

**REZONING REQUEST:**

**RZ-2012-001**

**CITY OF SUWANEE  
REZONING ANALYSIS**

**CASE NUMBER:** RZ-2012-001  
**REQUEST:** PMUD (PLANNED MIXED-USE DEVELOPMENT DISTRICT) TO PMUD (PLANNED MIXED-USE DEVELOPMENT DISTRICT) WITH A CHANGE OF CONDITIONS

**LOCATION:** 3429 LAWRENCEVILLE-SUWANEE ROAD

**TAX ID NUMBER:** 7-194-205

**ACREAGE:** 2.81 ACRES

**PROPOSED DEVELOPMENT:** DRIVE-THROUGH LANE WITH OUTDOOR SPEAKER AND MENU BOARD

**APPLICANT/OWNER:** SUWANEE CREEK STATION, LLC.  
4151 ASHFORD DUNWOODY ROAD STE. 155  
ATLANTA, GA 30319

**CONTACT:** BRIAN SULLIVAN  
**CONTACT PHONE:** 404-475-9000

**STAFF RECOMMENDATION:** **APPROVAL WITH CONDITIONS**

**PROJECT DATA:**

The applicant seeks a change in zoning conditions to allow for a drive-through restaurant with an outdoor intercom/speaker. The approximately 2.8 acre site currently contains a roughly 13,000 square-foot multi-tenant shopping center located on Lawrenceville-Suwanee Road north of the intersection with Satellite Boulevard. The property was developed as part of the Highland Station Planned Mixed-Use District. The tenant space on the south end of the building was built to accommodate a business with a drive-through. However, a condition of zoning prevented the use of an outdoor intercom or speaker. The prior occupant of the space used the drive-through window with no speaker.

The subject property currently has access onto Lawrenceville-Suwanee Road via a right turn in/right turn out drive as well as two access drives onto the adjacent restaurant site and one drive onto the office condo site to the rear. In the near future, the site will also include access to the adjacent property to the south through an interparcel driveway connection. The applicant is proposing to locate the outdoor speaker either in the landscape island at the front of the southern end of the building or along the side of the southern end of the building.

## **ZONING HISTORY:**

The subject property was part of a rezoning request, RZ-2003-010, to change from M-1 (Light Industry District) to C-2A (Special Commercial District) that was denied in May of 2003. Following brief litigation the request was amended and the property was rezoned to PMUD (Planned Mixed-Use Development District) per RZ-2003-010 AMD in July of 2004. As a result there are a number of conditions in place that regulate the development of the overall project. One of the conditions (condition #2) regulates uses for the project as follows:

“Overall development shall not exceed 106 single-family detached units and 75,000 square feet of office and commercial uses. Uses on the property are limited as follows, based upon the concept plan for Highland Station, labeled Job number 2003-369, and dated 6/3/04. The portion of the concept plan labeled “Commercial” shall be limited to those uses within the C-2A zoning district, except that restaurants with drive-through windows (except when the drive-through windows do not provide external intercom/speakers), automotive-related uses (including all types of vehicle sales and service facilities), and gas stations/convenience stores shall not be permitted. The portion of the concept plan labeled “Office” shall be limited to those uses found within the O-I zoning district. The portion of the concept plan labeled “Single-Family” shall be limited to those uses within the R-75 zoning district”.

The subject property is located in the portion of the concept plan labeled “Commercial” and as such, a change of condition would be required, if the applicant wishes to have a menu board with an outdoor intercom/speaker.

## **DEVELOPMENT COMMENTS:**

The Highland Station parking lot was constructed to accommodate a future inter-parcel driveway to the adjacent property. That driveway will be completed in the near future now that the adjacent parcel is being developed. The driveway will give drivers access to the subject site from Satellite Boulevard as well as an additional point of access to Lawrenceville-Suwanee Road.

There are a number of large trees on the subject property that were part of a buffer required as long as the adjacent site was residential. The adjacent site is now commercially zoned and as subject the buffer is no longer required.

