



Land Use Petition RZ-15-008

Date of Staff Recommendation Preparation: 7/13/2015

PROJECT LOCATION: 5945 State Bridge Road

DISTRICT/SECTION/LANDLOT(S): 1st Section, 1st District, Land Lots 331 and 336

ACREAGE 8.09 acres

EXISTING ZONING: C-1 (Community Business District) Conditional

PROPOSED ZONING: C-1 (Community Business District) Conditional

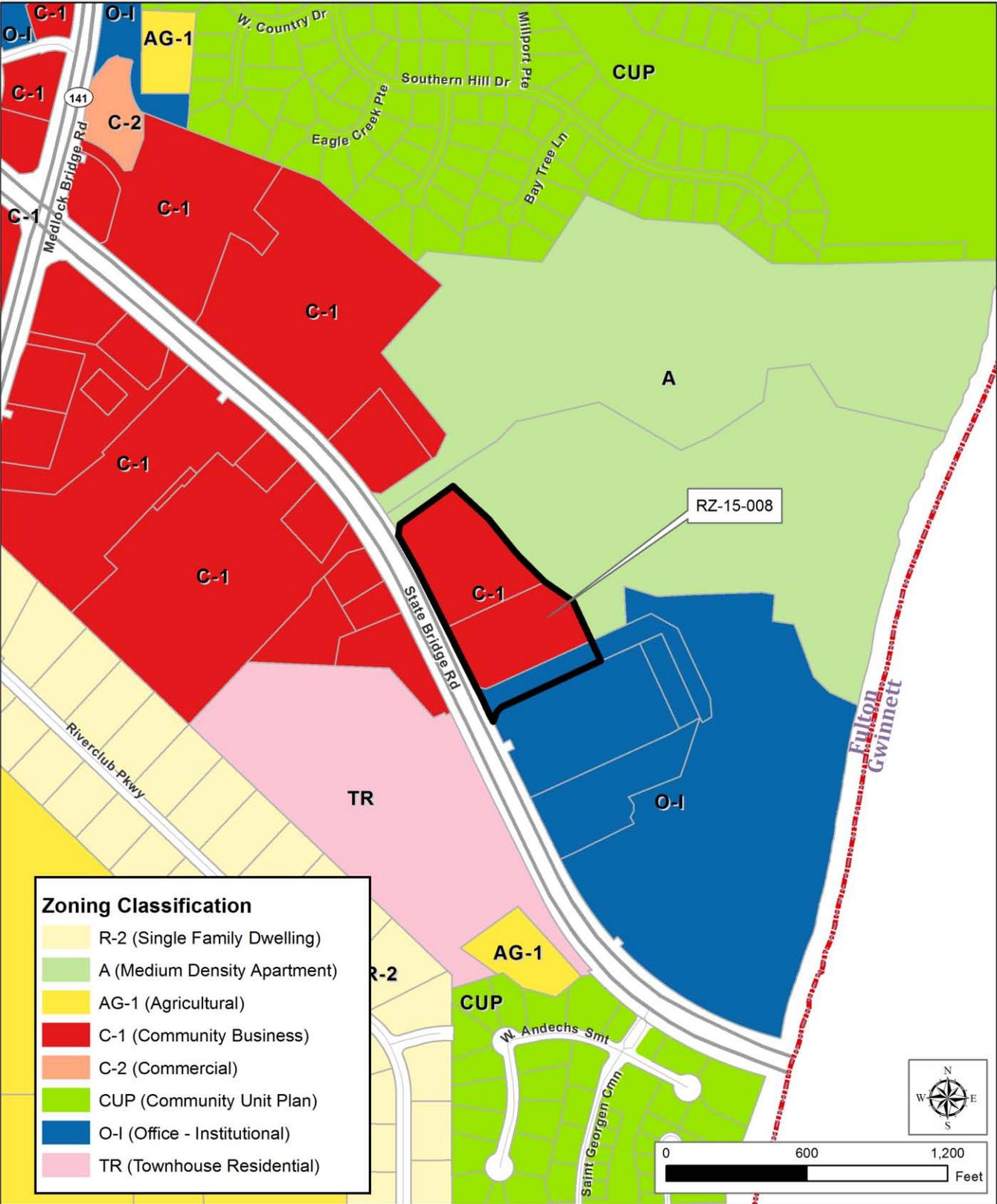
FUTURE LAND USE PLAN DESIGNATION: Character Area 9: 141 Corridor

OWNER & PEITITIONER: Riverwalk Marketplace S.C., LLC
3500 Lenox Road, Suite 760
Atlanta, GA 30326
Contact: Laurel A. David
404-965-3680

PROPOSED DEVELOPMENT: To remove zoning condition prohibiting nail salons and martial arts studios; To change maximum square footage allowance to reflect the as-built survey.

