

AGENDA
CITY OF BERKELEY LAKE
PLANNING & ZONING COMMISSION
OCTOBER 10, 2023 at 7:15 PM
4040 South Berkeley Lake Road
Berkeley Lake, GA 30096

I. CALL TO ORDER

II. APPROVAL OR CHANGES TO THE AGENDA

III. APPROVAL OF MINUTES

- a) August 8, 2023

IV. OLD BUSINESS

- a) RZ-23-08, 4477 and 4487 Peachtree Industrial Boulevard – request to rezone from GC-A (C-1), Gwinnett County-Annexed (Neighborhood Commercial) to M-1, Light Industrial
- b) PZV-23-09, 4477 and 4487 Peachtree Industrial Boulevard – Variances to the following:
 - a. Sec. 78-242, modification of 75-foot buffer when M-1 abuts R-100
 - b. Sec. 78-243 (1), reduction of M-1 minimum district area from 10 acres to 4.996 acres
 - c. Sec. 78-243 (8), increase in maximum building height from 40 feet to 45 feet
 - d. Sec. 78-243 (5), reduction of front setback from 75 feet to 11.11 feet per the proposed site plan
 - e. Sec. 78-240 (12), allowing retail sales as an accessory use in M-1

V. NEW BUSINESS

VI. CITIZEN COMMENTS

VII. DISCUSSION SESSION

VIII. ADJOURNMENT

**CITY OF BERKELEY LAKE
4040 SOUTH BERKELEY LAKE ROAD
BERKELEY LAKE, GEORGIA 30096
PLANNING & ZONING COMMISSION
DRAFT MINUTES
AUGUST 8, 2023
7:15 PM**

Those in attendance at the meeting were as follows:

Commission Members: Dan Huntington, Chair
Pekka Ignatius
George Kaffezakis
Rand Kirkus
Robin Sansone

City Officials: Leigh Threadgill - City Administrator
Thomas Mitchell – City Attorney
Rob Hiller – City Marshal

Citizens Present: 70

I. CALL TO ORDER

Huntington called the meeting to order at 7:15 PM. A quorum of the commission along with City Administrator, Leigh Threadgill, were present at the meeting.

II. APPROVAL OF OR CHANGES TO THE AGENDA

Huntington asked if there were any suggested changes to the agenda.

Kaffezakis moved to approve the agenda as submitted. Kirkus seconded and all voted to approve the agenda.

III. MINUTES

1. Minutes of July 11, 2023

Sansone moved to approve the minutes of the July 11th meeting. Kaffezakis seconded and all voted to approve the minutes.

IV. OLD BUSINESS

There was no old business.

V. NEW BUSINESS

Huntington noted that the rezoning request and five variances would be considered together.

1. PZRZ 23-08, 4477/4487 Peachtree Industrial Boulevard – Rezoning from GC-A (C-1) to M-1 and PZV 23-09 associated concurrent variances as follows:
 - a. Elimination of the 75-foot buffer adjacent to residential property
 - b. Reduction of the M-1 district area minimum from 10 acres to 4.996 acres
 - c. Increase in the M-1 maximum height from 40 feet to 45 feet
 - d. Reduction in the M-1 75-foot front setback to 11.11 feet along a portion of the property where there is a jog in the Peachtree Industrial Boulevard right-of-way
 - e. Allowance of accessory retail sales in a stand-alone building

Huntington stated that this was a recommendation from Planning & Zoning Commission to City Council regarding the applications and that the final decision on both would be by City Council.

He acknowledged that the Planning & Zoning Commission exists to find the balance between private property rights and the common good.

Huntington recognized Threadgill to review the staff report and recommendation.

Threadgill reviewed the zoning history of the property, the details of the application and the five concurrent variances and the staff evaluation thereof as well as the staff recommendation.

She noted the following regarding the five variances requests:

The 75-foot buffer is required to protect a less intense use from a more intense use and should be maintained in its undisturbed state and supplemented in areas where additional plantings are needed to provide an opaque screen.

The variance to the M-1 district area minimum was something of a technicality because the site is adjacent to a GC-A(M-1) district which is more than 10 acres in area and if added to that there is an area of industrially-zoned property that exceeds 10 acres.

The height variance may not be necessary because in correspondence with the applicant she understands that the building is only proposed to be 35 feet tall, with solar panels of 5 feet making the total height 40 feet and 40 feet is allowed.

The variance to the 75-foot front setback is unnecessary as the site plan has been designed, but the applicant has requested the variance in case the building shifts during design and engineering.

The variance to allow accessory retail sales is not a variance because it deals with the use of the property and not a dimensional standard. A text amendment is needed to allow accessory retail sales as a permitted use in the M-1 district.

She acknowledged there are other city standards that have not been adequately addressed in the proposed plan.

The first is compliance with the city's tree ordinance, which has not been met. The plan shows meeting half the required tree density.

The second is that there is a stream located in the northeast corner of the site, which is subject to buffers, but the proposed plan has not identified the stream or how the buffers will be met.

The third is that the proposed building is going to be constructed of metal, which is not a permitted exterior building material in the Peachtree Corners Activity Center Corridor Overlay which applies to the property currently and is a recommended condition if the application is approved.

Threadgill reviewed the standards governing the exercise of zoning power as follows:

Will the rezoning permit a use that is suitable in view of the use and development of adjacent and nearby property – it is generally compatible except that it is adjacent to an established residential area to the north/northeast and the impact of industrial development on that area must be considered and mitigated.

Will the rezoning adversely affect the existing use or usability of adjacent or nearby property – if not properly mitigated through the provision of buffers, then the rezoning could have an adverse impact on adjacent or nearby residential property.

Does the subject property have reasonable economic use as currently zoned – this is difficult to answer absent a market analysis.

Will the rezoning result in a use that would cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools – staff has circulated the application to Gwinnett Departments of Water Resources and Transportation. The applicant should comply with any comments that result from review by those departments. DWR has provided comments. Staff has not heard from DOT.

Is the rezoning in conformity with the policy and intent of any land use plan in effect – it is generally consistent with the future development map within the comprehensive plan, but the adjacent residential area should be protected from adverse impacts of any potential development resulting from the rezoning.

Are there other existing or changing conditions affecting the use and development of the property which provide supporting grounds for either approval or disapproval of the proposal – if development would result in the elimination of the existing zoning buffer, that would create an adverse impact on the adjacent residential areas. In addition, this property receives stormwater from off-site that runs onto adjacent property and must be adequately addressed to mitigate any impact to the adjacent property as well as the lake further downstream.

Threadgill reviewed the staff recommendation, which is conditional approval of the zoning change and two of the five variances – the front setback and the district area minimum. It no longer seems like the height variance is needed based on information provided by the applicant. The conditions of approval are as follows:

- 1.) Outdoor storage and display shall be prohibited.
- 2.) Permitted uses shall be limited to the following:
 - a) enclosed warehouse with offices,
 - b) wholesaling with offices, and
 - c) business office
- 3.) Abide by all requirements of the Peachtree Corners Activity Center/Corridor Overlay.
- 4.) To satisfy the following site development considerations:
 - a) Preserve a 75-foot undisturbed buffer adjacent to residentially zoned property. Where there is inadequate vegetative screening to achieve an opaque screen, provide supplemental plantings in accordance with Sec. 42-224 of the City of Berkeley Lake Code of Ordinances.
 - b) Location and design of driveways shall be subject to review and approval of the Gwinnett County Department of Transportation.
 - c) Dumpster pick-up and deliveries shall be limited to between 7:00 a.m. and 7:00 p.m.
 - d) No outdoor loudspeakers will be allowed. Sound level shall be 0 decibels measured at the property lines adjoining residential property.
 - e) Lighting shall be down-cast and directed in towards the property so that it does not shine into nearby residential properties.
 - f) The owner shall repair or repaint any graffiti or vandalism and remove any refuse or garbage illegally dumped on the property within 72 hours.
 - g) Adhere to the state waters buffer and City of Berkeley Lake stream buffer requirements for any and all streams on the subject site or adjacent properties which may have buffers that impact this property.
- 5.) Abide by the following requirements, dedications and improvements:

- a) All roof mounted equipment shall be screened from view, including any solar panels.
 - b) The top of the roof-mounted solar panels shall not exceed 40 feet from the mean grade of the building.
- 6.) Abide by all requirements of the city's buffer, landscape and tree preservation ordinance as well as the Peachtree Corners Activity Center/Corridor Overlay landscaping standards. In the event of a conflict, the more stringent requirements apply.
- 7.) Address all comments from the Gwinnett County Department of Water Resources.

Threadgill stated that a customary condition of rezoning approval is that the site be developed in accordance with the site plan submitted with the application. However, the submitted site plan does not meet many requirements and is not acceptable. The applicant could consider the feedback and submit a site plan that addresses all the requirements for further review and consideration by the city.

Huntington acknowledged the applicant.

Wendy Kraby introduced herself as a land use and zoning attorney who works for Gregory Doyle Calhoun and Rogers out of Dekalb and Cobb counties. She is in attendance representing Builderstone Global who will be the owner and developer and stay and become part of the community.

Tanir, owner of Builderstone stated that he wants to create a beautiful, peaceful project.

Kraby acknowledged that she brought someone from design and construction, a site engineer, and hydrology engineer. She noted that the hydrology engineer is particularly important and circulated copies of a portion of the hydrology report to the commission.

Kraby noted the 50-foot setback adjacent to residential and explained that it is a stormwater easement that has been there since 1987 and benefits all 7 lots along Peachtree Industrial Boulevard. It is an easement area that serves Gwinnett County as well.

Kaffezaakis asked about the forebay and wall for the EDD and whether it would be constructed over the 60" reinforced concrete pipe.

George Kyiamah, the civil engineer, stated that a portion of the pond is going to encroach on the 60-inch pipe. The pipe is very deep, but the pond will be shallower.

Kaffezaakis asked if Gwinnett County will allow the encroachment.

Kraby noted that the applicant has provided the plans to Gwinnett County for an answer to that question.

Kaffezaakis went on to say that if the pipe fails, the county will need to be able to access the pipe, and that could have a negative impact on the bioretention pond.

Kaffezakis asked how close the cast in place wall will be to the property line.

The engineer said that it is about 10 feet, and that it is going to need to be revisited.

Kaffezakis asked about the limits of disturbance, which the engineer said is definitely above one acre, which means the state soil and water conservation commission will have to review the plans.

Kaffezakis asked about the grading that will be necessary to bring the site to the desired elevation.

The engineer responded that what has been done is very conceptual. The pond is in a hole, so the site will have to be built up closer to the elevation of the road. Most likely the pond would have to be elevated, which will result in higher walls.

Kaffezakis asked about the corrugated metal pipes on the northeast side of the property and whether they will be removed or abandoned in place or if they are part of the system with associated easements.

The engineer responded that the pipe bypasses the pond right now. He stated they will modify it to meet current state standards. They have to consider both runoff and water quality control which means they must incorporate green infrastructure into the plan.

Kraby stated that there is a 10-foot drainage easement in the area. There is a historical plat from 1987 that shows a close-up of the retention pond.

There was discussion about the type of vegetation proposed in the bioretention areas and the use of native plants.

Kaffezakis referenced the 2009 storm and how the stormwater management system will behave if a storm exceeds the 100-year storm. The engineer acknowledged the increase in high-intensity storms, but that right now they are just planning to meet the current standards.

Kraby stated that the city's code has extensive requirements for new development.

There was discussion about the proposed accessory building, the timing of its construction and the intended use of the space as well as whether there was a condition of the rezoning that would preclude the sale of the accessory retail building to someone else.

Kraby stated that the developer has considered that and offered a potential condition that the use of the accessory building has to be related to the use of the primary building. It is meant to be a campus for the company.

Threadgill clarified that in order for the accessory retail building to be built the zoning ordinance would need to be amended. Mitchell reiterated that the zoning needs to address the use of the accessory building. Threadgill went on to say that if the zoning is changed to allow accessory retail sales in M-1, her recommendation would be that it would be contained within the primary building.

Kraby explained that the smaller building is meant for a high-end cabinet showroom, not wholesaling, but for retail for a customer to come and meet with a designer to look at the product and pick it out and then buy it and have it delivered. No one will be buying something from that building and taking it with them.

Kaffeidakis noted that if the accessory building were combined with the primary building it would be easier to address stormwater management and maintain required buffers.

There was discussion about whether the primary building could be reconfigured to accommodate the retail sales component.

There was further discussion about concerns related to turning radiuses for trucks pulling through the primary building.