## **ANALYSIS:**

The subject site is 2.8 acres located at 3429 Lawrenceville-Suwanee Road and currently contains a 13,000 square foot multi-tenant shopping center. It is almost entirely surrounded by commercial uses. To the south is an undeveloped lot just north of the QuikTrip property zoned C-2A. Across Lawrenceville-Suwanee Road to the west are two multi-tenant shopping centers zoned C-2A. To the north are two restaurants locations, one developed with a Taco Mac and the other is currently unoccupied zoned C-2A and PMUD respectively. Office condominiums are located to east of the subject site, zoned PMUD and part of the same project as the subject property.

This small area of the City has changed dramatically since 2003 when this site originally requested rezoning. None of the shopping centers or restaurants previously mentioned were developed. At the time, there was a single-family residence located to the south of the subject property, but that house has since been removed and the property rezoned to a commercial district to allow for a QuikTrip gas station.

The applicant agreed to prohibit intercom/speakers from the drive through since the drive through unit was on the side of the building that abutted the residential property. The former owners were concerned with the noise that would be generated from the speaker. There is a grouping of trees on the southern property line that contains several large specimen trees that were part of a buffer required between the subject property and the formerly residential property. Since the property is no longer residential, the buffer is not required to be maintained any longer. However, taking steps to protect and save this grouping of trees will have positive effects on the neighboring properties. From an aesthetic stand point, these trees improve the look of the whole area and it fits with the other large specimen trees saved on the QuikTrip property. Additionally, and more importantly, the grouping of large trees will help reduce the possible noise pollution that the speaker/intercom may create. While the adjacent property is no longer a residential use, the property located behind the office condos is now developed with single family residential uses.

The Future Land Use Plan indicates commercial/retail uses are appropriate for the subject property. The proposal to provide outdoor speakers on the subject property is consistent with the designation.

In conclusion, the request is appropriate given the commercial nature of the area. However, steps should be taken to reduce the sound that reaches the nearby neighborhood, specifically by saving the stand of large trees directly adjacent to the end of the building proposed to include outdoor speakers. If appropriate screening and tree save conditions are included, then potential negative visual and sound impacts should be minimized. Therefore, staff recommends **APPROVAL WITH CONDITIONS** or RZ-2012-001.

Planning Department Recommended Conditions:  
RZ-2012-001

Staff recommends approval of the request to change conditions as follows:

1. All conditions for RZ-2003-010 AMD and RZ-2003-011 AMD shall remain in effect except for condition 2 which shall be amended as follows:

Overall development shall not exceed 105 single-family detached units and 75,000 square feet of office and commercial uses. Uses on the property are limited as follows, based upon the concept plan for Highland Station, labeled Job number 2003-369, and dated 6/24/04. The portion of the concept plan labeled "Commercial" shall be limited to those uses within the C-2A zoning district, except that ~~restaurants with drive-through windows (except when the drive-through windows do not provide external intercom/speakers)~~, automotive-related uses (including all types of vehicle sales and service facilities), and gas stations/convenience stores shall not be permitted. The portion of the concept labeled "Office" shall be limited to those uses found within the O-I zoning district. The portion of the concept plan labeled "Single-Family" shall be limited to those uses within the R-75 zoning district.

2. Landscaping shall be provided, if necessary, to mitigate the visual impacts of the menu board from Lawrenceville-Suwanee Road. Approval of said landscaping shall be approved by the Planning Director, if determined to be necessary.
3. The stand of specimen trees located on the southern portion of the property shall be maintained and impacts to the trees shall be minimized except as necessary to accommodate the connection of an interparcel driveway connecting to the parcel to the south. During construction of said interparcel driveway, if said driveway does impact the Tree Protection Zone for any of the specimen trees, then additional steps shall be taken to ensure the health of the trees at the direction of a certified arborist and to the satisfaction of the Planning Director.

## Standards Governing Exercise of Zoning Power

Pursuant to Section 2006 of the City of Suwanee Zoning Ordinance, the City finds the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the unrestricted use of property and shall govern the exercise of the zoning power therewith.

- 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 request to allow for a menu board with an outdoor intercom/speaker is suitable in view of the use and development of adjacent and nearby properties, provided conditions are included to minimize potential negative visual and auditory impacts.

