

**QUALIFICATIONS and EXPERIENCE**

**Atlas Technical Consultants, LLC (Atlas)** has considerable experience in design and construction of dams and reservoirs. Atlas provides geotechnical engineering and construction materials testing on earth, roller compacted concrete (RCC) and masonry dams as a routine part of our practice. Our geotechnical engineering on dams is widely regarded and includes the following practice areas:

- Visual Inspection
- Geotechnical Investigations
- Seepage Evaluation
- Slope Stability
- Embankment Settlement
- Construction Observations/Inspections
- Failure Investigations

Two of our senior geotechnical engineers (Michael Ballard and Jonathan Sharpe) are certified by the Georgia Safe Dams Programs as "Engineers-of-Record" for High Hazard (Category I) Dams. Messrs. Ballard and Sharpe combined have more than 50 years' experience in providing geotechnical engineering on dams in Georgia. Included in that experience are the following:

- Geotechnical engineering, construction testing or visual inspections on more than 200 dams.
- Geotechnical engineering, construction testing or visual inspections of more than 50 High Hazard Dams.
- Geotechnical engineering, construction testing on more than 15 Water Supply Reservoir dams.

3000 Northfield Place – Suite 1100, Roswell, Georgia 30076  
770-752-9206 | [oneatlas.com](http://oneatlas.com)

## Past Project Experience

- **Richland Creek Dam:** Geotechnical design and construction inspection of a 125 foot tall, 2,800 foot long Water Supply Reservoir dam.
- **Berkeley Lake Dam:** Rehabilitation of 80 foot tall High Hazard dam.
- **Grandview Dam:** Rehabilitation of 90 foot tall High Hazard dam.
- **Lake Sequoyah Dam:** Seepage and stability evaluation of a 60 foot tall High Hazard dam.
- **Edie Lake Dam:** Rehabilitation of failed 30 foot tall, 800 foot long Water Supply Reservoir High Hazard Dam.
- **Jack Turner Dam:** 70 foot tall roller compacted concrete (RCC) Water Supply Reservoir High Hazard dam.
- **Long Branch Dam:** 70 foot tall Water Supply Reservoir High Hazard dam.
- **Horton Creek Dam:** 50 foot tall Water Supply Reservoir High Hazard dam.
- **Sandy Creek Dam:** Stability and seepage study for 50 foot tall "puddle core" Water Supply Reservoir, High Hazard dam.
- **Sharpes Creek Dam:** 40 foot tall Water Supply Reservoir High Hazard dam.
- **John Briscoe Dam:** 45 foot tall Water Supply Reservoir High Hazard dam.
- **Madison Dam:** 45 foot tall Water Supply Reservoir High Hazard dam.
- **North Fulton Reservoir:** 50 foot tall Water Supply Reservoir High Hazard dam.
- **Tusshaw Dam:** 75 foot tall Water Supply Reservoir High Hazard dam.
- **Griffin Regional Reservoir:** 90 foot tall Water Supply Reservoir High Hazard dam.
- **Upper Towaliga River Reservoir:** 55 foot tall Water Supply Reservoir High Hazard dam.
- **River Green Dam:** 50 foot tall, High Hazard dam.
- **Lake Petit Dam:** Seepage and stability study of 125 foot tall High Hazard dam.
- **Houston Lake Dam:** Rehabilitation of failed 25 foot tall, 1,100 foot long High Hazard dam.
- **Lake Buckhorn Dam:** On-site QA/QC for 50 foot high, 2,500 foot long RCC dam, Wilson, North Carolina.
- **Lake Tholocco Dam:** On-site QA/QC for 1,500 foot long RCC overtopping spillway, Ft. Rucker, Alabama.
- **Stone Mountain Dam:** Seepage study for 66 foot tall High Hazard dam.
- **Lake Spivey Dam:** Seepage evaluation and spillway improvements for 65 foot tall High Hazard Dam.

## **PROJECT INFORMATION**

Berkeley Lake Dam is an earthen embankment located on North Berkeley Lake Road in Berkeley Lake, Georgia and is owned by the City. The dam is about 900 feet long, 80 feet tall, and impounds an approximately 88-acre lake at normal pool. Atlas (then Piedmont Geotechnical) was retained by the City to provide the geotechnical engineering evaluation of this dam after significant storm damage around September 2009. After completing the subsurface exploration, we assisted Clark Patterson Lee (CPL) during the repair design phase of this project, provided construction monitoring services to the City during the construction phase and performed initial post-construction monitoring during initial reservoir re-filling. Upgrades to the dam as part of the rehabilitation include a new internal drain system, new siphon system and flattened downstream slope configuration. Mr. Sharpe was the field engineer performing the construction monitoring throughout the rehabilitation construction and has performed the subsequent visual inspections, thereafter.

## **GOVERNING RULES FOR DAMS**

As a result of the failure of Kelly-Barnes dam in Toccoa, Georgia the Georgia General Assembly passed the Safe Dams Act in 1978. This act has several amendments over the last 45 years. The regulation of dams within the state of Georgia is the responsibility of the Safe Dams Program within the Georgia Environmental Protection Division. According to the Rules for Dam Safety, a dam is defined as a water impounding structure with a height of at least 25 feet, and/or maximum impoundment volume of at least 100 acre-feet. If the structure is defined as a "dam" under the law, then the dam can be classified as either a Category I (High Hazard) or Category II. A Category I dam is so classified based on an analysis that a failure of the dam would result in a probable loss of human life. If a failure of that dam would not likely result in a probable loss of human life, then the dam is typically classified as Category II. Dams which fail to meet both the height and volume criteria stated above, even if their failure would result in a probable loss of life, are considered "exempt" from the overview of the Georgia Safe Dams Program. The Georgia Safe Dams Act and Rules for Dam Safety covers the design, operation and maintenance of dams which are classified as Category I (High Hazard). The Georgia Safe Dams Program does not directly regulate dams classified as Category II or "exempt". However, dams classified as Category II may be re-classified to Category I if a residence or other occupied structure is later constructed downstream of the dam and which would be impacted by a dam failure.

As required by the current GSDP rules, a professional engineer must inspect the dam at least every two years, unless a waiver is issued by GSDP allowing for inspections to be spaced to every 4 years. Quarterly inspections can be performed by non-engineering representatives of the owner, if desired, and reporting provided annual basis. Atlas is prepared to provide inspections at your request.

## **RECOMMENDED SCOPE OF WORK**

The dam inspection will be carried out by one of our GSDP Engineers of Record (EOR). Prior to the inspection, the engineer will coordinate with you the site conditions so that the inspections can be performed during a period of extended dry weather. The engineer will reconnoiter the dam by methodically traversing the dam crest, upstream slope above the normal pool surface and downstream slope and toe. During this inspection, the engineer will visually observe the exterior of the dam, including exposed spillway structures, and specifically look for physical features such as cracks/holes/voids, miss-



alignment of crest and slopes, settlement, animal burrows, uncontrolled seepage, unsuitable vegetation, etc. that will allow a professional engineering opinion of the current condition and performance of the dam and appurtenances to be formulated. Should observation wells or other instrumentation be present, they will be measured, if applicable. This particular dam has seepage drain outlet pipes that exit inside a cast-in-place concrete box structure at the toe of the downstream slope, adjacent to North Berkeley Lake Road. The drain outlets are accessible through the entry hatch in the top of the structure. Due to the confined space requirements of entering this structure, we will attempt to measure the drains from the top and will not be entering the structure. Reporting will follow established GSDP minimum requirements and include color photographs of the condition of the dam for historical comparison.

### **ESTIMATE OF COST AND SCHEDULE**

The cost to perform the visual site evaluation, measure instrumentation, and prepare an engineering report will be \$2,800.00. Should our visual evaluation indicate that the dam should be evaluated by subsurface exploration techniques, those recommendations would be made at that time. Therefore, the recommendations provided as a basis of this scope of work are limited to those which can be observed visually.

### **CLOSURE**

Atlas Technical Consultants, LLC sincerely appreciates the opportunity to provide this proposal. If your review of this proposal is acceptable, please execute and return one copy of the attached Agreement for Services. The Agreement, and Terms and Conditions attached, will serve as our contract. Should you have any questions regarding this proposal, please do not hesitate to contact the undersigned.

Sincerely,

**Atlas Technical Consultants, LLC**



Jonathan P. Sharpe, P.E.  
Senior Geotechnical Engineer  
GSDP Engineer of Record

Attachments

## GEOTECHNICAL DESIGN SERVICES

### Unit Rate Fee Schedule

PROJECT NAME: Berkeley Lake Dam – Visual Evaluation

LOCATION: Berkeley Lake, Gwinnett County, Georgia

DATE: December 12, 2023

PROPOSAL NUMBER: 23-13982

#### ACTIVITY

#### UNIT RATE

##### I. ENGINEERING CONSULTING SERVICES

A. Senior Project Engineer, per hour	\$170.00
B. Project Engineer, per hour	\$135.00
C. Field Engineer, per hour	\$105.00
D. Draftsman, per hour	\$ 65.00
E. Word Processing, per hour	No Charge
F. Transportation, per mile	\$ 0.70
G. Other Expenses	actual cost plus 15%

**ATLAS TECHNICAL CONSULTANTS, LLC (ATLAS)  
STANDARD AGREEMENT FOR SERVICES**

This is an agreement made between \_\_\_\_\_, and ATLAS TECHNICAL CONSULTANTS, LLC, on \_\_\_\_\_. ATLAS TECHNICAL CONSULTANTS, LLC agrees to provide services as outlined in Proposal Number 23-13982, dated December 12, 2023.

Services will be invoiced in accordance with the Unit Rate Fee Schedule attached. The Scope of Work outlined in the referenced Proposal, the Unit Rate Fee Schedule and Terms and Conditions attached, and this Standard Agreement for Services will be the basis for all work performed under this agreement.

Work Authorized By:

Work Accepted By:

(By) \_\_\_\_\_

(By) \_\_\_\_\_

Company: \_\_\_\_\_

Company: Atlas Technical  
Consultants, LLC

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## GENERAL CONDITIONS

### SECTION 1: RIGHT OF ENTRY

1.1 The client will provide for right of entry of the geotechnical engineer and all equipment necessary in order to complete the work.

1.2 While the geotechnical engineer will take reasonable precautions to minimize damage to the property, it is understood by the client that in the normal course of work some damage may occur, the correction of which is not a part of this Agreement.

### SECTION 2: UTILITIES

2.1 In the prosecution of his work, the geotechnical engineer will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. The owner agrees to hold the geotechnical engineer harmless for any damage to subterranean structures or utilities, which are not called to the geotechnical engineer's attention and correctly shown on the plans furnished.

### SECTION 3: SAMPLES

3.1 The geotechnical engineer will retain all soil and rock samples for 30 days. Further storage or transfer of samples can be made at the owner's expense upon written request.

### SECTION 4: INVOICES

4.1 The geotechnical engineer will submit invoices to the client monthly and a final bill upon completion of services. Invoices will show charges for different personnel and expense classifications. A more detailed separation of charges and back-up data will be provided at the client's request.

4.2 Payment is due upon presentation of the invoice and is past due thirty (30) days from the invoice date. Client agrees to pay a finance charge of one and one-half percent (1 1/2) per month, or the maximum rate allowed by law, on past due accounts.

### SECTION 5: OWNERSHIP OF DOCUMENTS

5.1 All reports, boring logs, field notes, laboratory test data, calculations, estimates, and other documents prepared by the geotechnical engineer, as instruments of service, shall remain the property of the geotechnical engineer.

5.2 Client agrees that all reports and other work furnished to the client or his agents, which is not paid for, will be returned upon demand, and will not be used by the client for any purpose whatever.

5.3 The geotechnical engineer will retain all records relating to the services performed for a period of five years following submission of the report, during which period the records will be made available to the client at all reasonable times.

## SECTION 6: DISPUTES

6.1 In the event that a dispute should arise relating to the performance of the services to be provided under this Agreement, and should that dispute result in litigation, it is agreed that the prevailing party shall be entitled to recover all reasonable costs incurred in the defense of this claim, including staff time, court costs, attorneys' fees, and other claim related expenses.

## SECTION 7: STANDARD OF CARE

7.1 Service performed by the geotechnical engineer under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other warranty, either expressed or implied, is made.

7.2 The client recognizes that subsurface conditions may vary from those encountered at the locations where borings, survey, or explorations are made by the geotechnical engineer and that the data, interpolations and recommendations of the geotechnical engineer are based solely on the information available to him. The geotechnical engineer will be responsible for those data, interpretations, and recommendations, but shall not be responsible for the interpretation by others of the information developed.

## SECTION 8: LIMITATION OF LIABILITY

8.1 The owner agrees to limit the geotechnical engineer's liability to the owner and all construction contractors and subcontractors on the project arising from the geotechnical engineer's professional acts, errors, or omissions, such that the total aggregate liability of the geotechnical engineer to all those named shall not exceed \$50,000.00 or the geotechnical engineer's total fee for the services rendered on this project, whichever is greater. The owner further agrees to require of the contractor and his subcontractors an identical limitation of the geotechnical engineer's liability for damages suffered by the contractor or subcontractor arising from the geotechnical engineer's professional acts, errors or omissions. Neither the contractor nor any subcontractor assumes any liability for damage to others which may arise on account of the geotechnical engineer's professional acts, errors, or omissions.

## SECTION 9: INSURANCE

9.1 The geotechnical engineer represents and warrants that it and its agents, staff and consultants employed by it are protected by worker's compensation insurance and that the geotechnical engineer has such coverage under public liability and property damage insurance policies which the geotechnical engineer deems to be adequate. Certificates for all such policies of insurance shall be provided to the client, upon request in writing. Within the limits and conditions of such insurance, the geotechnical engineer agrees to indemnify and save the client harmless from and against any loss, damage, or liability

arising from negligent acts by the geotechnical engineer, its agents, staff, and consultants employed by it. The geotechnical engineer shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance. The geotechnical engineer shall not be responsible for any loss, damage, or liability arising from any acts by client, its agents, staff, and other consultants employed by it.

## SECTION 10: TERMINATION

10.1 This Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms thereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period specified in the written notice. In the event of termination, the geotechnical engineer shall be paid for services performed to the termination notice date, plus reasonable expenses.

10.2 In the event of termination, or suspension for more than three (3) months, prior to completion of all reports contemplated by this Agreement, the geotechnical engineer may complete such analyses and records as are necessary to complete his files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all costs of the geotechnical engineer in completing such analyses, records, and reports.

## SECTION 11: ASSIGNMENTS

11.1 Notwithstanding the foregoing, (Consultant) shall have the right to assign or transfer this agreement in the event (Consultant) shall hereafter merge with, consolidate into, assign assets to, or otherwise effect any form of corporate reorganization with or into any entity that controls, is controlled by, or is in common control with the (Consultant).



## CR Tree Experts

30 November 2023

### MEMORANDUM OF UNDERSTANDING

SUBJECT: Tree Service Agreement Between CR Tree Experts and the City of Berkeley Lake

1. This memorandum of understanding confirms a mutually beneficial partnership between the City of Berkeley Lake and CR Tree Experts of Roswell, GA. This is not contractual but rather an agreement that all Tree Removals, Tree Trimming, and Stump Grinding will be handled by CR Tree Experts until such a time the City of Berkeley Lake communicates its intent to void the agreement.
2. Details of the agreement are as follows: The City of Berkeley Lake will notify CR Tree Experts of all tree needs both emergency and non-emergency. The City of Berkeley Lake will pay \$650 per hour for non-emergency work to be completed which will begin when the crew arrives and end when the crew departs. In case of an emergency (road closure, threat to home or life), the City of Berkeley Lake will pay \$650 per hour unless after hours. Normal hours are Monday-Saturday 8am-5pm. If called out after hours, a \$1,000 after hours fee would be assessed. The after-hours fee is in addition to the \$650 hourly rate. With this agreement, CR Tree Experts will be required to respond to all emergency calls within 4 hours of the call out. Non-emergency calls will be completed within 72 hours of the call out.

Your point of contact for this agreement will be Charles Lunsford, who can be reached at 717-698-4000 or [ChuckCRtree@gmail.com](mailto:ChuckCRtree@gmail.com).

Charles Lunsford  
13350 New Providence Rd  
Alpharetta GA 30004

Public Hearing Published: 12/20/2023  
Public Hearing: 1/18/2024

First Reading: 1/18/2024  
Adopted:

ORDINANCE NO. O-24-251

**AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF BERKELEY LAKE, GEORGIA, BY REZONING A 4.996 +/- ACRE TRACT OF LAND OWNED BY FIRST CITIZENS BANK & TRUST. COMMONLY KNOWN AS 4477/4487 PEACHTREE INDUSTRIAL BOULEVARD, IDENTIFIED AS TAX PARCELS R6268 043 AND R6268 044 AS SHOWN ON ATTACHED EXHIBIT "A", AS DESCRIBED ON EXHIBIT "B", FROM GC-A (C-1, NEIGHBORHOOD BUSINESS) TO M-1, LIGHT INDUSTRIAL SUBJECT TO THE CONDITIONS SET FORTH IN EXHIBIT "C"; PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, PROVIDING FOR AN EFFECTIVE DATE AND FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, Builderstone Global, LLC, desires to develop a 4.996+/- acre tract of land identified as tax parcels R6268 043 and R6268 044, as shown on Exhibit "A", and as legally described on Exhibit "B"; and

**WHEREAS**, Builderstone Global, LLC, with the consent of the owner, has submitted to the City Council of Berkeley Lake, Georgia, a written and signed application requesting the tract of land to be rezoned and included a survey and complete description of the land to be rezoned in the application; and

**WHEREAS**, the City Council of the City of Berkeley Lake has considered the rezoning application of Builderstone Global, LLC in conjunction with the standards set forth in Section 78, the Zoning Ordinance of the City of Berkeley Lake, Georgia and the laws of the state of Georgia; and

**WHEREAS**, the City Council has considered the recommendation of the Berkeley Lake Planning Commission, rendered after multiple meetings and a public hearing; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 18, 2024 duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting; and

**WHEREAS**, along with the application requesting rezoning of the property, the City Council also considered certain conditions to be placed on subject properties are shown on attached exhibit "C"; and

**NOW THEREFORE, THE COUNCIL OF THE CITY OF BERKELEY LAKE DOES HEREBY ORDAIN AS FOLLOWS:**



**SECTION 1. FINDINGS.**

The City Council finds that the proposed rezoning of the parcel from GC-A (C-1, Neighborhood Business) To M-1, Light Industrial is consistent with the adopted standards governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of Sec. 78-394 of the Zoning Ordinance.

**SECTION 2. LEGAL DESCRIPTION AND CONDITIONS.**

The properties as shown in attached Exhibit "A" and as legally described in Exhibit "B" shall be rezoned M-1, LIGHT INDUSTRIAL. Conditions are set forth in Exhibit "C". Said Exhibits are incorporated by reference as if fully set forth herein.

**SECTION 3. AMENDMENT OF THE ZONING MAP.**

This Ordinance is enacted as an amendment to the Zoning Map of Berkeley Lake, Georgia. Accordingly, the City Administrator is hereby authorized to update the Official Map consistent with the Zoning Ordinance.

**SECTION 4. SEVERABILITY**

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance should be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional by any court of competent jurisdiction, such invalidity shall not be construed to effect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Berkeley Lake, Georgia to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

**SECTION 5. REPEALER**

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

**SECTION 6. EFFECTIVE DATE**

This ordinance shall be effective immediately upon approval by the Mayor and Council.

Passed and adopted by the Mayor and Council on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

\_\_\_\_\_  
LOIS D. SALTER  
Mayor

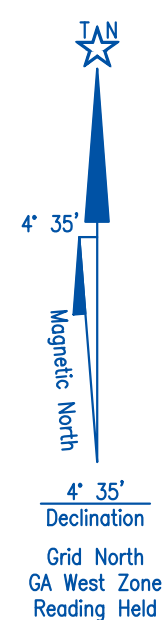
ATTEST:

\_\_\_\_\_  
LEIGH THREADGILL  
City Clerk

Approved as to form:

\_\_\_\_\_  
Richard Carothers, City Attorney





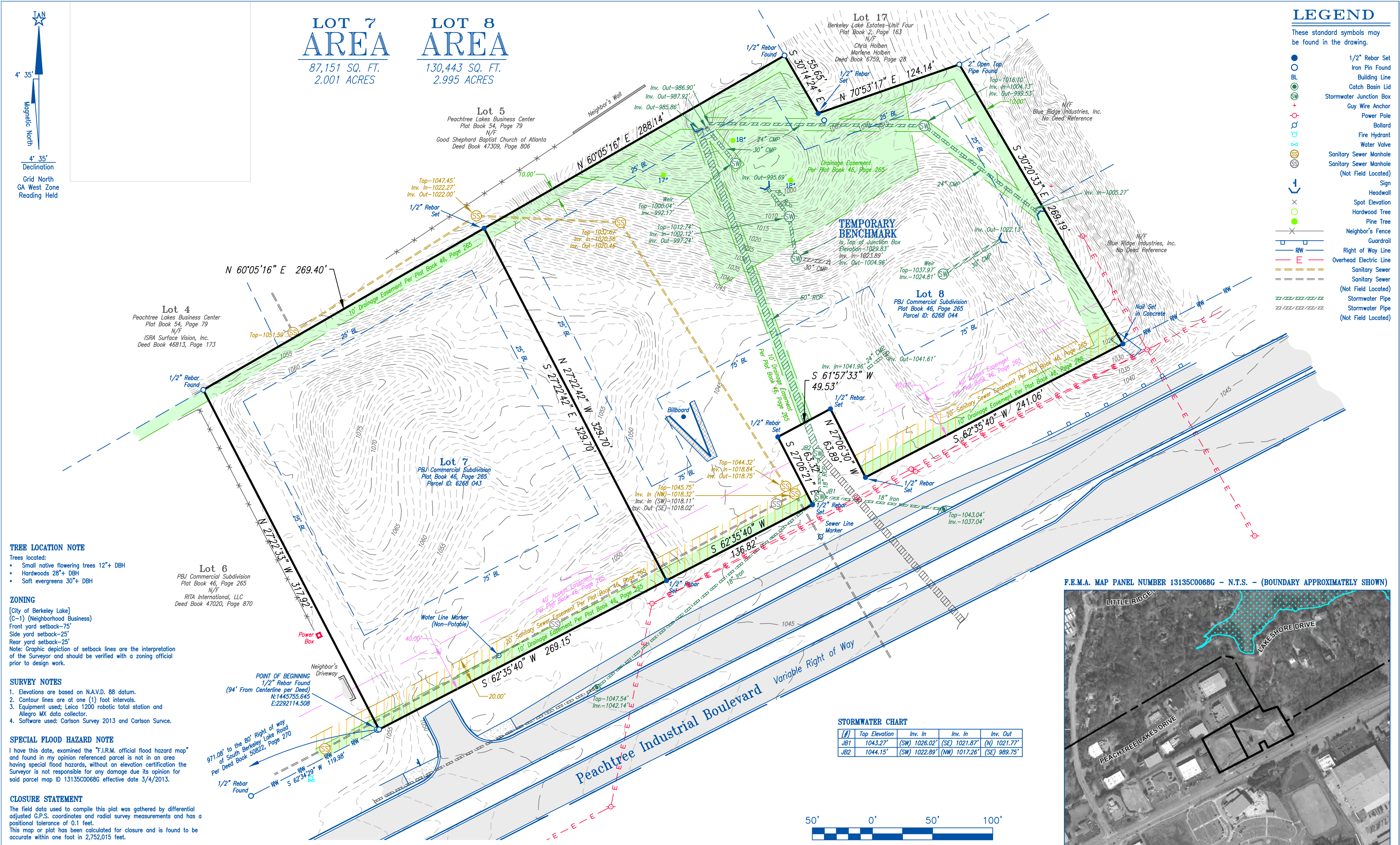
**LOT 7 AREA**  
87,151 SQ. FT.  
2.001 ACRES

**LOT 8 AREA**  
130,443 SQ. FT.  
2.995 ACRES

**LEGEND**

These standard symbols may be found in the drawing.

- 1/2" Rebar Set
- Iron Pin Found
- Building Line
- Catch Basin Lid
- Stormwater Junction Box
- Guy Wire Anchor
- Power Pole
- Bollard
- Fire Hydrant
- Water Valve
- Sanitary Sewer Manhole
- Sanitary Sewer Manhole (Not Field Located)
- Sign
- Headwall
- Spot Elevation
- Hardwood Tree
- Pine Tree
- Neighbor's Fence
- Guardrail
- Right of Way Line
- Overhead Electric Line
- Sanitary Sewer
- Sanitary Sewer (Not Field Located)
- Stormwater Pipe
- Stormwater Pipe (Not Field Located)



**TREE LOCATION NOTE**  
Trees located:  
• Small native flowering trees 12" + DBH  
• Hardwoods 28" + DBH  
• Soft evergreens 30" + DBH

**ZONING**  
[City of Berkeley Lake]  
(C-1) (Neighborhood Business)  
Front yard setback-75'  
Side yard setback-25'  
Rear yard setback-25'  
Note: Graphic depiction of setback lines are the interpretation of the Surveyor and should be verified with a zoning official prior to design work.

**SURVEY NOTES**  
1. Elevations are based on N.A.V.D. 88 datum.  
2. Contour lines are at one (1) foot intervals.  
3. Equipment used; Leica 1200 robotic total station and Allegro MX data collector.  
4. Software used: Carlson Survey 2013 and Carlson Surver.

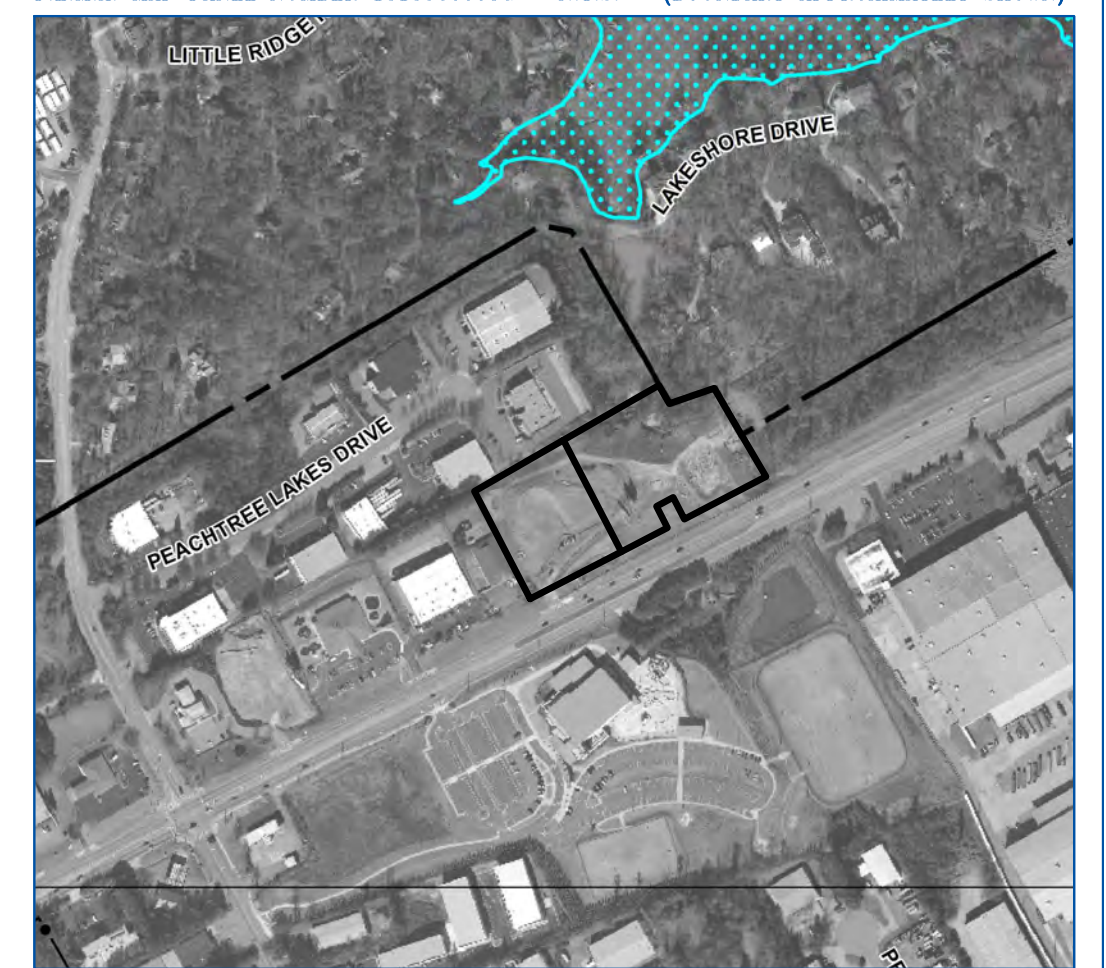
**SPECIAL FLOOD HAZARD NOTE**  
I have this date, examined the "F.I.R.M. official flood hazard map" and found in my opinion referenced parcel is not in an area having special flood hazards, without an elevation certification the Surveyor is not responsible for any damage due to its opinion for said parcel map ID 13135C00686 effective date 3/4/2013.

**CLOSURE STATEMENT**  
The field data used to compile this plat was gathered by differential adjusted G.P.S. coordinates and radial survey measurements and has a positional tolerance of 0.1 feet.  
This map or plat has been calculated for closure and is found to be accurate within one foot in 2,752,015 feet.