Kirkus asked about pollution control contaminants from truck traffic on site as well as clean-up inside the building.

The owner responded that they won't create any dust or environmental issues. Kraby added they can't clean out the warehouse and put polluted water out on the land.

Sansone asked about tree density. The engineer responded that he understood the site was in an overlay and he understood the tree density to be 20 units/acre. Threadgill clarified that the requirement is 40 tree density units/acre.

Huntington asked about the building material. The applicant responded it is a composite metal and looks like what you would use for a high-rise. Threadgill clarified that the overlay standards prohibit metal, with no specific qualification around what type of metal, so use of any metal would require Planning & Zoning Commission approval. There was further discussion about the overlay standards.

Huntington asked about the stream buffer. He noted that he has visited the site and has stood on the stream and asked how the applicant will address the stream buffer. The engineer stated that there is a stream coming from the pipe, and the stream buffer starts at the headwall of the pipe. Huntington stated that the stream curves and runs right along the property line, and asked how the stream will be protected. Kraby responded that the client is trying to make it a better system than what is there now by putting in a \$300,000 bioretention basin.

Huntington asked about protection during construction and any resulting siltation. Kraby stated that they are aware of the history of the property and perhaps the previous owner may not have done a good job in managing the stormwater. The engineer stated that they will have erosion control during construction; they are mandated by the state to incorporate BMPs during construction. There is a lake just downstream. There are stiff fines. They will put everything in place and will have independent monitors checking the BMPs and testing the water at outfalls after rain events to make sure there is no increased sedimentation. Kraby stated that the laws have changed in the last ten -fifteen years.

Kaffeidakis noted that the goal is to prevent the siltation of nearby water bodies so that there is no need for fines. Having it at the property line, with no buffer, makes it more difficult to

address issues coming from erosion. Kraby talked about the existing easement that precludes the buffer which is a legal issue.

Kaffezakis asked why the stormwater management system couldn't be shifted south to accommodate stormwater controls. Kraby responded that adjacent property owners have rights to drain into that easement, as does Gwinnett County.

Huntington stated that Berkeley Lake is a Tree City and it is difficult to think about removing the buffer with the trees because of what will be visible from the backyard of the adjacent residential property owner. Kraby stated that if other parties have a right to have the runoff coming in, they also have the right to come in and clear that area.

There was discussion about whether there are alternative designs that preserve the 75-foot buffer. The engineer said yes, and the applicant distributed an alternative design to the commissioners which preserves the 75-foot buffer and results in a smaller accessory building. There was further discussion regarding the easement and existing infrastructure within the required 75-foot buffer.

Threadgill asked if the lots that the easement was meant to serve are using the easement. The engineer stated that it did not appear from his preliminary analysis that water was draining from offsite into the old pond within the easement. Threadgill stated that if the easement isn't being used for drainage, then it should be possible to relocate the stormwater pond elsewhere on site. Kraby stated that this is a question to be decided between the attorneys. She went on to say that the county's water from across the road is coming into this area. Threadgill and Mitchell stated that the county's water is not flowing into the pond but is piped.

Kaffezakis asked about the exterior side slopes. The engineer responded the maximum is 2 to 1. Kaffezakis noted that it is hard to maintain that slope and asked if a technical condition could be included in any approval specifying the maximum side slope. Threadgill responded that she reached out to the city engineer for suggested conditions pertaining to the technical standards and would defer to the attorney as to whether it would be possible to include those types of conditions. The engineer responded that they are using walls for the bioretention and extended dry detention areas. There are no associated slopes. There is access to these areas from the drive aisles. In other areas around the parking lot they prefer 3 to 1 slopes, but in some places there is inadequate space and they use the 2 to 1 standard. There was further discussion about grading and other design issues.

Mitchell stated that any approval, as Threadgill has mentioned, would be site plan specific. If the site plan substantially changes, the applicant will need to come back through the process. They may need to do a little more design work than they would typically do for a conceptual site plan.

Huntington noted that this is a negotiation and asked what the applicant would do to protect the residential areas from the lights, noise and wall. Kraby stated the applicant is working with what they have and referred back to the easement and the inability to make it go away. The engineer stated that some of these easements can be re-aligned and re-recorded if there are no

objections. Kraby reiterated that there are different parties that have rights, and that the applicant can't remove the infrastructure that is already there.

Baltaci, BuilderStone owner, discussed the alternative plan resulting from meeting with Holben which will mitigate the impact of the stormwater management area and preserve the buffer area.

Michael Penland, Powell Property Group, represents First Citizens Bank, the current owner of the property. He mentioned that most of the calls with interest on the property were M-1 prospects, many either looking to build office/warehouse or mini-storage. The bank has turned a lot of people down in order to be good stewards. They have stayed with Builderstone, after they have asked for numerous extensions, because they are doing a great job and everything they can to do this properly. This is the best prospective buyer thus far. He acknowledged that this is a contentious piece of property.

Chris Holben, 325 Lakeshore Drive, stated that he would be brief and that he and Marlene have lived here for 48 years. They are concerned about this property, mainly impact to the 75-foot buffer, the additional impervious surface and the silt. The pond has been cleaned out three times and he is leery of anyone doing any kind of disturbance. He asked David Huetter to come tonight because he has worked on this property for years. He works with United Consulting. Holben asked Huetter to speak on his behalf.

David Huetter, United Consulting located at 625 Holcomb Bridge Rd in Norcross, has known Chris since about 1999 and has been working with him since then. He has brought some information to provide to the commission regarding the Holben's opinion regarding the site, which was also provided to Threadgill. He distributed his comments on the application. He and Chris met with the applicant to talk about these concerns – relative to the development, relative to the property, past issues of siltation of Hoben's pond and with regard to the buffer. If they take down those trees and build a pond right on the property line that is what Chris will look at from his backyard - the walls of a detention pond not the trees and the deer. It will also result in visibility to other unsightliness on Peachtree Industrial Boulevard as well as noise. It will have a significant impact on the Holben's wellbeing and their property value. Who would want to buy a property that looks out on a big, ugly detention pond wall. He acknowledged the presence of the drainage easement but stated they wouldn't need to plant more trees, they would just ask the existing trees be allowed to remain. There are more than 200 trees in that buffer, many of which are 50-70 feet tall. The footings for the proposed detention pond would result in damage to trees on Holben's property. There was also mention of the stream and stream buffer. He noted that the applicant's engineer acknowledged the stream, and there does need to be a stream buffer. The second information packet he brought includes additional comments following the most recent meeting with the applicant. The alternative site plan was just provided to the commission noting that they can meet the 75-foot buffer, the stream buffers, provide the detention pond and keep the accessory building. This would indicate that there is no hardship. The easement language in the deed reference includes that the easement has to comply with other state and local ordinances. Therefore, if there is a 75-foot buffer required, it sounds like you have to provide a 75-foot buffer unless a variance is granted. He

requested that the buffer variance not be granted. There is a 60-inch pipe carrying water from the south side of Peachtree Industrial Boulevard under this property that discharges to the stream that flows into Holben's pond and then into the lake. It carries water from Ryerson, the aquatic center, and originates as a flowing stream on the other side of the aquatic center. All of that water from the other side goes through that 60-inch pipe, and it's a lot of water, especially in a big rain event. The 24-inch pipe is much older and was originally designed to carry water along the north side of Peachtree Industrial Boulevard and carry it along the buffer area to the headwall. The 30-inch pipe carries water from the old detention pond that was constructed when the parcel was graded for the future development. In the current conditions of that site, there is almost no water that comes out of the 24-inch or 30-inch pipe. There is very little runoff water being generated from the site currently. Both of those pipes are in poor shape. If either were to be used, they would need to be sleeved. If that is done, it needs to be done without digging the pipes up. It appears that no one is planning to use the 24-inch pipe. How are they going to get water out of the detention pond? Will it go to the 30-inch pipe? Or will it connect to the 60-inch pipe? The hydrology study will need to be updated with respect to the new plan that preserves the 75-foot buffer. The main issue is the 75-foot buffer as well as the amount of impervious surface, but in addition we request a condition that the applicant do a sedimentation survey on Hoben's pond and the inlet at Berkeley Lake, to be done by United Consulting, paid for by the applicant. It is requested that this be a condition of any approval. On the revised plan, they show the stream buffer, but it doesn't look like it is drawn correctly because of the turn in the stream after it exits this property. It shouldn't be an issue if they meet the 75-foot undisturbed zoning buffer. Also, depending on how they design their site it looks like a back corner of the parking area gets pretty close to Hoblen's property and they would request landscaping be done in that area where the development is in line of sight of 325 Lakeshore Drive. Lastly, include a zoning condition that the developer paint the back of the pond wall that blends in better. If they can plant trees to screen it, that would be great, but if not, just paint it to blend.

Janine Brinton, 498 Lakeshore Drive, acknowledged that all the citizens have to follow strict rules, setback rules, impervious rules, etc. The applicant hasn't discussed why they can't build a smaller building and fit in with the rules.

Steve Seitz, 34 Lakeshore Drive, has lived here for 30 years and has worked with Holben on past issues related to the subject property in 2006-2009. This is a difficult site. From past lessons, if there is a performance bond or insurance agreement that covers removal of the silt once it gets into the pond, that would be helpful. Regardless of BMPs there will always be silt deposited into the pond. Rain events are getting more intense. Hopefully, in granting permits, and prior to that a condition to have a performance bond articulating the maintenance of the area and how things can be cleaned out and restored without lengthy legal action.

Marty Brinton, 498 Lakeshore Drive, noted the torrential rains and runoff into the lake. Current regulations aren't adequate to handle these extreme rain events. The pond should be built to handle the large rainstorm, the one-time event. The pond should be built for the worst-case scenario.

Nick Lore, 134 Lakeshore Drive, wished that Bernie Cohen was in attendance. He asked people to look at the stormwater pond serving Peachtree Lakes businesses and observe what an older pond looks like.

Gary Volino, 380 Lakeshore Drive, can think of a hundred reasons not to build this facility, but that sooner or later the property will be developed. If there have been other prospects, what are the benefits of working with this owner and builder over someone else.

Nathan Melanson, 610 Hilltop Lane, noted there may be safety concerns regarding the development's impact on the bike trail and visibility for the cyclists and pedestrians who use it.

Kaffeidakis noted that this is the first time the commission has seen the alternative site plan at this meeting and asked Huetter if, conceptually, this plan makes more sense. There is a general sense that this property will be developed sooner or later by somebody.

Huetter responded that the alternative plan does make more sense and it is nice to see. Once he and Holben were able to meet on site with the applicant and demonstrate the location of the proposed stormwater pond wall on the back corner, the applicant realized the impact. One of the applicant's first responses was that they can do the buffer and want to be good neighbors. This plan still raises some questions, but it is substantially better.

Kirkus asked about the water and whether it's the concentration of the water that is the issue because it should be that the same amount of water that will come through the property as it is now or as it is developed, but you may be concentrating the water in the holding pond and then dumping it into Holben's pond.

Huetter stated there is going to be more water with the addition of impervious surfaces. The subject property is overgrown, very little water is coming off the property now. Most of the water is currently coming from the other side of Peachtree Industrial Boulevard or off Peachtree Industrial Boulevard. The development, with its additional impervious surfaces, will have more water that has to go somewhere, and the developer will direct water to the detention pond. The pond needs to be properly designed and evaluated. It's important to know where the water will come out, how big is the orifice, how long will the water be held, and what rain event will they design it for, the minimum or to hold more water back and slow the water. This may not be evaluated at the concept phase now, but it needs to be clearly documented in the record that this is a concern so that when the city engineer reviews it, they are looking at it and there are conditions that were put on this that the applicant will design this properly and hopefully overdesign it.

There was further discussion about stormwater pond design standards, proposed conditions and increasingly severe rain events as well as water quality.

Kaffeidakis asked about how to proceed in light of this new alternative site plan and how to determine whether the pond should be designed to handle the 500-year storm, or what the right storm level is.

Threadgill responded that there are other issues beyond stormwater that still need to be addressed, which the alternative site plan does not address, but agreed that it does make sense to have a meeting to determine the proper level of design for the pond.

Ginny Nevins, 116 Lakeshore Drive, noted that the impact on viewshed would go beyond just the adjacent property owners and asked the process if this application was denied.

Threadgill reviewed the procedures related to a rezoning action.