- B. Whether the zoning proposal will adversely affect the existing uses or usability of adjacent or nearby property;

The rezoning would not adversely affect the existing uses or usability of adjacent or nearby properties provided the appropriate conditions are included to minimize negative auditory impacts.

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

The property has a reasonable economic use as currently zoned.

- 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 would not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

- E. Whether the zoning proposal is in conformity with the policy and intent of the Land Use Plan;

The 2030 Future Land Use Map shows this property as commercial. The request is consistent with the Future Land Use Map.

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

The area immediately around the subject site has changed greatly in character from when the condition was originally approved. Today, the site is surrounded by non-residential uses. However, the subject property is part of mixed-use development that includes residential uses. As such it would be appropriate to include conditions of approval that would mitigate the potential impacts of outdoor speakers.

**SULLIVAN  
WICKLEY** PROPERTIES, LLC

4151 Ashford Dunwoody Road, NE, Suite 155  
Atlanta, GA 30319  
404.475.9000 • 404.475.9600 (Fax)

March 30, 2012

Josh Campbell  
Planning Director, City of Suwanee  
330 Town Center Avenue  
Suwanee, Georgia 30024

Re: Rezoning Request/Change of Zoning Conditions Request and Application pertaining to approximately 2.81 acres on the northeast side of Lawrenceville Suwanee Rd, just north of Satellite Blvd (the existing Shoppes of Highland Station), City of Suwanee, Gwinnett County, Georgia

Mr. Campbell:

Please accept this as our request and application to modify an existing zoning condition on our Shoppes of Highland Station retail property on Lawrenceville Suwanee Road. The subject property is approximately 2.81 acres and has been developed for a 13,130sf retail center and a 6,000sf restaurant. The property was rezoned PMUD in July 2004 per cases RZ-2003-010 (AMD) and RZ-2003-011 (AMD). A copy of the official zoning resolution is attached here for your convenience.

Condition 2 of the zoning resolution pertains to allowed uses on the property and states in the body of the paragraph *"The portion of the concept plan labeled "Commercial" shall be limited to those uses within the C-2A zoning district, except that restaurants with drive-through windows (except when the drive-through windows do not provide external intercom/speakers), automotive-related uses including all types of vehicle sales and service facilities), and gas stations/convenience stores shall not be permitted"*.

We are requesting a modification to the above italicized language to remove the exclusion of drive through windows with external intercom/speakers so that a drive through window with an external intercom/speaker as part of its menu board would be allowed.

Rz-2012.001

In 2003/2004 when the original rezoning request was being analyzed and considered, the subject property was not yet developed nor had a retail center and family restaurant been decided upon as the commercial uses for the property; additionally, the surrounding properties were generally undeveloped, and in fact the property directly adjacent to the south of the subject property (and therefore the most impacted property) was still being used as a personal residence (occupied at the time by Mr. and Mrs. Eugene Walls). Mr. and Mrs. Walls expressed a strong desire to limit a few objectionable uses from locating on the subject property. In an effort to appease Mr. Walls, to alleviate the impact of a commercial use adjacent to the Walls' homeplace and to make the commercial rezoning request more palatable, we (as applicant in the rezoning) expressed a willingness to exclude fast food restaurants (see top of page two of the City of Suwanee Rezoning Analysis for RZ-2003-010 and RZ-2003-011, copy attached) and therefore agreed to the existing condition to prohibit drive through windows with speakers as a way to restrict fast food restaurants from the property.

Since the property was rezoned in 2004, the surrounding area has gone through a transformation from undeveloped land with an adjacent residential use to a fully developed mix of commercial and industrial uses. The subject property has been developed as neighborhood retail uses; the Walls property is no longer residential; it has been rezoned for commercial uses and a Quick-Trip gas station/convenience store is under construction while an Advanced Auto is pending development on the remaining portion of the Walls property. The properties across Lawrenceville Suwanee Rd are fully developed with industrial and commercial uses. To the north is Taco Mac and other commercial uses. To the east (behind) of the subject property are existing office condominium buildings and farther east, behind the existing office condominium buildings, is the Highland Station garden home community. The need to protect the adjacent resident, Mr. Walls, by restricting certain uses he objected to is no longer necessary because the Walls have moved away and the property is being developed for intense commercial uses