**STORMWATER CHART**

[#]	Top Elevation	Inv. In	Inv. In	Inv. Out
JB1	1043.27'	(SW) 1026.02'	(SE) 1021.87'	(N) 1021.77'
JB2	1044.15'	(SW) 1022.89'	(NW) 1017.26'	(SE) 989.75'

F.E.M.A. MAP PANEL NUMBER 13135C00686 - N.T.S. - (BOUNDARY APPROXIMATELY SHOWN)



155 CLIFTWOOD DRIVE - ATLANTA, GEORGIA 30328 - TELEPHONE: (404) 255-4671 - FAX: (404) 255-6607 - WWW.GEORGIALANDSURVEYING.COM

JOB NUMBER 202699	DRAWING NUMBER F-4281	TOPOGRAPHIC/TREE SURVEY PLAT FOR: 4477-4487 Peachtree Industrial Boulevard, Berkeley Lake Georgia 30092		DATE: 4/8/21	SCALE: 50'		
		<b>HANNUI LEE</b>		REVISION	BY DATE		
		LAND LOT: 268	6th DISTRICT	SECTION	Gwinnett COUNTY, GA		
		LOT: 7 and 8	BLOCK: "A"	UNIT:	PHASE:		
		SUBDIVISION: PBJ Commercial Subdivision					
PLAT BOOK 46	PAGE 265	PARTY CHIEF: JL4	FIELD DATE:	SHEET 1 OF 1			
DEED BOOK 50822	PAGE 270	DRAFTER: BMS	4/28/21				



This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

By: *Josh Lewis*  
Josh Lewis IV, Registered Land Survey Number 3028







## EXHIBIT A

The Land is described as follows:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 268 OF THE 6TH DISTRICT OF GWINNETT COUNTY, GEORGIA, CONTAINING 5.00 ACRES, MORE OR LESS BEING DESIGNATED AS LOTS 7 AND 8 OF BLOCK A OF PBJ COMMERCIAL SUBDIVISION ON A PLAT DATED JULY 15, 1985, LAST REVISED JANUARY 9, 1987, PREPARED BY GUILDEBEAU, BRITT, HAINES & ASSOCIATES, INC. AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD (94 FEET FROM THE CENTER LINE THEREOF) WHICH POINT IS LOCATED 971.083 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD FROM THE RIGHT OF WAY MONUMENT LOCATED AT THE INTERSECTION OF THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD AND THE NORTHEASTERN RIGHT OF WAY LINE OF BERKELEY LAKE ROAD (ALSO KNOWN AS SOUTH BERKELEY LAKE ROAD WHICH HAS AN 80 FOOT RIGHT OF WAY); PROCEEDING THENCE NORTH 27 DEGREES 03 MINUTES 27 SECONDS WEST ALONG THE LINE WHICH FORMS THE BOUNDARY BETWEEN LOTS 6 & 7, SAID BLOCK AND SUBDIVISION, A DISTANCE OF 317.877 FEET TO A POINT; PROCEEDING THENCE NORTH 60 DEGREES 28 MINUTES 18 SECONDS EAST A DISTANCE OF 559.250 FEET TO A POINT; PROCEEDING THENCE SOUTH 29 DEGREES 32 MINUTES 36 SECONDS EAST A DISTANCE OF 55.650 FEET TO A POINT; PROCEEDING THENCE NORTH 70 DEGREES 50 MINUTES 7 SECONDS EAST A DISTANCE OF 124.140 FEET TO A POINT; PROCEEDING THENCE SOUTH 29 DEGREES 42 MINUTES 12 SECONDS EAST A DISTANCE OF 269.650 FEET TO A POINT ON THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD, AND PROCEEDING THENCE SOUTH 62 DEGREES 56 MINUTES 33 SECONDS WEST ALONG THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD A DISTANCE OF 241.060 FEET TO A POINT; THENCE PROCEEDING NORTH 26 DEGREES 45 MINUTES 37 SECONDS WEST A DISTANCE OF 63.890 FEET TO A POINT; PROCEEDING THENCE SOUTH 62 DEGREES 18 MINUTES 26 SECONDS WEST A DISTANCE OF 49.530 FEET TO A POINT; PROCEEDING THENCE SOUTH 26 DEGREES 45 MINUTES 28 SECONDS EAST A DISTANCE OF 63.320 FEET TO A POINT AND PROCEEDING THENCE SOUTH 62 DEGREES 56 MINUTES 33 SECONDS WEST A DISTANCE OF 405.969 FEET TO THE POINT OF BEGINNING.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Chicago Title Ins. Co.. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*

ALTA Commitment for Title Insurance 8-1-16 w- GA Mod - Exhibit A

W-00016-23-CC

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## EXHIBIT C – Conditions of Approval

1. Along the property line shared with Tax Parcel Code R6268 019, there shall be a 25-foot setback in which no building can be constructed.
2. The property shall be developed in substantial accordance with the submitted proposed Site Plan entitled “Rezoning Site Plans for 4477-4487 Peachtree Industrial Boulevard, Berkeley Lake, GA 30092, Gwinnett County,” prepared by GAK Engineering, Inc. dated \_\_\_\_\_ (the “Site Plan”) and submitted to the Mayor and City Council on \_\_\_\_\_ (the “Meeting”), with modification to meet conditions of zoning or State, County and City regulations. Such modification, if substantial in the reasonable discretion of the City Administrator, will require Mayor and Council approval through an application for rezoning/change in conditions. This condition shall not preclude the City from initiating a change in conditions if, in the City’s legislative discretion, such change is appropriate.
3. Permitted uses shall be limited to the following M-1 uses:
  - a. Enclosed warehouse with offices,
  - b. Wholesaling with offices, and
  - c. Business office
4. Building design shall be in accordance with building elevations submitted with the application. Structures’ exteriors shall be constructed of the following materials: Albond aluminum composite panel and the sample material provided at the meeting, specifications to be provided by the applicant.
5. If no building permit shall have been issued for the development of the Property pursuant to the Site Plan within three (3) years of the date of the re-zoning, the entire property shall revert to the C-1, GC-A (Gwinnett County – Annexed) zoning classification. Provided, upon request by the applicant, the planning and zoning commission may extend the time for good cause shown.
6. Stormwater management facilities shall be designed in accordance with the Georgia Stormwater Management Manual, current edition at the time the project is submitted for land disturbance permit – “LDP”. The bioretention pond shall have a maintenance plan and access drive for maintenance if the pond is 10’ or greater in depth. A landscape plan and maintenance plan will also be required for the bioretention pond. Concentrated discharge of the stormwater detention facility will not be permitted on steep slopes. Engineered plans for all retaining walls shall be required prior to issuance of a LDP. The hydrology study must be submitted for the LDP using the post-developed curve number of 92 for the site. Construction of detention pond and walls atop the existing 60” RCP shall not be allowed. Post-developed flow rates from onsite runoff shall be equal to or less than 70% of pre-developed flow rates from onsite runoff.
7. In order to establish a sedimentation baseline with respect to the downstream pond that will receive storm water discharge, the Developer shall perform a sedimentation study of said pond. The sedimentation study shall be provided in a form and utilizing the parameters as are established by the City Engineer. The Developer shall undertake study at its sole cost and the results of such study shall be provided to the City prior to the issuance of any land disturbance

permits. The pre-development sedimentation study shall also be provided to the owner of the adjacent property upon which the lake or pond sits.

8. Owner shall post a bond in amount of \$250,000 to be provided by a surety properly licensed, registered and in good standing with the State of Georgia, the form of which is subject to approval by the City Attorney. The bond shall be to guarantee performance of the owner's obligation to prevent silting of the pond downstream of the property. The bond shall remain in place until the later of three years after final completion of the site work or issuance of the final certificate of occupancy for the buildings.
9. There shall be no less than a 75-foot undisturbed, vegetated buffer adjacent to Tax Parcel Code 6289-250. Where there is inadequate vegetative screening to achieve an opaque screen, supplemental plantings in accordance with Sec. 42-224 of the City of Berkeley Lake Code of Ordinances shall be required.
10. A Landscaping Plan shall be provided for the site, including areas within the 75-foot buffer that are sparsely vegetated, to be approved by the City Administrator.
11. Location and design of curb cuts on Peachtree Industrial Boulevard shall be approved by the governmental entity with jurisdiction over Peachtree Industrial Boulevard.
12. Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.
13. The owner shall timely repair or repaint any graffiti or vandalism and remove any refuse or garbage dumped on the Property.
14. The owner shall abide by the following requirements:
  - a. Outdoor storage and display shall be prohibited.
  - b. All roof-mounted equipment, not to include solar panels, shall be screened from view on all sides.
  - c. The total height of any buildings, including any roof mounted equipment such as solar panels and/or HVAC equipment, shall not exceed 40 feet from the mean ground level grade of the building.
  - d. No outdoor loudspeakers will be allowed. Sound level from any indoor or outdoor speaker or equipment shall be 0 decibels measured at the property line.
  - e. Portable buildings shall be prohibited.
15. Owner will address any and all comments and concerns from the Gwinnett County Department of Water Resources regarding water or sewer matters as needed during the LDP and construction phases of the Project.
16. All new utility lines shall be located underground if allowed by the respective utility companies.
17. Owner will provide streetlights along all public rights-of-way utilizing decorative light poles/fixtures appropriate to the Project and surrounding properties and as approved by the City Administrator. The City Administrator shall approve the number, locations and heights of

streetlights. All street lighting shall be subject to review and approval of the governmental entity with jurisdiction over Peachtree Industrial Boulevard including the Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to pedestrian sidewalks.

18. Owner will provide lighting throughout all parking areas utilizing decorative light poles/fixtures appropriate to the Project and surrounding properties and as approved by the City Administrator. The City Administrator shall approve the number, locations, and height of parking lot lighting. All parking lighting adjacent to a public road shall be subject to review and approval of the Gwinnett County Department of Transportation.
19. On property, all outdoor site lighting, including parking but not including streetlights, shall be of "Dark Sky Rating Type" so that light shall not emanate upwards, only downwards and there shall be zero-foot candle at the property line of Tax Parcel Code R6289 250.
20. Natural vegetation shall remain on the property until issuance of a land development permit.
21. All mechanical, HVAC and like systems shall be screened from street level view on all sides by an opaque wall or fence of material as approved by the City Administrator.
22. These conditions shall be printed on any plat recorded and attached to any plat of a lot provided to buyers. The failure for a plat to contain any or all of the conditions shall not relieve any person of full compliance with each condition.
23. If the applicant has made any promises, memorialized in writing and signed by the applicant or its authorized agent, to owners of properties contiguous to the property, and those writings have been filed with the City Administrator prior to approval of this application, issuance of any development or building permit will be conditioned upon fulfillment of such promises.
24. This zoning with conditions shall have no precedential impact with regard to other properties in the City of Berkeley Lake, including but not limited to adjacent properties.

**City of Berkeley Lake  
Staff Analysis**

<b>CASE NUMBER:</b>	PZRZ-23-08 & PZV-23-09 – 4477/4487 PEACHTREE INDUSTRIAL BLVD.
<b>REQUEST:</b>	REZONE FROM GC-A (C-1, NEIGHBORHOOD BUSINESS) TO M-1, LIGHT INDUSTRIAL  CONCURRENT VARIANCES: 1.) MODIFY THE 75-FOOT BUFFER BETWEEN M-1 AND R-100 2.) REDUCE THE M-1 DISTRICT AREA MINIMUM FROM 10 ACRES TO 4.996 ACRES 3.) REDUCE THE FRONT SETBACK FROM 75 FEET TO 11.11 FEET ALONG APPROX. 49 FEET
<b>EXISTING ZONING:</b>	GC-A(C-1) – GWINNETT COUNTY ANNEXED, NEIGHBORHOOD BUSINESS
<b>EXISTING USE:</b>	4477 PIB – BILLBOARD 4487 PIB - UNDEVELOPED
<b>PROPOSED ZONING:</b>	M-1, LIGHT INDUSTRIAL
<b>PROPOSED USE:</b>	CORPORATE HEADQUARTERS – WAREHOUSE, SHOWROOM AND EXECUTIVE OFFICES
<b>APPLICANT:</b>	BUILDERSTONE GLOBAL, LLC 4595 WINTERS CHAPEL RD. DORAVILLE, GA 30360
<b>OWNERS:</b>	FIRST CITIZENS BANK & TRUST 4300 SIX FORKS RD., FCC-52 RALEIGH, NC 27609
<b>STAFF RECOMMENDS:</b>	DENIAL
<b>P&amp;Z RECOMMENDS:</b>	CONDITIONAL APPROVAL
<b>MEETING DATE:</b>	NOV. 14, 2023, P&Z MEETING JAN. 18, 2024, COUNCIL MEETING (PUBLIC HEARING) FEB. 15, 2024, COUNCIL MEETING (tentative)

**PROPOSED PROJECT:**

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The applicant proposes to combine the subject properties and build a 60,870-sf warehouse and a 14,500-sf executive office/showroom building to create a corporate headquarters campus. To support the use, the applicant proposes to provide 80 parking spaces as well as 7loading/unloading spaces. Except for an existing billboard that is to remain, the property is undeveloped. For the property to be developed as proposed, the applicant is seeking the following concurrent variances:

- A modification of the 75-foot buffer required between M-1 and R-100 (Sec. 78-242)



- A reduction in the M-1 minimum district area from 10 acres to 4.996 acres (Sec. 78-243(1))
- A reduction in the M-1 required front setback from 75 feet to 11.11 feet along approximately 49.53 feet (Sec. 78-243 (5))

#### STAFF FINDINGS:

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- 1.) The subject properties (R6268 043 and R6268 044) contain 4.996 acres and are located on Peachtree Industrial Boulevard near South Berkeley Lake Road.
- 2.) Property to the north is zoned Single-Family Residential (R-100) and Gwinnett County – Annexed (GC-A) with an underlying county zoning of Light Industry (M-1). Property to the east is zoned R-100 and GC-A, with an underlying county zoning of Heavy Industry (M-2). Peachtree Industrial Boulevard is located to the south and property to the west is zoned GC-A, with an underlying county zoning of Office-Institutional (OI).
- 3.) Prior to 2007 the property was zoned Light Industry (M-1) in unincorporated Gwinnett County, but in 2007 the zoning was changed to Neighborhood Business (C-1) pursuant to an application by the former owner for development of a 19,375-square-foot retail space and 5,525-square-foot restaurant with 125 parking spaces.
- 4.) At the time of the 2007 zoning approval, the following conditions were attached to the approval:
  - a. Retail, service commercial and accessory uses. Outdoor storage shall be prohibited. The following uses shall also be prohibited: convenience stores and dry cleaners. Restaurants without drive-thru windows, banks with drive-thru windows and drug stores are approved as special uses.
  - b. Abide by all requirements of the Peachtree Corners Activity Center/Corridor Overlay.
  - c. Limit the height of all buildings to one story.
  - d. To satisfy the following site development considerations:
    - i. Provide a 50-foot buffer adjacent to residentially zoned property. Adjacent to Mr. Holben’s residential property, outside the 50-foot buffer, include a 5-foot-high vinyl coated chain link fence and a row of Thuga Green Giants, Leyland Cypress or other evergreen trees as approved by the Director of Planning and Development. The trees shall be 8-feet in height at time of planting.
    - ii. Location and design of driveways shall be subject to review and approval of the Gwinnett County Department of Transportation.
    - iii. Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.
    - iv. No outdoor loudspeakers will be allowed. Sound level from any indoor or outdoor speaker shall be 0 decibels measured at the property line.
    - v. Lighting shall be down-cast and directed in towards the property so that it does not shine into nearby residential properties.
    - vi. Existing billboard on the property shall remain as it is and no other billboard shall be allowed.
    - vii. The owner shall repair or repaint any graffiti or vandalism on the property within 72 hours.
    - viii. Peddlers and parking lot sales are prohibited.
  - e. Abide by the following requirements, dedications and improvements:

- i. Any restaurant uses shall utilize modern odor scrubbing and air filtration equipment to minimize smoke, odor or other effects on surrounding properties. They shall also comply with all County, State and EPA health regulations. Final approval of restaurant design must be reviewed and approved by the Director of Planning.
  - ii. All roof mounted HVAC equipment shall be screened from view.
- 5.) In 2010, the owner applied for a change in the zoning condition relative to the buffer as follows: “Provide a retaining wall along the property line as generally depicted in the site plan approved herewith (with such modifications as required to accommodate actual site development and wall construction approved by the Director of Planning and Development). Adjacent to Mr. Holben’s residential property along the base of the retaining wall, provide a row of Thuga Green Giants, Leyland Cypress or other evergreen trees as approved by the Director of Planning and Development. The trees shall be a minimum of 8- feet in height at time of planting. Along the top of the retaining wall, provide a 5-foot-high vinyl coated chain link fence.”
- 6.) The Board of Commissioners denied the request for a change in the buffer condition.
- 7.) In 2011, the property was annexed into the city. Additionally, in 2011, the property was foreclosed.
- 8.) There is an existing billboard on the site which the applicant indicates can’t be removed due to a 99-year lease.
- 9.) Currently, the property is zoned Gwinnett County – Annexed, Neighborhood Business (GC-A, C-1), which is subject to the Gwinnett County zoning regulations in existence at the time of annexation.
- 10.) The applicant proposes to combine the lots and build two buildings on the site – a 60,870-sf warehouse and a 14,500-sf building to house executive offices and a showroom.
- 11.) The proposed use is not permitted in GC-A, C-1.
- 12.) The applicant proposes rezoning the site to Light Industrial, M-1, which allows “enclosed warehouse with offices, business office and wholesaling with offices.”
- 13.) Use of the subject property has evolved since the initial application. Originally, the larger building was proposed to contain warehouse, office and showroom space with the smaller building proposed for accessory retail sales. The updated application indicates that the larger building will be used exclusively for warehouse and associated warehouse workers’ offices, restrooms and break room and the smaller building will contain executive offices, a showroom for wholesale buyers and a basement for storage.
- 14.) Each building is a principal use, which is not allowed per Sec. 78-64 of the zoning ordinance.
- 15.) To support the project, 80 parking spaces and 7 loading spaces are proposed in accordance with the city’s parking standard.
- 16.) A site plan and building elevation were submitted with the application. The following changes are noted:
  - a. The 75-foot buffer adjacent to R-100 properties is labeled and shown to be undisturbed, except for the 4,827-sf portion that is requested to be modified.
  - b. The proposed height of the buildings and any roof-mounted equipment will be 40 feet and meet the M-1 maximum height limit.
  - c. The proposed detention area and associated walls are no longer located on top of the 60-inch reinforced concrete pipe. However, when Gwinnett County needs to maintain the pipe, it seems likely that the proposed stormwater management

system would be impacted by the repair area needed to access the 60-inch pipe, which is buried approximately 50 feet deep.

d. Curb cuts have been reduced from three to two.

- 17.) In addition to needing a zoning change, the applicant's plan for development requires variances from multiple M-1 standards. The applicant has requested 3 concurrent variances, as described below.
- 18.) The applicant has requested a modification of the 75-foot buffer required between M-1 and R-100 (Sec. 78-242). While the majority of the property abuts commercially or industrially zoned property, the northeast corner abuts residential property zoned R-100.
- 19.) The buffer is required to shield or block noise, light, glare, visual or other conditions, and/or to minimize physical passage to non-similar areas, and/or reduce air pollution, dust, dirt and litter. It is intended to protect the less intense residential district from the impacts of the more intense industrial district.
- 20.) There are two abutting properties zoned R-100, one is an undeveloped land-locked property owned by Joseph T Ryerson & Sons, Inc. The applicant has requested relief from providing the 75-foot buffer along a portion of this property to be able to use this area, approximately 4,827-sf, to allow for stormwater infrastructure and encroachment by a portion of the smaller building. In addition, eligible trees saved in this area can be used to meet the tree density standard; or trees can be planted in this area for tree density credit.
- 21.) The second variance request is to reduce the 10-acre district area minimum required by Sec. 78-243(1) because the lots in question, even when combined, total just shy of 5 acres.
- 22.) When combined with contiguous industrially zoned property the area of the district would be approximately 23 acres. However, this property does not have access to the other acreage such that they could be considered a "district area." The constraints of this particular property, the number and size of the buildings, the amount of parking and the need for large trucks to access and exit the property make reducing the district area minimum inappropriate.
- 23.) The third variance request is to reduce the front setback from 75 feet to 11.11 feet where there is a roughly 63.5-foot jog in the right-of-way of Peachtree Industrial Boulevard to accommodate stormwater infrastructure. This creates an unusual lot shape. The buildings will be set back a consistent distance from the paved roadway, and neither are located closer than 75 feet to the front property line as shown on the revised site plan.
- 24.) Staff assumes that while the variance is not needed as the project is drawn, the applicant wants the flexibility to adjust building location during detailed design and engineering without being adversely impacted by a front setback requirement measured from the cut-out.
- 25.) In evaluating the application against the standards for zoning, staff offers the following:
  - a. *Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.* The corporate headquarters is suitable in terms of the use and development of *some* of the adjacent and nearby property. However, the subject site is adjacent to an established residential district to the north/northeast, and light industrial zoning to accommodate the proposed development is not harmonious with the established residential area.
  - b. *Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.* The development of the subject site as proposed will adversely impact the adjacent and nearby established residential property.
  - c. *Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.* The subject site is currently zoned for neighborhood business uses and has been zoned as such since 2007. It was

rezoned from M-1, Light Industry, to its current C-1 designation in 2007 with a plan for development with C-1 uses that never came to fruition and was foreclosed in 2011.

- d. *Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.* Staff reached out to Gwinnett County Department of Water Resources (DWR) and Gwinnett County Department of Transportation (DOT) for comment regarding the burden to existing infrastructure that the proposed development could create. Gwinnett DOT has not yet responded, but Gwinnett DWR provided comments which must be addressed by the applicant, including application for a sewer capacity request to ensure that there is adequate water and sewer to serve the proposed development.
- e. *Whether the proposed rezoning is in conformity with the policy and intent of any land use plan then in effect.* While the Peachtree Industrial District provides for the following uses: shopping centers, retail, restaurants, offices and some light industrial uses, the rezoning and proposed development are inconsistent with the Comprehensive Plan of the City of Berkeley Lake. Acceptable light industrial uses would closely adhere to the zoning and landscape standards of the city to make the industrial nature of the development harmonious with surrounding land uses.
- f. *Whether there are existing or changing conditions affecting the use and development of the property which provide supporting grounds for either approval or disapproval of the proposed rezoning.* Existing conditions to be considered:
  - i. This site is sensitive due to severe topography and location directly upstream from natural features that include a creek, a pond and a lake. Post-development stormwater management as well as erosion and sedimentation control are of the utmost importance.
  - ii. According to Sec. 78-64 of the zoning ordinance, only one principal building or use is allowed on a lot.

#### STAFF RECOMMENDATION:

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Staff recommends denial of the application to rezone as well as denial of the three concurrent variances. A change in zoning from GC-A(C-1) to M-1 for the proposed use reflected on the revised site plan is not suitable considering the surrounding land use pattern, and particularly the established residential area adjacent to the north/northeast. In addition, the proposed site plan shows development of two buildings, which is inconsistent with the zoning ordinance.

The variance requests are independently recommended for denial for the following reasons:

Variance 1 - While the buffer area requested to be modified is adjacent to an undeveloped land-locked parcel, it serves as protection for the established residential area to the northeast and should not be modified.

Variance 2 – While the site is adjacent to an industrial subdivision of approximately 20 acres in size, that subdivision was developed with shared infrastructure including road and stormwater infrastructure. This property does not have access to that adjacent industrial subdivision nor the ability to share its infrastructure. To the extent the intent behind the district area minimum was to facilitate the development of cohesive, planned industrial parks, the subject property would be considered a separate M-1 district area. Given the lot constraints, the district area should not be reduced.

Variance 3 – While the cut-out does create an unusual shape, variance approval is conditional on the property being developed in conformance with the site plan. Given that the buildings meet the 75-foot front setback as currently proposed, there is no variance needed, and a variance to a hypothetical situation should not be granted. If through the design and engineering phase of the

project it becomes necessary to shift the buildings closer than 75-feet to the cut-out in the property, a variance request should be submitted for consideration.

However, if the Planning and Zoning Commission were to recommend approval of the rezoning and variance requests, staff suggests the following conditions:

- 1.) The property shall be developed in substantial accordance with the submitted proposed Site Plan entitled “Rezoning Site Plans for 4477-4487 Peachtree Industrial Boulevard, Berkeley Lake, GA 30092, Gwinnett County,” prepared by GAK Engineering, Inc. dated Oct. 23, 2023 and submitted to the Mayor and City Council on Jan. 18, 2024 (the “Site Plan”), with modification to meet conditions of zoning or State, County, and City regulations. Such modification, if substantial in the discretion of the City Administrator, will require Mayor and Council approval through an application for rezoning/change in conditions.
- 2.) There shall be no more than one principal building on the property. Permitted uses shall be limited to the following M-1 uses:
  - a. Enclosed warehouse with offices,
  - b. Wholesaling with offices, and
  - c. Business office
- 3.) Building construction shall be in accordance with building elevations submitted with the application. Structures shall be constructed of the following materials: Albond aluminum composite panel and the sample material provided at the meeting, specifications to be provided by the applicant.
- 4.) If no building permit shall have been issued for the proposed use by January 1, 2027, the entire property shall revert to the C-1, GC-A (Gwinnett County-Annexed) zoning classification.
- 5.) Stormwater management facilities shall be designed in accordance with the Georgia Stormwater Management Manual, current edition, at the time the project is submitted for LDP. A landscape plan will be required for the bioretention area, and maintenance plan will be required for both the bioretention area and the detention pond. Discharge of the stormwater detention facility will not be permitted on steep slopes. Engineered plans for all retaining walls shall be required prior to issuance of a LDP. Construction of detention pond and walls atop the existing 60” RCP shall not be allowed. Documentation of County approval of location of pond walls in the vicinity of the prescriptive easement on the 60” RCP shall be provided prior to issuance of an LDP. Post-developed flow rates from onsite runoff shall be equal to or less than 70% of pre-developed flow rates from onsite runoff.
- 6.) Lighting shall be down-cast and directed in towards the property so that it does not shine into nearby residential buildings or properties. Lighting shall be consistent with what is termed “dark sky lighting.”
- 7.) There shall be no less than a 75-foot undisturbed, vegetated buffer and no less than a 75-foot building and parking drive setback where the property is adjacent to residentially zoned property. Where there is inadequate vegetative screening to achieve an opaque screen, supplemental plantings in accordance with Sec. 42-224 of the City of Berkeley Lake Code of Ordinances shall be required.
- 8.) A Landscaping Plan shall be provided for the site, including areas within the 75-foot buffer that are sparsely vegetated, to be approved by the City Administrator.

- 9.) Buffers shall be undisturbed except for landscaping and/or planting anticipated or required by the preceding two conditions.
- 10.) Outdoor storage and display shall be prohibited.
- 11.) Location and design of curb cuts on Peachtree Industrial Boulevard shall be approved by the governmental entity with jurisdiction over Peachtree Industrial Boulevard.
- 12.) Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.
- 13.) The owners shall timely repair or repaint any graffiti or vandalism and remove any refuse or garbage dumped on the property.
- 14.) The owner shall abide by the following requirements:
  - a. All roof-mounted equipment shall be screened from view on all sides.
  - b. The total height of any buildings, including any roof mounted equipment such as solar panels and/or HVAC equipment, shall not exceed 40 feet from the mean ground level grade of the building.
- 15.) No outdoor loudspeakers will be allowed. Sound level from any indoor or outdoor speaker or equipment shall be 0 decibels measured at the property line.
- 16.) Address all comments from the Gwinnett County Department of Water Resources as follows:
  - a. Locate the existing 48-inch Ductile Iron Pipe (DIP) reuse line on the southwest corner of the property. The line should be located both vertically and horizontally to determine if there will be appropriate cover over the line during all phases of construction, and if the line is able to handle the traffic anticipated over it. Designate the easement on the site plan.
  - b. Submit a sewer capacity request to verify available capacity at the Garner Industrial Pump Station.
  - c. Confirm that the existing sewer on the southern portion of the site, designated as vitrified clay pipe, is adequate for the anticipated depth and traffic for this development. If conditions are likely to compromise the integrity of the pipe, the developer must implement protection.
  - d. Confirm whether the abandoned 8-inch vitrified clay pipe bisecting the parcel has a dedicated easement.
  - e. Permanent structures are prohibited from being built in the existing sewer easement. The site design or sewer may need to be adjusted to avoid the walls from the loading docks encroaching on the easement and show the easement in the design plans. Confirm that the pipe is adequate for the anticipated depth and traffic for this development. If conditions are likely to compromise the integrity of the pipe, the developer must implement protection.
  - f. Connect to existing 16-inch ductile iron pipe water main located on the southern right-of-way of Peachtree Industrial Boulevard via jack-and-bore. Provide adequate easements for the bore and receiving pit.
- 17.) All new utility lines shall be located underground.

- 18.) Provide streetlights along all public rights-of-way utilizing decorative light poles/fixtures. Light source shall be high-pressure sodium. Streetlights shall be staggered, 150 feet on-center. All street lighting shall be subject to review and approval of the Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to required pedestrian amenity sidewalk pads. The fixture head shall be a cobra head. The pole type shall be fluted (black). And the maximum pole height shall be 40 feet.
- 19.) Provide lighting throughout all parking areas utilizing decorative light poles/fixtures. Light source shall be metal halide, not exceeding an average of 4.5 foot-candles of light output through the parking area. Light fixtures shall be hooded. Lighting shall be directed to avoid intrusion on adjacent properties and away from adjacent thoroughfares. Light fixtures shall be as follows: Fixture Head = Box Head, Pole Type = fluted black, height = 35' max.
- 20.) Dumpsters shall be screened from view on all four sides. Screening shall consist of three solid walls of brick, stucco or split-faced block construction, two feet taller than the height of the dumpster, with 100 percent solid metal or wooden gates. Dumpsters shall be placed in the rear yard.
- 21.) Natural vegetation shall remain on the property until issuance of a development permit.
- 22.) Owner shall post a bond in the amount of \$250,000.00, at least 40% to be in cash with the remainder to be provided by a surety properly licensed, registered and in good standing with the State of Georgia, the form of which is subject to approval by the City Attorney. The bond shall be to guarantee performance of the owner's obligation to prevent silting of the pond downstream of the property. The bond shall remain in place until the later of five years after final completion of the site work or issuance of the final certificate of occupancy for the buildings.
- 23.) Portable buildings shall be prohibited.
- 24.) All mechanical, HVAC and like systems shall be screened from street level view on all sides by an opaque wall or fence of brick, stucco, split-faced block or wood.
- 25.) These conditions shall be printed on any plat recorded and attached to any plat of a lot provided to buyers. The failure for a plat to contain any or all of the conditions shall not relieve any person of full compliance with each condition.
- 26.) If the applicant has made any promises, memorialized in writing and signed by the applicant or its authorized agent, to owners of properties contiguous to the property, and those writings have been filed with the City Administrator prior to approval of this application, issuance of any development or building permit will be conditioned upon fulfillment of such promises.
- 27.) This zoning with conditions shall have no precedential impact with regard to other properties in the City of Berkeley Lake, including but not limited to adjacent properties.