Mitchell asked if the commission had the authority to table applications and stated that in light of what has been presented there is a need to hear from Gwinnett County on the issue of the easement. If the pipes aren't disturbed, the county may not care. With regard to the other two pipes, it seems like the easement isn't really being used. One is being used by the owner, but they can do what they want with their stormwater and have already designed an alternative plan. The other pipe that is bringing water from PIB, it doesn't appear it is doing anything either. To address Kraby's issue about the dominant easement and the rights of easement holders to come into the easement, if they aren't using it, then adjacent owners don't have a right to it. Given the consequence of this particular zoning and a desire for a meeting, it may make sense to have a meeting with the applicant and engineers to hash out a list of conditions so that those aren't drafted in the meeting where the rezoning is being considered, but in advance of that.

Brad Horbal, 142 Lakeshore Drive, stated that he had a whole list of comments that Huetter has covered for the most part. There are some conditions that could be put on the stormwater pond, lowering curve number or reducing the "q" out of the pond are some options. This would increase pond size and reduce the flow. He reiterated the importance of a performance bond, so the city has money for removal of silt that enters Holben's pond or the lake.

Kirkus noted that these are private properties and that would not be a city issue to manage a bond for silt removal. It was noted that this is a legal question.

Huntington closed the public hearing at 9:30.

He invited Kraby back up to address any of the comments from the public.

The applicant's engineer stated that the rules have been made more stringent regarding runoff control. In the past it was just control of the peak flow coming from the development. With added impervious, the amount of runoff increases. Regulations now require green infrastructure that will infiltrate part of the water so there is no increase in runoff above pre-development conditions. This addresses both peak flow and runoff reduction, which makes it more stringent for developers.

Kraby stated that there is quite a bit that has been brought up that are legal issues that need to be discussed between the attorneys, and that may help resolve the buffer issue. Is it more important to have the buffer or more important to have the best stormwater system available? Kraby gets the sense that the buffer was most important.

The Commissioners responded that both are important, and that water quality is important. The lake is a recreational lake for swimming, and it needs to be kept that way. Sediment can cause damage to fish habitat. This is not an either/or but a both.

Kraby noted that, going into this process, the applicant was told that they have to address the stormwater issues and they are making the effort to do that.

Ignatius noted that he reviewed the hydrology report and was impressed with the work that has been done. We should ask if we are better off doing something right or doing nothing at all. He is in favor of doing something right to improve the situation. He stated that the buffer needs to accomplish what a buffer needs to accomplish. He believes a solution can be found.

There was discussion about the accessory building for retail sales and what the options are to address code compliance.

There was discussion about next steps for consideration of the application.

Kirkus noted that he would like the applicant to address the issues raised in the staff report. He also acknowledged the applicant's willingness to meet with the adjacent neighbor to try to work through some of the issues.

Kaffezakis moved to table the application to September 12th, 2023. Sansone seconded the motion. All were in favor and the motion passed.

VI. CITIZEN COMMENTS

There were no comments.

VII. DISCUSSION

There was no further discussion.

VIII. ADJOURNMENT

There being no further business, Kaffezakis moved to adjourn. Kirkus seconded the motion. All were in favor and Huntington adjourned the meeting at 9:41 PM.

Respectfully submitted,

Leigh Threadgill
City Administrator

**City of Berkeley Lake
Staff Analysis**

CASE NUMBER:	PZRZ-23-08 & PZV-23-09 – 4477/4487 PEACHTREE INDUSTRIAL BLVD.
REQUEST:	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.) INCREASE THE HEIGHT FROM 40 FEET TO 45 FEET; 4.) REDUCE THE FRONT SETBACK FROM 75 FEET TO 11.11 FEET ALONG APPROX. 49 FEET; AND 5.) ALLOW RETAIL SALES AS AN ACCESSORY USE
EXISTING ZONING:	GC-A(C-1) – GWINNETT COUNTY ANNEXED, NEIGHBORHOOD BUSINESS
EXISTING USE:	4477 PIB – BILLBOARD 4487 PIB - UNDEVELOPED
PROPOSED ZONING:	M-1, LIGHT INDUSTRIAL
PROPOSED USE:	CORPORATE HEADQUARTERS – OFFICE, WAREHOUSE AND SHOWROOM AND ACCESSORY SHOWROOM BUILDING
APPLICANT:	BUILDERSTONE GLOBAL, LLC 4595 WINTERS CHAPEL RD. DORAVILLE, GA 30360
OWNERS:	FIRST CITIZENS BANK & TRUST 4300 SIX FORKS RD., FCC-52 RALEIGH, NC 27609
MEETING DATE:	OCTOBER 10, 2023 P&Z MEETING DATE NOV. 16, 2023, COUNCIL MEETING DATE (tentative)

PROPOSED PROJECT:

The applicant proposes to combine the subject properties and build a 60,872-sf (the Letter of Intent shows 57,144-sf, but the site plan shows 60,872-sf) corporate headquarters consisting of offices, showroom and warehouse space. To support the use, the applicant proposes to provide 60 parking spaces as well as 8 loading/unloading spaces. In addition, the site plan submitted with the application shows a future showroom building (11,187 square feet, though the Letter of Intent states a 7,635-sf accessory building) and 22 parking spaces. Except for an existing billboard that is to remain, the property is undeveloped. In order 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))
- An increase in the M-1 permitted height from 40 feet to 45 feet (Sec. 78-243 (8))
- 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))
- Allowance of retail sales as an accessory use in a M-1 district (Sec. 78-240)

STAFF FINDINGS:

- 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.) The applicant proposes to combine the lots and build a roughly 57,000 to 61,000-square-foot corporate headquarters, which will house offices, a showroom and warehouse. To support the use, 60 parking spaces are proposed along with 8 loading spaces. Parking is proposed in accordance with the city's parking standards for a warehouse.
 - 10.) 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. The proposed use is not permitted in GC-A, C-1.
 - 11.) The applicant proposes rezoning the site to Light Industrial, M-1, which allows "enclosed warehouse with offices."
 - 12.) A site plan and building elevation were submitted with the application. After review of the plans, staff has concerns about the buffer area. The buffer area should remain undisturbed except to provide supplemental plantings as needed. However, the site plan proposes 110 plantings in the undisturbed buffer area, 30 trees and 80 shrubs. And it only shows three existing trees to remain, although one of them is outside the buffer area. A tree removal plan wasn't included in the information provided, but it would seem that there will be significant

tree removal from the 75-foot undisturbed buffer. The existing buffer consists of mature vegetation. Removing existing trees to replant with new vegetation will compromise the integrity of the existing buffer.

- 13.) In addition to needing a zoning change, the applicant's plan for development requires variances from multiple M-1 standards. The applicant has requested 5 concurrent variances, as described below.
- 14.) 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.
- 15.) 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.
- 16.) The applicant has stated that an existing drainage easement, in place since around 1988, results in the need to amend the buffer language as follows: *Owner shall not build any structure or wall within 75 feet of the property line of Lot 17 of Berkeley Lake Estates unless required to by any governmental jurisdiction having authority over the Property. Owner shall not remove the current trees or vegetation within 75 feet of the property line of Lot 17 of Berkeley Lake Estates (the "Tree Setback") unless required to by any governmental jurisdiction having authority over the Property. Trees currently within the Tree Setback shall be counted toward the required TDUs/acre. This provision does not apply to any third parties who may currently have rights in the stormwater, drainage or sewer easements upon the Property.*
- 17.) Sec. 42-265(d)(1) of the City of Berkeley Lake Code of Ordinances states that trees retained or planted within a required zoning buffer cannot be counted towards meeting the tree density requirement. Rather, the area in the buffer can be excluded for the purposes of calculating the required tree density. The intent of this is so that the developed portion of the site includes adequate tree coverage to create a landscaped appearance.
- 18.) It appears that the drainage easement has been abandoned by off-site properties and the applicant is constructing new code compliant stormwater management structures and the buffer requirement should not be modified.
- 19.) 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.
- 20.) . While the total area of contiguous industrial zoned property would be approximately 23 acres, this property is 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.
- 21.) The minimum lot size for M-1 is 30,000 square feet, which the subject properties, both in total and each separately, meet.
- 22.) The third variance request, which the applicant now notes as "tabled", is to increase the maximum height in M-1 from 40 feet to 45 feet to accommodate proposed solar roof panels, which will extend six feet from the roof. The applicant does not clarify what it means by "tabled." Staff recommends that the third variance request be treated as withdrawn. If not withdrawn, the request should be denied.
- 23.) Height is defined as the vertical distance from the mean, finished grade level at the front of the building to the highest point of the roof or parapet.
- 24.) Staff's understanding is that the current elevation of the building, inclusive of the proposed solar panels, will be under 40 feet and meet the M-1 height limit.

- 25.) The fourth 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 building will be set back a consistent distance from the paved roadway, but one corner of the accessory building is closer than 75 feet to the closest corner of the cut-out in the right-of-way. The lot is developable with the primary structure without the need for this variance. It is only the accessory structure that drives the need for the variance, and the need for the accessory structure, which according to the applicant's Letter of Intent is just a smaller version of the primary building, is unclear; therefore, the variance should be denied.
- 26.) The fifth variance request, which the applicant now notes as "tabled", is not a variance to a dimensional standard, but rather a request to allow accessory retail sales. The applicant does not clarify what it means by "tabled." Staff recommends that the fifth variance request be treated as withdrawn. Further, this type of request cannot be handled through a variance process as it pertains to the use of the property and must be handled via a text amendment to allow accessory retail sales in the M-1 district. The applicant has not applied for an amendment to the zoning ordinance, and the variance should be denied.
- 27.) According to the site plan, an additional roughly 11,000-square-foot building, along with 22 parking spaces is proposed to accommodate a showroom. The impervious surface created by this additional stand-alone use is significant and eliminates potential alternative stormwater management and tree planting opportunities on site.
- 28.) In evaluating the application against the standards for zoning, staff offers the following:
- a. 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. The development of the subject site as proposed will adversely impact the adjacent and nearby established residential property. Removal of existing mature trees that shield noise and light as well as other types of pollution will be harmful.
 - c. 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. Staff has 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. The former development proposal called for two curb cuts, while the site plan submitted with this application shows three. 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. 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 in order to make the industrial nature of the development harmonious with surrounding land uses.
 - f. Existing conditions to be considered in terms of development:
 - i. The mature tree canopy that serves as a buffer to the R-100 area should be maintained. The impact of losing this buffer has implications not just for

the immediately adjacent residential properties but also non-adjacent but nearby residences. This swath of trees and natural area serves a purpose to block light, noise, dust and other pollution from the Peachtree Industrial Boulevard corridor.

- ii. Stormwater management infrastructure and necessary upgrades to serve the proposed development deserve careful consideration. The proposed development appears to create more impervious surface than necessary if alternative site design were considered, such as eliminating the additional accessory building and associated parking and vehicle circulation.

STAFF RECOMMENDATION:

Staff recommends denial of the application to rezone as well as denial of the five concurrent variances. A change in zoning from GC-A(C-1) to M-1 is not suitable considering the surrounding land use pattern, and particularly the established residential area adjacent to the north/northeast. The proposed site plan shows a use that is not consistent with the zoning ordinance for the M-1 classification and the proposed use is not consistent with the Berkeley Lake Comprehensive Plan.

STANDARDS FOR APPROVAL:

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

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: ~~2.206~~ AC. 4.996
 PROPERTY ADDRESS: 4477 Peachtree Industrial Blvd. Berekeley 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 accommodate 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]
SIGNATURE OF APPLICATION

06/09/2023
DATE

[Signature]
SIGNATURE OF OWNER

04/12/2023
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:  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:  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

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(ATTACH ADDITIONAL SHEETS IF NECESSARY)

OWNER

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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:

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 [] Yes [] IF YES:

NAME OF OFFICIAL: CONTRIBUTION AMOUNT: DATE OF CONTRIBUTION:

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



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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September 29, 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)

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

ROW Access: Peachtree Industrial Blvd.

Application: # _____

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

Dear City of Berkeley Lake,

This firm represents BUILDERSTONE GLOBAL LLC (“Builderstone”), a Georgia company currently located near Norcross, Georgia. Builderstone owns a business specializing in stone, including marble and quartz, for high-end kitchens as well as other luxury kitchen improvements. It principally sells wholesale and to contractors.

Builderstone is seeking to combine and rezone two lots (a total of 5 acres) located on Peachtree Industrial Blvd. from C-1, GWINNETT COUNTY-ANNEXED ZONING DISTRICT (“Gwinnett”) to M-1 in order to build a headquarters for its business and move out of Norcross. The project includes a “Primary Building” that includes the corporate offices and a wholesale sales team, a large showroom with the company’s products, and a storage warehouse for products. There will also be a second, smaller “Accessory Building” that will also be used for showroom, warehouse storage and offices. Applicant’s original plan (as detailed in the original Letter of Intent) was to use the Accessory Building to showcase and sell directly to the public the company’s products including high-end German and European cabinets and fixtures for kitchens and bathrooms (the actual product will not be sold from the premises but will be shipped from an off-site warehouse). Applicant has been advised by the City that it cannot use the Accessory Building for this purpose without an amendment to the City’s code and that the City does not support such an amendment at this time.