We have interest from a nationally recognizable tenant to locate a sandwich shop in the right end-cap space of our retail center. This tenant, and others that have expressed interest in locating at Highland Station, have stated a need for a drive-through window with an external intercom on its menu board in order to be successful. The requirement for an intercom system within the menu board allows customers to place their order at the menu board versus face to face at the window then their order is ready for pick-up upon arriving at the drive-through window, thus keeping the proper flow through the drive-through lane. The prior tenant (Smoothie King) attempted to operate the drive-through window without the external speaker/intercom system, but met with very little success. This, along with other economic factors, contributed to the failure of the Smoothie King and has been a constant objection by other viable tenants expressing interest in the property.

We therefore are requesting approval to modify the existing condition prohibiting an external intercom system as part of the drive through window so that the national sandwich shop or any other tenant of the end cap space can be successful and contribute to the viability of the retail center.

RZ-2012.001

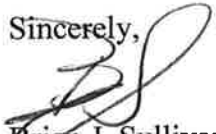


SCS, LLC LOI  
March 30, 2012  
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Attached is a site plan showing how the drive-through lane would be configured and the proposed location of the menu board with the intercom system. The impact on surrounding uses would be non-existent given that all are developed as either commercial or industrial uses. Furthermore, the closest residential use is no longer adjacent but rather is approximately 400' away, on the other side of the existing office condominium buildings, in the Highland Station garden home community. There would be very little, if any, impact on the Highland Station community, as we are not requesting an all-out loudspeaker system typical of car sales lots, but instead a very low impact intercom system within a menu board.

We respectfully request your approval of our modification request. Should you need additional information please contact me at 404-475-9000 or via email at [brian@sullivanwickley.net](mailto:brian@sullivanwickley.net).

Sincerely,



Brian J. Sullivan  
Suwanee Creek Station, LLC

hsshoppesrezoningLOIdrivthru

RZ-2012.001

## REZONING APPLICANT'S RESPONSE

### STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

- A. The surrounding properties are all developed for various commercial and industrial uses so the request will permit a use that is suitable in view of the use and development of adjacent and nearby properties.
- B. The surrounding properties are all developed for various commercial and industrial uses so the request will not adversely affect the existing use or usability of adjacent and nearby properties
- C. The subject property has a reasonable economic use as currently zoned though the existing zoning condition encumbering the property prohibiting a drive through window with an intercom or loudspeaker system significantly hinders the success and economic viability of the property.
- D. The subject property has been developed for more than 6 years so the zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
- E. The land use plan calls for commercial uses for the subject property so the subject property complies with the land use plan.
- F. Since the property was rezoned in 2004, the surrounding area has gone through a transformation from undeveloped land with an adjacent residential use to a fully developed mix of commercial and industrial uses. The subject property has been developed as neighborhood retail uses; the Walls property is no longer residential; it has been rezoned for commercial uses and a Quick-Trip gas station/convenience store is under construction while an Advanced Auto is pending development on the remaining portion of the Walls property. The properties across Lawrenceville Suwanee Rd are fully developed with industrial and commercial uses. To the north is Taco Mac and other commercial uses. To the east (behind) of the subject property are existing office condominium buildings and farther east, behind the existing office condominium buildings, is the Highland Station garden home community. The need to protect the adjacent resident, Mr. Walls, by restricting certain uses he objected to is no longer necessary because the Walls have moved away and the property is being developed for intense commercial uses.

RZ-2012-001

# REZONING APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF CITY OF SUWANEE, GEORGIA

APPLICANT INFORMATION*	OWNER INFORMATION*
NAME: <u>SUWANEE CREEK STATION LLC</u>	NAME: <u>SARAH</u>
ADDRESS: <u>4157 ASHFORD</u> <u>DUNWOODY RD, SUITE 105</u> <u>ATL GA 30319</u>	ADDRESS: _____ <u>SARAH</u>
PHONE: <u>404-475-9000</u>	PHONE: <u>SARAH</u>
CONTACT PERSON: <u>BRIAN SULLIVAN</u>	PHONE: <u>SARAH</u>
EMAIL ADDRESS: _____ <u>BRIAN@SULLIVANWICKLET.NET</u>	FAX NUMBER: _____ <u>404-475-9600</u>