#### STANDARDS FOR APPROVAL:

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In considering whether to recommend approval or denial of the request to rezone the property to M-1, Light Industrial, the commission must evaluate the application based on the criteria specified in Sec. 78-394 of the zoning ordinance:

*Standards governing the exercise of zoning power:*

- (1) *Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property;*
- (2) *Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property;*
- (3) *Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned;*
- (4) *Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;*
- (5) *Whether the proposed rezoning is in conformity with the policy and intent of any land use plan then in effect; and*
- (6) *Whether there are other existing or changing conditions affecting the use and development of the property which provide supporting grounds for either approval or disapproval of the proposed rezoning.*

In considering whether to grant or deny the variances, the commission must evaluate the application based on the criteria specified in Section 78-366 (a)(1) of the zoning ordinance:

a) *Applications for variances.*

- (1) *All applications for variances shall be submitted initially, in writing, to the planning and zoning commission of the city, which shall consider these requests at its next called meeting. The planning and zoning commission may authorize such variance from the terms of this zoning chapter as will not be contrary to the public interest. The spirit of this chapter shall be observed, the public safety, health and welfare secured and substantial justice done. At the hearing, any party may appear in person or have authorized representation. Such variances may be granted in individual cases if the planning and zoning commission finds that:*
  - a. *There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography; and*
  - b. *The application of this chapter to this particular piece of property would create an unnecessary hardship; and*
  - c. *Such conditions are peculiar to the particular piece of property involved; and*
  - d. *Such conditions are not the result of any actions of the property owner; and*
  - e. *Relief, if granted, would not cause substantial detriment to the public nor impair the purposes or intent of this chapter; and*
  - f. *The variance is granted for a use of land or building or structure that is not prohibited by this chapter.*



SITE PHOTOS



# LOCATION MAP





# AERIAL PHOTOS



Aerial photo depicting stormwater infrastructure

## **Application Materials**

October 30, 2023

**Applicant:** BUILDERSTONE GLOBAL LLC

4595 Winters Chapel Rd, Atlanta, GA 30360

**Subject Property:** 4477-4478 Peachtree Industrial Blvd. (Tax parcels R6268 043 R6268 044)

**Current Zoning:** C-1, GC-A (Gwinnett County-Annexed) and *The Peachtree Corner Activity Center Corridor Overlay* which relates to the old Gwinnett County C-1 zoning that existed at the time of annexation in 2011. 19,525 retail center with a 5,525 square foot restaurant and 125 parking spaces

**Proposed Zoning:** M-1, Light Industrial, City of Berkeley Lake

**ROW Access:** Peachtree Industrial Blvd.

**Application:** # \_\_\_\_\_

Exhibit "A" Website for BuilderStone

Exhibit "B" Photo

Exhibit "C" first 15 pages, PIB Hydro\_Report 9-20-2023

Exhibit "D" Lot 17 Retention Lake

Exhibit "E" 1987 Plat

Exhibit "F" Drawing

Exhibit "G" Zoning Map/Comprehensive Plan

**\*\*\*AMENDED LETTER OF INTENT\*\*\***

Dear City of Berkeley Lake,

This firm represents BUILDERSTONE GLOBAL LLC ("BuilderStone" or "Company"), a Georgia company currently located near Norcross, Georgia. BuilderStone has been in business since 2017. It is owned by Taner Baltaci, a Georgia resident who immigrated from Turkey, and who has been in this business for over 20 years. The Company serves the Atlanta and Georgia market as well as an approximately 300-mile radius from the state.

BuilderStone sells high-quality stone from around the world, including but not limited to, marble, granite, quartz and quartzite with such fanciful names as CALACATTA BLACK SEA (a black quartz with white veins), INTERSTELLAR (a spotted quartz), SNOW WHITE QUARTZ (white dappled quartz), MANHATTAN (a blue-veined quartzite), TYPHON BORDEAU (granite with wine-colored streaks). (see Exhibit "A," Website for BuilderStone)

BuilderStone, a family intergenerational business, is a wholesaler that sells slabs of stone (the "Products") directly to designers, architects, developers, distributors, stone installers and fabricators to create the final product for their own customers. The fabrication or cutting of slabs of stone for the final product does not occur on site.

49 Atlanta Street  
Marietta, Georgia 30060

2951 Flowers Road South, Suite 220  
Atlanta, Georgia 30341

Gregory, Doyle, Calhoun & Rogers, LLC



The Company has outgrown its current rented location in Norcross and seeks to create a headquarters for its business for decades to come within the City of Berkeley Lake. BuilderStone was encouraged by the great location on Peachtree Industrial as well the reputation of Berkeley Lake as business-friendly community as it has expanded its footprint and tax base through commercial annexation.

BuilderStone sees the approximately 5-acre foreclosure site (the “Property), blighted and not living up to its commercial tax-base potential, as an ideal location for a “campus.” This would include a primary building of 60,870 square feet to be used as warehouse for the Products to include offices/restrooms/break space for the warehouse workers (“Warehouse Primary Building”). A 14,500 SF (7,250 SF for the 1st floor and 7,250 SF for the 2nd floor) accessory building (with a basement for storage uses) that will house the corporate offices for the BuilderStone executive staff and wholesale salesforce, as well as showcase samples of the Product for wholesale buyers (“Accessory Building”). The height will not exceed 40 feet. Buyers would primarily visit the Accessory Building and order Products with the sales staff located within it. Having the separate Accessory Building allows customers to be kept separate and safe from the warehouse operations which includes moving around very large stone slabs with heavy equipment. For liability insurance purposes, it is preferred to keep customers out of warehouse and harms’ way.

The uses of both structures clearly falls within the City’s M-1 Light Industrial category (dated 2010, prior to annexation) which allows “Enclosed warehouse with offices,” “wholesaling with offices,” “Business office” and “Enclosed accessory buildings,” as well as “Other light industrial uses upon the findings of the planning commission that such uses are of the same general character as those provided for herein, that meet the standards of this zoning district and which will not be detrimental to the other uses within the district as to the adjoining land uses.” (see Sec. 78-240. - Uses permitted, *below*).

The Accessory Building is also part of goal to create a ”campus” – a beautiful, modern, inter-connected headquarters that will be visual and economic boast to the City. The hope is that such high-quality, smart development can spur continued redevelopment of aged lots and facilities within the annexed commercial areas. The Company hopes that the development will be a source of pride for the City. The City itself, has articulated the goal of encouraging redevelopment along Peachtree Industrial. (See below.)

***City of Berkeley Lake Comprehensive Plan p. 22. “Redevelopment and Attracting Businesses. There are no large vacant parcels for redevelopment within the city, nor is there any imminent opportunity for annexation. Parcels fronting on or south of Peachtree Industrial Boulevard have been a strong contributor to the city’s tax base since annexation, and many of these properties represent the city’s best opportunities for redevelopment. The city should continue to invest in planning to maximize the potential of these areas and make them as attractive as possible for investment and reinvestment.” (emphasis provided).***

The City's Comprehensive Plan, per state law requirements (O.C.G.A. 50-8-7.1 et seq.), is to state the community vision for the future physical development of the community. Reviewing the plan, not only is the Property included (in the color orange) in the "Peachtree Industrial District," but there is nothing in the Comprehensive Plan excluding the Property from the Plan. (See Exhibit "G" Zoning Map/Comprehensive Plan). BuilderStone's intended use of storage warehouse and wholesale sales is about as light of an industrial use that one can get (*The Plan states the uses for the District are "shopping centers, retail, restaurants, offices and some light industrial uses"*).

## I. The Property

BuilderStone is seeking to combine and rezone two lots (a total of approximately 5 acres) located on Peachtree Industrial Blvd. from C-1, GWINNETT COUNTY-ANNEXED ZONING DISTRICT ("Gwinnett") to M-1 under the City's Code.

There are several reasons to combine the lots:

- To have the principal building warehouse to utilize one lot and the portion of the other
- To add interconnectivity for vehicles and pedestrian use throughout the Property
- To globally manage the and improve the entire stormwater system for the entire Property
- To create a "Campus" in which the primary and accessory buildings are connected for business operations and will be transferred together under common and continuous ownership.

The Property, a bank-owned foreclosure that has been vacant for many years and is used for illegal dumping, has several features that make it unique.

1. **Billboard.** The Property is subject to a 99-year lease for a billboard which is held by Lamar. Such lease requires that there be clearance to allow the billboard to be seen from Peachtree Industrial Blvd. This limits the placement of buildings. (Please see Ex. B, Photo, attached hereto). The billboard prevents a large portion of the warehouse building from being taller than a single story.
2. **Utility and Stormwater Easements.** The Property is subject to multiple easements including utility and sewer easements parallel to the roadway at the top of the Property. (Please see the Survey included with the application). The Property is further subject to multiple stormwater easements that direct runoff water from Peachtree Industrial Blvd. as well as the West Gwinnett Park & Aquatic Center across the street as part of a 91-acre basin (*See Ex. C, first 15 pages, PIB Hydro\_Report 9-20-2023*).
3. **Property Line Cut-Out.** The Property is subject to an approximately 3,000 foot cut-out ("Cut-Out") adjacent to the road for stormwater easements directing runoff from Peachtree Industrial and the Aquatic Center.

BuilderStone has already spent significant funds to work with engineers for site and building plans to work within the confines of the issues above. BuilderStone is committed to taking the

time, effort and money to work with these challenges to make the Property a location for a productive business and increase the commercial tax base for the City.

## **II. Design**

The Warehouse Primary Building (Please see Ex. F, Drawing, attached hereto) will have a design substantially similar design to the Drawing, and the Accessory Building will have a complimenting design as shown in the Drawing. *(Please note the front of the Warehouse Primary Building will be lowered to accommodate the site line of the billboard to comply with billboard lease requirements)*. The warehouse will not look like a typical warehouse or be constructed of corrugated steal or some other substandard material. Rather, the building will have a steel frame and the exterior will be: Albond (brand name) aluminum composite panels (see learn more at <https://www.agi.pt/en/construction-materials/albond/>). There will be solar panels on the roof. However, such panels are intended to primarily lay flat and blend into the roof of the warehouse. There is no City code regarding the specific use of solar panels.

The HVAC unit for the Warehouse Primary Building will be not on the roof, but on the side or back and hidden from view. The HVAC unit for the Accessory Building will either be on the room (screened or hidden from view) or the side.

The Property primarily backs up to a M-1 (Gwinnett) manufacturing park (Peachtree Lakes Drive) and such design will be compatible with nearby manufacturing and commercial business visible from Peachtree Industrial.

The Warehouse Primary Building will have an internal loading and unloading system whereby a truck enters into the building, turns off its engine, and the entire loading process occurs within the walls of the building. It then exists the building.

The Accessory Building will be of a design to complement the Primary Building. The building will be two-story, with a basement (used only for storage). The Accessory Building shares driveways and a parking lot with the Principal Building to create a natural flow between the related buildings.

## **III. Stormwater Management.**

At the beginning of this re-zoning process, BuilderStone was told to pay special attention to the stormwater issues. That is exactly what BuilderStone did, hiring experts in engineering, including stormwater and hydrology engineering, to design the site and the stormwater facilities. BuilderStone paid for an extensive hydrology report for the City that gave detailed information on the entire basin of where the Property is located.

BuilderStone has planned a stormwater management system to include a Bioretention Basin and Extended Dry Detention (EDD) Pond in accordance with standard engineering practices. Such



improvements are estimated to be at least \$300,000. (See Ex. C, first 10 pages, PIB Hydro\_Report 9-20-23, attached hereto).

Such system has been designed by George Kyiamah, the Principal Engineer and Managing Partner of GAK Engineering, Inc. Kyiamah has been a practicing engineer for over 20 years. His past positions include the Stormwater Review Manager for Department of Planning & Development for Gwinnett County. (For more information Mr. Kyiamah's engineering positions and projects, go to <https://www.linkedin.com/in/george-kyiamah-87128912>).

Please note that page 3 of the Site Plan includes the elevations of the site including the Bioretention Basin.

#### **IV. Buffer Area (along Holben property line) and History**

Nearly the entire 75-foot area adjacent to the Holben property line is filled with a large easement detention pond easement (the "Stormwater Easement") and numerous stormwater/drainage easements that include pipes and concrete culverts. Such Detention Pond and easements have been in place, in written recorded easements and plats, since at least 1987. (Please see Ex. E, "1987 Plat," attached hereto.) Such stormwater system directs stormwater directly from Peachtree Industrial Blvd. and the West Gwinnett Aquatic Center, which eventually drains into the "Retention Lake" on Lot 17 of Berkeley Lake Estates, then under Lake Shore Drive (Please see Ex D. Lot 17 Retention Lake) into Berkeley Lake. The Retention Lake of Lot 17 is part of the Water Distribution System as approved in 1974 by the City of Berkeley Lake Berkeley Lake Planning Commission, the City Engineer and Mayor.

BuilderStone, even though it has the legal right to use this longstanding Stormwater Easement, has agreed to allow a 75-foot buffer to be in place (the "Buffer Area"). This has resulted in a significant loss of building space. BuilderStone in return has reworked the site plan to relocate its bioretention pond and other site improvements, and adjust the size of the Accessory Building.

To the extent that the City Manager has argued that the Applicant's development does not have enough room on the site, this argument does not take into account that BuilderStone has given up significant area for the buffer that was not originally planned in its Application. However BuilderStone has stepped up to the challenge to redesign the stormwater facilities and rework the entire site, at significant cost, to make it work. BuilderStone, and its engineers put in significant time and resources to create a great site plan.

It is not unreasonable for a 5-acre site on a major highway to include a primary and an accessory building to create a corporate headquarters. Especially when the BuilderStone has taken significant and meaningful actions to address the City's, the Planning Commission's and residents' concerns.

There has not been a formal tree count and identification within the Buffer Area. That is typically part of the LDP process, if needed, not done at the zoning stage. The trees on the site

plan are an estimate only. The surveyor only marked 3 trees as existing. Surveyors do not usually note every tree, rather just ones it notes as significant. The surveyor is not considered an expert on trees, their location, or variety, and a survey is not expected to note such detail. Even though the proposed conditions for the Planning Meeting on October 10, 2023 stated that “Owner shall not remove the current trees or vegetation within 75 feet of the property line of Lot 17,” the City has stated that it believed BuilderStone intended to cut down the trees in the Buffer Area. That is not the case. To clarify so there is no confusion: **TO CONFIRM, BUILDERSTONE IS NOT CUTTING DOWN ANY TREES IN THE 75 FOOT BUFFER AREA NEXT TO MR. HOLBEN. THE TREES AND VEGETATION THAT IS CURRENTLY THERE WILL REMAIN.**

#### **V. 60’ Stormwater Pipe (Gwinnett County)**

There is a 60-inch pipe located 50 feet below the surface along with an easement presumably benefitting the County (the “Stormwater Easement”). This easement is not in writing and is only referenced, vaguely, in the 1987 plat (See Ex. “E,” 1987 Plat). Gwinnett County’s legal department (Attorney Nathan Wood) stated that the County has a “prescriptive easement” which means that County claims a right to where the actual pipe runs through the ground because it has been there for so long. As such, the County declined to state what it believes can and cannot be built on the land above the pipe easement or dictate to the Property Owner. The county did state it would *prefer* retention walls or buildings not be built on top of the pipe because it is *expensive* for the County to repair such structures. It stated that it was not too expensive to replace driveways, parking spaces or retention ponds and similar surface improvements. The County also stated the pipe is not very old and that the County is not expecting that it will need maintenance or replacement for years.

Nevertheless, BuilderStone, to work in good faith with the Gwinnett County, has significantly redesigned its site plan to move the bioretention basin to the north so that there will be no retention walls over the County’s easement.

#### **VI. Tree ordinance.**

The City of Berkeley Lake has a tree ordinance largely adopted in 2010 -- before the annexation of properties along Peachtree Industrial. Such ordinance, which provides no differing standard for commercial development and residential lots requires 40 TDU (tree density unit). Such TDU is extremely high for commercial property. For instance, Peachtree Corners is 16 to 20 TDU for commercial property, the Gwinnett Overlay District is 20 TDU for commercial property (**the Property as Gwinnett C-1 is currently under this TDU**), Norcross is 16 TDU for commercial property, and Duluth 20 TDU for non-residential. Not only is the 40 TDU high, but the city also does not allow any trees within a buffer to count -- which is uncommon in commercial code. (According to Mr. Holben, who said he has entered the Property and counted the trees, there are an estimated 200 to 250 trees in the buffer area).

Given the strict tree ordinance, the City’s ordinance does provide the following as relief:

*Sec. 42-350. – Appeals and waivers. Variance from the zoning ordinance. The preservation of trees may be considered as a condition peculiar to a piece of property in support of a request for a variance from the literal application of the provisions of the zoning ordinance, under the procedures and requirements contained therein.*

Although this code section is not clearly written, the general idea is that the strict tree requirements should be considered when allowing requested variances to accommodate such tree requirements or the space such tree requirements demands. BuilderStone, when seeking its three (3) variances, requests that you consider this code provision’s relief.

## **VII. Buildings and Use under M-1 Zoning**

BuilderStone’s site plan includes an Accessory Building to the Primary Building. As stated above, the Primary Building with its Accessory Building will be an integral part of the business operations of BuilderStone. The stone slab Products are warehoused in the Primary Building and shipped from the Building (the primary use) and sold wholesale by the sales staff in the Accessory Building where customers will also see samples of the Products. For safety reasons, wholesale customers are not expected to enter the Warehouse Primary Building, where the Products are stored and then shipped to their final locations.

TO CONFIRM, THERE WILL BE NO RETAIL SALES ANYWHERE ON THE SITE. While BuilderStone would have liked to expanded its business in offering Products to the public as it offered to its wholesale customers in the Accessory Building, BuilderStone has abandoned those plans due to the City Staff’s objection to retail, either under current zoning code or a proposed change to the City’s Code.

The Accessory Building and the Warehouse Primary Building are allowed by the City’s code. For the Accessory Building, both the structure itself as a “Enclosed accessory building” (it will be an enclosed structure) and the use, “Wholesaling with Offices” and “Business office,” as well as “Other light industrial uses upon the findings of the planning commission that such uses are of the same general character as those provided for herein, that meet the standards of this zoning district and which will not be detrimental to the other uses within the district as to the adjoining land uses (Please see the Code section below specifically for M-1 zoning).

### **Sec. 78-240. - Uses permitted.**

In M-1 light industrial districts, the following uses are permitted:

- (1) Enclosed manufacturing industries meeting the performance standards established by this chapter.
- (2) **Enclosed warehouse with offices.** (*emphasis provided*)
- (3) Public utility.
- (4) Enclosed service or repair.
- (5) Machinery and transportation equipment sales and service.
- (6) Enclosed industrial processing service.
- (7) **Wholesaling with offices.** (*emphasis provided*)

(8) **Business office.** *(emphasis provided)*

(9) **Enclosed accessory buildings.** *(emphasis provided)*

...

(12) **Other light industrial uses upon the findings of the planning commission that such uses are of the same general character as those provided for herein, that meet the standards of this zoning district and which will not be detrimental to the other uses within the district as to the adjoining land uses.** (Ord. No. O-118-10, § 1, 10-21-2010) *(emphasis provided)*

*\*\* Please note that the City Code regarding Accessory Buildings or Accessory Structures is contradictory in other areas of the Code outside of the M-1 Zoning. See the end of this subsection for a discussion of the same, below are some other code provisions regarding Accessory buildings or structures.*

The City Manager has asked if the warehouse building can be made larger so there is no accessory building. The Warehouse Primary Building, due to the constraints of the billboard and the stormwater easements (over which the Company has decided not to place any structure), the Warehouse Primary Building cannot expand to the north. Having the Accessory Building on the other side of the stormwater easements makes that most sense for the site. However, whether there is additional square footage added to the Warehouse Primary Building, or additional square footage added by the Accessory Building, the number of square footage and the developed percentage of the Property remains approximately the same.

Additionally, as stated above, BuilderStone seeks to keep wholesale customers out of the warehouse for business, safety and insurance reasons.

The City Manager has further asked why the project cannot be reduced. Builderstone has carefully created a site plan to work around on-site matters so that size does not have to be substantially reduced. Builderstone's goal is to create the space needed for its business and maximize, in a sensible and economical way, the potential of the Property. In addition, more space means more business, which means more tax revenue to the City. Utilizing the Property to its maximum potential, including increasing the commercial tax base, aligns with the stated goals of the City in its Comprehensive Plan.

*\*\* Please note that the City Code regarding Accessory Buildings or Accessory Structures is contradictory. Below are some other code provisions regarding Accessory buildings or structures.*

**Sec. 78-89. - Accessory uses or structures.**

(c) Accessory structure requirements apply only to residential zoning districts. Any structure built on commercial or industrial zoned property shall be considered a principal structure.

(Code 2004, § 39-401; Ord. No. O-31-05c, 2-2-2006; Ord. No. O-61-07, 1-17-2008; Ord. No. O-91-08, 12-18-2008; Ord. No. O-109-09, 11-19-2009; Ord. No. O-171-14, § 1, 9-18-2014)

However the code below then allows a principal structure and accessory building on a lot. Also, the M-1 code and I-O code specifically allow accessory buildings.

**Sec. 78-64. - Only one principal building or lot use.**

Only one principal building or structure or use and its customary accessory building and uses shall be permitted on any lot. (Code 2004, § 39-305)

Please note that such code dated 2004 predates the annexation of the parcels at issue.

**Sec. 78-3. - Definitions.**

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory buildings and uses* means a subordinate building or portion of the main building, the use of which is incidental to that of the dominant use of the main building or land including bona fide servants' quarters. An accessory use is one which is incidental to the main use of the premises.

*Accessory structure* means a detached subordinate structure, the use of which is clearly incidental or related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use.

**VIII. Standard Governing the Exercise of Zoning Power**

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

The M-1 proposed zoning fits well within the existing Berkeley Lake zoning, businesses and uses as follows:

- (i) The Property is directly adjacent to over 20 acres combined acres of M-1 Gwinnett.
- (ii) The Property fits into the City's Comprehensive Plan which includes the Property in its "Peachtree Industrial District" designation which it describes as: "*Peachtree Industrial Corridor: This area denotes accessible centers of businesses, services, and complementary uses, which may include mixed use developments, along Peachtree Industrial Boulevard that contribute extensively to the economic base of the city. Exclusively commercial shopping centers that already exist are at present stable and desirable, but may be redeveloped as mixed-use activity centers during the planning horizon. Such areas should be transformed into less automobile-reliant and more pedestrian-friendly places. Uses: Shopping centers, retail, restaurants offices and some light industrial uses.*"
- (iii) The home construction-related business of Builderstone fits into the general M-1 businesses of the area and in the City -- some of which are focused on the same home construction industry.



- (iv) The Parcel as M-1 will serve as a buffer against the M-2 (Gwinnett) parcel to the North.

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

The Property is situated among already zoned properties that have been in current use for many years. The Property zoning will not affect any others' use of their properties. The only two properties that are undeveloped is a land-locked residential parcel that cannot be developed as-is and a M-2 Industrial parcel, owned by an international industrial company.

**c. Whether the Property to be affected by the zoning proposal has a reasonable economic use as currently zoned.**

The Property has been zoned C-1 (Gwinnett) for years but has remained undeveloped and on the market. Given that the Property cannot be entered or exited but by the divided highway and is not located at an intersection with a traffic light, it is not appropriate for neighborhood commercial development to serve the local daily needs of residents. The more limited traffic use of BuilderStone's headquarters and specialized wholesale is more appropriate for this Property.

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

The proposal zoning is not residential and should not affect schools. The parcel is solely accessed through the existing large divided state highway of Peachtree Industrial Boulevard and cannot be accessed through neighborhood streets. The entire length of the Property is accessible by sidewalk in the right of way. The Property has easy access to sewer and other utilities which run through easements through the top of the Property parallel to the road. The zoning of the Property is not expected to cause increased or excessive use of the area features above.

**e. Whether the zoning proposal is in conformity with the policy and intent of the land use plan of the City of Berkeley Lake.**

Berkeley Lake's code specially states that a general purpose of a manufacturing district is to "[t]o provide sufficient space in appropriate locations to meet the needs of the city's expected future economy for all types of manufacturing and related activities, with due allowance for the need for a choice of sites." (Sec. 78-238(1)). Builderstone's desire to relocate its headquarters to the City and create a corporate campus, is the kind of high-end, enclosed, low-impact operation to strengthen the economic base of the City and increase the City's tax collection that the City has stated it wants for the future of the City. Pursuant to the City of Berkeley Lake Comprehensive Plan 2019 which places the Property in the "Peachtree Industrial District," (please see Exhibit "G" Zoning Map/Comprehensive Plan", attached hereto) "The annexation of parts of Peachtree Industrial Boulevard provides the city with a non-residential tax base." It further states, "Redevelopment and Attracting Businesses: As there are no opportunities for further annexation of commercial property, the City should invest in planning to maximize the potential of existing commercial areas, making them attractive for investment and redevelopment." BuilderStone headquarters embodies the intent of the City's Comprehensive Plan to support smart redevelopment and the utilization of "existing" areas.

The City Manager has stated the following about BuilderStone's plan:

Staff Report, Oct 10, No. 28 (e)

*While the Peachtree Industrial District provides for the following uses: shopping centers, retail, restaurants, offices and some light industrial uses, the rezoning and proposed development are inconsistent with the Comprehensive Plan of the City of Berkeley Lake. Acceptable light uses would closely adhere to the zoning and landscape standards of the city in order to make the industrial nature of the development harmonious with surrounding land uses."*

BuilderStone respectfully objects to this statement in the Staff report of October 10, 2023 in which the City Manager recommended denial of the rezoning.

The Development falls well within the zoning standards of the Comprehensive Plan, as well as the landscape standards which BuilderStone must follow by Code. Applicant has not indicated or stated that it would not follow the landscape standards of the City, which landscape plan specifics would be decided in the LDP phase. BuilderStone, over the **past 4 months (the application was originally submitted on or near June 12, 2023,** and at significant cost, has worked with the City and the Planning Commission to address their concerns and create a fair, reasonable, and workable site plan. BuilderStone has no intention of building any development that would not be "harmonious" with the City or would not follow zoning and landscape standards. BuilderStone is building this development for its own use as a corporate headquarters for decades to come. It is fully aware that it will be part of the Berkeley Lake community and it wants to be a good neighbor.

BuildStone has twice met with the City's engineer and made changes to the site plan at the engineer's request. BuilderStone has given up its right to the stormwater easement area to appease the City and Mr. Holben, personally. BuilderStone has re-worked the site plan multiple times to reasonably address the City Manager's and the Planning Commission's concerns. At every step of the way, BuilderStone has been in communication with the City and sought the City's feedback.

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

This is the City's opportunity, as its first zoning in at least 5 years, to set the stage for quality redevelopment for the future of the City.

**IX. Variances**

Builderstone is seeking variances to make this Property usable, to clarify ambiguous code ordinances,\* or to incorporate more modern land-planning principles. A short summary of each variance is below and a full discussion of each variance is attached.

Variance 1: Variance to remove the requirement of a 75-foot residential buffer against tax parcel R6268 019, owned by Ryerson and replace with a 25 foot setback identical to the M-2 Ryerson parcel to the east.

Variance 2: To remove the requirement of a 10-acre “District Area” as the term and specifics of calculation are not defined in the code and the City has historically not enforced such a provision and the property is current located adjacent to over 20 acres of M-1.

Variance 3. To decrease the 75-foot building setback from the road for 49.53 feet of the Cut-Out to be flush with the rest of the 75-foot building setback for the entire parcel to allow construction of the Accessory Building or stormwater improvements that may be needed.

*\*Please note that the City’s code as it relates to development is seemingly at odds with its own code in which it states it adopted the 2004 development code of Gwinnett County. The current code states:*

**Sec. 14-213. - Development regulations of the county adopted.**

*The city hereby adopts the development regulations of the county and revisions in effect as of the date of this article, said regulations already having previously been adopted as a part of the Code of the city. A copy of the development regulations and revisions is attached hereto and the same is hereby incorporated by reference herein. A copy shall also be maintained in the office of the city clerk for inspection and purchase by the public.*

(Code 2004, § 40-101; Ord. No. O-01-04, § 1(40-101), 2-5-2004)

Enclosed is a copy of the revised conceptual site plan depicting the subject Property and the proposed improvements.

If you have any questions, comments or concerns, please contact me at by phone at 770.457.7000 or email at.