STAFF RECOMMENDATION: **Approval**

RZ-15-008



PROJECT DATA

The subject property is located at 5945 State Bridge Road and contains two parcels totaling 8.09 acres. Current development on the site includes a one-story 72,831 square foot multi-tenant shopping center and a one-story 6,228 square foot single occupant commercial building. The larger multi-tenant building is located on an approximately 4.1 acre tract and includes a Whole Foods and three attached vacant commercial suites. The smaller building is located on an approximately 3.97 acre tract and is occupied by a salon and spa. The majority of the shopping center's parking lot is located on the 3.97 acre tract.

Access is provided to the site via two entrances from private drives off of State Bridge Road. There are currently 356 existing parking spaces to accommodate parking for both buildings. Current zoning requires a minimum of 317 parking spaces. Twenty-eight of the existing parking spaces are located directly in front of the three attached vacant commercial suites adjacent to the Whole Foods. The Zoning Ordinance requires that parking spaces be located on the same lot as the use. Consolidating the two parcels would remedy this issue.

The subject property was originally zoned O-I (Office-Institutional) in 1988, pursuant to Fulton County zoning case Z-88-004 NFC but had remained undeveloped until the mid-1990s when an office building was constructed on the site. This building was vacant when the developer of the current shopping center requested a change in zoning to C-1 (Community Business District) in 2004. At that time, the property was rezoned to C-1 (Community Business District) Conditional, with three concurrent variances, to allow for 78,000 square feet of retail (RZ-04-042). This 2004 rezoning process included a public participation program involving the Johns Creek Community Association (JCAA), in which the two parties agreed on a set of zoning conditions. The Riverwalk Marketplace shopping center was constructed in 2005.

CHANGE IN CONDITIONS SUMMARY:

The applicant requests to change the zoning conditions on the two parcels zoned C-1 (Community Business District) Conditional in order to allow for two previously prohibited uses (nail salons and martial arts studios) and to bring the allotted square footage into compliance with the as-built survey (from 78,000 to 79,059 square feet). All three requested changes are to condition 1.a from Fulton County rezoning case number RZ-04-042.

The approved RZ-04-042 site plan, dated April 20, 2004, listed a total building area of 78,000 SF under the site data table. The calculation of the dimensioned building footprints shown on the site plan align with that total. However, the 2006 as-built survey that was submitted with this application shows slightly different building footprint dimensions, which add up 79,059 square feet. The applicant would like to amend the approved condition to bring the site into conformance.

There is no documentation as to why the JCAA or Fulton County Board of Commissioners felt that nail salons and martial arts studios should be excluded as permitted uses. The current use regulations for the C-1 (Community Business) Zoning District allow for both "personal services" such as nail salons and "school of business, dance, music or similar schools" such as martial arts studios.

The subject property is within Character Area 9: 141 Corridor of the 2030 Future Development Map. Recommendations for this area include high intensity commercial and office uses such as retail, restaurants, class A office space, business services, hotels, live work, and mixed-use. The proposed condition change to allow for nail salons and martial arts studios within 79,059 square feet of retail

would be consistent with the policies and intent of the Future Development Map and Comprehensive Plan.

In conclusion, because the Comprehensive Plan supports high intensity development of retail at this location, the Community Development Department recommends **APPROVAL** of this request. In addition, Staff recommends adding a condition requiring the lots to be consolidated prior to issuance of a Certificate of Occupancy for the three vacant attached suites.

STANDARDS OF REVIEW

A. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property?