Builderstone has been in business since 2017. It is owned by Taner Baltaci, a Georgia resident who immigrated from Turkey 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.

I. The Property

Builderstone intends to combine both lots to create one parcel or “Property.” One reason for combination is to allow the Principal Building to use both lots. The other is to add interconnectivity for vehicles and pedestrian use throughout the Property and to globally manage the extensive stormwater easements and improve the entire stormwater system for the entire Property.

49 Atlanta Street
Marietta, Georgia 30060

2951 Flowers Road South, Suite 220
Atlanta, Georgia 30341

Gregory, Doyle, Calhoun & Rogers, LLC

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. A, Photo, attached hereto).
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. B, p. 13, PIB Hydro_Report 5-18-2023, attached to Variance 1).
3. **Detention Pond.** The Property has a sizable detention pond easement that has been established since at least 1988. This pond, upstream from Berkeley Lake, directly benefits the lake by serving as a collection area for stormwater from the stormwater easements. The detention pond is currently not being maintained and has trees and other vegetation growing in the easement area.
4. **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 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 tax base for the City. This includes repairing and enforcing the detention pond with the assistance of its hydrology engineer.* 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 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. B, p. 14, PIB Hydro_Report 5-18-2023, attached to Variance 1).*

II. The Buildings

The Principal Building of approximately 57,144 square feet is to be constructed as a showcase headquarters. The warehouse portion of the building will not look like a warehouse but will be enclosed within the larger headquarters building, (Please see Ex. B, Drawing, attached hereto).

The building will have an internal loading and unloading system whereby a truck enters into the building and the entire loading process occurs within the walls of the building. The Accessory Building of approximately 7,365 square feet shares driveways and a parking lot with the Principal Building to create a natural flow between the related buildings.

III. 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 19.87 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.

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 and retail 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 corporate offices, showroom, warehouse and be open for public sales, 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 Ex. C, Future Development Map, 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.

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.

IV. Variances

Builderstone is seeking variances to make this Property usable, to clarify ambiguous code ordinances, or to effectuate 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 as this is prohibited by a preexisting 30+ year detention pond and stormwater easements. (*this statutory buffer will be replaced by Condition 1 buffer below*).

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.

Variance 3: To increase the height of the Primary Building from 40 feet to 45 feet to allow construction of showcase headquarters and to allow room for internal truck loading and unloading

system as well as solar panels. **the Variance may be tabled depending on the final size of the buildings approved.*

Variance 4. 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.

(*Variance 5 HAS BEEN TABLED)

* Variance 5. To allow sales to the public in the Accessory Building. The variance was to pose to the planning commission the question if the use described was approved per section 12:

(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).*

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

Also enclosed below are the Applicant's proposed Conditions.

Condition #1

Owner shall not build any structure or wall within 75 feet of the property line of Lot 17 of Berkeley Lake Estates unless required to by any governmental jurisdiction having authority over the Property. Owner shall not remove the current trees or vegetation within 75 feet of the property line of Lot 17 of Berkeley Lake Estates (the "Tree Setback") unless required to by any governmental jurisdiction having authority over the Property. Trees currently within the Tree Setback shall be counted toward the required TDUs/acre. This provision does not apply to any third parties who may currently have rights in the stormwater, drainage or sewer easements upon the Property.

My client cannot agree to the statutory residential setback given the rights of others in the stormwater easement/retention pond (we have asked Gwinnett County if it will abandon its rights to the retention area and are waiting to hear back). However my client can agree not to build in that entire area adjacent to the Holben property and to leave the current trees and brush in 75 feet of it. My client has revised the plans to include room to access the entire bioretention basin and to be able to access it and maintain it over time. This addresses the Planning Commission's concern that the bioretention basin have access so it can be maintained.

Please keep in mind that by moving the location of the bioretention basin largely out of the stormwater easement that it has full rights to use, my client is losing significant usable land from the site and must decrease the size of its buildings.

Condition #2

The Property shall be developed substantially the same as the Site Plan on file with the Planning office and the exterior materials used for the buildings shall be as submitted and approved by the Planning office at the time of Condition approval.

Additional Conditions

1. Outdoor storage and display shall be prohibited.
2. Permitted uses shall be limited to the following:
 - Enclosed warehouse with offices and with related retail sales (if allowed by code)
 - Wholesaling with offices and/or including showrooms
 - Business office
3. Location and design of curb cuts on Peachtree Industrial shall be approved by the governmental entity with jurisdiction over Peachtree Industrial.
4. Dumpster pickup and outdoor deliveries shall be limited to be between 7 a.m. and 9 p.m. Lighting shall be down-cast can shall be directed so as not to shine directly into residential buildings.
5. The owners shall timely repair or repaint any graffiti or vandalism and remove any refuse or garbage illegally dumped on the Property.
6. Owner shall abide by the following requirements:
 - All roof-mounted HVAC equipment shall be screen from street view.
 - The top of any buildings, including any mounted solar panels, shall not exceed 40 feet from the mean ground level grade of the building, unless a variance is granted.

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

Sincerely,

GREGORY, DOYLE, CALHOUN & ROGERS, LLC

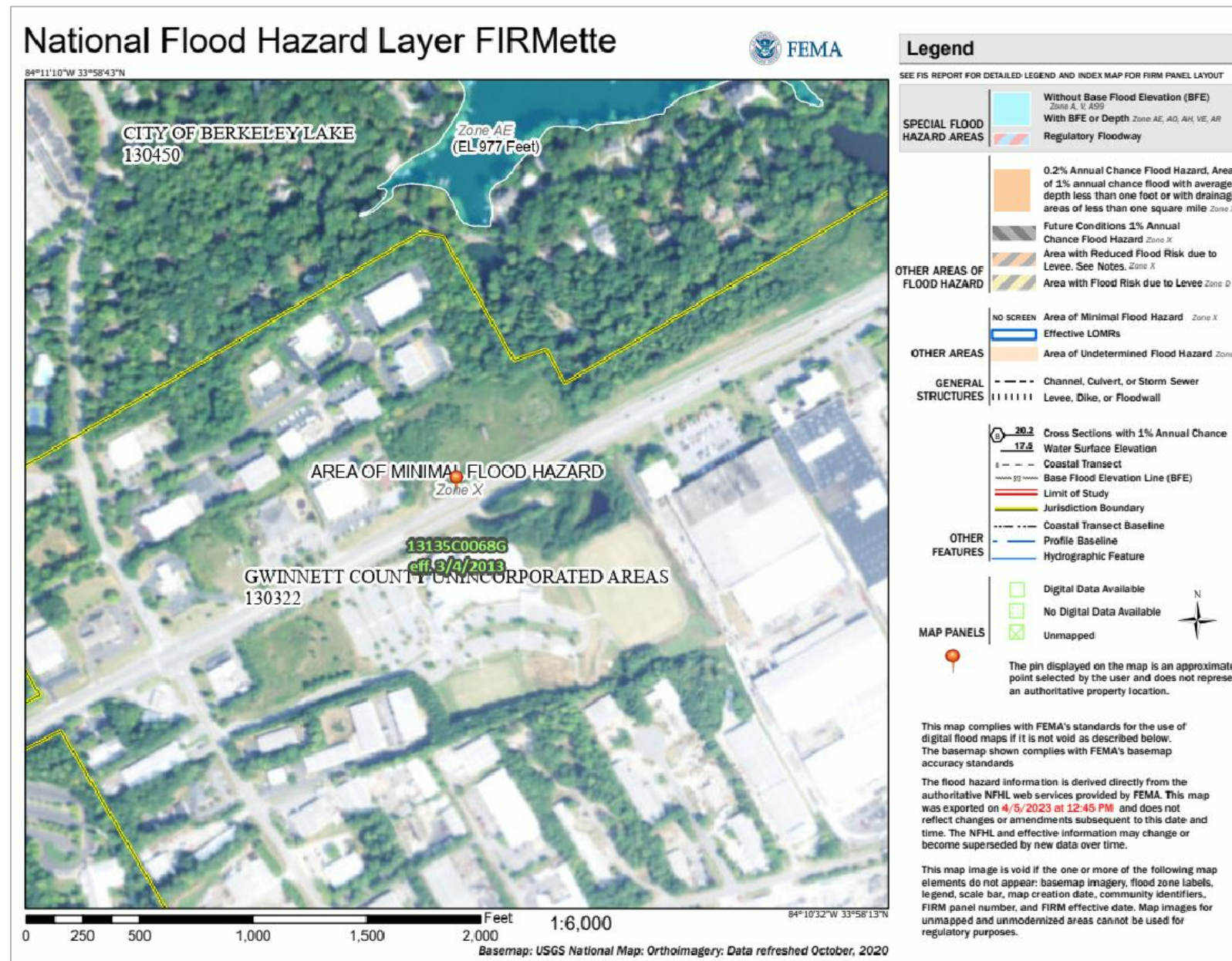
Sincerely,

wendy.w.kraby/

Wendy W. Kraby

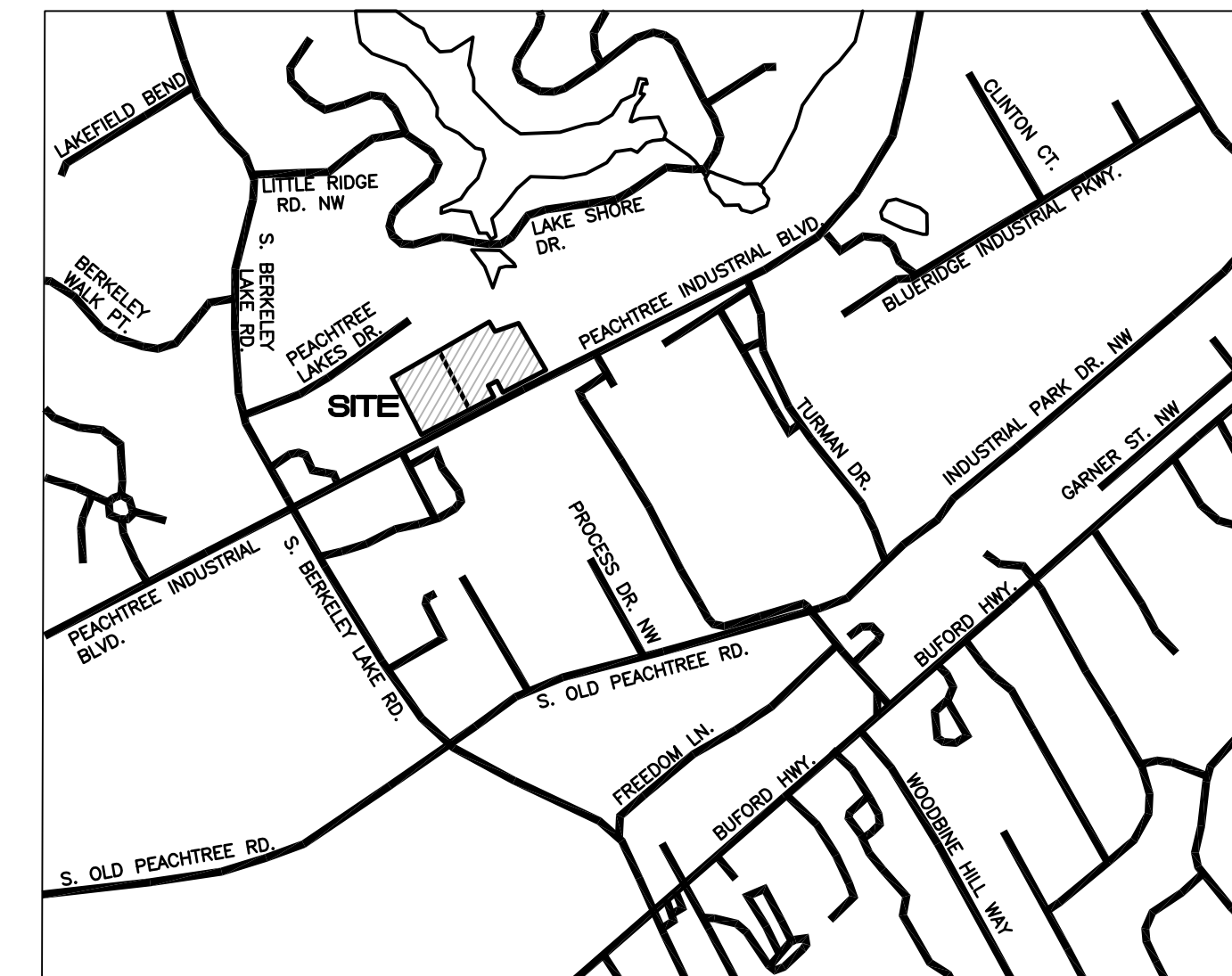
REZONING SITE PLANS FOR 4477-4478 PEACHTREE INDUSTRIAL BOULEVARD BERKELEY LAKE, GA 30092 GWINETT COUNTY