Sincerely,

**GREGORY, DOYLE, CALHOUN & ROGERS, LLC**

Sincerely,

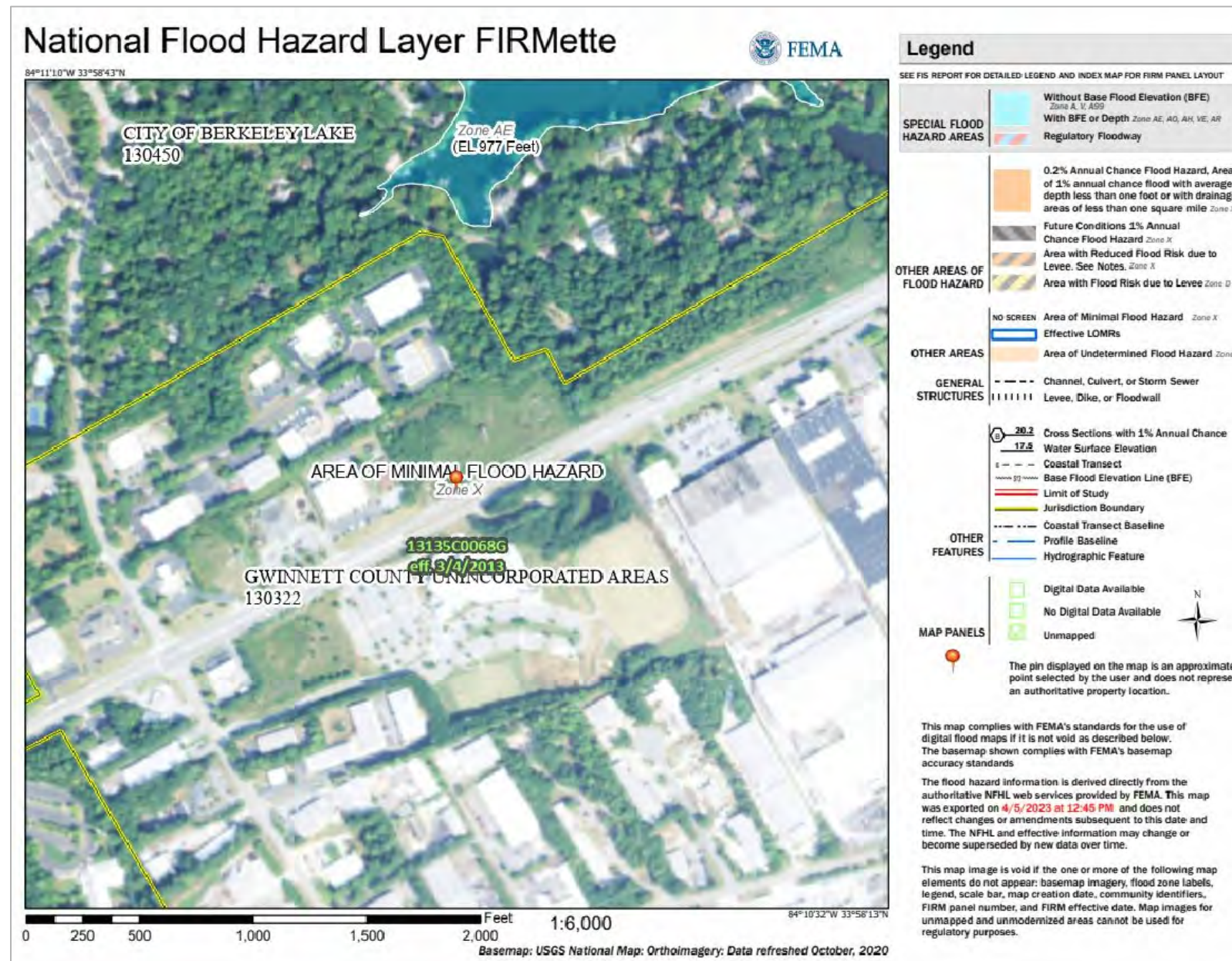
[/wendy.w.kraby/](mailto:wendy.w.kraby/)

Wendy W. Kraby



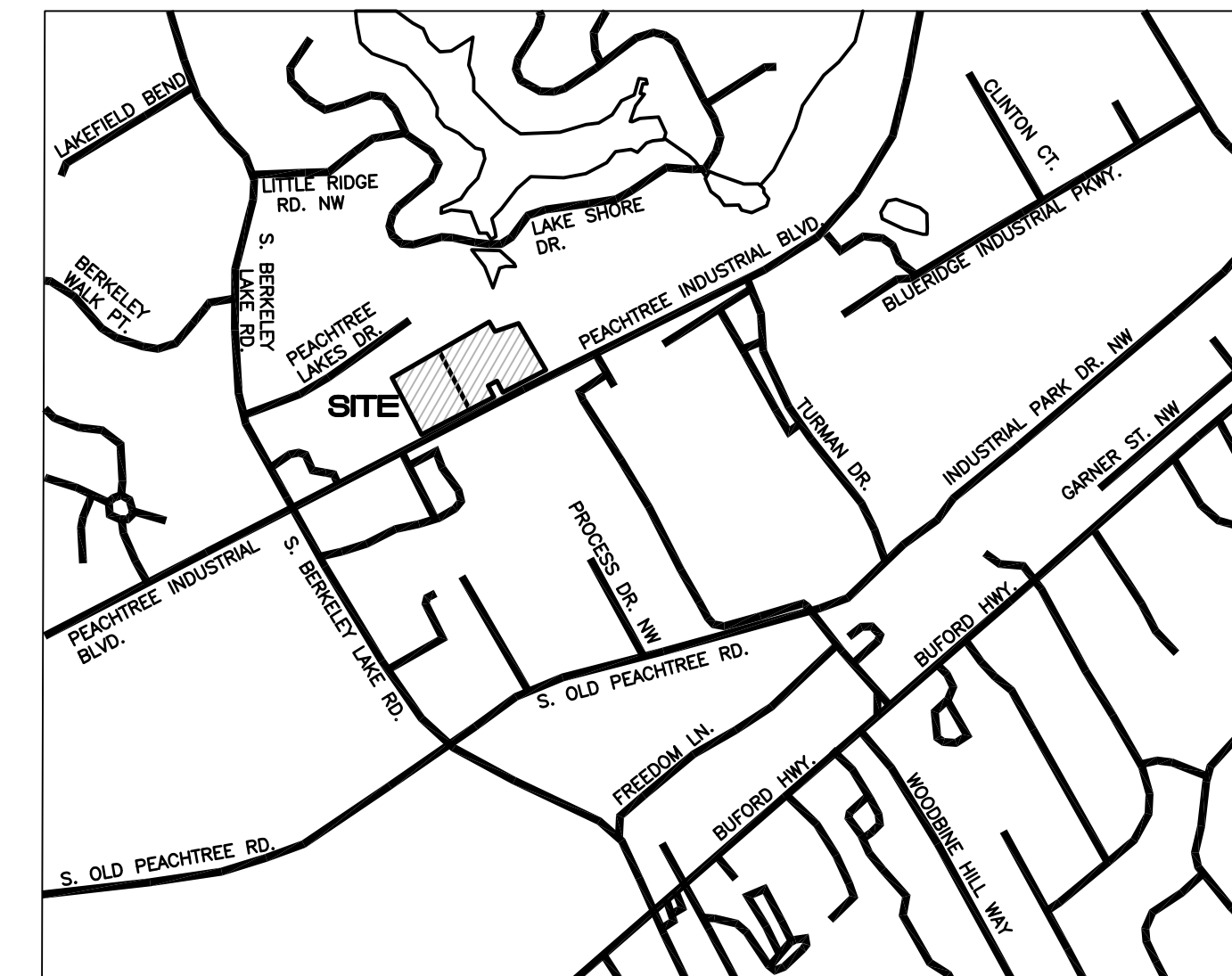
# REZONING SITE PLANS FOR 4477-4478 PEACHTREE INDUSTRIAL BOULEVARD BERKELEY LAKE, GA 30092 GWINNETT COUNTY

PARCEL ID's: 6268 043 & 6268 044



### INDEX OF DRAWINGS

RZ-1	SITE PLAN WITH LANDSCAPING
RZ-2	SITE PLAN WITH TOPOGRAPHY



VICINITY MAP  
N.T.S

**WETLAND CERTIFICATION:**  
THE DESIGN PROFESSIONAL, WHOSE SEAL APPEARS HEREON, CERTIFIES THE FOLLOWING: 1) THE NATIONAL WETLAND INVENTORY MAPS HAVE BEEN CONSULTED; AND, 2) THE APPROPRIATE PLAN SHEET [ ] DOES/[X] DOES NOT (CIRCLE APPROPRIATE BOX) INDICATE AREAS OF UNITED STATES ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS AS SHOWN ON THE MAPS; AND, 3) IF WETLANDS ARE INDICATED, THE LAND OWNER OR DEVELOPER HAS BEEN ADVISED THAT DISTURBANCE OF PROTECTED WETLANDS SHALL NOT OCCUR UNLESS THE APPROPRIATE FEDERAL WETLANDS ALTERATION ("SECTION 404") PERMIT HAS BEEN OBTAINED.

UTILITY OWNERS		
UTILITY	OWNER	PHONE
WATER/SEWER	GWINNETT COUNTY	(770) 822-7150
ELECTRIC POWER	GEORGIA POWER	(404) 526-4436
TELEPHONE	BELLSOUTH	(770) 493-3711
NATURAL GAS	ATLANTA GAS LIGHT CO.	(770) 418-2260

CONTRACTORS SHALL CONDUCT ALL WORK IN ACCORDANCE WITH THE REQUIREMENTS OF APPLICABLE REGULATIONS OF THE OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION (OSHA) AND ALL LOCAL, STATE AND FEDERAL RULES AND REGULATIONS. PROPER SAFETY PROCEDURES ARE OF SPECIAL CONCERN ON THIS PROJECT CONSIDERING THAT WORKERS WILL BE IN OPEN TRENCHES FOR A PORTION OF THE SCOPE OF WORK THIS SITE.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON(S), OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UN-NAMED PERSON(S) WITHOUT AN EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON(S).

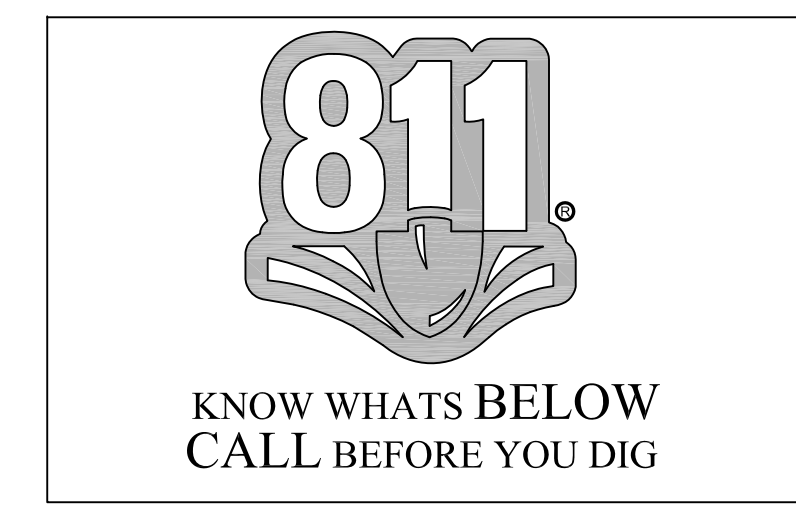
**OWNER/DEVELOPER**  
BUILDERSTONE GLOBAL, LLC  
4595 WINTERS CHAPEL ROAD,  
DORAVILLE, GA 30360

**CONTACT: HENRI TCHAYA**  
PH: 404-725-6731

**FLOOD STATEMENT**  
THERE IS NO FLOODPLAIN ON THIS PROPERTY FROM A WATER COURSE WITH A DRAINAGE AREA EXCEEDING 100 ACRES OR FLOODPLAIN PER GWINNETT COUNTY UNINCORPORATED AREAS FEMA FIRM PANEL 13135C 0068G, DATED 03/04/2013.

- GENERAL NOTES:**
- TOTAL SITE ACREAGE: 4.996 AC. (CURRENT ZONING: C-1; PROPOSED ZONING: M-1)
  - TOPOGRAPHIC AND BOUNDARY SURVEY BY GEORGIA LAND SURVEYING CO., DATED 4/8/21.
  - CONTOUR INTERVAL SHOWN HEREON IS ONE (1) FOOT.
  - SITE IS CURRENTLY SERVED BY PUBLIC OR COMMUNITY WATER AND SEWER.
  - SETBACK REQUIREMENT:  
FRONT SETBACK: 75 FEET  
SIDE SETBACK: 25 FEET  
REAR SETBACK: 25 FEET
  - THE MAXIMUM BUILDING HEIGHT SHALL BE 40 FEET.
  - THERE IS NO FLOODPLAIN ON THIS PROPERTY FROM A WATER COURSE WITH A DRAINAGE AREA EXCEEDING 100 ACRES OR FLOODPLAIN PER GWINNETT COUNTY UNINCORPORATED AREAS FEMA FIRM PANEL 13135C 0068G, DATED 03/04/2013.

REVISION	DATE	No	DESCRIPTION





ONSITE TREES							
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	UNIT	TOTAL
4	Ab	ACER BARBATUM	SOUTHERN SUGAR MAPLE	SEE PLAN	4" CAL.	0.70	2.8
19	Cc	CERCIS CANADENSIS	TEXAS REDBUD	SEE PLAN	4" CAL.	0.70	13.3
36	Jv	JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	SEE PLAN	4" CAL.	0.70	25.2
19	Pt	PINUS TAEDA	LOBLOLLY PINE	SEE PLAN	4" CAL.	0.70	13.3
4	On	QUERCUS NUTALLI	NUTTAL OAK	SEE PLAN	4" CAL.	0.70	2.8
4	Qp	QUERCUS PALUSTRIS	PIN OAK	SEE PLAN	4" CAL.	0.70	2.8
4	Qph	QUERCUS PHELLOS	WILLOW OAK	SEE PLAN	4" CAL.	0.70	2.8
103	lv	ILEX VOMITORIA	YAUPON HOLLY	SEE PLAN	4" CAL.	0.70	72.1
TOTAL							135.1

ROW TREES ALONG PEACHTREE INDUSTRIAL BOULEVARD							
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	UNIT	TOTAL
6	On	QUERCUS NUTALLI	NUTTAL OAK	SEE PLAN	4" CAL.	0.7	4.2
6	Qp	QUERCUS PALUSTRIS	PIN OAK	SEE PLAN	4" CAL.	0.7	4.2
TOTAL							8.4

SHRUBS							
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	REMARK	
346	Jc	JUNIPERUS CONFERTA	SHORE JUNIPER	3' o.c.	3" GAL.	'BLUE RUG'	

SHRUBS SHALL BE A MINIMUM 3 FEET IN HEIGHT AT TIME OF PLANTING AND AT LEAST 10 FEET AT MATURITY.

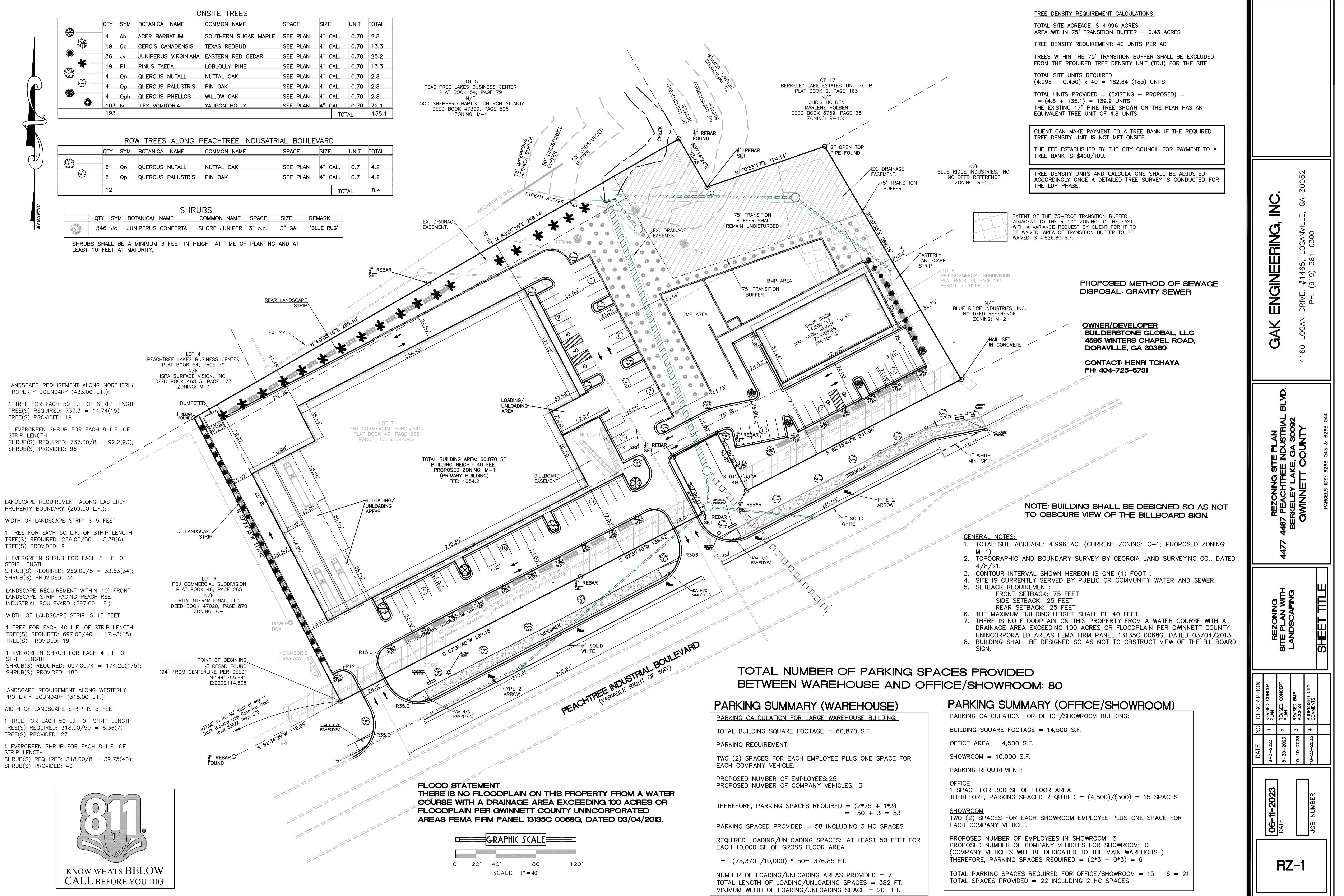
**TREE DENSITY REQUIREMENT CALCULATIONS:**

TOTAL SITE ACREAGE IS 4.996 ACRES  
 AREA WITHIN 75' TRANSITION BUFFER = 0.43 ACRES  
 TREE DENSITY REQUIREMENT: 40 UNITS PER AC  
 TREES WITHIN THE 75' TRANSITION BUFFER SHALL BE EXCLUDED FROM THE REQUIRED TREE DENSITY UNIT (TDU) FOR THE SITE.  
 TOTAL SITE UNITS REQUIRED  
 $(4.996 - 0.430) \times 40 = 182.64$  (183) UNITS  
 TOTAL UNITS PROVIDED = (EXISTING + PROPOSED) =  
 $(4.8 + 135.1) = 139.9$  UNITS  
 THE EXISTING 17" PINE TREE SHOWN ON THE PLAN HAS AN EQUIVALENT TREE UNIT OF 4.8 UNITS

CLIENT CAN MAKE PAYMENT TO A TREE BANK IF THE REQUIRED TREE DENSITY UNIT IS NOT MET ONSITE.

THE FEE ESTABLISHED BY THE CITY COUNCIL FOR PAYMENT TO A TREE BANK IS \$400/TDU.

TREE DENSITY UNITS AND CALCULATIONS SHALL BE ADJUSTED ACCORDINGLY ONCE A DETAILED TREE SURVEY IS CONDUCTED FOR THE LDP PHASE.



PROPOSED METHOD OF SEWAGE DISPOSAL: GRAVITY SEWER

OWNER/DEVELOPER  
 BUILDERSTONE GLOBAL, LLC  
 4595 WINTERS CHAPEL ROAD,  
 DORAVILLE, GA 30060

CONTACT: HENRI TCHAYA  
 PH: 404-725-6731

NOTE: BUILDING SHALL BE DESIGNED SO AS NOT TO OBSCURE VIEW OF THE BILLBOARD SIGN.

**GENERAL NOTES:**

- TOTAL SITE ACREAGE: 4.996 AC. (CURRENT ZONING: C-1; PROPOSED ZONING: M-1)
- TOPOGRAPHIC AND BOUNDARY SURVEY BY GEORGIA LAND SURVEYING CO., DATED 4/8/21.
- CONTOUR INTERVAL SHOWN HEREON IS ONE (1) FOOT.
- SITE IS CURRENTLY SERVED BY PUBLIC OR COMMUNITY WATER AND SEWER.
- SETBACK REQUIREMENT:  
 FRONT SETBACK: 75 FEET  
 SIDE SETBACK: 25 FEET  
 REAR SETBACK: 25 FEET
- THE MAXIMUM BUILDING HEIGHT SHALL BE 40 FEET.
- THERE IS NO FLOODPLAIN ON THIS PROPERTY FROM A WATER COURSE WITH A DRAINAGE AREA EXCEEDING 100 ACRES OR FLOODPLAIN PER GWINNETT COUNTY UNINCORPORATED AREAS FEMA FIRM PANEL 13135C 0068G, DATED 03/04/2013.
- BUILDING SHALL BE DESIGNED SO AS NOT TO OBSTRUCT VIEW OF THE BILLBOARD SIGN.

**TOTAL NUMBER OF PARKING SPACES PROVIDED BETWEEN WAREHOUSE AND OFFICE/SHOWROOM: 80**

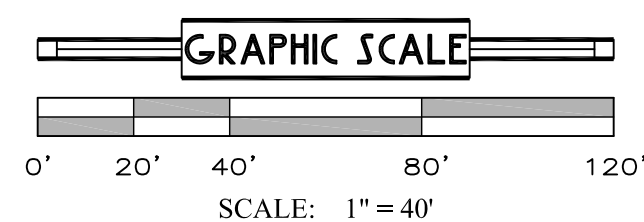
**PARKING SUMMARY (WAREHOUSE)**

PARKING CALCULATION FOR LARGE WAREHOUSE BUILDING:  
 TOTAL BUILDING SQUARE FOOTAGE = 60,870 S.F.  
 PARKING REQUIREMENT:  
 TWO (2) SPACES FOR EACH EMPLOYEE PLUS ONE SPACE FOR EACH COMPANY VEHICLE:  
 PROPOSED NUMBER OF EMPLOYEES: 25  
 PROPOSED NUMBER OF COMPANY VEHICLES: 3  
 THEREFORE, PARKING SPACES REQUIRED =  $(2 \times 25 + 1 \times 3) = 50 + 3 = 53$   
 PARKING SPACES PROVIDED = 58 INCLUDING 3 HC SPACES  
 REQUIRED LOADING/UNLOADING SPACES: AT LEAST 50 FEET FOR EACH 10,000 SF OF GROSS FLOOR AREA  
 $= (75,370 / 10,000) \times 50 = 376.85$  FT.  
 NUMBER OF LOADING/UNLOADING AREAS PROVIDED = 7  
 TOTAL LENGTH OF LOADING/UNLOADING SPACES = 382 FT.  
 MINIMUM WIDTH OF LOADING/UNLOADING SPACE = 20 FT.

**PARKING SUMMARY (OFFICE/SHOWROOM)**

PARKING CALCULATION FOR OFFICE/SHOWROOM BUILDING:  
 BUILDING SQUARE FOOTAGE = 14,500 S.F.  
 OFFICE AREA = 4,500 S.F.  
 SHOWROOM = 10,000 S.F.  
 PARKING REQUIREMENT:  
**OFFICE**  
 1 SPACE FOR 300 SF OF FLOOR AREA  
 THEREFORE, PARKING SPACES REQUIRED =  $(4,500) / (300) = 15$  SPACES  
**SHOWROOM**  
 TWO (2) SPACES FOR EACH SHOWROOM EMPLOYEE PLUS ONE SPACE FOR EACH COMPANY VEHICLE.  
 PROPOSED NUMBER OF EMPLOYEES IN SHOWROOM: 3  
 PROPOSED NUMBER OF COMPANY VEHICLES FOR SHOWROOM: 0  
 (COMPANY VEHICLES WILL BE DEDICATED TO THE MAIN WAREHOUSE)  
 THEREFORE, PARKING SPACES REQUIRED =  $(2 \times 3 + 0 \times 3) = 6$   
 TOTAL PARKING SPACES REQUIRED FOR OFFICE/SHOWROOM = 15 + 6 = 21  
 TOTAL SPACES PROVIDED = 22 INCLUDING 2 HC SPACES

**FLOOD STATEMENT**  
 THERE IS NO FLOODPLAIN ON THIS PROPERTY FROM A WATER COURSE WITH A DRAINAGE AREA EXCEEDING 100 ACRES OR FLOODPLAIN PER GWINNETT COUNTY UNINCORPORATED AREAS FEMA FIRM PANEL 13135C 0068G, DATED 03/04/2013.



**GAK ENGINEERING, INC.**

4160 LOGAN DRIVE, #1465, LOGANVILLE, GA 30052  
 PH: (919) 381-0300

REZONING SITE PLAN  
 REZONING SITE PLAN WITH LANDSCAPING  
 4477-4487 PEACHTREE INDUSTRIAL BLVD.  
 BERKELEY LAKE, GA 30092  
 GWINNETT COUNTY

PARCELS IDS: 6268 043 & 6268 044

REZONING SITE PLAN WITH LANDSCAPING

SHEET TITLE

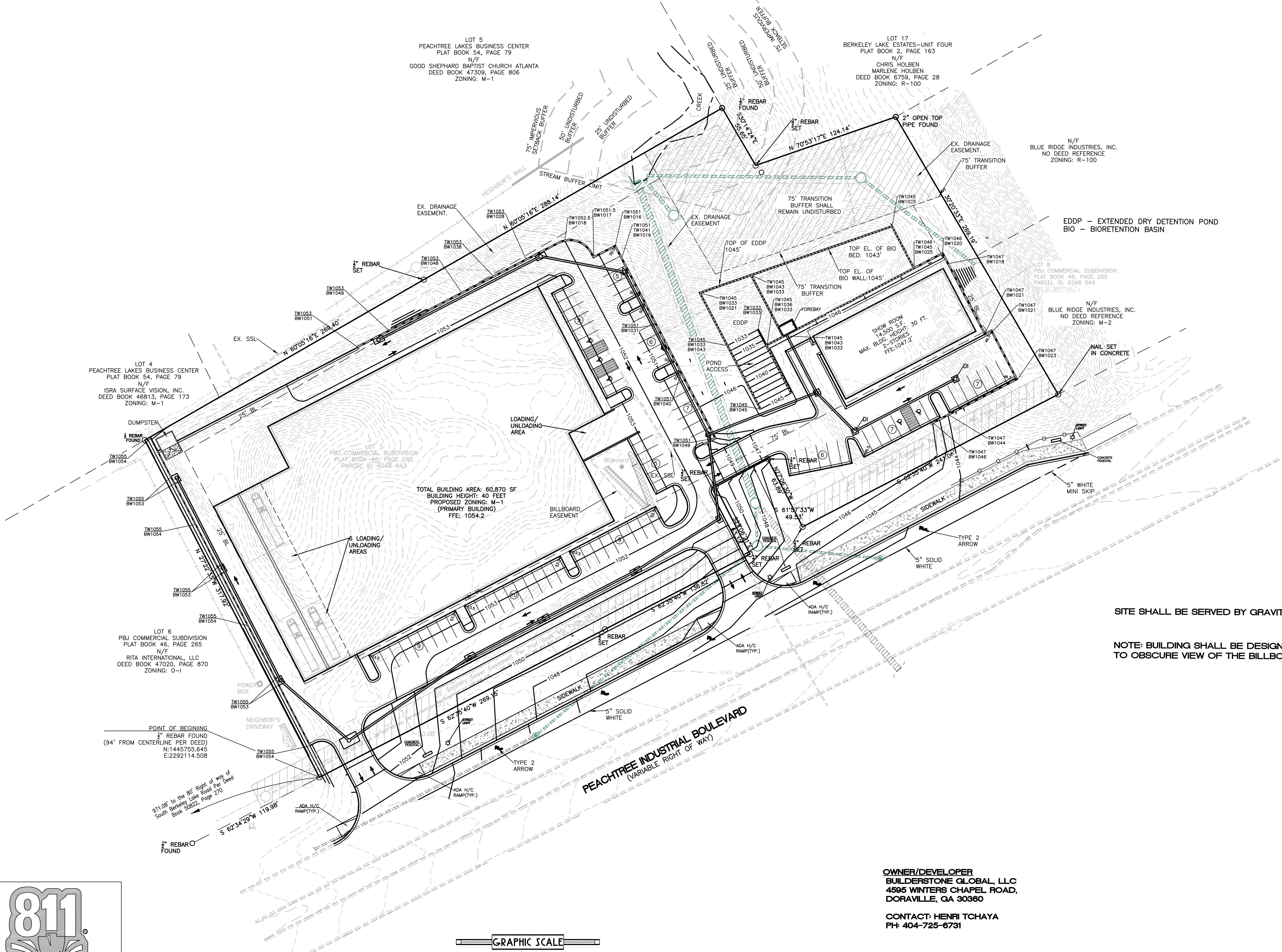
DATE	NO	DESCRIPTION
8-3-2023	1	REVISED CONCEPT PLAN
8-30-2023	2	REVISED CONCEPT PLAN
10-10-2023	3	REVISED BMP ACCESS
10-23-2023	4	ADDRESSED CITY COMMENTS

06-11-2023  
 DATE

JOB NUMBER

RZ-1





LOT 5  
PEACHTREE LAKES BUSINESS CENTER  
PLAT BOOK 54, PAGE 79  
N/F  
GOOD SHEPARD BAPTIST CHURCH ATLANTA  
DEED BOOK 47309, PAGE 806  
ZONING: M-1

LOT 17  
BERKELEY LAKE ESTATES-UNIT FOUR  
PLAT BOOK 2, PAGE 163  
N/F  
CHRIS HOLBEN  
MARLENE HOLBEN  
DEED BOOK 6759, PAGE 28  
ZONING: R-100

N/F  
BLUE RIDGE INDUSTRIES, INC.  
NO DEED REFERENCE  
ZONING: R-100

LOT 4  
PEACHTREE LAKES BUSINESS CENTER  
PLAT BOOK 54, PAGE 79  
N/F  
ISRA SURFACE VISION, INC.  
DEED BOOK 46813, PAGE 173  
ZONING: M-1

LOT 7  
PBJ COMMERCIAL SUBDIVISION  
PLAT BOOK 46, PAGE 265  
PARCELS 46-0268-043

TOTAL BUILDING AREA: 60,870 SF  
BUILDING HEIGHT: 40 FEET  
PROPOSED ZONING: M-1  
(PRIMARY BUILDING)  
FFE: 1054.2

LOT 6  
PBJ COMMERCIAL SUBDIVISION  
PLAT BOOK 46, PAGE 265  
N/F  
RITA INTERNATIONAL, LLC  
DEED BOOK 47020, PAGE 870  
ZONING: O-1

POINT OF BEGINNING  
1" REBAR FOUND  
(94' FROM CENTERLINE PER DEED)  
N:1445755.645  
E:2292114.508

911.08' to the 62' Right of way of  
South Book 39927, Page 270

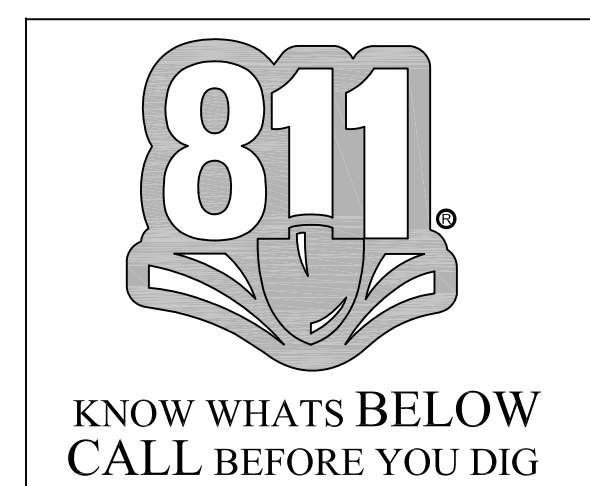
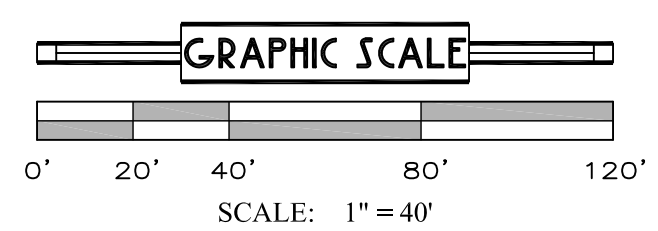
SITE SHALL BE SERVED BY GRAVITY SEWER

NOTE: BUILDING SHALL BE DESIGNED SO AS NOT  
TO OBSCURE VIEW OF THE BILLBOARD SIGN.