### PROPERTY INFORMATION

PRESENT ZONING DISTRICT(S): P1MUD REQUESTED ZONING DISTRICT P1MUD  
 PROPOSED DEVELOPMENT: CHANGE OF ZONING CONDITIONS - SEE LOT  
 TAX PARCEL NUMBER(S): 07493-27194 + 07493-27194  
 ADDRESS OF PROPERTY: 3429 + 3433 L-WILKIE SUWANEE RD  
 TOTAL ACREAGE: 2.81 PUBLIC ROADWAY ACCESS: L-WILKIE SUWANEE RD

<b>FOR RESIDENTIAL DEVELOPMENT:</b>	<b>FOR NON-RESIDENTIAL DEVELOPMENT:</b>
NO. OF LOTS/DWELLING UNITS: _____	NO. OF BUILDINGS/UNITS: <u>1</u>
DWELLING UNIT SIZE (SQ. FT.): _____	TOTAL GROSS SQUARE FEET: <u>13,130</u>

### CERTIFICATIONS

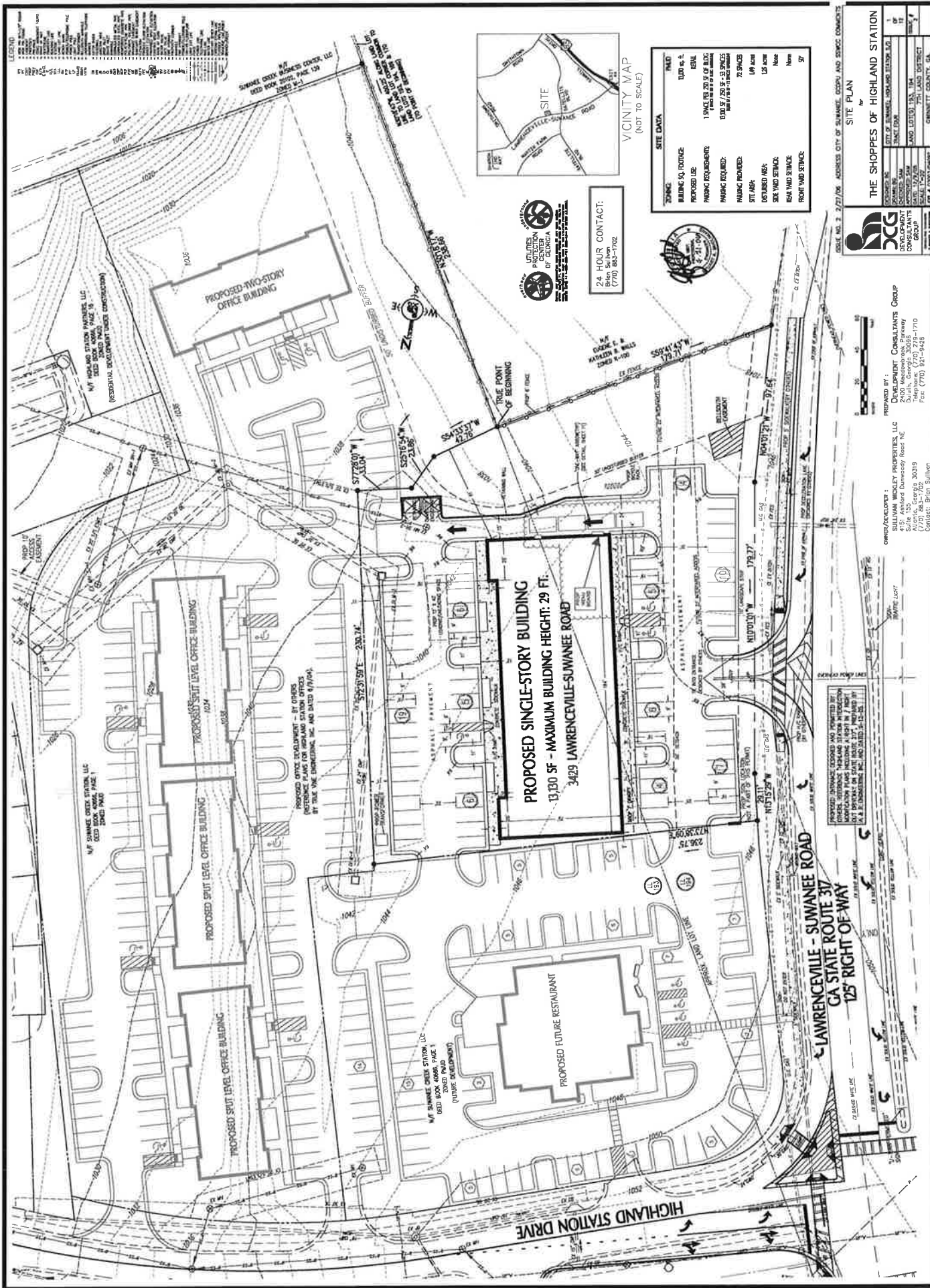
I hereby certify that the above and attached information is true and correct. I am also aware that pursuant to Section 2004 no reapplication on the same land which has been denied by the City Council shall be acted upon within 12 months from the date of last action unless said time period is waived by the Council. In no case shall a reapplication be acted upon in less than 6 months from the date of last action by the Council. I am also aware that pursuant to Section 2003 of the Zoning Ordinance any and all conditions which may be attached to the property shall be binding on the property and all subsequent owners.