Adjacent properties on the north side of State Bridge Road include A (Medium Density Apartment) Conditional and C-1 (Community Business) Conditional to the north and O-I (Office-Institutional) Conditional to the south. Adjacent properties on the south side of State Bridge Road include C-1 (Community Business) Conditional and TR (Townhouse Residential) Conditional.

The proposal to allow for a nail salon or martial arts studio is suitable in view of the use and development of adjacent and nearby properties because they are not only in keeping with the permitted uses of the surrounding C-1 properties, but because they will also serve the surrounding residential and office buildings.

B. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?

The change of conditions would not have any adverse effects on adjacent or nearby properties as no new development is being proposed and because there are no foreseen negative impacts of either nail salons or martial arts studios.

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

The property has a reasonable economic use as currently zoned, however, the change of conditions would allow for vacant storefronts to be occupied.

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

The removal of a condition prohibiting nail salons and martial arts studios would not affect public services, facilities, transportation systems, and/or schools. The increase of 1,059 square feet would also not affect any of the above as the additional square footage reflects the current building footprint. No new development will occur.

E. Whether the proposal is in conformity with the policy and intent of the Comprehensive Plan including the land use element?

The proposed site is located within the 141 Corridor Character Area on the 2030 Future Development Map, which includes a recommendation of retail uses at relatively high intensities. Therefore, the commercial retail center, with two additional uses of a nail salon and martial arts studio, and an allotment for the current square footage, would be consistent with the intent of the Future Development Map and Comprehensive Plan.

F. Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposal?

The existing conditions restrict the commercial uses of the development, which includes several suites with limited visibility that have been vacant for several years (City of Johns Creek business registration information show a vacancy since 2010). This would give supporting grounds for approval of allowing nail salons and martial arts studios in this location.

G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Johns Creek.

There are no significant environmental or natural features on the site that would be affected by the proposal as no additional development is proposed.

DEPARTMENT COMMENTS

HEALTH AND WELLNESS

Environmental Health Services (EHS) Comments

- This facility must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 - Health and Sanitation, Article III - Smokefree Air. If this facility will serve persons under the age 18, no smoking will be allowed on the premises at any time.
- Since the building is served by public water and public sanitary sewer, the Fulton County Department of Health and Wellness recommends that the sanitary facilities are inspected and an adequate number of facilities are available for the proposed use. An adequate number of onsite sanitary facilities will be mandatory, prior to use or occupancy.
- This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.

Environmental Justice (EJ) Program Comments

- The Department of Health and Wellness does not anticipate any adverse impacts from allowing the proposed modification of the C-I conditions to allow nail salons and martial arts studios.
- This department does not anticipate any disproportionate impacts

PUBLIC WORKS

No comment

WATER AND SEWER

WATER:

Anticipated water demand: 100 gallons per day (gpd) per 1,000 sq. ft. x 79,059 square feet (existing retail/office) = 7,906 gallons per day

This project is within the Fulton County Government water service jurisdiction. There is a 10 inch water line along the west side of State Bridge Road that can serve this location.

SEWER

Basin: Johns Creek

Treatment Plant: Johns Creek

Anticipated sewer demand: 7,116 gallons per day

There are eleven sewer manholes within the property boundaries of the 4.11 acre tract (5945 State Bridge Road) (Sewer manholes # SMJC2718300 to # SMJC2718080) land lots 331, 336, district 1-1 that can service this project.

Comments: This information does not guarantee that adequate sewer capacity is available at this time or will be available upon application of permits. Please contact the Department of Water Resources (Public Works) for more information.

FIRE MARSHAL

The proposed change of use for two different types of businesses within current zoning requirements does not pose any obvious concerns for fire or public safety at this point.

ARBORIST

No comment.

SITE DEVELOPMENT

No comment.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **RZ-15-008**. The following conditions are provided as a guide should the City Council choose to approve the petition:

1. To the owner's agreement to restrict the use of the subject property as follows:
 - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a maximum density of ~~9,641.54~~ **9,772.44** gross square feet per acre zoned or a total of ~~78,000~~ **79,059** square feet, whichever is less, but excluding convenience stores with gas pumps, businesses with drive-thru service; adult entertainment establishments; check cashing businesses; automotive repair and/or supply shops or garages; laundromats or other self-service laundries; service/gasoline station; ~~martial arts studios~~; consignment shops; ~~nail salons~~; mattress stores; one price deep-discount retailers; commercial amusements; and pawn shops. (*Modified per RZ-15-008*).
 - b. The height of the buildings shall be no more than 41 feet. (*Modified per M-05-004 and M-05-026*).