PEACHTREE INDUSTRIAL BOULEVARD  
(VARIABLE RIGHT OF WAY)

OWNER/DEVELOPER  
BUILDERSTONE GLOBAL, LLC  
4595 WINTERS CHAPEL ROAD,  
DORAVILLE, GA 30360

CONTACT: HENRI TCHAYA  
PH: 404-725-6731



**GAK ENGINEERING, INC.**

4160 LOGAN DRIVE, #1465, LOGANVILLE, GA 30052  
PH: (919) 381-0300

REZONING SITE PLAN  
4477-4487 PEACHTREE INDUSTRIAL BLVD.  
BERKELEY LAKE, GA 30092  
GWINNETT COUNTY

PARCELS IDS: 6268 043 & 6268 044

REZONING  
SITE PLAN WITH  
TOPOGRAPHY

SHEET TITLE

DATE	NO	DESCRIPTION
8-3-2023	1	REVISED CONCEPT
8-30-2023	2	REVISED CONCEPT PLAN
10-10-2023	3	REVISED BMP ACCESS
10-23-2023	4	ADDRESSED CITY COMMENTS

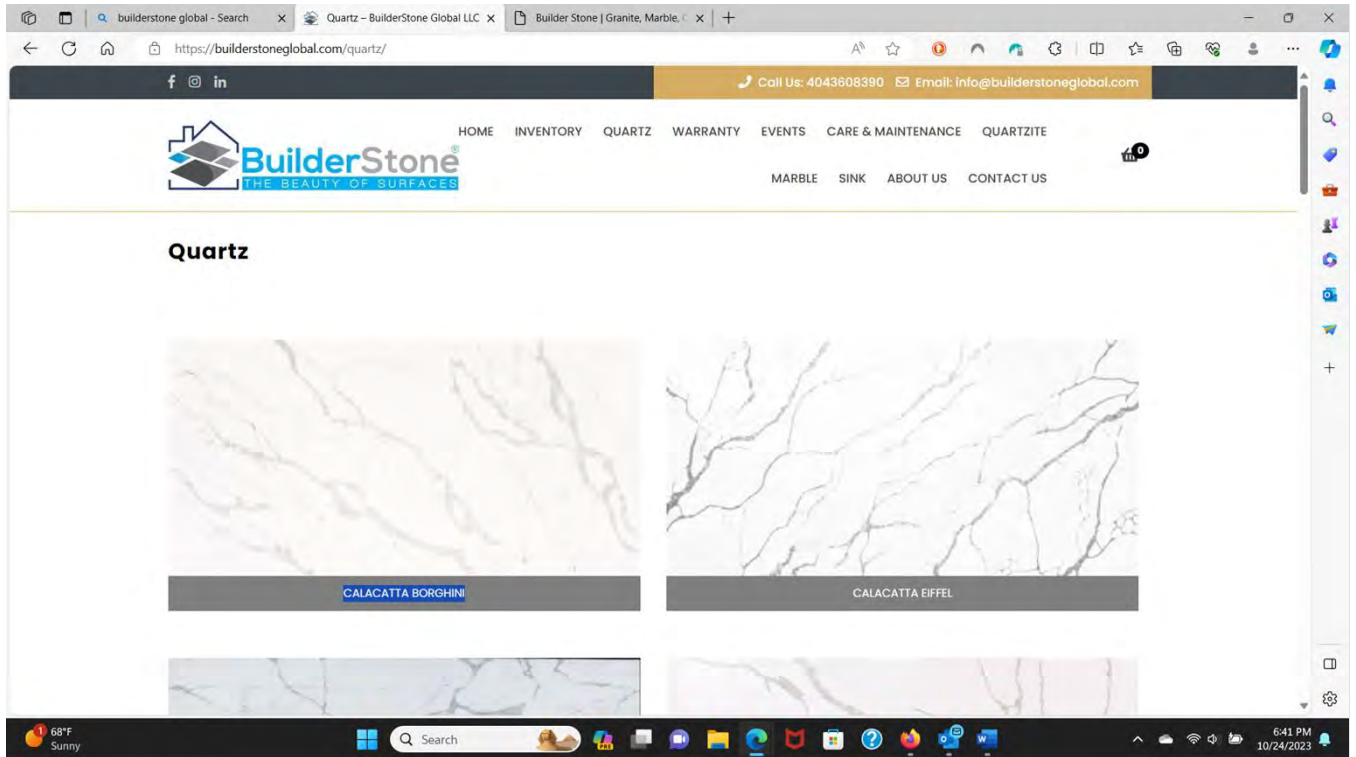
DATE	JOB NUMBER
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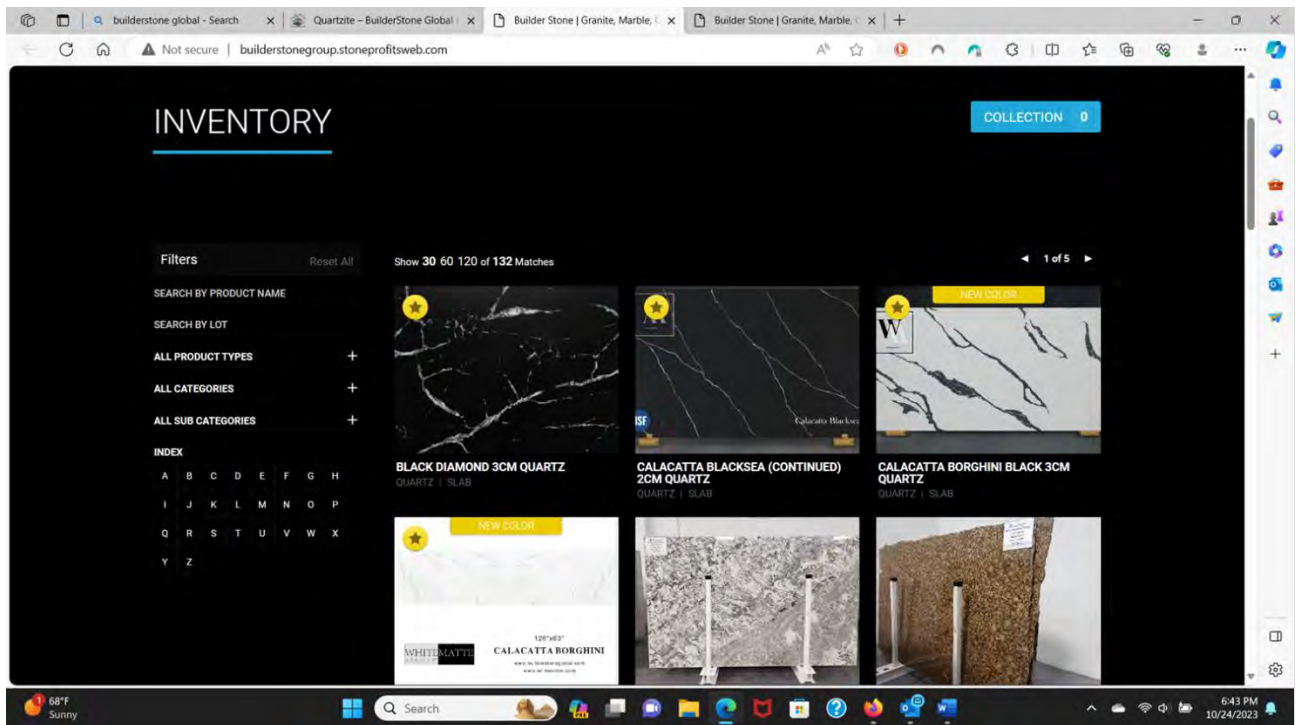
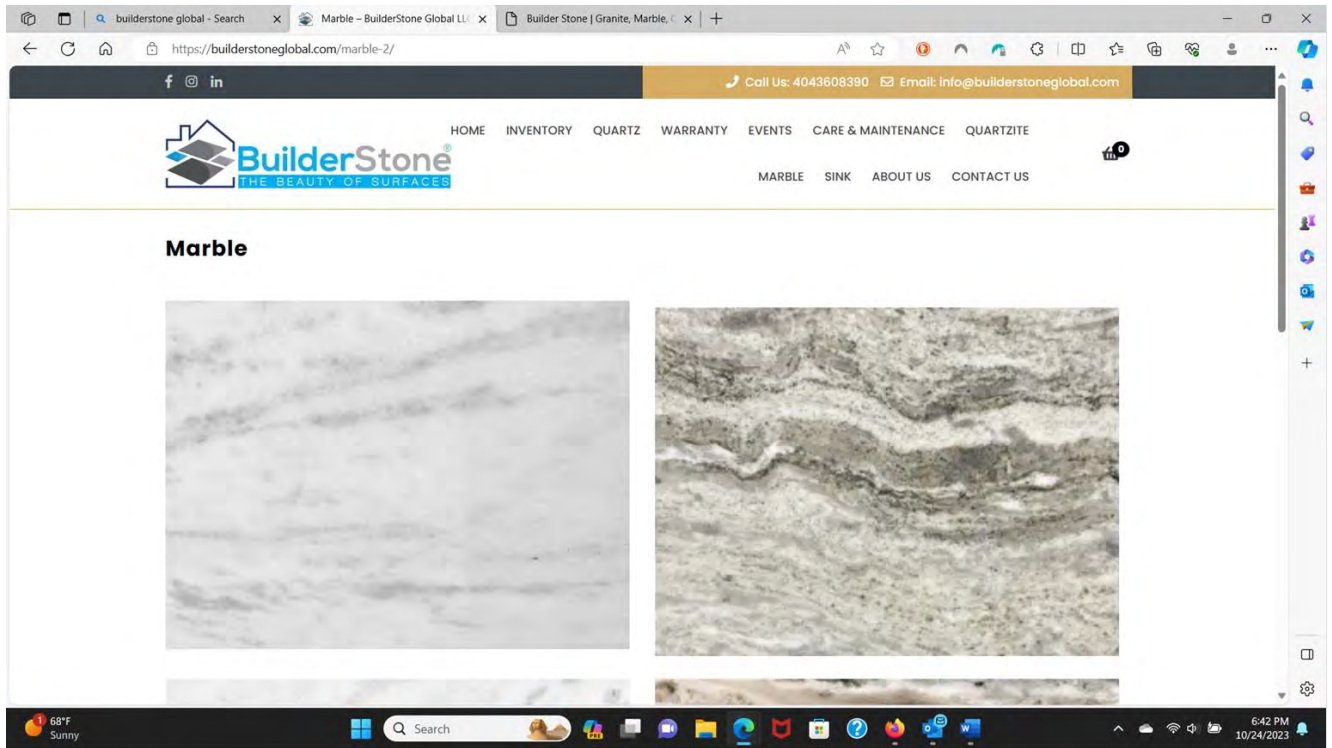
**RZ-2**



**EXHIBIT "A"**

**Builderstone Website**











# STORMWATER MANAGEMENT REPORT

FOR

**4477-4478 PEACHTREE INDUSTRIAL BLVD  
CITY OF BERKELEY  
GWINNETT COUNTY**

May 18, 2023  
Revised September 20, 2023

**Owner/Developer:  
Builderstone Global, LLC  
4595 Winters Chapel Road  
Doraville, GA 30360  
PH: 404-725-6731**



*Prepared By:*  
**GAK Engineering, Inc  
1465 Logan Drive, #1465  
Loganville, GA 30052  
PH: (919) 381-0300  
gkyiamah@gakengineering.com**

09-20-2023

# TABLE OF CONTENTS

	<u>PAGE</u>
EXECUTIVE SUMMARY .....	1-3
PURPOSE.....	4
SITE DESCRIPTION .....	4
HYDROLOGY .....	4
STORMWATER MANAGEMENT.....	4-6
STORMWATER QUALITY PEFORMANCE REVIEW.....	6
10% ANAYSIS (DOWNSTREAM ANALYSIS).....	7
CONCLUSION.....	7

## LIST OF FIGURES

FIG. NO.	DESCRIPTION	PAGE
1	Location Map.....	9
2	FEMA Map.....	10
3	Pre-Development Drainage Map .....	11
4	Post-Development Drainage Map.....	12
5	BMP Plan View .....	13
6	BMP Section View .....	14
7	Orifice End Cap and Trash Rack Detail .....	15

## APPENDIX A

- Tc and CN Calculations
- Pond Data
- Storm Water Quality Performance Review
- Hydraflow Hydrographs Peak Flow Summary
- Hydraflow Hydrographs Pre- and Post-Developed Hydrographs



## EXECUTIVE SUMMARY

The detention facilities described herein provide adequate storm water attenuation in accordance with standard engineering practices and methods of analysis for storm water management in The City of Berkeley, Gwinnett County.

The site is located at 4477-4478 Peachtree Industrial Boulevard, City of Berkeley, GA 30096, Gwinnett County, zoned C-1 and contains 4.996 acres. The site is bordered on the north by parcels zoned M-1 and R-100, on the south by Peachtree Industrial Boulevard, on the west by an O-I zoned parcel and on the east by parcels zoned R-100 and M-2. The site is partially wooded with thick to little underbrush. The site has rolling terrain with steep slopes and generally drains in a northeasterly direction, mostly towards several depressions onsite that appear to be detention basins. Flows route through these basins are conveyed through a series of pipes and channels into Berkeley located in the residential subdivision to the north of the site. Also, there is a 60" reinforced concrete pipe (RCP) that conveys offsite runoff across the site and eventually into Berkeley Lake. The site is not located in a floodplain as per FEMA Panel No. 13135C 0068G, dated 03/04/2013. A large billboard is located onsite.

The site will be analyzed as one drainage basin, Basins A, consisting of 96.494 acres of which 4.996-acres is onsite and 91.498-acres is offsite. The large offsite basin mostly drains from across Peachtree Industrial Boulevard to the south. The point analysis (POA) for the site is located on the northern boundary where runoff is conveyed through a series of ditches and pipes and ultimately into Berkeley Lake.

The client intends to rezone site from C-1 to M-1 and build an office-warehouse development including the associated infrastructure such as driveways, parking, storm and sanitary sewers, utilities, landscaped areas, and a stormwater management BMP. The site is developed such that peak flow in Basin A is increased due to an increase in impervious area from the proposed development. A stormwater management facility is being proposed in Basin A to attenuate post-development peak flows to values equal to or less than the pre-development values and provide the required runoff reduction. The proposed stormwater facility will consist of a Bioretention Basin and an Extended Dry Detention (EDD) Pond. Post development drainage Basin A is sub-divided into two drainage areas, Basin A1 and Basin A2. Basin A1 contains 3.655 acres and drains directly to the proposed stormwater management facility. Basin A2 is the 1.341-acre onsite area that bypasses the stormwater management facility and drains directly to the POA. The large offsite area remains unchanged from the pre- to post development condition and contains 91.498 acres.

The bioretention basin provides the required runoff reduction for the proposed development, the higher design storms are routed through the bioretention basin to the EDD pond just downstream, where peak flows are attenuated such that the combined post-development peak flows at the POA are less than pre-development values. Detention is provided for the 1 to 100-year design storms. Refer to Figures 3 and 4 for Pre- and Post-development Drainage Maps.

The following table presents a summary of flows for the drainage basins:

**BASIN-A POA (Onsite Areas Only)**

Return Freq. (YR)	Pre-Developed Flows Basin A (cfs)	Post-Developed Peak Flows (Basin A1) (cfs)	Post-Developed By-pass (Basin A2) (cfs)	Peak Routed Flows from EDD Pond (cfs)	Ponding Elevation (ft.)	Detention Storage (cu. ft.)	Post-Developed Flows Basin A (cfs)
1	1.05	11.25	0.52	0.18	1033.99	9,920	0.57
2	2.15	13.42	0.93	0.21	1035.02	13,351	0.99
5	4.61	17.14	1.71	0.42	1036.42	17,988	1.83
10	7.09	20.36	2.47	0.93	1037.01	19,938	2.62
25	11.03	24.95	3.66	2.21	1038.04	23,356	3.85
50	14.42	28.59	4.67	3.68	1038.96	26,419	4.89
100	18.17	32.38	5.77	5.64	1040.00	29,875	6.69

**BASIN-A POA (Onsite and Offsite Areas)**

Return Freq. (YR)	Pre-Developed Flows Basin A (cfs)	Post-Developed Flows Basin A (cfs)
1	45.72	45.46
2	66.53	66.05
5	105.95	105.03
10	142.95	141.60
25	199.92	198.77
50	248.19	247.35
100	300.45	300.39

**TIMES OF CONCENTRATION SUMMARY**

	<b>Pre/Post Overland Flow, min</b>	<b>Pre/Post Shallow Flow, min</b>	<b>Pre/Post Open Channel Flow, min</b>	<b>Total Pre-Dev. Tc, min</b>	<b>Total Post-Dev. Tc, min</b>
Basin A (Onsite)	4.480/--	3.84/--	--/--	8.32	--
Basin A1 (Onsite)	--/--	--/5.00	--/--	--	5.00
Basin A2 (Onsite Bypass)	--/--	--/5.00	--/--	--	5.00
Basin A (Offsite)	14.00/14.00	12.80/12.80	--/--	26.80	26.80

**CURVE NUMBER SUMMARY**

<b>Basins</b>	<b>Pre-Dev. Curve Number</b>	<b>Post-Dev. Curve Number</b>
Basin A (Onsite)	55	--
Basin A1 (Onsite)	--	92.0
Basin A2 (Onsite Bypass)	--	57.10
Basin A (Offsite)	65	65

**SCS 24-HOUR RAINFALL DEPTHS**

<b>Design Storm</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>10</b>	<b>25</b>	<b>50</b>	<b>100</b>
SCS 24-hour rainfall depth (in)	3.29	3.71	4.42	5.03	5.90	6.59	7.31

## **PURPOSE**

The detention facilities described herein provide adequate storm water attenuation in accordance with standard engineering practices and methods of analysis for storm water management in The City of Berkeley, Gwinnett County.

## **SITE DESCRIPTION**

The site is located at 4477-4478 Peachtree Industrial Boulevard, City of Berkeley, GA 30096, Gwinnett County, zoned C-1 and contains 4.996 acres. The site is bordered on the north by parcels zoned M-1 and R-100, on the south by Peachtree Industrial Boulevard, on the west by an O-I zoned parcel and on the east by parcels zoned R-100 and M-2. The site is partially wooded with thick to little underbrush. The site has rolling terrain with steep slopes and generally drains in a northeasterly direction, mostly towards several depressions onsite that appear to be detention basins. Flows route through these basins are conveyed through a series of pipes and channels into Berkeley located in the residential subdivision to the north of the site. Also, there is a 60" reinforced concrete pipe (RCP) that conveys offsite runoff across the site and eventually into Berkeley Lake. The site is not located in a floodplain as per FEMA Panel No. 13135C 0068G, dated 03/04/2013. A large billboard is located onsite.

## **HYDROLOGY**

The Soil Conservation Service Method was used to estimate the storm-water runoff from the site for the 1, 2, 5, 10, 25, 50, and 100-year storm frequencies. The Hydra-flow Hydrographs for Windows computer model Version 6.0 was used to compute pre-developed and post-developed hydrographs for the drainage basins. The Time of Concentration,  $T_c$  and Curve Number, CN was computed for each drainage area based on the Georgia Storm Water Management Manual. (See Appendix A Curve Number, CN and Time of Concentration,  $T_c$  calculations).

## **STORMWATER MANAGEMENT**

The existing site conditions are as described above. The site is analyzed as one drainage basin, Basin A, which consists of 96.494 acres of which 4.996-acres is onsite and 91.498-acres is offsite. The large offsite basin mostly drains from across Peachtree Industrial Boulevard to the south. The point analysis (POA) for the site is located on the northern property boundary where runoff is conveyed through a series of ditches and pipes and ultimately into Berkeley Lake. Refer to Figures 3 – Pre-development Drainage Map.

The client intends to rezone site from C-1 to M-1 and build an office-warehouse development including the associated infrastructure such as driveways, parking, storm and sanitary sewers, utilities, landscaped areas, and a stormwater management BMP. The site is developed such that peak flow in Basin A is increased due to an increase in impervious area from the proposed development. A stormwater management facility is being proposed in Basin A to attenuate post-development peak flows to values equal to or less than the pre-development values and provide the required runoff reduction. The proposed stormwater facility will consist of a Bioretention Basin and an Extended Dry Detention (EDD) Pond. Post development drainage Basin A is sub-divided into two drainage areas, Basin A1 and Basin A2. Basin A1 contains 3.655 acres and drains directly to the proposed stormwater management facility. Basin A2 is the 1.341-acre onsite area that bypasses the stormwater management facility and drains directly to the POA. The large offsite area remains unchanged from the pre- to post development condition and contains 91.498 acres. The bioretention basin provides the required runoff reduction for Basin A1, the higher design storms in Basin A1 are routed through the bioretention basin to the EDD pond just downstream, where detention is provided. The EDD Pond is designed to attenuate peak flows such that the routed flows from the pond combined with the

bypass flows (from Basins A2 and A-Offsite) at the POA are less than the pre-development values. Peak flows at the POA are computed using onsite drainage areas only as well as computed using the combination of onsite and offsite drainage areas. Refer to Figure 4 for Post-development Drainage Maps.

The bioretention basin is designed to provide runoff reduction and partial channel protection for the proposed development. The bioretention basin holds the design runoff volume and allows it to infiltrate gradually into the subgrade projected to have a minimum infiltration rate of 0.50 in/hr. In the retaining wall separating the bioretention basin from the EDD Pond is a 10-ft rectangular weir with IE @ 1042.90', that routes the higher design storms from the bioretention basin to the EDD Pond just downstream. The EDD Pond is designed to provide channel protection storage/treatment as well as stormwater detention. The combination of the bioretention basin and EDD Pond provides adequate peak flow control and runoff reduction for the proposed development. The OCS for the EDD pond consists of a 2.00" CPv orifice with IE @ 1031.00' and a 0.20' wide rectangular weir with IE @ 1036.00'. The CP orifice is sized to draw-down the 1-yr 24-hr runoff volume in 24 hours and the rectangular weir is designed to safely pass the higher design storms through the EDD Pond. The combination of the orifice and rectangular weir sufficiently attenuates peak flows such that the post-developed peak flows at the POA are less than the pre-development values. Detention is provided for the 1 to 100-year design storm and the 100-year ponding elevation in the EDD Pond is 1040.00'. Flows routed through the outlet control structure are discharged onto a concrete splash pad and subsequently conveyed through downstream receiving channels and pipes into Berkeley Lake.

### **Runoff Reduction (RRv) Volume Calculations – Bioretention Basin**

The Upstream on-site area draining directly to Bioretention Basin = 3.655 acres

Onsite Impervious Area draining to Bioretention Basin = 3.107 acres

Percentage Impervious (I) =  $3.107/3.655 = 0.850 = 85.0\%$

$R_v = 0.05 + (I) \cdot (0.009)$

$R_v = 0.05 + 85.0 \cdot (0.009)$

$R_v = 0.8150$

$RR_v = 1.2 \cdot R_v \cdot A_s / 12$

$RR_v = 1.2 \cdot (0.8150) \cdot (3.655 \cdot 43,560) / 12$

Therefore,  $RR_v$  (required) = 12,975.76 cu. ft.;  $RR_v$  (provided) = 12,975.76 cu. ft.

Required forebay volume ( $10\% \cdot RR_v$ ) = 1,297.58 cu. ft., provided = 1,297.58 cu. ft.

### **Channel Protection Volume Calculations – Bioretention Basin**

$Q = (P - 0.2S)^2 / (P + 0.8S)$

Total Precipitation, P = 3.36 inches

Curve Number, CN = 92

(The adjusted Composite CN = 85 is used in peak flow calculation for inflow into the EDD Pond)

$S = ((1000/CN) - 10) = ((1000/85) - 10) = 1.765$

$Q = (3.36 - (0.2) \cdot (1.765))^2 / (3.36 + (0.80) \cdot (1.765))$

$Q = (9.042) / (4.772) = 1.895 \text{ inches} = 0.158 \text{ feet}$

Drainage Area = 3.655 acres = 159,211.80 sq. ft.

Channel Protection Volume (CPv) required =  $(159,211.80) \cdot (0.158) = 25,155.46 \text{ cu. ft.}$

CPv provided = 25,155.46 cu. ft.

**CHANNEL PROTECTION ORIFICE CALCULATIONS**

CPv= Channel Protection Volume, ft<sup>3</sup>  
 V= 1-yr channel protection volume, ft<sup>3</sup>  
 A =area of orifice, ft<sup>2</sup>  
 t= 86,400 sec.  
 H=height above the centroid of the orifice, ft.

**Sizing of Channel Protection Orifice (Extended Dry Detention Pond)**

$A = (CPv/t) / [0.6*(64.4*(H/2)) ^{0.5}]$   
 $A = (25,155.46/86400) / [0.6*(64.4*(7.486/2)) ^{0.5}]$   
 $A = 0.291 / [0.6*(64.4*(3.743)) ^{0.5}]$   
 $A = 0.291/9.315 = 0.03124$   
 $A = \pi d^2 / 4$   
 $d^2 = 0.0409$ ;     $d = 0.202 \text{ ft}$   
 $d = 2.428''$       **Use a 2.00'' CPv Orifice @ Elev. 1031.00 ft.**

**POND STORAGE SUMMARY – EXTENDED DRY DETENTION BASIN**

<b>Frequency (YR)</b>	<b>Pond Inflow (cfs)</b>	<b>Pond Elev. (ft)</b>	<b>Pond Storage (cu. ft.)</b>	<b>Routed Flows (cfs)</b>
1	11.25	1033.99	9,920	0.18
2	13.42	1035.02	13,351	0.21
5	17.14	1036.42	17,988	0.42
10	20.36	1037.01	19,938	0.93
25	24.95	1038.04	23,356	2.21
50	28.59	1038.96	26,419	3.68
100	32.38	1040.00	29,875	5.64

**STORMWATER QUALITY PERFORMANCE REVIEW**

The Georgia Stormwater Management Manual Stormwater Quality Site Development Review Tool output provided in Appendix A shows a 100% reduction in Total Suspended Solids (TSS) and 102% of the total required runoff reduction due to treatment provided by the Bioretention and Extended Dry Detention Basins.

## **10% POINT ANALYSIS (DOWNSTREAM ANALYSIS)**

The 10 percent point of analysis is a point downstream of the site at which the total area draining area is at least ten times the site being developed. The total site has an area of 4.996 acres and the total drainage area at the site POA is 96.494 acres which is approximately 19.31 times larger than the site area. The site POA can therefore be defined as the 10% POA and this is because the site is located at the downstream end of a large drainage basin. Please refer to Figures 3 and 4 for the Pre- and Post-development drainage maps respectively and provided in table below is a summary of pre- and post-development peak flows for the 10% POA (Site POA).

**Summary of Peak Flow @ for 10% POA**

<b>Frequency (YR)</b>	<b>Pre-Dev. Flows (cfs)</b>	<b>Post-Dev. Flows (cfs)</b>
1	45.72	45.46
2	66.53	66.05
5	105.95	105.03
10	142.95	141.60
25	199.92	198.77
50	248.19	247.35
100	300.45	300.39

From the above table, we can see that the computed post-developed flows are less than the pre-developed for the 10% POA's and this can be attributed to detention of post-developed peak flows in the proposed stormwater management facility.