Signature of Applicant* <u>Brian Sullivan</u>	Date <u>3-28-12</u>	Signature of Owner* <u>Brian Sullivan</u>	Date <u>3-28-12</u>
Signature of Notary <u>Marcia Quay Cash</u>	Date <u>3-29-12</u>	Signature of Notary <u>Marcia Quay Cash</u>	Date <u>3-29-12</u>



\* If Additional Applicant or Owner Information is Needed Please Complete Additional Application Form(s)

CITY OF SUWANEE USE ONLY  
 Date Received: 3/30/12 Case No.: RZ-2012-001 Accepted By: DR



**THE SHOPPES OF HIGHLAND STATION**  
 SITE PLAN  
 by  
**DEVELOPMENT CONSULTANTS GROUP**

TABLE NO. 2, 2/27/06 ADDRESS: CITY OF SUWANEE, GEORGIA AND SUWANEE COMMUNITY CENTER

PROJECT NO.	06-0001
DATE	2/27/06
SCALE	AS SHOWN
DRAWN BY	B.SULLIVAN
CHECKED BY	B.SULLIVAN
DATE	2/27/06
PROJECT NO.	06-0001
DATE	2/27/06
SCALE	AS SHOWN
DRAWN BY	B.SULLIVAN
CHECKED BY	B.SULLIVAN
DATE	2/27/06

**SITE DATA**

PLANNING SQ. FOOTAGE	11,000 SQ. FT.
PROPOSED USE	RETAIL
PARKING REQUIREMENTS	1 SPACE PER 200 SQ. FT. OF BUILDING AREA
PARKING PROVIDED	72 SPACES
STREETS	LAKEVIEW, LAKEVIEW, LAKEVIEW
EXISTING UTILITIES	AS SHOWN
PROPOSED UTILITIES	AS SHOWN
ADJACENT PROPERTIES	AS SHOWN
PREPARED BY	DEVELOPMENT CONSULTANTS GROUP
DATE	2/27/06

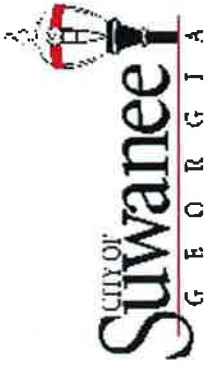
**24 HOUR CONTACT:**  
 Brian Sullivan  
 (770) 883-1702



**DEVELOPER:**  
 SULLIVAN WOOLLEY PROPERTIES, LLC  
 2400 Macomber Parkway  
 Atlanta, Georgia 30318  
 Telephone: (770) 279-1710  
 Fax: (770) 921-9428  
 Contact: Brian Sullivan