2. To the owner's agreement to abide by the following:
 - a. To the revised site plan received by the ~~Department of Environment and Community Development~~ **Community Development Department on April 20, 2004* May 05, 2015**. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Resolution and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
 - b. **The two parcels shall be consolidated through the City of Johns Creek Final Plat process, prior to the issuance of any future Certificate of Occupancy for Suites 201, 202, or 203.**

3. To the owner's agreement to the following site development considerations:
 - a. To reduce the number of parking spaces to 330 spaces. (2004VC-0036 NFC, Part 1)
 - b. To allow 3 wall signs on a building. (2004VC-0036 NFC, Part 2)
 - c. To allow a wall sign on a building facing a private roadway. (2004VC-0036 NFC, Part 3)
 - d. No new access shall be allowed from State Bridge Road.
 - e. A screening wall shall be incorporated into any outdoor area within 10 feet of the anchor tenant space, which shall only contain shopping carts. The cladding materials of said screening wall shall match the cladding materials of the anchor tenant's structure. The height of said screening wall shall be at least 3 feet, but no more than 4 feet.

4. ~~*Based on a site plan received 04/20/04.~~

- a. The architectural aesthetic treatment of the front of the smaller of the two buildings shown on the site plan depicted in condition 2.a shall be extended around all four sides of the building.
- b. Parapet walls, at a height of 4 feet, shall be provided on all sides of all buildings.
- c. To allow the outdoor sale or display of flowers, organic produce or other grocery items only in the area located immediately in front of the store. The sale or display of furniture, grills, outdoor lawn, play or garden equipment are prohibited. (*Modified per 2005VC-0015 NFC*).

5. To the owner's agreement to abide by the following requirements, dedication and improvements:

- a. Reserve for Fulton County along the necessary property frontage of the following roadways, prior to the approval of a Land Disturbance permit, sufficient land as necessary to provide for compliance with the Comprehensive Plan. All building setback lines shall be measured from the dedication but at no time shall a building be allowed inside the area of reservation. All required landscape strips and buffers shall straddle the reservation line so that the reservation line bisects the required landscape strip or buffer. At a minimum, 10 feet of the required landscape strip or buffer shall be located outside the area of reservation. All required tree plantings per Article 4.23 shall be placed within the portion of the landscape strip or buffer that lies outside the area of reservation.

75 feet from centerline of State Bridge Road.

- b. Dedicate at no cost to Fulton County along the entire property frontage, prior to the approval of a Land Disturbance Permit, sufficient land as necessary to provide the following rights-of-way, and dedicate at no cost to Fulton County such additional right-of-way as may be required to provide at least 10.5 feet of right-of-way from the back of curb of all abutting road improvements, as well as allow the necessary construction easements while the rights-of-way are being improved:

55 feet from the centerline of State Bridge Road.

- c. Provide a deceleration lane for each project entrance or as may be required by the Fulton County Traffic Engineer.
- d. Provide a left turn lane for each project entrance or as may be required by the Fulton County Traffic Engineer.
- e. Provide signalize upgrades as required by the Fulton County Traffic Engineer.
- f. Provide a traffic impact mitigation plan to reduce the number of vehicular trips generated by the development to the Fulton Country Traffic Engineer at the concept review phase.

6. To the owner's agreement to abide by the following:

- a. Prior to submitting the application for a Land Disturbance Permit (LDP) with the Department of Environment and Community Development, Development Review Division, arrange to meet with the Fulton County Traffic Engineer. A signed copy of the

results of these meetings will be required to be submitted along with the application for a Land Disturbance Permit.