The three major impacts of development on storm-water are volume increase, velocity increase and pollution. The proposed development would not adversely impact downstream conditions for the following reasons:

1. Water quality structures (BMP) shall be provided on-site to trap storm-water runoff from erodible areas to allow suspended sediments and other pollutants to settle-out before being discharged downstream.
2. There will be a significant reduction in peak flow at the site POA when the site is developed. This will result in a reduction in flow velocities at the site POA and therefore the potential for erosion and/or scouring in the receiving channels downstream is significantly reduced.

## **CONCLUSION**

The detention facility referred to in this report exceeds the standard of care for control of storm-water runoff from the proposed development. This development will not adversely impact downstream conditions.

## **FIGURES**





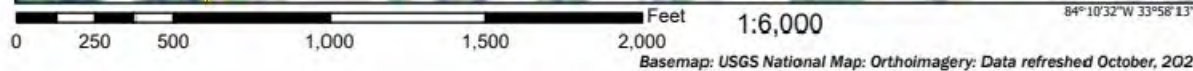
4477-4478 PEACHTREE INDUSTRIAL BLVD.  
BERKELEY LAKE, GA 30092  
GWINNETT COUNTY

FIGURE 1 - LOCATION MAP

# National Flood Hazard Layer FIRMette



84°11'10"W 33°58'43"N



## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- SPECIAL FLOOD HAZARD AREAS**
  - Without Base Flood Elevation (BFE) Zone A, V, AE9
  - With BFE or Depth Zone AE, AO, AH, VE, AR
  - Regulatory Floodway
  
- OTHER AREAS OF FLOOD HAZARD**
  - 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
  - Future Conditions 1% Annual Chance Flood Hazard Zone X
  - Area with Reduced Flood Risk due to Levee. See Notes. Zone X
  - Area with Flood Risk due to Levee Zone D
  
- OTHER AREAS**
  - NO SCREEN Area of Minimal Flood Hazard Zone X
  - Effective LOMRs
  - Area of Undetermined Flood Hazard Zone D
  
- GENERAL STRUCTURES**
  - Channel, Culvert, or Storm Sewer
  - Levee, Dike, or Floodwall
  
- OTHER FEATURES**
  - Cross Sections with 1% Annual Chance Water Surface Elevation
  - Coastal Transect
  - Base Flood Elevation Line (BFE)
  - Limit of Study
  - Jurisdiction Boundary
  - Coastal Transect Baseline
  - Profile Baseline
  - Hydrographic Feature
  
- MAP PANELS**
  - Digital Data Available
  - No Digital Data Available
  - Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

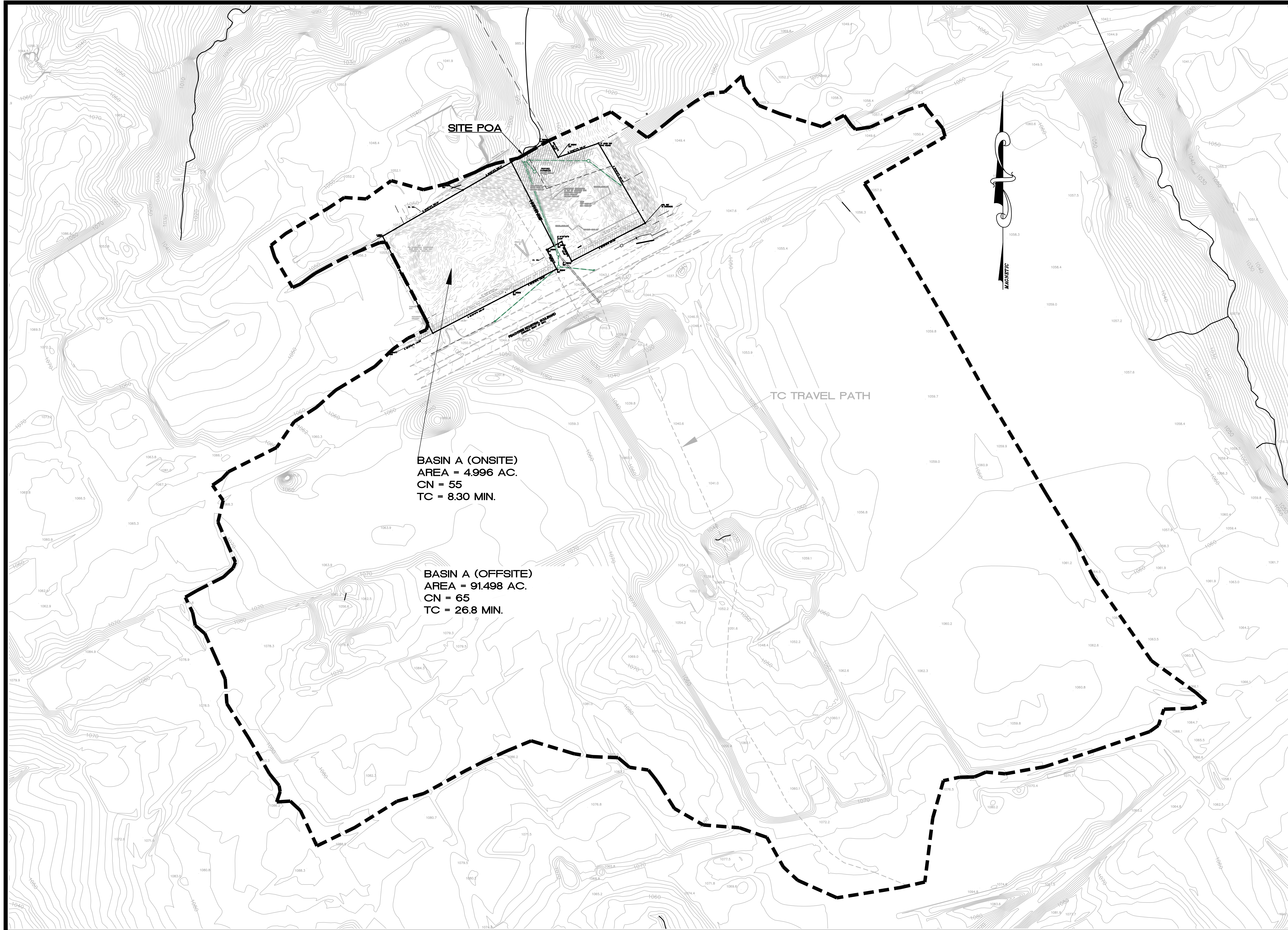
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/5/2023 at 12:45 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

**4477-4478 PEACHTREE INDUSTRIAL BLVD.  
BERKELEY LAKE, GA 30092  
GWINNETT COUNTY**

**FIGURE 2 - FEMA MAP**





4477-4478 PEACHTREE INDUSTRIAL BLVD.  
 BERKELEY LAKE, GA 30092  
 GWINNETT COUNTY

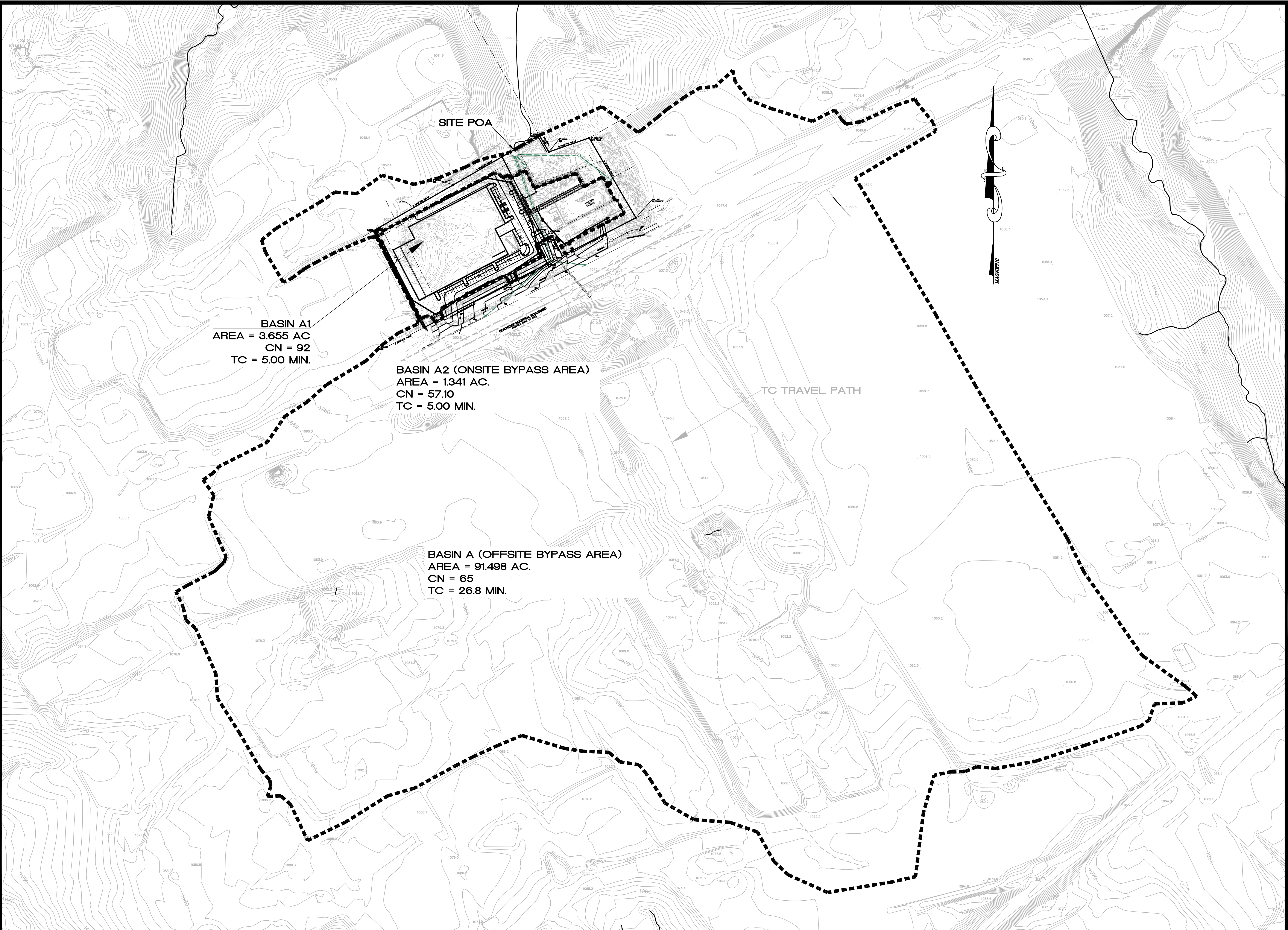
**PRE-DEVELOPMENT  
 DRAINAGE BASIN**

**SHEET TITLE**

DATE	NO	DESCRIPTION

DATE:   
 JOB NUMBER:   
**C-3**





4477-4478 PEACHTREE INDUSTRIAL BLVD.  
 BERKELEY LAKE, GA 30092  
 GWINNETT COUNTY

POST DEVELOPMENT  
 DRAINAGE BASIN

**SHEET TITLE**

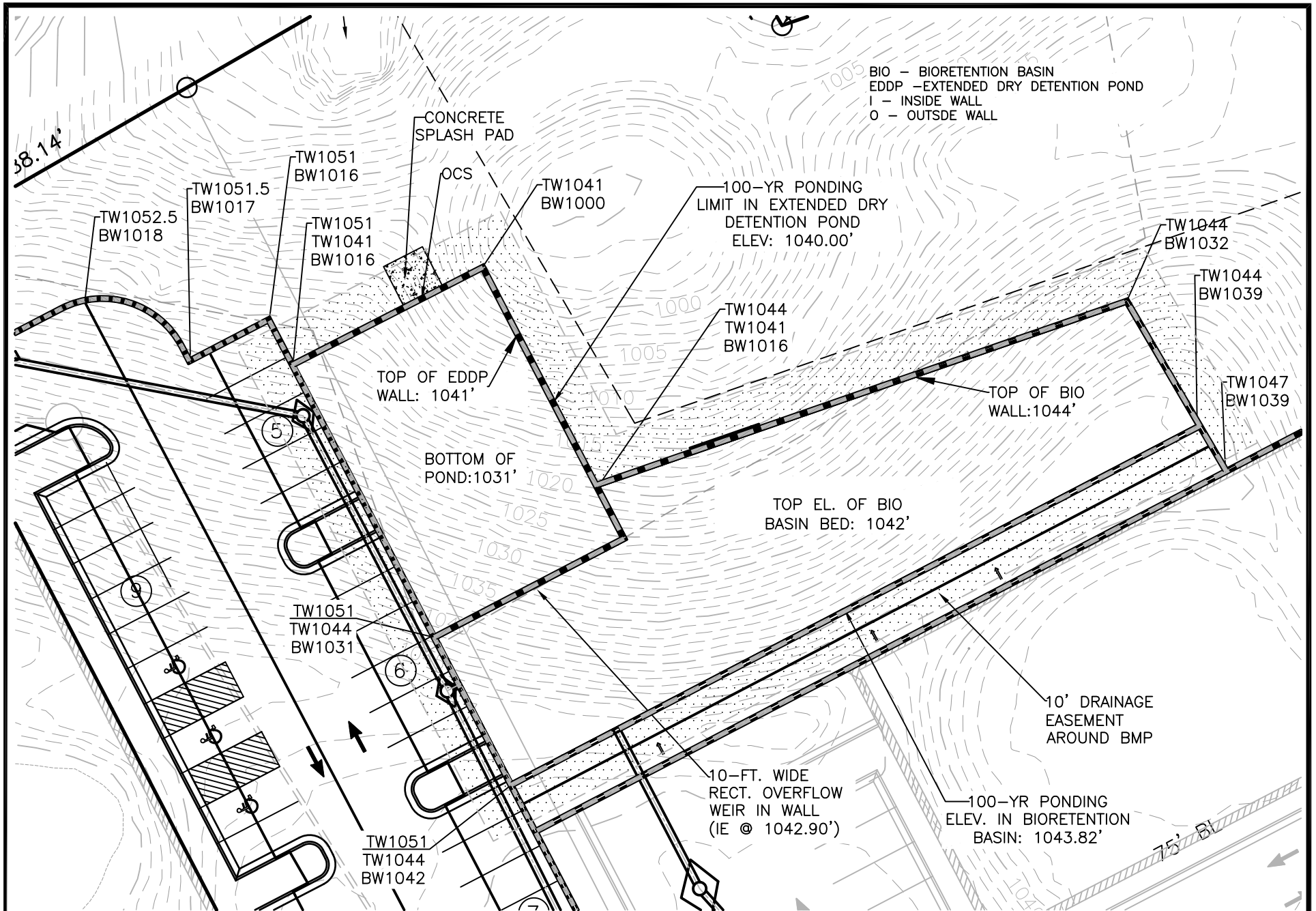
DATE	NO	DESCRIPTION

DATE:

JOB NUMBER:

**C-4**





**FIGURE 5 - BMP PLAN VIEW**

**4477-4478 PEACHTREE INDUSTRIAL BLVD.  
 BERKELEY LAKE, GA 30092  
 GWINNETT COUNTY**

Recorded Aug 22, 1974 O'Mallard Kerr C.E.C.

The lots shown hereon have been reviewed by the County Health Department and with the exception of lots None are approved for development.

This plat has been submitted to and considered by the Berkeley Lake Municipal Planning Commission, and is approved by such commission.

Dated this 22 Day of AUGUST, 1974

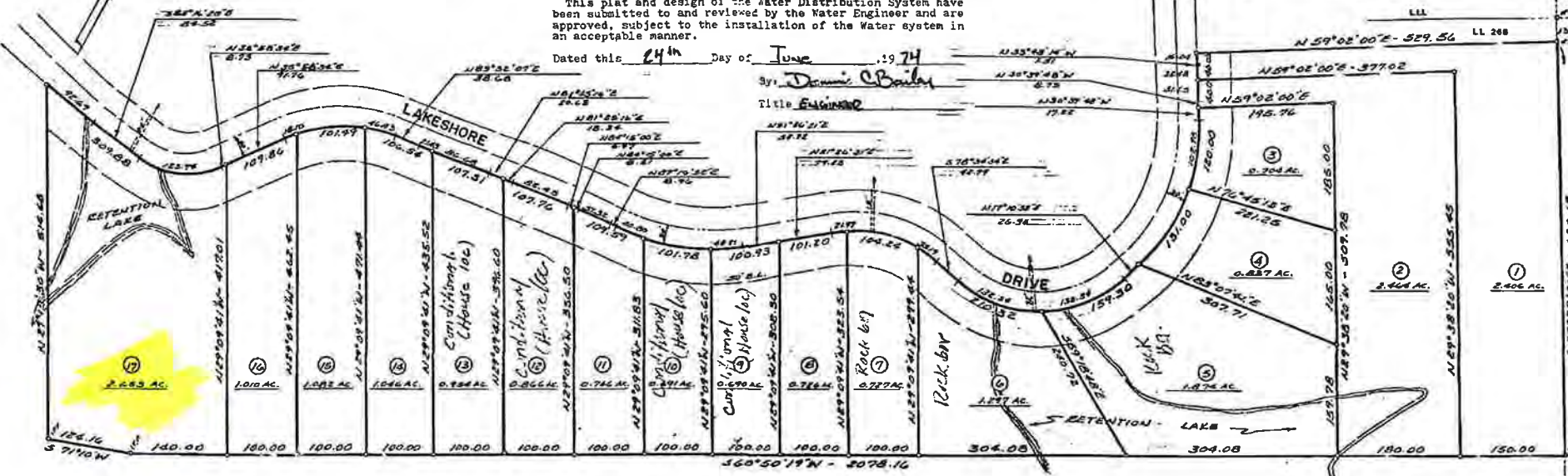
Berkeley Lake Municipal Planning Commission. By: Paul Wynn Chairman

By: Robert W. Powell Title: Engineer

This plat and design of the Water Distribution System have been submitted to and reviewed by the Water Engineer and are approved, subject to the installation of the Water system in an acceptable manner.

Dated this 24th Day of JUNE, 1974

By: Dennis C. Butler Title: Engineer



The owner of the land shown on this plat and whose name is subscribed hereto, and in person or through a duly authorized agent acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever all streets, alleys, parks, water courses, drains, easements, and public places thereon shown for the purposes and considerations therein expressed.

Robert W. Powell

This plat has been submitted to and considered by the Mayor and Council of the City of Berkeley Lake, Georgia and is approved subject to the Protective Covenants shown hereon.

Dated this 22 Day of August, 1974

Mayor of City of Berkeley Lake

BERKELEY LAKE ESTATES UNIT FOUR

LOCATED IN LL 268 - 6TH DIST. - CITY OF BERKELEY LAKE GWINNETT COUNTY, GEORGIA

MAY 27, 1974



I hereby certify that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specifications required by the City of Berkeley Lake Subdivision Regulations, Planning Commission and the Mayor of the City of Berkeley Lake.

By: Roy C. Hood Registered Georgia Land Surveyor No. 5127/74 - 1712

This plat has been submitted to and reviewed by the City Engineer and is approved, subject to the installation of all streets, utilities, and other improvements in an acceptable manner and according to City specifications. The owner has posted a twelve (12) months maintenance bond with the office of the City Engineer.

Dated this Day of City Engineer

- 1. The protective covenants shall exist for a period of 25 years from the date of recording this plat.
2. Lots shall be for single family residence purposes only.
3. No house shall be nearer a fronting street than building line shown, nor shall be located nearer than 10' to an interior lot line; and 25' between any two houses. No dwelling shall be located nearer than 40' to the rear lot line.
4. No temporary house, shack, tent or trailer shall be erected or occupied on any lot as a residence, school, church or kindergarten.
5. Minimum house size = 1800 sq. ft.

ERROR OF CLOSURE EXCEEDS 1:10,000

JOB NO. 1072-041

LAND SURVEYING

LAND PLANNING

SUBDIVISION FEASIBILITY STUDIES

FILED & RECORDED CLERK SUPERIOR COURT GWINNETT COUNTY GA

DATE 8/22/74 TIME 1:00 PM PAGE 1 of 2 FROM LAWLER, CLERK





**Exhibit “F”**

**Drawing**







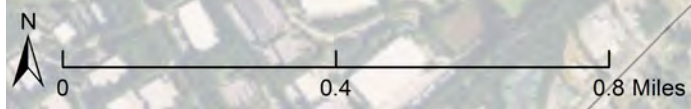
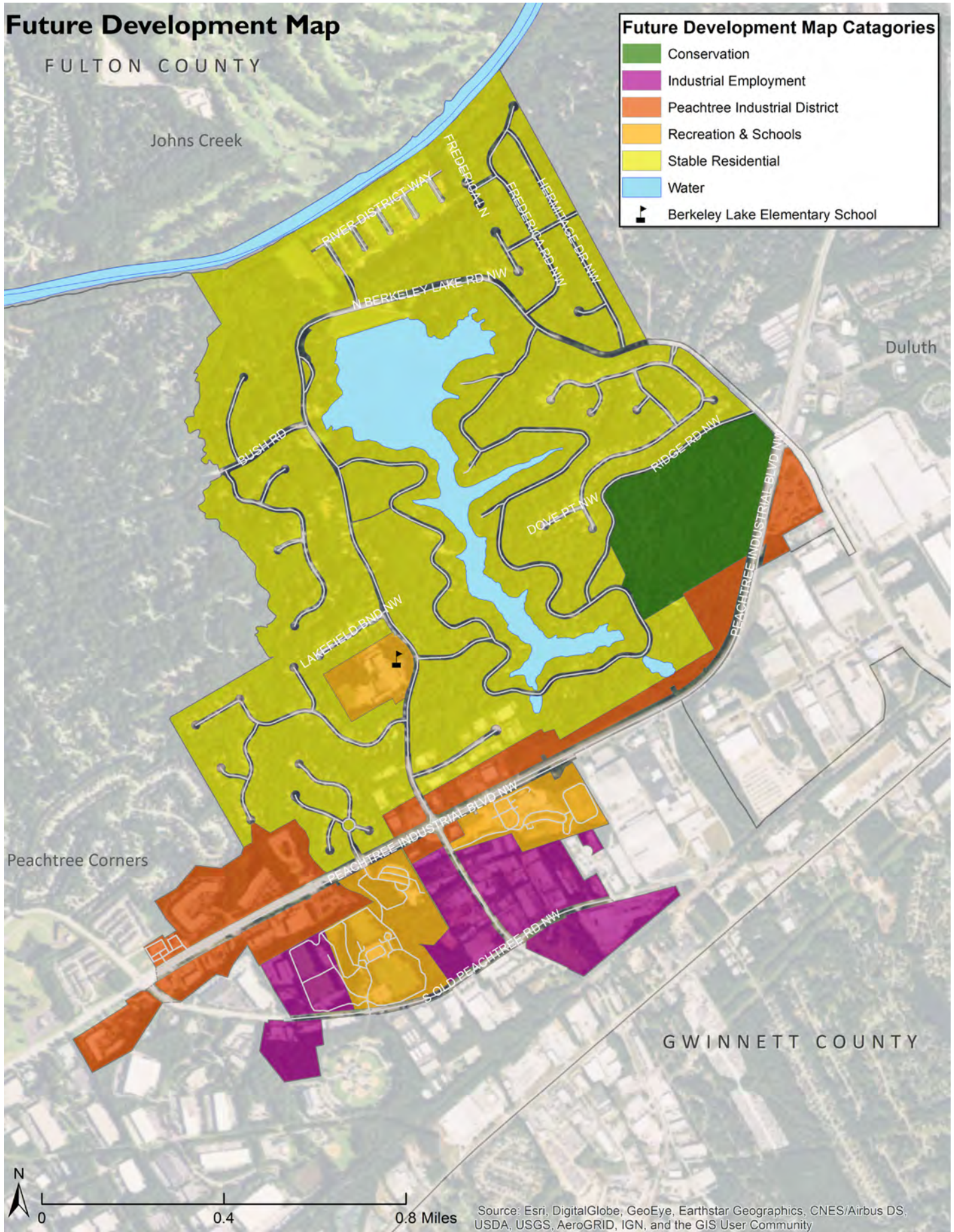






# Future Development Map

FULTON COUNTY



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**CITY OF BERKELEY LAKE  
REZONING APPLICATION**

**Application Form**

**APPLICANT INFORMATION**

OWNER'S NAME: First Citizens Bank & Trust PHONE: 919.716.4086  
 OWNER'S ADDRESS: 4300 Six Forks Rd., FCC-52 Raleigh, NC 27609  
Street Address City State Zip  
 CONTRACT PURCHASER'S NAME: Builderstone Global LLC PHONE: \_\_\_\_\_  
 ADDRESS: 4595 Winters Chapel Rd., Doraville, GA 30360  
Street Address City State Zip  
 NAME OF OWNER'S AGENT/ATTORNEY: Michael Penland PHONE: 770-843-8332  
 ADDRESS: P.O. Box 3184, Cumming, GA 30028  
Street Address City State Zip  
 FIRM: Powell Property Group, LLC E-MAIL: penlandmj@bellsouth.net  
 APPLICATION SUBMITTED BY:  OWNER  OWNER'S AGENT  CONTRACT PURCHASER

**REZONING INFORMATION**

CURRENT ZONING DISTRICT: C-1 PROPOSED ZONING DISTRICT: M-1 PROPOSED USE: Office/Warehouse  
 LAND DISTRICT(S): 6 LAND LOT: 268 ACREAGE: 3.206 AC.  
 PROPERTY ADDRESS: 4477 Peachtree Industrial Blvd. Berkeley Lake GA 30094  
Street Address City State Zip  
 PROPOSED CHANGE IN CONDITIONS: Propose making Lot 7 (Parcel ID: 6268 043) larger, while reducing size of Lot 8  
+(6268043) (Parcel ID: 6268 044) in order to accomodate a larger office/warehouse building  
on Lot 7 once rezoned from C-1 and M-1. (attached additional sheets if necessary)  
 RESIDENTIAL DEVELOPMENT: \_\_\_\_\_ NON-RESIDENTIAL DEVELOPMENT: \_\_\_\_\_  
 No. of Lots/Units: \_\_\_\_\_ No. of Buildings/Lets: One (1) Primary / One (1) Accessory  
 Dwelling Unit Size (sq. ft.): \_\_\_\_\_ Total Gross Sq. Ft. : 57,144  
 Gross Density: \_\_\_\_\_ Density: 17,824 (Sq. Ft./Acres)  
 Net Density: \_\_\_\_\_

**CERTIFICATION**

I hereby certify that the information provided above and on attached sheets is true and correct and acknowledge that they City of Berkeley Lake does not consider any zoning applications nor rezone any property within its boundaries except in accordance with and conditioned on a definite proposal for the development of the property if rezoned. This shall include a site plan of the proposed development, architectural and engineering renderings of the proposed development and a commitment by the applicant to develop the property in accordance with the aforesaid renderings and any conditions as imposed at approval of the rezoning.

[Signature] 06/09/2023  
 SIGNATURE OF APPLICATION DATE

[Signature] 06/12/2023  
 SIGNATURE OF OWNER DATE

**CITY OF BERKELEY LAKE  
REZONING APPLICATION**

**Certification of Campaign Contribution Disclosures for Rezoning Applications**

CCGA Section 36-67A-1 et. seq. requires that any person or company who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person or company who applies for a rezoning action disclose any campaign contributions aggregating \$250 or more made within two years immediately preceding the filing of this application to any local government official who will consider the application. Any person knowingly failing to comply with the requirements of this chapter shall be guilty of a misdemeanor.

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

OWNER

Have you or the company you represent made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of Berkeley Lake within two years of this application?

No  YES [ ] IF YES:

NAME OF OFFICIAL: CONTRIBUTION AMOUNT: DATE OF CONTRIBUTION:

\_\_\_\_\_

OWNER'S SIGNATURE: Timothy J. Bylow PRINTED: Timothy J. Bylow

OWNER'S AGENT / ATTORNEY

Have you or your firm made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of the City of Berkeley Lake within two years of this application?

No  YES [ ] IF YES:

NAME OF OFFICIAL: CONTRIBUTION AMOUNT: DATE OF CONTRIBUTION:

Michael Penland \_\_\_\_\_

AGENT'S OR ATTORNEY'S SIGNATURE: Michael Penland PRINTED: Michael Penland

CONTRACT PURCHASER

Have you or the company you represent made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of the City of Berkeley Lake within two years of this application?

No  YES [ ] IF YES:

NAME OF OFFICIAL: CONTRIBUTION AMOUNT: DATE OF CONTRIBUTION:

Builderstone Global LLC \_\_\_\_\_

CONTRACT PURCHASER'S SIGNATURE: \_\_\_\_\_ PRINTED: \_\_\_\_\_



**CITY OF BERKELEY LAKE  
REZONING APPLICATION**

**Certification of Campaign Contribution Disclosures for Rezoning Applications**

OCGA Section 36-67A-1 et. seq. requires that any person or company who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person or company who applies for a rezoning action disclose any campaign contributions aggregating \$250 or more made within two years immediately preceding the filing of this application to any local government official who will consider the application. Any person knowingly failing to comply with the requirements of this chapter shall be guilty of a misdemeanor.

(ATTACH ADDITIONAL SHEETS IF NECESSARY)

OWNER

Have you or the company you represent made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of Berkeley Lake within two years of this application?

No [X]      Yes [ ]      IF YES:

NAME OF OFFICIAL:                      CONTRIBUTION AMOUNT:                      DATE OF CONTRIBUTION:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OWNER'S SIGNATURE: Timothy J. Bylow                      PRINTED: Timothy J. Bylow

OWNER'S AGENT / ATTORNEY

Have you or your firm made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of the City of Berkeley Lake within two years of this application?

No [ ]      Yes [ ]      IF YES:

NAME OF OFFICIAL:                      CONTRIBUTION AMOUNT:                      DATE OF CONTRIBUTION:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AGENT'S OR ATTORNEY'S SIGNATURE: \_\_\_\_\_ PRINTED: \_\_\_\_\_

CONTRACT PURCHASER

Have you or the company you represent made campaign contributions aggregating \$250 or more to a member of the City Council or Planning & Zoning Commission of the City of Berkeley Lake within two years of this application?