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 INDICATE, 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

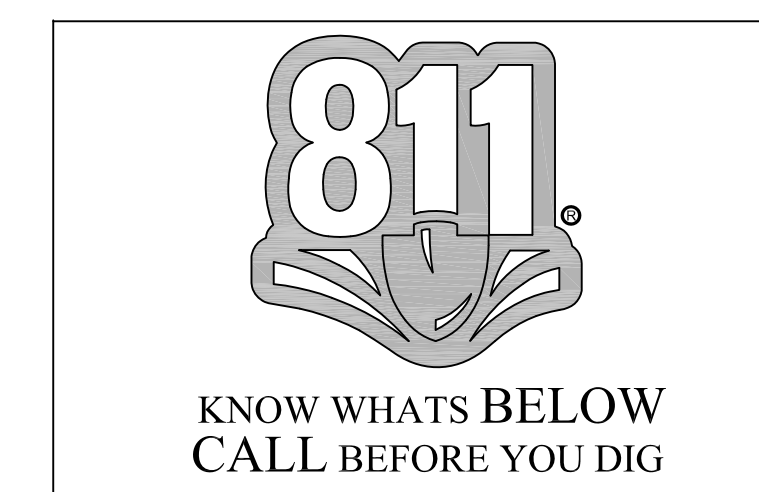
CONTRACTORS SHALL CONDUCT ALL WORK IN ACCORDANCE WITH THE REQUIREMENTS OF APPLICABLE REGULATIONS OF THE OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION (OSHA) AND ALL LOCAL, STATE AND FEDERAL RULES AND REGULATIONS. PROPER SAFETY PROCEDURES ARE OF SPECIAL CONCERN ON THIS PROJECT CONSIDERING THAT WORKERS WILL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



REVISION	DATE	No	DESCRIPTION

ONSITE TREES							
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	UNIT	TOTAL
5	Ab	ACER BARBATUM	SOUTHERN SUGAR MAPLE	SEE PLAN	9" CAL.	1.5	7.5
20	Cc	CERCIS CANADENSIS	TEXAS REDBUD	SEE PLAN	9" CAL.	1.5	30.0
36	Jv	JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	SEE PLAN	9" CAL.	1.5	54.0
19	Pt	PINUS TAEDA	LOBLOLLY PINE	SEE PLAN	9" CAL.	1.5	28.5
5	Qn	QUERCUS NUTALLI	NUTTAL OAK	SEE PLAN	9" CAL.	1.5	7.5
5	Qp	QUERCUS PALUSTRIS	PIN OAK	SEE PLAN	9" CAL.	1.5	7.5
5	Qp	QUERCUS PHELLOS	WILLOW OAK	SEE PLAN	9" CAL.	1.5	7.5
95						TOTAL	142.5

ROW TREES ALONG PEACHTREE INDUSTRIAL BOULEVARD							
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	UNIT	TOTAL
6	Qn	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
12						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.

EXISTING TREES TO REMAIN INSIDE BUFFER			
DIA. (INCH)	EQUIV. UNITS	NUMBER	TOTAL UNITS
12	2.40	1	2.40
17	4.80	1	4.80
18	5.40	1	5.40
		TOTAL	12.60

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

SUPPLEMENTARY BUFFER TREES/SHRUBS									
QTY	SYM	BOTANICAL NAME	COMMON NAME	SPACE	SIZE	REMARK	% TREE GENUS	UNITS	TOTAL
10	Ab	ACER BARBATUM CULTIVARS	FLORISA MAPLE	SEE PLAN	9" CAL.	LARGE CANOPY TREES	33.33%	1.5	15
10	Pt	PINUS TAEDA	LOBLOLLY PINE	SEE PLAN	9" CAL.	LARGE EVERGREEN TREES	33.33%	1.5	15
10	Cc	CERCIS CANADENSIS	KOUSSA DOGWOOD	SEE PLAN	9" CAL.	SMALL ORNAMENTAL	33.33%	1.5	15
15	Jv	ILEX VOMITORIA	YAUPOON HOLLY	6' O.C.	2" CAL.	LARGE EVERGREEN SHRUBS			
65	Jc	JUNIPERUS CONFERTA	SHORE JUNIPER	4' O.C.	2" CAL.	SMALL EVERGREEN SHRUBS			
								TOTAL	45

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

PROPOSED METHOD OF SEWAGE DISPOSAL: GRAVITY SEWER

N/F
BLUE RIDGE INDUSTRIES, INC.
NO DEED REFERENCE
ZONING: M-2

TREE DENSITY REQUIREMENTS WITHIN GWINNETT COUNTY:

TOTAL SITE ACREAGE IS 4.996 ACRES
AREA WITHIN TRANSITION BUFFER = 0.539 ACRES
40 UNITS PER AC REQUIRED

TOTAL SITE UNITS REQUIRED
4.996 x 40 = 199.84 (200) UNITS

TOTAL UNITS PROVIDED (EXISTING + PROPOSED) =
(12.60 + 187.50) = 200.10 UNITS

LANDSCAPE REQUIREMENT ALONG NORTHERLY PROPERTY BOUNDARY (433.00 L.F.):

1 TREE FOR EACH 50 L.F. OF STRIP LENGTH
TREE(S) REQUIRED: 737.3 = 14.74(15)
TREE(S) PROVIDED: 19

1 EVERGREEN SHRUB FOR EACH 8 L.F. OF STRIP LENGTH
SHRUB(S) REQUIRED: 737.30/8 = 92.2(93);
SHRUB(S) PROVIDED: 96

LANDSCAPE REQUIREMENT ALONG EASTERLY PROPERTY BOUNDARY (269.00 L.F.):

WIDTH OF LANDSCAPE STRIP IS 5 FEET

1 TREE FOR EACH 50 L.F. OF STRIP LENGTH
TREE(S) REQUIRED: 269.00/50 = 5.38(6)
TREE(S) PROVIDED: 9

1 EVERGREEN SHRUB FOR EACH 8 L.F. OF STRIP LENGTH
SHRUB(S) REQUIRED: 269.00/8 = 33.63(34);
SHRUB(S) PROVIDED: 34

LANDSCAPE REQUIREMENT WITHIN 10' FRONT LANDSCAPE STRIP FACING PEACHTREE INDUSTRIAL BOULEVARD (697.00 L.F.):

WIDTH OF LANDSCAPE STRIP IS 10 FEET

1 TREE FOR EACH 40 L.F. OF STRIP LENGTH
TREE(S) REQUIRED: 697.00/40 = 17.43(18)
TREE(S) PROVIDED: 20

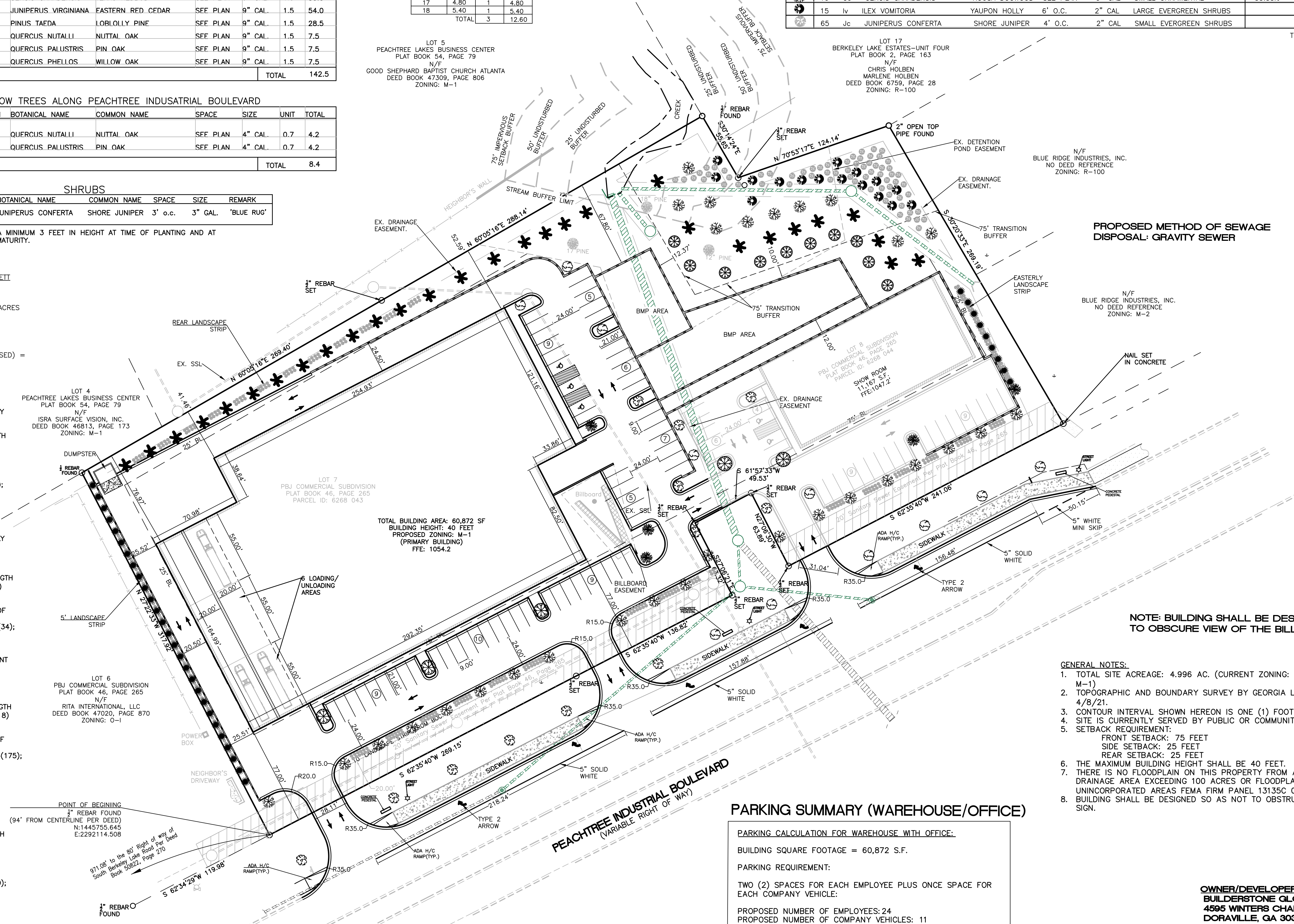
1 EVERGREEN SHRUB FOR EACH 4 L.F. OF STRIP LENGTH
SHRUB(S) REQUIRED: 697.00/4 = 174.25(175);
SHRUB(S) PROVIDED: 176

LANDSCAPE REQUIREMENT ALONG WESTERLY PROPERTY BOUNDARY (318.00 L.F.):

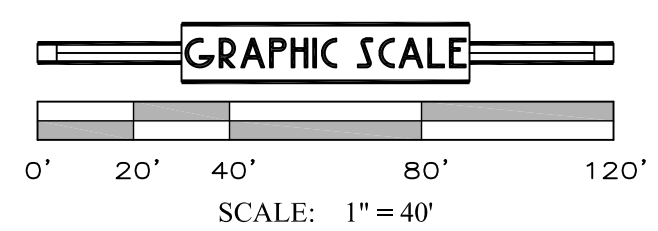
WIDTH OF LANDSCAPE STRIP IS 5 FEET

1 TREE FOR EACH 50 L.F. OF STRIP LENGTH
TREE(S) REQUIRED: 318.00/50 = 6.36(7)
TREE(S) PROVIDED: 27

1 EVERGREEN SHRUB FOR EACH 8 L.F. OF STRIP LENGTH
SHRUB(S) REQUIRED: 318.00/8 = 39.75(40);
SHRUB(S) PROVIDED: 40



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.