- b. Prior to submitting the application for an LDP, arrange an on-site evaluation of existing specimen trees/stands, buffers, and tree protection zones within the property boundaries with the Fulton County Arborist. A signed copy of the results of these meetings will be required to be submitted along with the application for an LDP.
- c. Prior to submitting the application for an LDP, the developer/engineer shall contact the Public Works Department, Water Services Division, and arrange to meet on-site with an engineer from the Surface Water Management Program (SWMP), who is responsible for review of Storm Water Concept Plan submittals.
- d. Prior to submitting the application for an LDP, the developer and/or engineer shall submit to the SWMP, through the Development Review Division, a project Storm Water Concept Plan. This concept plan shall indicate the preliminary location of the storm water management facilities intended to manage the quality and quantity of storm water. The concept plan shall specifically address the existing downstream off-site drainage conveyance system(s) that the proposed development surface runoff will impact, and the discharge path(s) from the outlet of the storm water management facilities to the off-site drainage system(s) and/or appropriate receiving waters. As part of the Storm Water Concept Plan submittal, a preliminary capacity analysis shall be performed by the engineer on the off-site drainage system(s) points of constraint. The capacity analysis shall determine the capacity of all existing constraint points, such as pipes, culverts, etc., the point in the stream channel where the 25 year storm peak flow is the greatest percentage of the channel capacity and the hydraulic grade elevation at these points. The critical capacity points shall be selected based upon the engineer's field observation, professional judgement and limited field survey data. The analysis shall identify the downstream properties pre and post-development 100-year floodplain and for any post-development floodplain increase, the developer shall acquire the applicable offsite drainage easement to accommodate the 100-year storm flow through impacted properties.
- e. Where storm water currently drains by sheet flow and it is proposed to be collected to and/or discharged at a point, the discharge from the storm water management facility outlet shall mimic pre-development sheet flow conditions. A description of the method proposed to achieve post-development sheet flow conditions shall be provided as part of the Storm Water Concept Plan. Should the method to achieve sheet flow be unsuccessful, the developer shall acquire an easement(s) from the point of discharge to a point down gradient at a live dry weather stream sufficient to contain the 25 year storm flow or other location as approved by the Director of Public Works.
- f. A draft of the Inspection and Maintenance Agreement is required by Fulton County Code, Section 26-278 and shall be submitted to the Department of Public Works with the Storm Water Concept Plan.
- g. The Inspection and Maintenance Agreement shall provide that all storm water management/detention facility outlet control structures shall be inspected, photographed and cleaned on a monthly basis, by the owner. The Inspection and Maintenance Agreement shall require that an annual operation and maintenance report for all storm water management/detention facilities be prepared by a licensed design professional and

submitted to the SWMP. The annual report shall include monthly inspections, photographs, and documentation of the cleaning of storm water management/detention facilities outlet control structure(s) as well as an operations assessment of the facilities indicating that they do, or do not, function as intended/designed, and if they do not, a description of the specific actions to be taken to allow the facilities to function as intended/designed.

- h. The required Inspection and Maintenance Agreement shall be recorded with the Clerk of Superior Court prior to issuance of the LDP, Grading Permit or Building Permit associated with the development.
- i. The engineer/developer is required to submit, along with the application for an LDP, signed documentation verifying approval of the Storm Water Concept Plan.
- j. Where pavement parking areas (including access aisles) are proposed to exceed 5,000 square feet, the storm water management facilities shall be designed to remove pollutants such as oil, grease and other automobile fluids that may leak from vehicles. A description of the storm water management facilities proposed to achieve the removal of such pollutants shall be submitted with the Storm Water Concept Plan.
- k. With the application for an LDP, provide documentation (such as channel cross-sections, centerline profile, etc.) describing the geometry of all existing natural streams, creeks, or draws within the proposed development boundary and provide details on the Storm Water Management Plan of the post-development channel bank protection measures.
- l. The developer/engineer shall demonstrate to the County by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff leaving the site is restricted to seventy-five percent (75%) of the pre-development conditions for the 1-year frequency storm event, up to and including the ten (10)-year frequency storm event.
- m. All drainage from all disturbed areas shall be collected and conveyed to a storm water management facility provided as part of the development. No release of unmanaged or untreated storm flows shall be permitted from any disturbed portion or the developed property. Bypass flows will not be permitted except for undisturbed areas within a buffer or other protected easement and final plans shall provide for collection, conveyance and treatment of all flows from all developed lots or parcels, individual residences or building structures.

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