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R2-2012-001

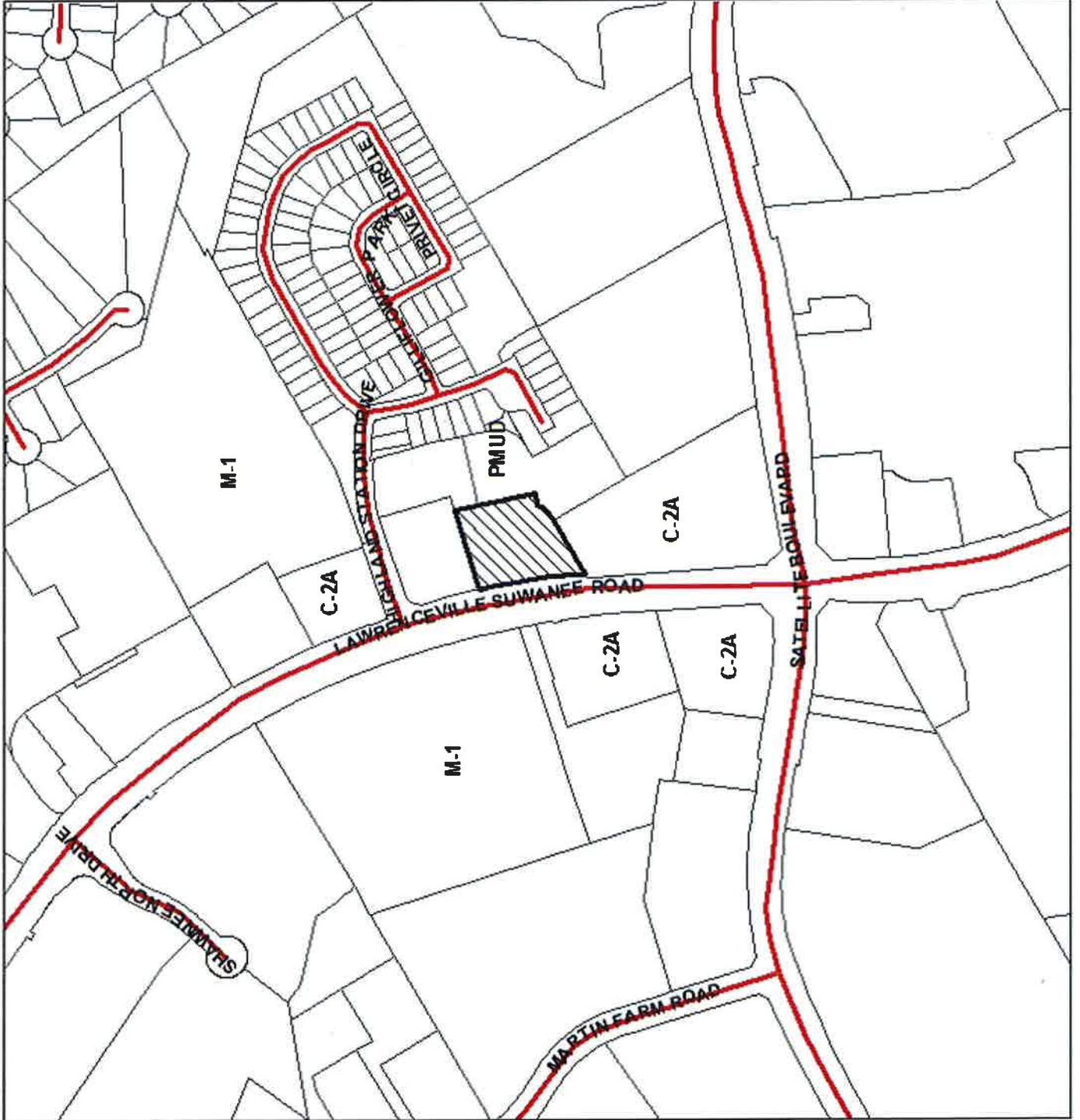
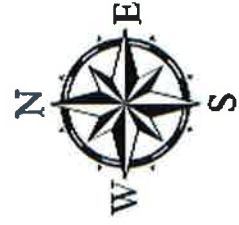


# EXHIBIT A RZ-2012-001

Location Map

## Legend

-  RZ-2012-001
-  Major Road





# EXHIBIT B RZ-2012-001

Aerial Map

**Legend**

	RZ-2012-001
	Major Road