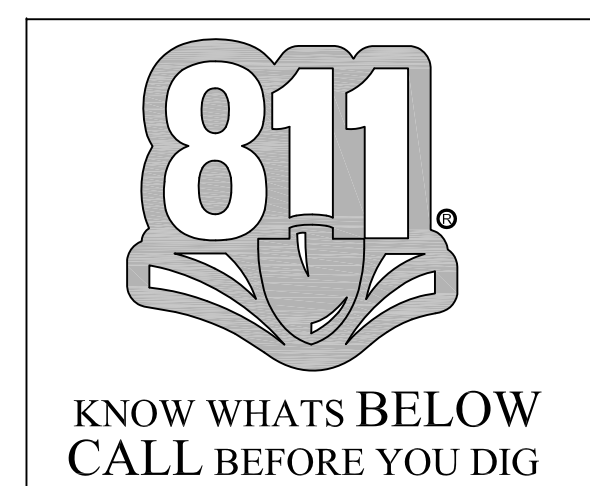
PARKING SUMMARY (WAREHOUSE/OFFICE)

PARKING CALCULATION FOR WAREHOUSE WITH OFFICE:
BUILDING SQUARE FOOTAGE = 60,872 S.F.
PARKING REQUIREMENT:
TWO (2) SPACES FOR EACH EMPLOYEE PLUS ONCE SPACE FOR EACH COMPANY VEHICLE:
PROPOSED NUMBER OF EMPLOYEES: 24
PROPOSED NUMBER OF COMPANY VEHICLES: 11
THEREFORE, PARKING SPACES REQUIRED = (2*24 + 1*11) = 48 + 11 = 59
PARKING SPACES PROVIDED = 60 INCLUDING 3 HC SPACES
REQUIRED LOADING/UNLOADING SPACES: AT LEAST 50 FEET FOR EACH 10,000 SF OF GROSS FLOOR AREA
= (60,872 /10,000) * 50= 304.36 FT.
NUMBER OF LOADING/UNLOADING AREAS PROVIDED = 6
TOTAL LENGTH OF LOADING/UNLOADING SPACES = 330 FT.
MINIMUM WIDTH OF LOADING/UNLOADING SPACE = 15 FT.

- 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.

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, #11465, LOGANVILLE, GA 30052
PH: (919) 381-0300

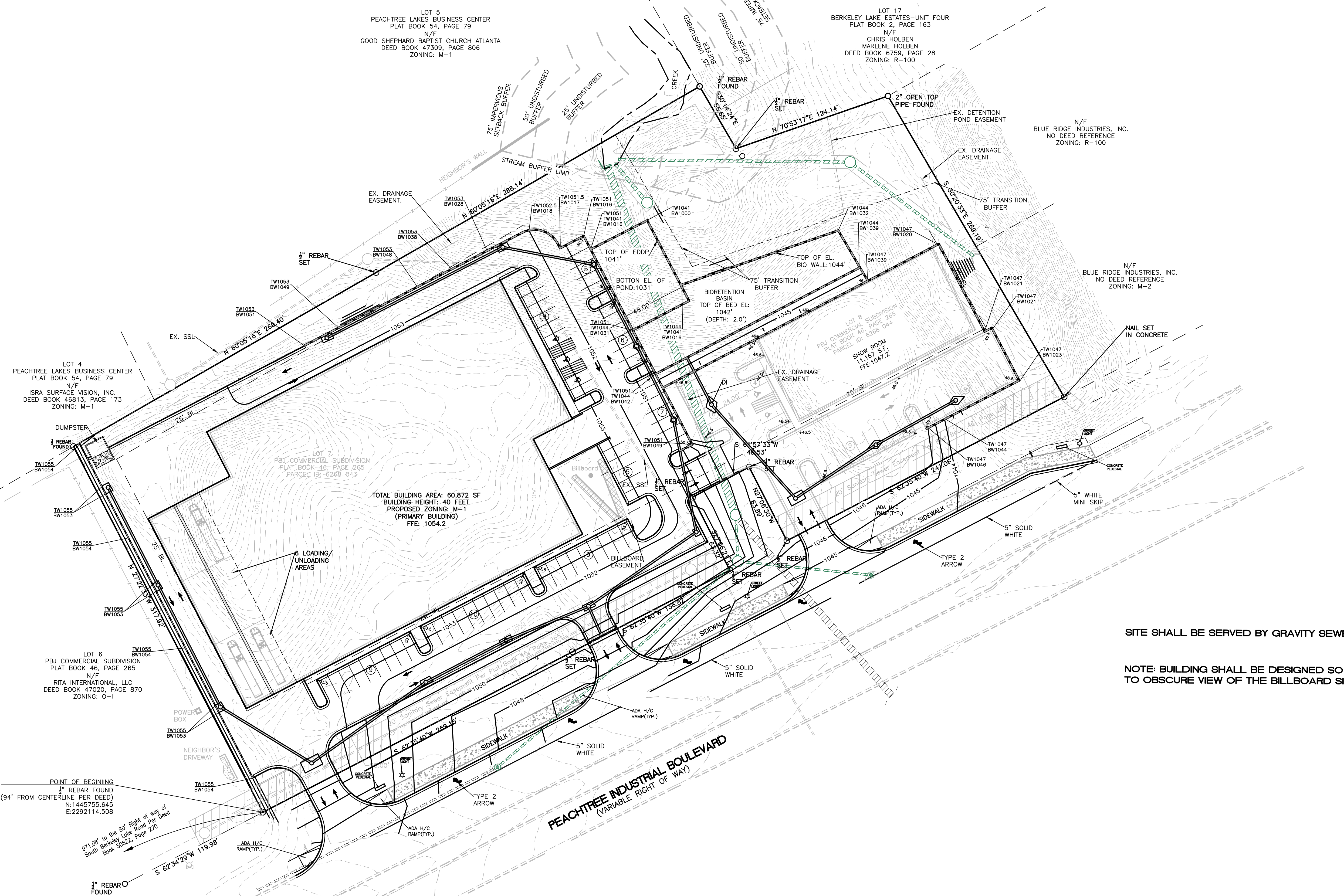
REZONING SITE PLAN
4477-4487 PEACHTREE INDUSTRIAL BLVD.
BERKELEY LAKE, GA 30092
GWINNETT COUNTY

REZONING SITE PLAN WITH LANDSCAPING

DATE	NO.	DESCRIPTION
8-3-2023	1	REVISION CONCEPT PLAN
8-30-2023	2	REVISION CONCEPT PLAN

06-11-2023
DATE

RZ-1

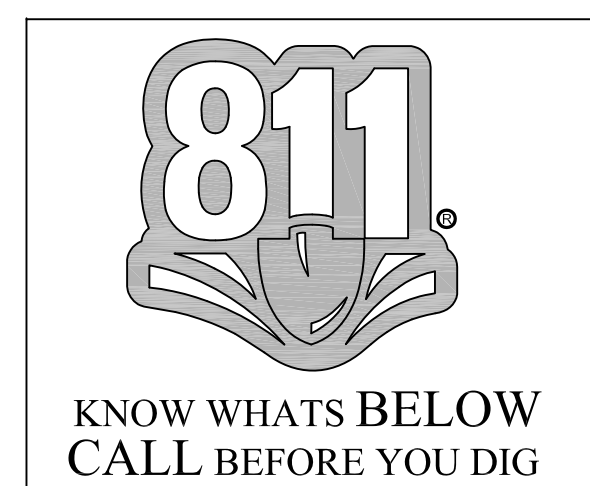
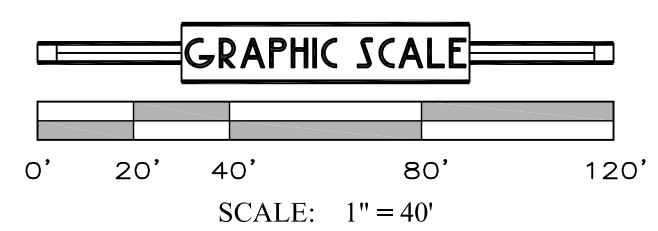