No [X]      Yes [ ]      IF YES:

NAME OF OFFICIAL:                      CONTRIBUTION AMOUNT:                      DATE OF CONTRIBUTION:

Enver Taner Baltaci  
Builderstore Global, LLC  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACT PURCHASER'S SIGNATURE: [Signature]                      PRINTED: Enver Taner Baltaci

**CITY OF BERKELEY LAKE  
REZONING APPLICATION**

---

***Authorization by Property Owner***

If there is more than one owner, a separate form must be submitted with the original signature of each owner.

Timothy J. Bylow, SVP First Citizens Bank & Trust, being duly sworn upon his/her oath, being of sound mind and legal age deposes and states: that he/she is the owner of the property which is subject matter of the attached application, as is shown in the records of Gwinnett County, Georgia.

He/she authorizes the person named below to act as applicant in the pursuit of a VARIANCE on this property.

I hereby authorize the staff of the City of Berkeley Lake to inspect the premises which are the subject of this application.

Name of applicant Builderstone Global, LLC - Enver Taner Baltaci

Address 4595 Winters Chapel Rd., Doraville, GA 30360  
Street Number/PO Box      Street Name      City      State      Zip

Telephone Number baltaci@builderstoneglobal.com

  
Signature of Owner

Personally appeared before me

Timothy J. Bylow  
Owner's Name (print)

who swears that the information contained in this authorization is true and correct to the best of his or her knowledge and belief.

Kristie L Parcel  
Notary Public *Comm exp 11/3/24*



(Seal)

April 12, 2023  
Date





**LOT 7 AREA**  
87,151 SQ. FT.  
2.001 ACRES

**LOT 8 AREA**  
130,443 SQ. FT.  
2.995 ACRES

**LEGEND**

These standard symbols may be found in the drawing.

- 1/2" Rebar Set
- Iron Pin Found
- Building Line
- Catch Basin Lid
- ☒ Stormwater Junction Box
- Guy Wire Anchor
- Power Pole
- Bollard
- Fire Hydrant
- Water Valve
- Sanitary Sewer Manhole
- Sanitary Sewer Manhole (Not Field Located)
- Sign
- Headwall
- × Spot Elevation
- Hardwood Tree
- Pine Tree
- Neighbor's Fence
- Guardrail
- Right of Way Line
- Overhead Electric Line
- Sanitary Sewer
- Sanitary Sewer (Not Field Located)
- Stormwater Pipe
- Stormwater Pipe (Not Field Located)

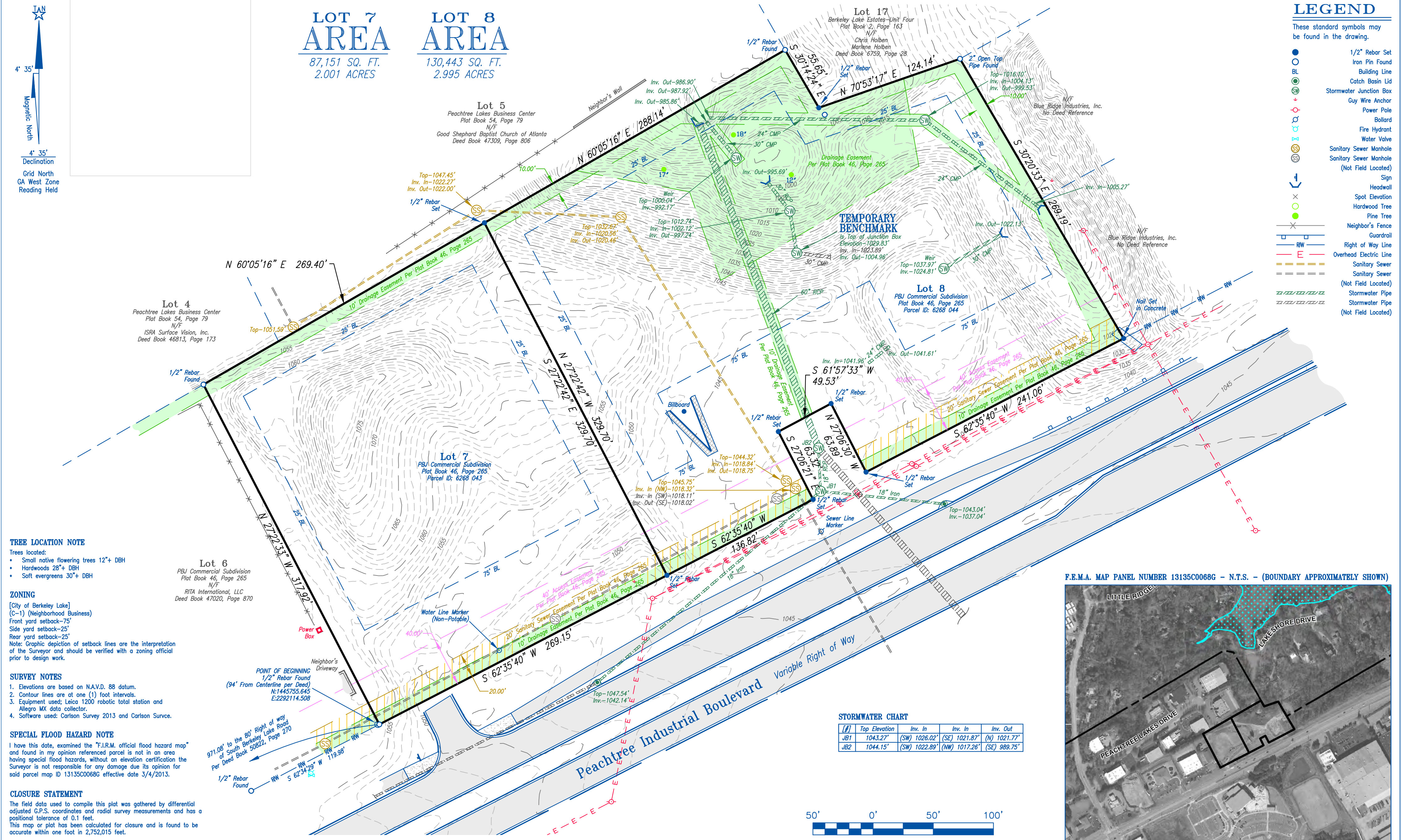
**TREE LOCATION NOTE**  
Trees located:  
• Small native flowering trees 12" + DBH  
• Hardwoods 28" + DBH  
• Soft evergreens 30" + DBH

**ZONING**  
[City of Berkeley Lake]  
(C-1) (Neighborhood Business)  
Front yard setback-75'  
Side yard setback-25'  
Rear yard setback-25'  
Note: Graphic depiction of setback lines are the interpretation of the Surveyor and should be verified with a zoning official prior to design work.

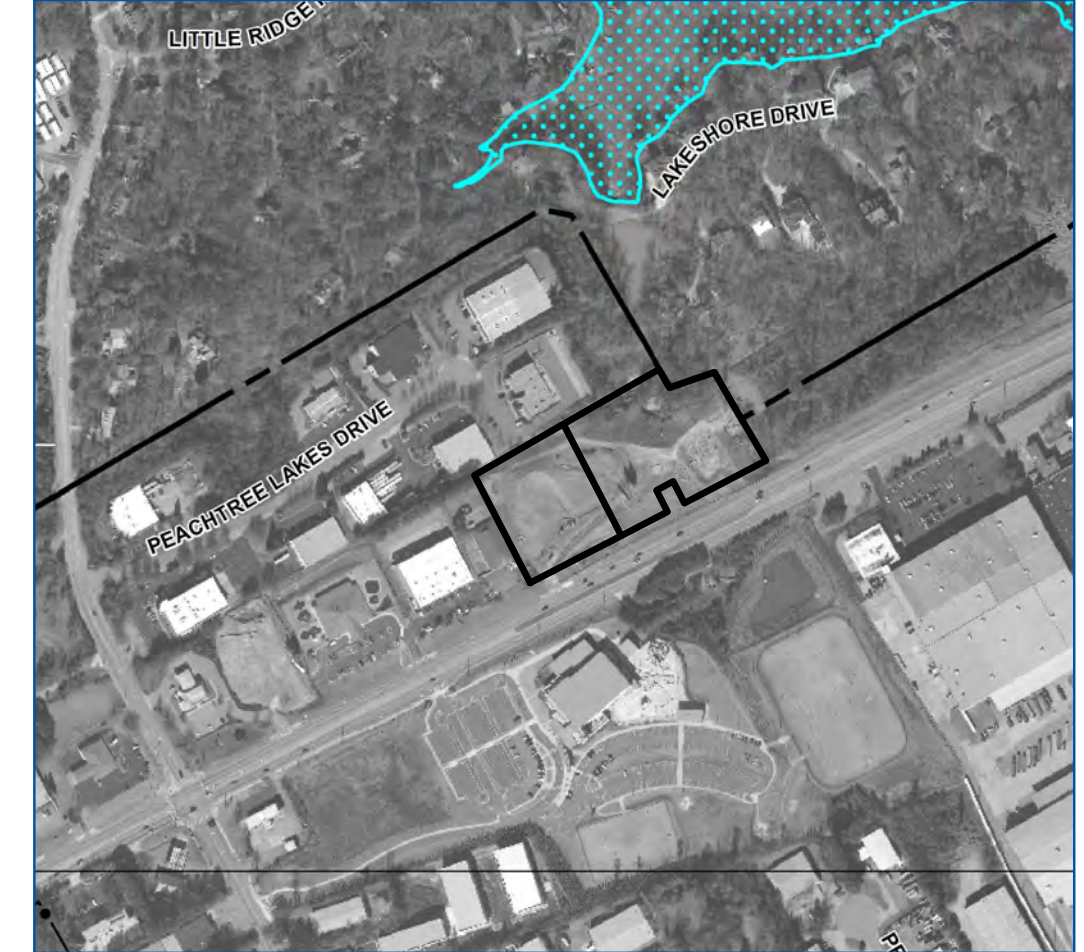
**SURVEY NOTES**  
1. Elevations are based on N.A.V.D. 88 datum.  
2. Contour lines are at one (1) foot intervals.  
3. Equipment used; Leica 1200 robotic total station and Allegro MX data collector.  
4. Software used: Carlson Survey 2013 and Carlson Surver.

**SPECIAL FLOOD HAZARD NOTE**  
I have this date, examined the "F.I.R.M. official flood hazard map" and found in my opinion referenced parcel is not in an area having special flood hazards, without an elevation certification the Surveyor is not responsible for any damage due to its opinion for said parcel map ID 13135C00686 effective date 3/4/2013.

**CLOSURE STATEMENT**  
The field data used to compile this plat was gathered by differential adjusted G.P.S. coordinates and radial survey measurements and has a positional tolerance of 0.1 feet.  
This map or plat has been calculated for closure and is found to be accurate within one foot in 2,752,015 feet.



F.E.M.A. MAP PANEL NUMBER 13135C00686 - N.T.S. - (BOUNDARY APPROXIMATELY SHOWN)



**STORMWATER CHART**

[#]	Top Elevation	Inv. In	Inv. In	Inv. Out
JB1	1043.27'	(SW) 1026.02'	(SE) 1021.87'	(N) 1021.77'
JB2	1044.15'	(SW) 1022.89'	(NW) 1017.26'	(SE) 989.75'



155 CLIFTWOOD DRIVE - ATLANTA, GEORGIA 30328 - TELEPHONE: (404) 255-4671 - FAX: (404) 255-6607 - WWW.GEORGIALANDSURVEYING.COM

TOPOGRAPHIC/TREE SURVEY PLAT FOR: 4477-4487 Peachtree Industrial Boulevard, Berkeley Lake Georgia 30092

DATE: 4/8/21 SCALE: 50'

**HANNUI LEE**

LAND LOT: 268	6th DISTRICT	SECTION	Gwinnett COUNTY, GA
LOT: 7 and 8	BLOCK: "A"	UNIT:	PHASE:
SUBDIVISION: PBJ Commercial Subdivision			
PLAT BOOK 46, PAGE 265	PARTY CHIEF: JL4	FIELD DATE:	SHEET 1 OF 1
DEED BOOK 50822, PAGE 270	DRAFTER: BMS	4/28/21	



This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

By: *Josh Lewis*  
Josh Lewis IV, Registered Land Survey Number 3028



THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED HEREON. THIS PLAT DOES NOT EXTEND TO ANY UNNAMED PERSON, PERSONS, OR ENTITY WITHOUT EXPRESS RECTIFICATION BY THE SURVEYOR NAMING SAID PERSON, PERSONS, OR ENTITY. ALL MATTERS PERTAINING TO TITLE ARE EXCEPTED





CHICAGO TITLE  
INSURANCE COMPANY

## EXHIBIT A

The Land is described as follows:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 268 OF THE 6TH DISTRICT OF GWINNETT COUNTY, GEORGIA, CONTAINING 5.00 ACRES, MORE OR LESS BEING DESIGNATED AS LOTS 7 AND 8 OF BLOCK A OF PBJ COMMERCIAL SUBDIVISION ON A PLAT DATED JULY 15, 1985, LAST REVISED JANUARY 9, 1987, PREPARED BY GUILDEBEAU, BRITT, HAINES & ASSOCIATES, INC. AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD (94 FEET FROM THE CENTER LINE THEREOF) WHICH POINT IS LOCATED 971.083 FEET NORTHEASTERLY, AS MEASURED ALONG THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD FROM THE RIGHT OF WAY MONUMENT LOCATED AT THE INTERSECTION OF THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD AND THE NORTHEASTERN RIGHT OF WAY LINE OF BERKELEY LAKE ROAD (ALSO KNOWN AS SOUTH BERKELEY LAKE ROAD WHICH HAS AN 80 FOOT RIGHT OF WAY); PROCEEDING THENCE NORTH 27 DEGREES 03 MINUTES 27 SECONDS WEST ALONG THE LINE WHICH FORMS THE BOUNDARY BETWEEN LOTS 6 & 7, SAID BLOCK AND SUBDIVISION, A DISTANCE OF 317.877 FEET TO A POINT; PROCEEDING THENCE NORTH 60 DEGREES 28 MINUTES 18 SECONDS EAST A DISTANCE OF 559.250 FEET TO A POINT; PROCEEDING THENCE SOUTH 29 DEGREES 32 MINUTES 36 SECONDS EAST A DISTANCE OF 55.650 FEET TO A POINT; PROCEEDING THENCE NORTH 70 DEGREES 50 MINUTES 7 SECONDS EAST A DISTANCE OF 124.140 FEET TO A POINT; PROCEEDING THENCE SOUTH 29 DEGREES 42 MINUTES 12 SECONDS EAST A DISTANCE OF 269.650 FEET TO A POINT ON THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD, AND PROCEEDING THENCE SOUTH 62 DEGREES 56 MINUTES 33 SECONDS WEST ALONG THE NORTHWESTERN MOST RIGHT OF WAY LINE OF PEACHTREE INDUSTRIAL BOULEVARD A DISTANCE OF 241.060 FEET TO A POINT; THENCE PROCEEDING NORTH 26 DEGREES 45 MINUTES 37 SECONDS WEST A DISTANCE OF 63.890 FEET TO A POINT; PROCEEDING THENCE SOUTH 62 DEGREES 18 MINUTES 26 SECONDS WEST A DISTANCE OF 49.530 FEET TO A POINT; PROCEEDING THENCE SOUTH 26 DEGREES 45 MINUTES 28 SECONDS EAST A DISTANCE OF 63.320 FEET TO A POINT AND PROCEEDING THENCE SOUTH 62 DEGREES 56 MINUTES 33 SECONDS WEST A DISTANCE OF 405.969 FEET TO THE POINT OF BEGINNING.

*This page is only a part of a 2016 ALTA® Commitment for Title Insurance issued by Chicago Title Ins. Co.. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I—Requirements; and Schedule B, Part II—Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.*

ALTA Commitment for Title Insurance 8-1-16 w- GA Mod - Exhibit A

W-00016-23-CC

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All tax commissioner offices will be closed Monday, June 19 for Juneteenth. [Click here](#) for the tag office schedule.



## ACCOUNT DETAIL

[View/Pay Your Taxes](#) / [Account Detail](#)

### Tax Account

**Mailing Address:**

GWINNETT COMMUNITY BANK  
2775 BUFORD HWY  
DULUTH, GA 30096-2872

[Change Mailing Address](#)

**SITUS:**

0 PEACHTREE INDUSTRIAL BLV

**Tax District:**

BERKELEY LAKE

Parcel ID	Property Type	Last Update
R6268 043	Real Property	6/11/2023 8:11:00 PM

**Legal Description**

L7 BA PBJ COMMERCIAL S/D

### Print Tax Bill

**[Click here to view and print your 2022 tax bill.\\*](#)**

\* Bill as of September 1, 2022. For current amount due see information below.

## Tax Bills

Note: Email [tax@gwinnettcountry.com](mailto:tax@gwinnettcountry.com) to request other years.

Live  
CHAT

Tax Year	Net Tax	Total Paid	Penalty/Fees	Interest	Due Date	Amount Due
2022	\$5,081.83	\$5,081.83	\$0.00	\$0.00	11/1/2022	\$0.00
2021	\$5,219.97	\$5,219.97	\$0.00	\$0.00	10/15/2021	\$0.00
2020	\$5,256.08	\$5,256.08	\$0.00	\$0.00	12/1/2020	\$0.00
2019	\$4,876.74	\$4,876.74	\$0.00	\$0.00	10/15/2019	\$0.00
2018	\$4,912.33	\$4,912.33	\$0.00	\$0.00	10/15/2018	\$0.00
2017	\$4,986.59	\$4,986.59	\$0.00	\$0.00	10/15/2017	\$0.00
2016	\$4,955.28	\$4,955.28	\$0.00	\$0.00	10/15/2016	\$0.00
Total						\$0.00

## Pay Now

No payment due for this account.

All tax commissioner offices will be closed Monday, June 19 for Juneteenth. [Click here](#) for the tag office schedule.



## ACCOUNT DETAIL

[View/Pay Your Taxes](#) / [Account Detail](#)

### Tax Account

**Mailing Address:**

GWINNETT COMMUNITY BANK  
2775 BUFORD HWY  
DULUTH, GA 30096-2872

[Change Mailing Address](#)

**SITUS:**

0 PEACHTREE INDUSTRIAL BLV

**Tax District:**

BERKELEY LAKE

Parcel ID	Property Type	Last Update
R6268 044	Real Property	6/11/2023 8:11:00 PM

**Legal Description**

L8 BA PBJ COMMERCIAL S/D

### Print Tax Bill

**[Click here to view and print your 2022 tax bill.\\*](#)**



\* Bill as of September 1, 2022. For current amount due see information below.

## Tax Bills

Note: Email [tax@gwinnettcountry.com](mailto:tax@gwinnettcountry.com) to request other years.

Live  
CHAT

Tax Year	Net Tax	Total Paid	Penalty/Fees	Interest	Due Date	Amount Due
2022	\$2,614.54	\$2,614.54	\$0.00	\$0.00	11/1/2022	\$0.00
2021	\$2,685.62	\$2,685.62	\$0.00	\$0.00	10/15/2021	\$0.00
2020	\$2,704.20	\$2,704.20	\$0.00	\$0.00	12/1/2020	\$0.00
2019	\$2,614.04	\$2,614.04	\$0.00	\$0.00	10/15/2019	\$0.00
2018	\$2,633.12	\$2,633.12	\$0.00	\$0.00	10/15/2018	\$0.00
2017	\$2,672.93	\$2,672.93	\$0.00	\$0.00	10/15/2017	\$0.00
2016	\$2,656.14	\$2,656.14	\$0.00	\$0.00	10/15/2016	\$0.00
Total						\$0.00

## Pay Now

No payment due for this account.

RESERVATION OF CONSTITUTIONAL AND OTHER LEGAL RIGHTS

**Applicant:** BUILDERSTONE GLOBAL LLC

4595 Winters Chapel Rd, Atlanta, GA 30360

**Subject Property:** 4477-4478 Peachtree Industrial Blvd. (Tax parcels R6268 043, R6268 044)

**Current Zoning:** C1, GC-A (Gwinnett County-Annexed)

**Proposed Zoning:** M-1, Light Industrial, City of Berkeley Lake

**Proposed Variances:** 1-5

**ROW Access:** Peachtree Industrial Blvd.

**Application:** # \_\_\_\_\_

This Reservation of Constitutional and Other Legal Rights ("the Reservation") is intended to supplement and form a part of the zoning and variance applications (jointly, "Application") of the Applicant and the Owners of the Subject Property and to put City of Berkeley Lake on notice of the Applicant's assertion of its constitutional and legal rights.

The Applicant objects to the standing of any opponents who are not owners of land adjoining the Subject Property and to the consideration by City of Berkeley Lake of testimony or evidence presented by any party without standing in making its decision regarding the Application. The Applicant also objects to the consideration of testimony or evidence presented by any party that fails to comply with notice and campaign disclosure requirements.

Denial of the Application or approval of the Application in any form that is different than as requested by the Applicant will impose a disproportionate hardship on the Applicant and the Owner of the Subject Property without benefiting any surrounding property owners. There is no reasonable use of the Subject Property other than as proposed by the Application and no resulting benefit to the public from denial of modification of the Application.

Any provisions in the City of Berkeley Lake Code of Ordinances ("Code") that classify, or may classify, the Subject Property into any of the non-requested zoning or use classifications, including the Proposed Zoning Conditional Amendments and Proposed Variances at a density or intensity less than that requested by the Applicant, are unconstitutional in that they constitute a taking of the Applicant's and Owner's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Subject Property is presently suitable for development as proposed in the Application and it is not suitable for development under any other zoning classification, use, or at a density or intensity less than that requested by the Applicant. Failure to approve the Application as requested by the Applicant will constitute an arbitrary and capricious abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to

the Constitution of the United States.

A refusal by the City of Berkeley Lake to approve the Application as requested by the Applicant will prohibit the only viable economic use of the Subject Property, will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Owner and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

Furthermore, the Board cannot lawfully impose more restrictive standards on the Subject Property's development than are presently set forth in the Code. To do so not only will constitute a taking of the Subject Property as set forth above, but it will also amount to an unlawful delegation of the Board's authority in response to neighborhood opposition, in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, as amended. Any conditions or other restrictions imposed on the Subject Property without the consent of the Applicant and Owner that do not serve to reasonably ameliorate the negative impacts of the development are invalid and void. As such, the Applicant and Owner reserve the right to challenge any such conditions or restrictions.

City County's Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Applicant's request based upon provisions illegally adopted will deprive the Applicant and Owners of due process under the law.

By filing this Reservation, the Applicant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state and local laws and ordinances, and in equity.

The Applicant and Owners respectfully request that the Application be approved as requested by the Applicant and in the manner shown on the Application, which is incorporated herein by reference. This Reservation forms an integral part of the Applicant's Application and we ask that this Reservation be presented with the Applicant's other Application materials to the governing authority of the jurisdiction. The Applicant and Owners reserve the right to amend and supplement this Reservation at any time.

Sincerely,

[/wendy.w.kraby/](#)

Wendy W. Kraby  
Attorney for Owner and Applicant  
BUILDERSTONE GLOBAL LLC



# Application for Variance

For Office Use Only	
Application #:	V/AV
Check #:	Cash:
Date Paid:	
P&Z hearing date:	8/8/23, 10/10/23, 11/14/23
Action:	
Appeal filed:	
Council hearing date:	
Account 100.34.1390.2	
Variance App	\$ 450.00

## Part 1: Applicant Information

APPLICANT IS:  Owner  Agent  Attorney

NAME Builderstone Global LLC DATE 6-12-2023  
 MAILING ADDRESS 4595 Winters Chapel Rd.  
 CITY Doraville STATE GA ZIP 30360  
 TELEPHONE \_\_\_\_\_ MOBILE \_\_\_\_\_ FAX \_\_\_\_\_  
 E-MAIL baltaci@builderstoneglobal.com

## Part 2: Property Owner Information

NAME(S) First Citizens Bank & trust  
 MAILING ADDRESS 4300 Six Forks Rd. FCC-52  
 CITY Raleigh STATE NC ZIP \_\_\_\_\_  
 TELEPHONE 919-716-4086 MOBILE \_\_\_\_\_ FAX \_\_\_\_\_  
 E-MAIL penlandmj@bellsouth.net

## Part 3: Property and Use Information

PROPERTY ADDRESS \_\_\_\_\_ PARCEL ID 6268-0043 and 6268-0044  
 PARCEL SIZE \_\_\_\_\_ ZONING M1 (Proposed)  
 EXISTING USE Vacant

I am requesting relief from code section See Attached (V, 1-5) for the purpose of:

*see attached*

**NOTICE: The granting of a Variance does not affect any requirement for a Building Permit for proposed construction.**

The following supplemental documentation must be submitted with this application:

- Letter of Intent describing the proposed construction, development or improvements.
- Site Plan showing all existing and proposed improvements on the property.
- Survey of the property







# Variance 1

Builderstone is requesting relief from code section 78-242 as to approximately 4,826.80 square feet along Tax Parcel Code R6268 019 (the “Ryerson Tract”) and to be replaced with a condition providing for a 25-foot setback identical to the M-2 setback with the other Ryerson parcel located to the east.

The Ryerson Tract (2.97 acre) is owned by a subsidiary of Ryerson, an international company, based in Chicago, Il. The company describes itself as “*The company serves a variety of industries, including customers making products or equipment for the commercial ground transportation, metal fabrication and machine shops, industrial machinery and equipment, consumer durables, HVAC, construction, food processing and agriculture, as well as oil and gas.*”

The Ryerson Tract is a land-locked vacant property that would be very difficult to develop due to its lack of depth and lack of access to the public right of way. In addition, given the City’s buffers, much if not most of the property would be taken up by buffers. Ryerson also owns a M-2 parcel to the east that also borders the Property (M-2 under Gwinnett code as City does not have M-2 zoning).

When contacted by BuilderStone’s council, Ryerson’s office in Norcross was unable to confirm or even acknowledge if it owned such parcel. When Ryerson corporate/legal department in Chicago was contacted by BuilderStone’s council, no one would return calls or otherwise reply to inquiries.

BuilderStone would utilize such variance space to primarily plant trees for the city’s 40 TDU requirement as well as include a small portion of the bioretention basin that has been moved to the north to accommodate the county’s stormwater easement. By condition, a 25-foot setback along the property line would be added and BuilderStone would be prohibited from putting any building within the 25-foot setback.

## **Sec. 78-242. - Buffer zones established.**

“In all M-1 light industrial districts, a buffer strip at least 75 feet wide is required where said industrial district abuts a residential use district. Buffers shall be planted to meet the requirements of Chapter 42 - Natural Resources, Article VII - Buffers, Landscape and Trees, Division 2 - Buffer Regulations. (Ord. No. O-118-10, § 1, 10-21-2010)”

### **1) Explain the extraordinary and exceptional conditions pertaining to the size, shape or topography of the subject property.**

The Property has some unique physical features, chief among them is the City’s demand that there be a 75-foot buffer along Mr. Holben’s property which prohibits BuilderStone from being able to use its pre-existing stormwater easement. This requires the Company to instead locate its bioretention basin outside the Holben buffer. Allowing this easement will give Builder some needed room to plant trees and re-adjust the site plan.

**2) Explain how the application of the ordinance to the subject property would create an unnecessary hardship.**

The application of the ordinance severely limits the usable space of the Property, especially when paired with the City's tree ordinance requiring 40 TDU outside of the ordinance's 75-foot buffer. Granting of the variance would allow the Property to be developed in an economically feasible way.

**3) Explain how the conditions are peculiar or unique to the subject property.**

The Property is burdened with the unique conditions of the buffers, setbacks and the numerous stormwater easements as well as the location of a billboard.

**4) Are the conditions requiring a variance the result of any actions of the property owner?**

No, the stormwater easements have been in place for at least 35 years through no action of the Applicant or Owner. The current 99-year billboard lease far predates the current owner and Applicant.

**5) What, if any detriment to the public or impairment to the purposes of the ordinance would result if the variance were granted?**

There should be no detriment to the public as the 75-foot buffer will be maintained as to the Holben property. The purposes of the ordinance are not frustrated as there will be a 25-foot setback between lots and buildings that retain the intentions of the ordinance to create a barrier.

**6) Is the proposed use of the land, building or structure permitted by the zoning ordinance?**

Yes

# Variance 2

BuilderStone is requesting relief from code section 78-243 for the purpose of allowing M-1 zoning next to M-1 GWINNETT COUNTY-ANNEXED ZONING DISTRICT.

Sec. 78-243 states “District area” “Minimum” “Ten Acres.”

**1) Explain the extraordinary and exceptional conditions pertaining to the size, shape or topography of the subject property.**

This Property was annexed into the City from Gwinnett County and retains the Gwinnett County zoning of C-1(Gwinnett). This gave the Property a unique status and makes it very difficult, if not impossible, for the property to zone into C-1 or M-1 classifications under the City’s pre-annexation 2004 code at issue.

**2) Explain how the application of the ordinance to the subject property would create an unnecessary hardship.**

The ordinance does not define the term “District area” nor does it define how such a “District area” is measured or calculated.

The city of Berkeley Lake has said the M-1 zoning is not allowed because it would not be in a M-1 district of 10 acres, even though it is located directly adjacent to over 20 combined acres of M-1 (Gwinnett). The Property primarily backs up to an M-1 (Gwinnett) manufacturing park (Peachtree Lakes Drive). In addition, a majority of the annexed, non-residential lands into the City are zoned M-1 (Gwinnett). (Please see Exhibit “G”, Official Zoning Map 2018 04 19, attached hereto.). Given the limited city boundaries and existing development, it would be difficult to create 10 acre “districts” of city-zoned land.