SITE SHALL BE SERVED BY GRAVITY SEWER

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

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

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

REZONING SITE PLAN WITH TOPOGRAPHY

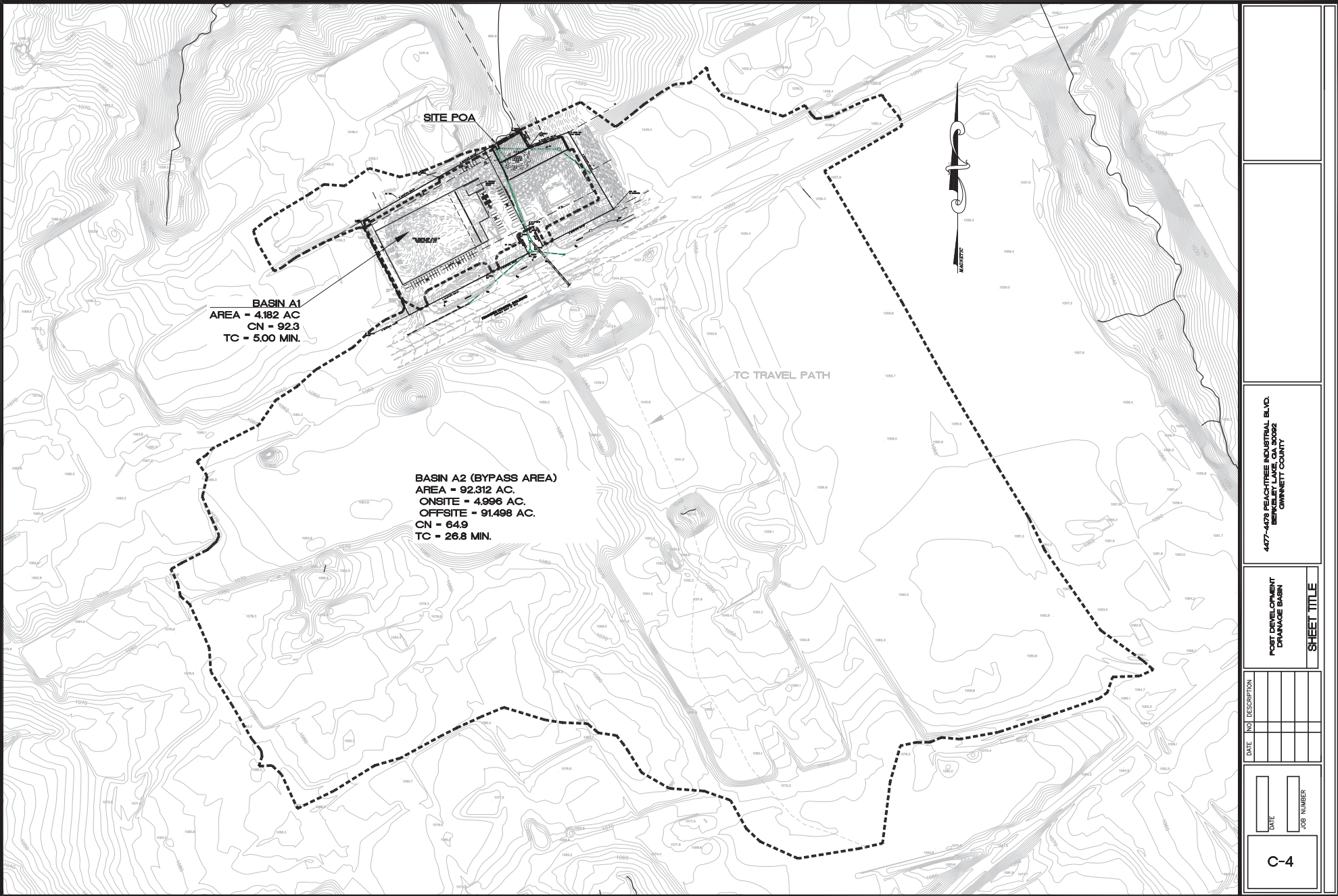
SHEET TITLE

DATE	NO	DESCRIPTION
8-3-2023	1	REVISED CONCEPT PLAN
8-30-2023	2	REVISED CONCEPT PLAN

DATE: _____
 JOB NUMBER: _____

RZ-2





4477-4103 RESEARCH INDUSTRIAL BLDG.
 BERRY LANE, CA 95026
 GWINNETT COUNTY

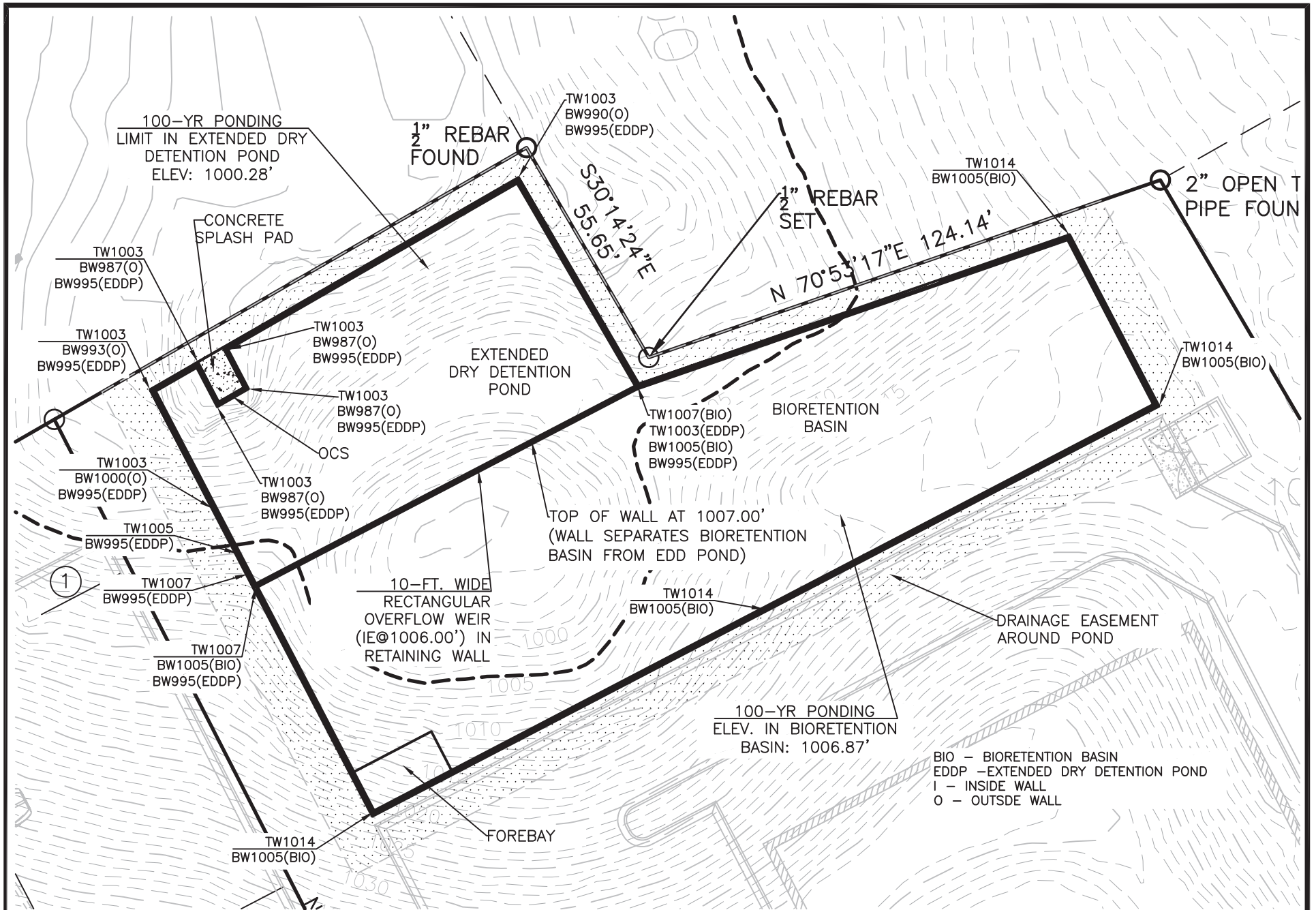
PORT DEVELOPMENT
 DRAINAGE BASIN

DATE	NO	DESCRIPTION

DATE:
 JOB NUMBER:

C-4

SHEET TITLE



BIO - BIORETENTION BASIN
 EDDP - EXTENDED DRY DETENTION POND
 I - INSIDE WALL
 O - OUTSIDE WALL

FIGURE 5 - BMP PLAN VIEW

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



Future Development Map

FULTON COUNTY

Johns Creek

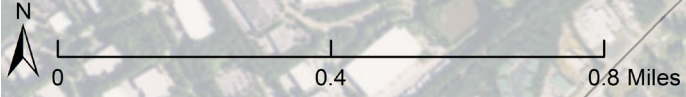
Peachtree Corners

Duluth

GWINNETT COUNTY

Future Development Map Categories

- Conservation
- Industrial Employment
- Peachtree Industrial District
- Recreation & Schools
- Stable Residential
- Water
- Berkeley Lake Elementary School



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



Application for Variance

For Office Use Only	
Application #:	V/AV 23-09
Check #:	1979
Cash:	
Date Paid:	6/13/2023
P&Z hearing date:	
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 Application: Part 3: Property and Use Information (continued)

Applicant: Please provide written responses to the following items in order to support the request. Attach a separate sheet if necessary:

1) Explain the extraordinary and exceptional conditions pertaining to the size, shape or topography of the subject property; OR if this request is for the expansion of a non-conforming structure, explain whether granting the variance would result in an increase in the non-conforming aspects of the structure.

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



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

4) Are the conditions requiring a variance the result of any actions of the property owner? If YES, explain.

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

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

I hereby make application to the City of Berkeley Lake, Georgia for the above referenced property. I do hereby affirm that the information provided here, above and contained in all material I submit for the purposes of supporting my request for a Variance, to the best of my knowledge is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken as a result of this application. I understand that it is my/our responsibility to conform to all City of Berkeley Lake ordinances in full and obtain any additional permits as may be required and that failure to do so will result in enforcement action taken by the City.

Applicant's Signature		Date	<u>06/09/2023</u>
Owner's Signature		Date	<u>05/09/2023</u>

Variance 1

Builderstone is requesting relief from code section 78-242 for the purpose of maintaining the pre-existing detention pond (“Detention Pond”) and stormwater easements. Such easements, documents by decades-old recorded easement agreements, covenants and plats, should not be governed by later-passed law adopted in 2010. However, out of an abundance of caution, applicant is seeking this variance so there is no confusion.

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)”

Below are just some of the requirements of Chap. 42 as to buffer zones that cannot be accomplished due to the existing nature of the property.

“*Sec. 42-224(b)(1). Screening requirements:* Buffers shall be natural, undisturbed, and free of encroachments except as authorized by a condition of zoning, special use or variance approval, or as authorized herein, and shall contain the existing tree cover and vegetation as well as any supplemental plantings or replantings as may be required or permitted by the OEO.”

“*Sec. 42-224(e)(1). Disturbance or encroachments:* Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, similar facilities, and any associated easements, shall not encroach into a buffer except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.”

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

Nearly the entire 75-foot buffer area is filled with a large easement detention pond 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 1988. (*Please see Ex. A, “1988 Book 46 Page 265,” attached hereto.*) Such stormwater system directs stormwater directly from Peachtree Industrial Blvd. and the West Gwinnett Aquatic Center from a basin of approximately 98 acres into the detention pond where there is a steep drop-off in topography, which eventually drains into the “Retention Lake” on Lot 17 of Berkeley Lake Estates, then under Lake Shore Drive (*Please see Ex B. Lot 17 Retaining Pond*) 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.

The Detention Pond has not been maintained and is overgrown with trees and vegetation. Builderstone intends to renovate the area according to code and the recommendation of its hydrology engineer. This may include, but is not limited to, adding retaining walls, the removal of

trees and vegetation, and the installation of safety fencing. Attached is the Stormwater Management Report from GAK Engineering dated May 18, 2023 (*See Ex. C, PIB Hydro_Report 5-18-2023, attached hereto*). The proposed stormwater management system will include a Bioretention Basin and Extended Dry Detention (EDD) Pond in accordance with standard engineering practices and methods of analysis for storm water management in the City of Berkeley Lake. Such improvements are estimated to be at least \$300,000.

The improved stormwater management system, in particular, will directly benefit Berkeley Lake by offering a retention area for stormwater that is piped directly onto the land that would otherwise entirely flow downstream to Berkeley Lake.

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

Removing the Detention Pond and stormwater infrastructure to enforce the buffer would be a clear violation of the easements and the City's ordinance on non-conforming land use. In addition, it runs the risk of increasing the stormwater runoff into Berkeley Lake. Given the steep topography of the Detention Pond area, it is unable to be planted to the ordinance's specifications. The loss of this Detention Pond area will require a retention pond for the parcel to be located elsewhere on the parcel, The Property is also subject to a substantial 75-foot front setback that further reduces the area available for a building. Requiring these extensive buffers will have the result of rendering this parcel of the Property incapable of being developed in an economically feasible way.

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

The unique conditions of the Detention Pond, setbacks and the numerous stormwater easements are detailed above.

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

No, the Detention Pond and stormwater easements have been in place for at least 35 years through no action of the Applicant or Owner.

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

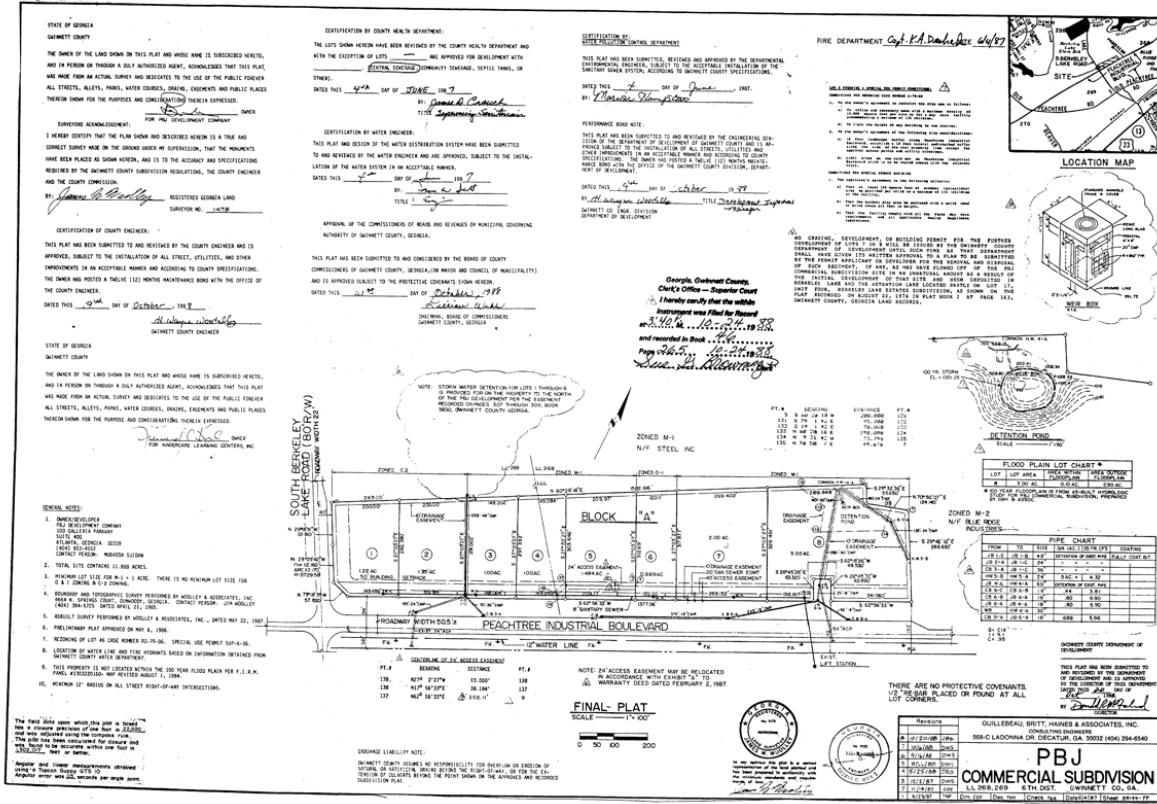
There should be no detriment to the public as the maintenance of the stormwater easements and Detention Pond are vital to the health of Berkeley Lake. The purposes of the ordinance are not frustrated as the Detention Pond and easement areas offer a large buffer between lots and buildings that retain the intentions of the ordinance to create a buffer.

There are only two residential lots adjacent to the Property, which is primarily surrounded by M-1 (Gwinnett), O-I (Gwinnett) and M-2 (Gwinnett) properties. One lot is 2.65 acres owned by the Holbens since 1991, which is 3 years after the easements and Detention Pond were on the public record. The Holbens' lot contains a "Retention Lake" downstream from the Detention Pond. The lot is heavily wooded and this Retention Lake will benefit from an improved Detention Pond with regular maintenance upstream.

The other lot (Tax Number R6268 019) (2.97 acre) is a land-locked vacant property that would be very difficult to very develop due to its lack of depth and lack of access to the public right of way.

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

Yes



Recorded Aug 22, 1974 *O'Milland Berry 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. None
 Dated this 22 Day of JUNE, 1974

By: Robert W. Powell
 Title County Health Department

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.

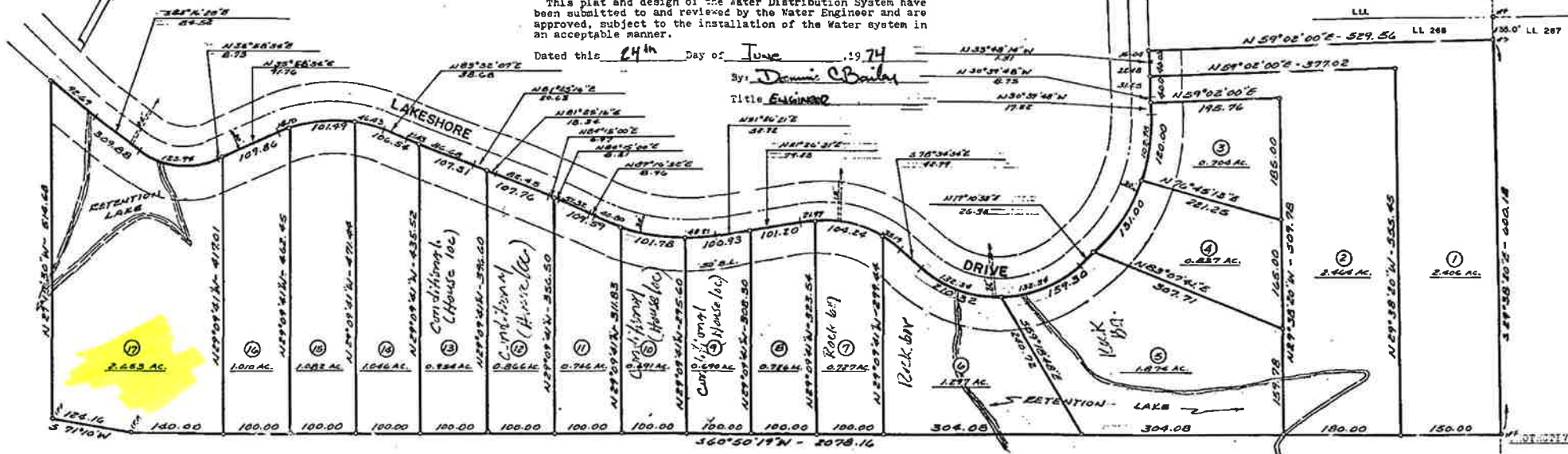
Dated this 24 Day of JUNE, 1974

By: Dominic C. Bailey
 Title ENGINEER

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: _____ Secretary



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.

Loddy Sudduth

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

W. M. ...
 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: Ray C. Hoya
5/27/74 - 1712 Registered Georgia Land Surveyor No.

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 _____, 1974
James H. Hampton
 City Engineer

- PROTECTIVE COVENANTS**
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. 1472-041

LAND SURVEYING LAND PLANNING SUBDIVISION FEASIBILITY STUDIES

FILED & RECORDED
 CLERK SUPERIOR COURT
 GWINNETT COUNTY GA
 DATE 8/22/74 TIME _____
 RECORDED 2 PAGE 103
 EGM LAWLER, CLERK 21700

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 19.87 combined acres of M-1 (Gwinnett). In addition, a majority of the annexed, non-residential lands into the City are zoned M-1 (Gwinnett). (Please see Ex. A, 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 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 to 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.

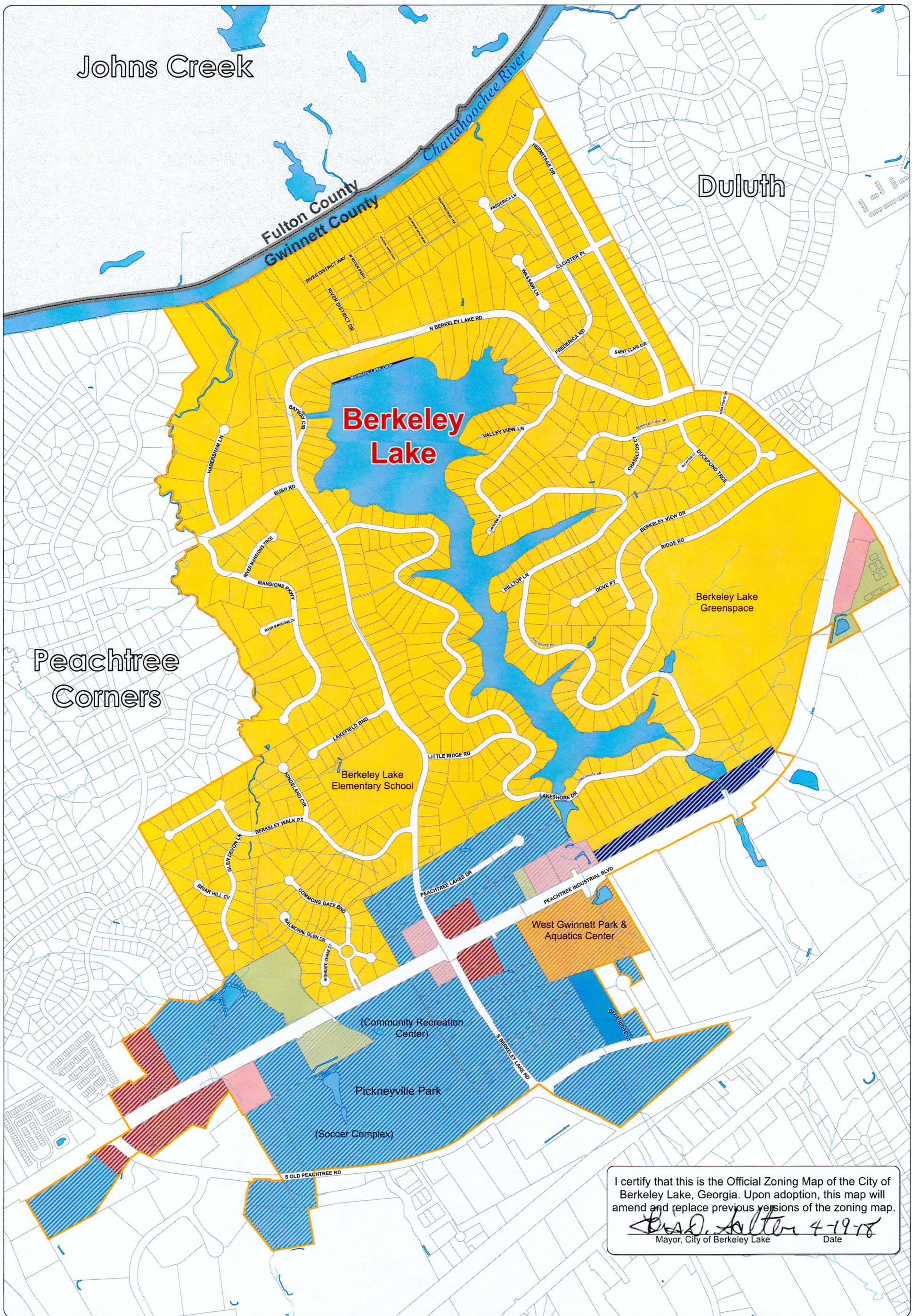
5) What, if any detriment to the public or impairment to the purposes of the ordinance would result if the variance were granted.

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.

Brian S. Altman 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 district that refers back to the original zoning as regulated by the County and identified on the map.

Disclaimer: All data is provided as is, with all faults, without warranty of any kind, either expressed or implied. This map is the property of the City of Berkeley Lake, Georgia and its assigns. All rights reserved.

Variance 3

Builderstone is requesting relief from code section 78-243 for the purpose of constructing a Primary Building of 45 feet in height.

Sec 78-243 states “Building Height” “Maximum” “Two stories or 40 feet, whichever is less”

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

This Property is limited in area and height in certain areas by a billboard and its 99-year lease.

Because of the billboard, some of the building will have to be one story or parking areas which shrinks the size of the building. Builderstone seeks to build a company headquarters with warehouse that includes an internal loading and unloading system as well as an extensive showroom and office space. The plans for the remaining Primary Building is to have a maximum height of 45 feet to accommodate these plans. This height will also include the building’s solar panels which require about 6 feet above the roofline.

The location of the property along a major, divided state highway lends itself to a height of more than 40 feet. Upon information and belief, the West Gwinnett Aquatic Center across the street is over 45 feet in height and numerous office buildings, hotels and other locations in the immediate area of Peachtree Corners and Duluth exceed a two-story minimum.

The Property primarily backs up to a M-1 (Gwinnett) manufacturing park (Peachtree Lakes Drive) and such height of 45 feet is reasonable and compatible with nearby manufacturing and non-residential uses.

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

Builderstone is already greatly limited in height on a portion of the Property due to the existing billboard and its lease which requires no structure higher than the bottom of the billboard, or one story. The remainder of the Primary Building at 45 feet would give it the height it needs for its operations.

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

Few properties are subject to a 99-year billboard lease that limits development of a Property. That same Property is subject to a sizable detention pond, numerous easements and city-imposed 75-foot front setbacks. Allowing a slight increase in the height of the Primary Building would allow that Builderstone develop the Primary Building it requires for its operations.

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

No, the conditions are not the result of any action of the Applicant or Owner. The current billboard lease has been in effect since 1999 and the detaining pond and stormwater easements have been in place since at least 1988.

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

There is no detriment to the public to allow 5 additional feet to the height of a building in M-1, located in an industrial and high-intensity use area adjacent to and accessed by Peachtree Industrial Boulevard. Directly across the street is the West Gwinnett Aquatic Center which appears to greatly exceed 40 feet in height.

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

Yes.

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.

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

Variance 5

Builderstone is requesting relief from code section 78-240 for the purpose of maintaining an Accessory Building to the Primary Building upon the Property for sales to the public in addition to wholesales.

The Applicant seeks a variance to allow the use of retail sales in an Accessory Building to the Primary Building, or in the alternative, the planning commission find that Builderstone's use of the Accessory Building is "(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."

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.
- (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.
- (8) Business office.
- (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. For reference, 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.

This provision prohibits accessory buildings in C-1 or M-1 districts and labels them "principal structures." ...(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.

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

The location of the Property adjacent to Peachtree Industrial Blvd. and accessed only through this main vehicular artery is an ideal location for the company headquarters and the uses it will create of office, wholesale, retail and warehouse product storage along with its Accessory Building. The Principal Building and Accessory Building will have common ownership and common management.

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

Builderstone would like to have a complete headquarters that can sell directly the public as an accessory use to its main operations for the wholesale of high-end bath and kitchen improvements. Customers will meet with designers to plan their kitchens and baths, and then will order improvements and fixtures that will be shipped directly for off-site warehouses. Customers will not take possession of products on site.

The M-1 code specifically prohibits residential use. But it does not specifically prohibit retail or public sales of this sort.

Prohibiting an accessory building from being used as related retail serves no practical use. The code allows for the sale of "Machinery and transportation equipment sales" as well as "[o]ther 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.” The Planning Commission has this flexible statutory provision to allow uses of the same general character.

Builderstone’s goal of combining the two lots and having a Primary Building and an Accessory Building is to create one lot with inter-parcel connections for vehicular and pedestrian traffic. The other is to cohesively address the stormwater issues and the engineering of the retaining pond to handle stormwater not only from the Property but from the many stormwater easements crossing the Property.

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

The Property, due to its unique characteristics and limitations, must be creative in utilizing the buildable space upon the land. Having to have a separate lot for the Accessory Building or a separate lot zoned commercial hampers the ability of that lot to be utilized due to a large detention pond and significant city-required set-backs. Having the flexibility to create a great interconnected headquarters is key to making the Property productive to generate tax revenue.

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

No, the unique conditions of the Property are not caused by the Owner or Applicant. At this point in time, Applicant has not instituted any “use” upon the Property.

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

There is no detriment to allowing retail sales in the Accessory Building. The Property is currently zoned C-1 (Gwinnett) which would allow retail sales. The difference is that the accessory sales are related to the Primary Building and Builderstone’s products and is not likely to create as much day-to-day traffic as a local retail serving the neighborhood. There is no access to the Property from any road other than Peachtree Industrial Boulevard and no internal or neighborhood roads will be affected by the Property development or ongoing business operations.

6. Is the proposed use of the land, building or structure permitted by the zoning ordinance.

Yes, if in accordance with this variance.