The City already has or has permitted “District areas” by the City’s non-written definition of less than “Ten Acres”:

- Tax parcel 6269 31 (4.94 ACRES) (487 S Old Peachtree Rd, Norcross, GA 30071) was rezoned in 2017 to M-1. Although is it is adjacent to “M-1 Gwinnett” it is not adjacent to “M-1.”
- Tax parcel R6269 158 (3.46 acres) (4790 PEACHTREE INDUSTRIAL BLVD) is zoned C-1 even though the C-I “District area” is “Ten Acres.”
- Tax parcels R6290 230 and R6290 231 (total of 4.59 acres) (3960 AND 3980 PEACHTREE INDUSTRIAL BLVD) is zoned C-1 even though the C-I “District area” is “Ten Acres.”

The code in question was adopted in 2004, years before the M-1 Gwinnett properties were annexed into the City. The code, in light of the modern City limits, does not take into account the vast property changes the City would undertake to bring commercial properties into its limits.

The City's stated purpose in annexation was to diversity and bring in commercial and manufacturing properties into its tax base ("City's Purpose"). To that effect, prohibiting this Property from M-1 zoning due a "technicality" and an outdated and inadequately defined ordinance defeats the City's purpose.

**3) Explain how the conditions are peculiar or unique to the subject property.**

The ordinance unfairly targets any property that seeks to zone to M-1 or C-1 designation within the City because it would be nearly impossible to be located next to property that is not already zoned M-1 Gwinnett or C-1 Gwinnett. The distinction between M-1 and M-1 Gwinnett County is a technicality and does not serve the City's intent to group similar uses together. For purposes of the "District area," no distinction should be made between M-1 and M-1 (Gwinnett).

**4) Are the conditions requiring a variance the result of any actions of the property owner?**

No, the conditions are a result of the City's annexation of commercial property into the City limits without updating its zoning code accordingly.

**5) What, if any detriment to the public or impairment to the purposes of the ordinance would result if the variance were granted.**

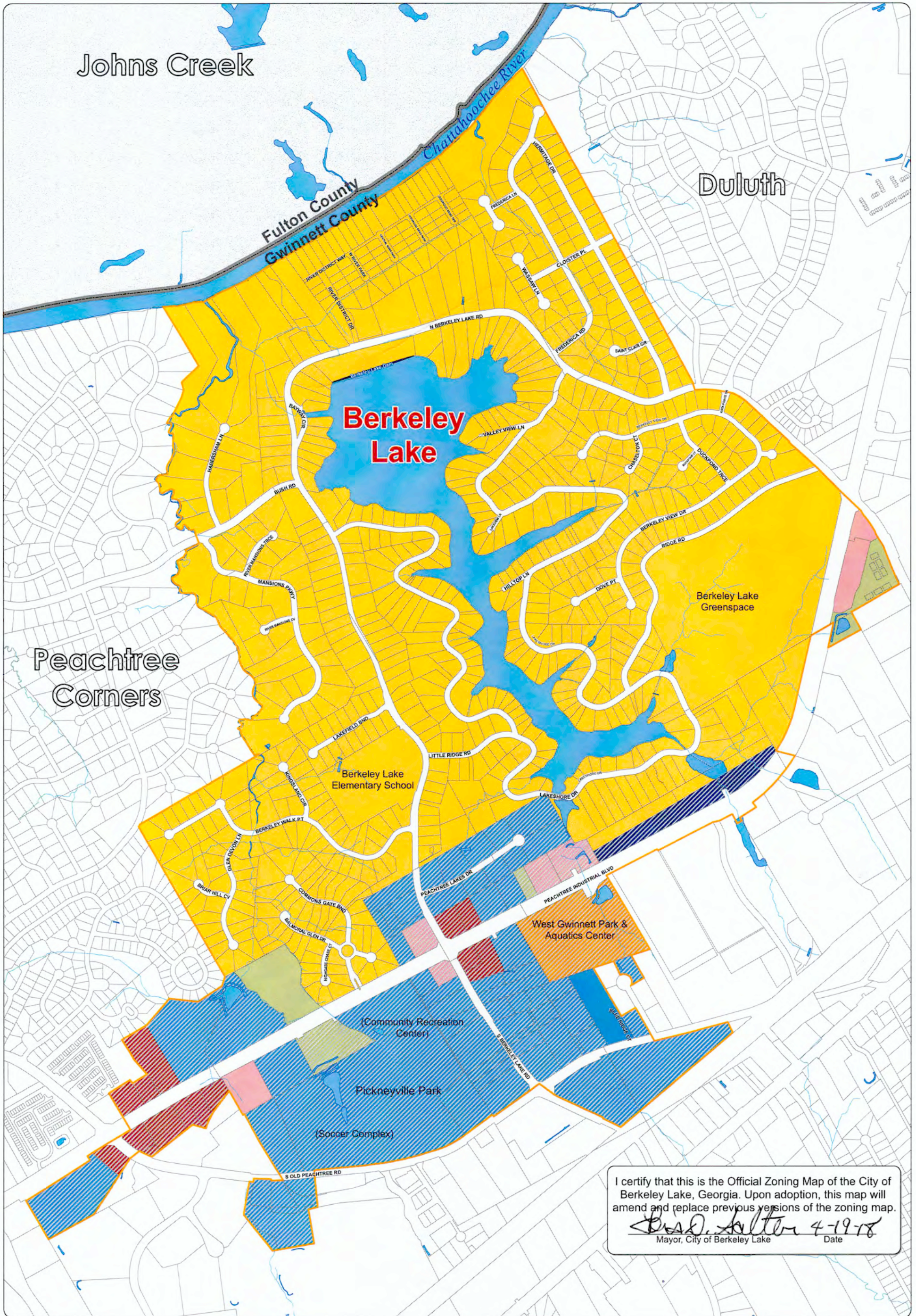
Granting the variance does not change the substantial use of M-1 designation nor the intent of the City to group like or similarly zoning districts together.

The City's code section on Gwinnett properties (ARTICLE XII. - GWINNETT COUNTY-ANNEXED ZONING DISTRICT) specifically states that if questions arise under this code, the Berkeley Lake Zoning District most similar to the Gwinnett zoning classification shall apply. Such section pairs M-1 Gwinnett with M-1. To then distinguish between the two classifications to not allow such similar zoning classifications to be located next to each due to "District area" is not consistent with the intent of the Code.

**6) Is the proposed use of the land, building or structure permitted by the zoning ordinance?**

Yes





I certify that this is the Official Zoning Map of the City of Berkeley Lake, Georgia. Upon adoption, this map will amend and replace previous versions of the zoning map.

*David Salter* 4-19-18  
 Mayor, City of Berkeley Lake Date

**Berkeley Lake**  
 the City of Lake

4040 South Berkeley Lake Road  
 Berkeley Lake, GA 30096

(770) 368-9484 ~ www.berkeley-lake.com

**Official Zoning Map of the City of Berkeley Lake**

Effective December 2017

Map Prepared February 15, 2018

**Legend**

- City of Berkeley Lake
- Parcels
- County Boundaries
- Hydrography
- Gwinnett Co - Annex (GC-A)
- Neighborhood Business (C-1)
- Light Industrial (M-1)
- O-I
- Single Family Residential (R-100)

**Gwinnett County Zoning Districts**

- Neighborhood Business (C-1)
- General Business (C-2)
- Light Industry (M-1)
- Heavy Industry (M-2)
- Office-Institutional (O-I)
- Single Family Residential (R-100)
- Single Family Residence (R-ZT)

**Scale: 1" = 450'**  
 1:5,400

**Map Notes:** Incorporated areas outside of Berkeley Lake are current as of the date this map was prepared. The C-1 district is a conditional use district. The GC-A district is an overlay zoning as regulated by the County and identified on the map.



# Variance 4

BuilderStone is requesting relief from code section Sec. 78-243 for the purpose of reducing a small portion to be consistent with the rest of the 75-foot setback. To decrease the 75-foot building setback from the road for 49.53 feet of the Cut-Out to be flush with the rest of the 75-foot building setback for the entire Property. Please see the Site Plan.

## **Sec. 78-243 “Front Yard” “Minimum” “75 Feet”**

This ordinance from 2004 does not define what “Front Yard” means or what “75 Feet” denotes. However, if the City’s intention was that this code was to mean the building setback from the right of way, BuilderStone requests the variance above.

## **Sec. 78-3. - Definitions.**

*Front* and *frontage* means that side of a lot abutting on a street or way and ordinarily regarded as the front of a lot, but it shall not be considered as the ordinary side of a corner lot.

### **1) Explain the extraordinary and exceptional conditions pertaining to the size, shape or topography of the subject property.**

The Property is subject to an approximately 3,000-foot cut-out (“Cut-Out”) at the top of the road for stormwater easements directing runoff from Peachtree Industrial Blvd. and the West Gwinnett Aquatic Center. To enforce a 75-foot building set back from the back of this Cut Out would effectively prohibit the development of the Property which is already greatly reduced by the presence of a large detention easement and a billboard lease.

### **2) Explain how the application of the ordinance to the subject property would create an unnecessary hardship.**

There is no evident reason to require a 75-foot setback from the Cut-Out. It would not frustrate the intent of the City to push back buildings 75 feet from the right of way. Enforcing such a setback would be arbitrary and would serve no purpose other than to prohibit development of the Property.

### **3) Explain how the conditions are peculiar or unique to the subject property.**

The Cut-Out is an odd feature of the Property that has existed for decades and existed long before the City instituted 75-foot set-backs from the right of way.

### **4) Are the conditions requiring a variance the result of any actions of the property owner?**

No, the condition of the Cut-Out and the Detention Pond and Stormwater easements have existed for decades and are not the result of the actions of the current owner, the foreclosing bank.

**5) What, if any detriment to the public or impairment to the purposes of the ordinance would result if the variance were granted.**

Granting of the variance will not reduce the overall setback of 75 feet and will not allow buildings within this setback. Modern zoning encourages buildings to be closer to the road so that parking can be on the sides and back when possible. To the extent that the City encourages large front yards with parking, this variance does not frustrate that goal and maintains a good 75-foot building setback from Peachtree Industrial Boulevard.

**6) Is the proposed use of the land, building or structure permitted by the zoning ordinance?**

Yes



# Code of Conduct

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- a) The City of Berkeley Lake adopts by reference, as if fully set forth herein, the provisions of OCGA 45-10-1 and Section 2.14 of the City of Berkeley Lake Charter. Any conflict between local ordinance and state statutes and/or the charter shall be resolved in accordance with the provisions of state statute and the charter.
- b) It is the policy of the City of Berkeley Lake to observe the highest standards of public conduct, considering the roles of both elected and appointed city officials to be primarily that of a trustee of the public's resources. Consequently, this code seeks to establish criteria and guidelines that will encourage all city officials to serve others, not themselves; to use resources with efficiency and economy; to treat all people fairly; to use the power of their positions only for the well-being of constituents; and to create an environment of honesty, openness and integrity.
- c) Public officials and employees of the city shall treat all citizens with courtesy, impartiality, fairness, and equality under the law, and shall avoid both actual and potential conflicts of interest between their private self-interest and the public interest.
- d) The following are found to be ethics violations in the City of Berkeley Lake and are prohibited:
  - 1) Coercing or attempting to influence persons outside a public meeting by offering to exert the power and resources of their position to achieve a private objective;
  - 2) Making commitments, implicitly or explicitly, that the city will take actions the council has not agreed to;
  - 3) Accepting gifts or favors with a value of more than \$50, or multiple gifts with a cumulative value of \$100 from any single source, from persons regulating and conducting business with the city;
  - 4) Disclosing confidential information from closed meetings without the prior authorization of the mayor and council;
  - 5) Requesting, using or permitting the use of any publicly-owned or publicly-supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of a member of the mayor and council, except as otherwise provided by law;
  - 6) Engaging in private employment with, or rendering services in exchange for compensation for, any entity that has business transactions with the city, unless full disclosure of the nature and extent of such employment or services has been made;
  - 7) Appointing or voting for the appointment of any person related to the individual by blood, marriage or adoption to fill an office, position, employment, or duty, when the salary, wages, pay, or compensation is to be paid out of public funds;
  - 8) Making remarks in a public meeting that are personally disparaging or reflect negatively on the character of others (rather than expressing a different point of view), or allowing others to do the same;

- 9) Failing to vote on all matters lawfully coming before a member of the city council or a commission appointed by the city council without stating a reason for doing so.
- e) In the interests of advancing efficient, transparent and good government, the following activities shall be required:
- 1) City council members and commission members appointed by the city council will announce the details of ex parte contacts and communications prior to any action on a matter which was the subject of the ex parte contact/communication;
  - 2) Presiding officers of city meetings shall not permit personally disparaging remarks or comments that reflect negatively on the character of others (rather than expressing a different point of view), and shall declare such persons out of order;
  - 3) To avoid the appearance of impropriety, any member of the mayor and council or commission member appointed by the mayor and city council determined to have a conflict of interest or a potential conflict of interest shall leave the room for the entire duration of the deliberations and actions on the matter;
  - 4) Persons wishing to speak at public meetings must first be recognized by the chair or presiding officer;
  - 5) Council members who communicate, by whatever means, policy positions, opinions, or city-related recommendations which are not the official position of the city shall clarify that their communications speak only for themselves and are not the official position of the city;
  - 6) Violations of the city's codes of ethics witnessed by members of the governing body will be reported to the mayor (or mayor pro tem in the event the mayor is the subject of an alleged violation);
  - 7) The city's ethics ordinances shall be reviewed annually by the mayor and council.
- f) Hearings and Determinations: Upon the sworn complaint of any person alleging facts, which if true would constitute a violation of this code, the mayor and council shall conduct a public hearing at which the accused shall be given the opportunity to be heard, either personally or through counsel. At the conclusion of said hearing, the mayor and council shall, in written findings of fact and conclusions based thereon, make a determination concerning the propriety of the conduct of the official or appointee in question.

**Mayoral Appointments - 2024**

City Administrator, City Clerk & Election Superintendent	Leigh Threadgill
Court Clerk and Deputy City Clerk	Lila Hunter
City Treasurer	John Pendleton
City Marshal/Ordinance Enforcement Officer	Rob Hiller
Deputy City Marshal	Marty Bozeman
City Attorney	Dick Carothers
Solicitor	Angela Couch
City Auditor	James Whittaker
City Building Inspector	Craig Lokey
Municipal Judge	Charles Barrett
Pro Hac Vice Judge	Margaret Washburn
Planning & Zoning Commissioner	Dan Huntington
Planning & Zoning Commissioner	Pekka Ignatius
Planning & Zoning Commissioner	Barbara Geier
City Engineer	Greg Sistrunk
Georgia Piedmont Land Trust Board Member	Rebecca Spitler

**Neighborhood Liaisons**

Berkeley Walk and Berkeley Commons	Rodney Hammond
Berkeley Field and Habersham on the River	Chip McDaniel
BLHA and River Mansions	Scott Lee
Miramont and Hermitage Plantation	Rebecca Spitler
River District and Commercial Areas	Bob Smith

<b>Committees</b>	
<p><b>Conservancy</b> (Liaison – Rebecca Spitler)</p> <p>Susan Hanson-Chair</p> <p>Kaye Berg</p> <p>Louise Gabron</p> <p>Jim Gawlas</p> <p>Sue Swanson</p>	<p><b>Financial Affairs</b> (Liaison – Bob Smith)</p> <p>John Pendleton – Chair</p> <p>Calvin Grier</p> <p>Dorris Hollingsworth</p> <p>Ron Mechling</p> <p>Steve Rea</p> <p>Kathy Sanders</p> <p>John Small</p>
<p><b>Arts Committee</b> (Liaison – Chip McDaniel)</p> <p>Chris Kimberley– Chair</p> <p>Britt Collins</p> <p>Tom Merkel</p> <p>Ginny Nevins</p> <p>Jason Ouimette</p>	<p><b>Park Committee</b> (Liaison – Leigh Threadgill)</p> <p>Amy Voss – Chair</p> <p>Lisa Ribeiro</p> <p>Casey Case</p>



Recording Stamp:

**PERMANENT DRAINAGE AND  
MAINTENANCE EASEMENT AGREEMENT**

THIS AGREEMENT is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2024. By and between Bruce D Duncan (hereinafter referred to collectively as "Owner"), and the CITY OF BERKELEY LAKE, GEORGIA.

WHEREAS, Owner holds title to certain real property located at (hereinafter referred to as the Property”):

Mailing Address: 3750 Hermitage Drive  
Berkeley Lake, GA 30096  
Address: Tax Parcel: R6297 098  
Land Lot(s): 6, 15th District  
Gwinnett County, City of Berkeley Lake, Georgia  
Deed Book \_\_\_\_\_, page \_\_\_\_\_,  
Gwinnett County, Georgia Records.

WHEREAS, the City of Berkeley Lake has determined that a Permanent Drainage and Maintenance Easement area defined and delineated by the highlighted area on the attached Exhibit “A” is necessary for **construction and maintenance of stormwater infrastructure.**

Based upon the proposed construction the City of Berkeley Lake has agreed to accept maintenance responsibility for the stormwater infrastructure upon the terms and conditions set forth herein below.

NOW, THEREFORE, for and in consideration of One dollar (\$1.00) and other valuable consideration in hand paid by each party to the other, it is HEREBY AGREED as follows:

1. The City of Berkeley Lake agrees to maintain the stormwater infrastructure located within the Stormwater Drainage Easement Area, as defined and delineated by the highlighted area on the attached Exhibit “A”, in a structurally sound condition so that it satisfies the stormwater management function to protect the public health, safety, and welfare. The City of Berkeley Lake, however, has no obligation to otherwise maintain portions of the stormwater drainage easement area that do not include the stormwater infrastructure, including, without limitation, driveways, landscaping, walls, patios, and fences.
2. The City of Berkeley Lake, or its agents, shall return all portions of the property affected by use of the Permanent easement to a condition reasonably comparable to the condition existing prior to the City of Berkeley Lake’s activity under the easement agreement.
3. During and throughout the term hereof, the Owner hereby agrees to provide prompt notice to the City of Berkeley Lake of any maintenance issues regarding the Stormwater Infrastructure.
4. The Owner hereby grants to the City of Berkeley Lake a permanent stormwater drainage

Recording Stamp:

easement over and under that certain portion of the Property identified as the Permanent Stormwater Drainage and Maintenance Easement Area for the purposes of inspection, maintenance, and improvements to the stormwater infrastructure.

5. The Owner hereby grants the City of Berkeley Lake the right of entry in and upon the Property as necessary for the purpose of accessing the Permanent Stormwater Drainage and Maintenance Easement Area to perform any required maintenance or improvements.
6. The Owner is prohibited from the following:
  - a. Importation of fill or debris into the easement area;
  - b. Any modifications to the structure(s) or any action which increases the volume of stormwater entering into the storm drain infrastructure without the City of Berkeley Lake's approval.
  - c. Erecting or maintaining any building or structure of any nature whatsoever;
  - d. Installing any trees, which would obstruct the City of Berkeley Lake's ability to maintain the stormwater infrastructure or impair the stormwater infrastructure;
  - e. Performing any action violating a State or Federal Law or Local ordinance with respect to the detention facility or stormwater infrastructure.
7. The Owner understands and agrees that the City of Berkeley Lake has the right to remove any tree(s), landscaping, vegetation, or structures which obstruct access within the easement area or which impair or damage the stormwater infrastructure.
8. The Owner agrees that the City of Berkeley Lake can assign its rights and responsibilities under this agreement.
9. The Owner understands and agrees that this easement is contingent on a land disturbance permit being issued, bids within the City of Berkeley Lake's budget for this project, and Final Approval by the City Council of the City of Berkeley Lake.
10. The Owner understands that this agreement will be recorded at the Gwinnett County, Georgia Records.
11. All notices provided for or permitted to be given pursuant to this Agreement must be in writing and shall be deemed to have been properly given or served by deposit in the United States mail. The parties designate the following addresses as the respective places for giving such notice:

**For the City of Berkeley Lake:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For the Owner:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Recording Stamp:

12. This agreement shall be binding upon and endure to the benefit of the parties hereto and their respective executors, administrators, heirs, successors and successors-in-title, whether voluntary by action of the parties or involuntary by operation of law. IT IS HEREBY STIPULATED AND AGREED that this Agreement constitutes a covenant running with the land herein described.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under seal as of the date of acceptance by Owner.

**OWNER(S):**

\_\_\_\_\_  
Grantor

\_\_\_\_\_  
Notary Public  
(Seal)

\_\_\_\_\_  
Grantor (Printed Name)

**CITY OF BERKELEY LAKE:**

CITY OF BERKELEY LAKE, GEORGIA

By: \_\_\_\_\_  
Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Office of the City Attorney

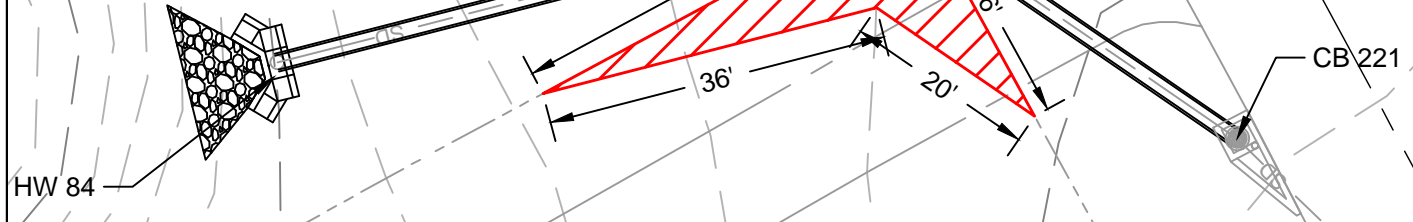




HERMITAGE DRIVE  
(60' R/W)

BRUCE D DUNCAN  
PARCEL ID: 6297 097  
3760 HERMITAGE DR.

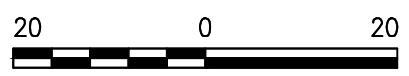
BRUCE D DUNCAN  
PARCEL ID: 6297 098  
3750 HERMITAGE DR.



PERMANENT DRAINAGE AND MAINTENANCE EASEMENT = ±310



PERMANENT DRAINAGE AND  
MAINTENANCE EASEMENT



SCALE: 1" = 20'

**Exhibit "A"**  
ARPA STORMWATER IMPROVEMENTS  
BERKELEY LAKE, GEORGIA  
EASEMENT PLAN

BRUCE D DUNCAN  
3750 HERMITAGE DRIVE

DATE: JANUARY 11, 2024

**KECK & WOOD, INC.**  
DULUTH, GEORGIA

Recording Stamp:

**PERMANENT DRAINAGE AND  
MAINTENANCE EASEMENT AGREEMENT**

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Address: Tax Parcel: R6297 097  
Land Lot(s): 7, 15th District  
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Gwinnett County, Georgia Records.

WHEREAS, the City of Berkeley Lake has determined that a Permanent Drainage and Maintenance Easement area defined and delineated by the highlighted area on the attached Exhibit “A” is necessary for **construction and maintenance of stormwater infrastructure.**

Based upon the proposed construction the City of Berkeley Lake has agreed to accept maintenance responsibility for the stormwater infrastructure upon the terms and conditions set forth herein below.

NOW, THEREFORE, for and in consideration of One dollar (\$1.00) and other valuable consideration in hand paid by each party to the other, it is HEREBY AGREED as follows:

1. The City of Berkeley Lake agrees to maintain the stormwater infrastructure located within the Stormwater Drainage Easement Area, as defined and delineated by the highlighted area on the attached Exhibit “A”, in a structurally sound condition so that it satisfies the stormwater management function to protect the public health, safety, and welfare. The City of Berkeley Lake, however, has no obligation to otherwise maintain portions of the stormwater drainage easement area that do not include the stormwater infrastructure, including, without limitation, driveways, landscaping, walls, patios, and fences.
2. The City of Berkeley Lake, or its agents, shall return all portions of the property affected by use of the Permanent easement to a condition reasonably comparable to the condition existing prior to the City of Berkeley Lake’s activity under the easement agreement.
3. During and throughout the term hereof, the Owner hereby agrees to provide prompt notice to the City of Berkeley Lake of any maintenance issues regarding the Stormwater Infrastructure.
4. The Owner hereby grants to the City of Berkeley Lake a permanent stormwater drainage

Recording Stamp:

easement over and under that certain portion of the Property identified as the Permanent Stormwater Drainage and Maintenance Easement Area for the purposes of inspection, maintenance, and improvements to the stormwater infrastructure.

5. The Owner hereby grants the City of Berkeley Lake the right of entry in and upon the Property as necessary for the purpose of accessing the Permanent Stormwater Drainage and Maintenance Easement Area to perform any required maintenance or improvements.
6. The Owner is prohibited from the following:
  - a. Importation of fill or debris into the easement area;
  - b. Any modifications to the structure(s) or any action which increases the volume of stormwater entering into the storm drain infrastructure without the City of Berkeley Lake's approval.
  - c. Erecting or maintaining any building or structure of any nature whatsoever;
  - d. Installing any trees, which would obstruct the City of Berkeley Lake's ability to maintain the stormwater infrastructure or impair the stormwater infrastructure;
  - e. Performing any action violating a State or Federal Law or Local ordinance with respect to the detention facility or stormwater infrastructure.
7. The Owner understands and agrees that the City of Berkeley Lake has the right to remove any tree(s), landscaping, vegetation, or structures which obstruct access within the easement area or which impair or damage the stormwater infrastructure.
8. The Owner agrees that the City of Berkeley Lake can assign its rights and responsibilities under this agreement.
9. The Owner understands and agrees that this easement is contingent on a land disturbance permit being issued, bids within the City of Berkeley Lake's budget for this project, and Final Approval by the City Council of the City of Berkeley Lake.
10. The Owner understands that this agreement will be recorded at the Gwinnett County, Georgia Records.
11. All notices provided for or permitted to be given pursuant to this Agreement must be in writing and shall be deemed to have been properly given or served by deposit in the United States mail. The parties designate the following addresses as the respective places for giving such notice:

**For the City of Berkeley Lake:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For the Owner:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Recording Stamp:

12. This agreement shall be binding upon and endure to the benefit of the parties hereto and their respective executors, administrators, heirs, successors and successors-in-title, whether voluntary by action of the parties or involuntary by operation of law. IT IS HEREBY STIPULATED AND AGREED that this Agreement constitutes a covenant running with the land herein described.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under seal as of the date of acceptance by Owner.

**OWNER(S):**

\_\_\_\_\_  
Grantor

\_\_\_\_\_  
Notary Public  
(Seal)

\_\_\_\_\_  
Grantor (Printed Name)

**CITY OF BERKELEY LAKE:**

CITY OF BERKELEY LAKE, GEORGIA

By: \_\_\_\_\_  
Mayor

Attest:

Approved as to Form:

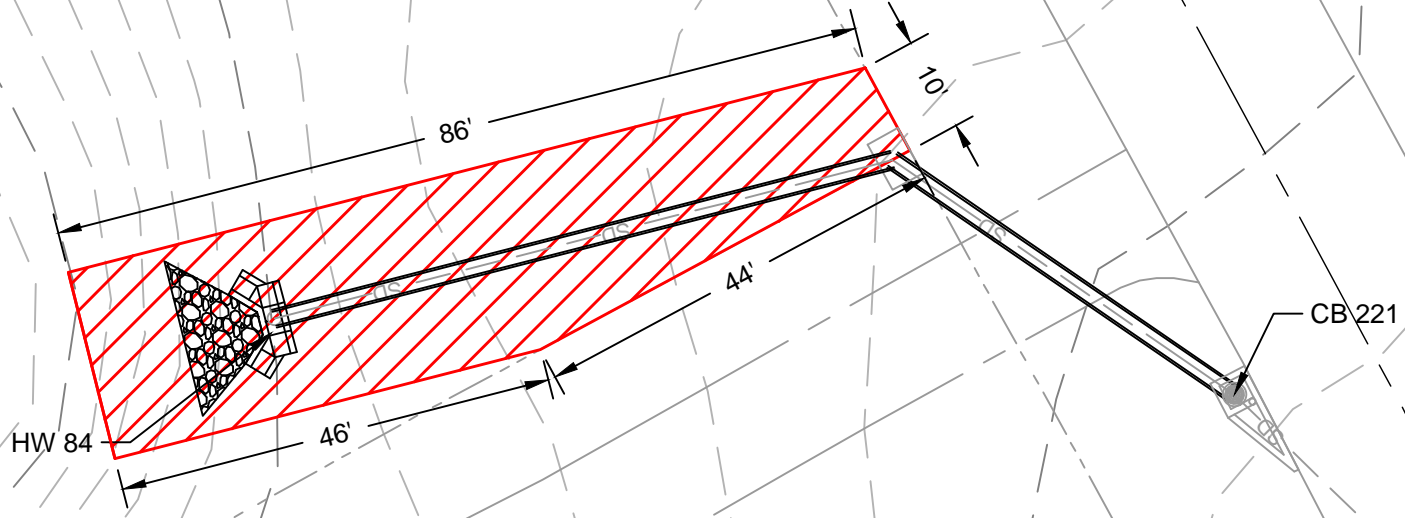
\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Office of the City Attorney



HERMITAGE DRIVE  
(60' R/W)

BRUCE D DUNCAN  
PARCEL ID: 6297 097  
3760 HERMITAGE DR.



BRUCE D DUNCAN  
PARCEL ID: 6297 098  
3750 HERMITAGE DR.

**Exhibit "A"**  
**ARPA STORMWATER IMPROVEMENTS**  
**BERKELEY LAKE, GEORGIA**  
**EASEMENT PLAN**

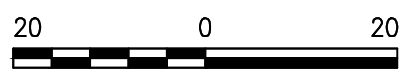
BRUCE D DUNCAN  
 3760 HERMITAGE DRIVE

DATE: JANUARY 11, 2024  
**KECK & WOOD, INC.**  
**DULUTH, GEORGIA**

PERMANENT DRAINAGE AND MAINTENANCE EASEMENT = ±1530



PERMANENT DRAINAGE AND  
MAINTENANCE EASEMENT



SCALE: 1" = 20'