

**REZONING(S):**

**RZ-2021-007**

**CITY OF SUWANEE  
REZONING ANALYSIS**

**CASE NUMBER:** RZ-2021-007

**REQUEST:** RM-8 (RESIDENTIAL MULTI-FAMILY  
DUPLEX DISTRICT) TO  
M-1 (LIGHT INDUSTRY DISTRICT)

**LOCATION:** OLD PEACHTREE ROAD BETWEEN  
LAWRENCEVILLE-SUWANEE ROAD AND  
HORIZON DRIVE

**TAX ID NUMBER:** 7-171-001B

**ACREAGE:** APPROXIMATELY 9.99 ACRES

**PROPOSED DEVELOPMENT:** LIGHT INDUSTRY BUILDING

**APPLICANT:** OAKMONT PACOLOT ACQUISITIONS, LLC  
3520 PIEDMONT ROAD, SUITE 100  
ATLANTA, GA 30305

**OWNERS:** CARRIAGE HILL ASSOCIATES, INC. and  
RONALD J. STEPHENS  
146 HIGHWAY 138, SUITE 376  
MONROE, GEORGIA 30655

**CONTACT:** HUNTER HIMES  
**PHONE:** 404-815-1104

**RECOMMENDATION:** **APPROVAL**

**PROJECT DATA:**

The subject property is zoned RM-8 (Residential Multi-family Duplex District) with conditions regulating the way the property is developed and limiting use of the property to townhomes. The applicant requests rezoning of the property to M-1 (Light Industry District) in order to allow for up to 165,000 square feet on light industrial uses. The subject property is an approximately 9.99 acre parcel adjacent to the east side of I-85 and adjacent to the State Patrol facility constructed on property formerly occupied by an I-85 rest area. The property is located on a segment of Old Peachtree Road north of the Exit 111 interchange between two intersections with Horizon Drive.

The applicant proposes to develop the property with a 165,000 office warehouse building. The proposed development would have two access points off Old Peachtree Road. One would serve a combination of tractor-trailer and car traffic while the other would serve only car traffic. It would appear that the site could support approximately 138 car spaces and 36 trailer spaces. The

conceptual site plan indicated a detention facility would be located on the western corner of the property located adjacent to I-85.

**ZONING HISTORY:**

The subject property is a small portion (approximately 10 acres) of a larger tract (approximately 40 acres) with a lengthy zoning history in Suwanee. In 1996, at the request of the property owner, the subject property was rezoned from C-2 (General Commercial District) to M-1.

Subsequently, in August of 2001, an applicant sought to rezone the subject property from M-1 (Light Industry District) to RM-8 (Residential Multi-Family Duplex District) to allow for the development of a 334 unit apartment complex (RZ-2001-009). In October of 2001, the City denied the request. The City was subsequently sued for this denial. The plaintiff argued the M-1 zoning of the property was not a “constitutional” zoning district. Gwinnett County Superior Court agreed and remanded the request back to the City for reconsideration. In order to resolve the lawsuit, the City agreed to rezone the property to RM-8 with conditions, per RZ-2001-009 (Remanded) along with an additional 4.5 acres per RZ-2005-006. The conditions of approval were based largely on a proposal by the applicant/plaintiff. The subject property was not a part of the associated RZ-2005-006 rezoning.

An applicant applied to rezone the property in 2019 to amend and/or eliminate some of the conditions in order to allow for a 213-unit townhouse development. After receiving staff’s recommendation, the applicant withdrew the application. The property has remained undeveloped. The existing conditions of zoning are included in background materials for this request.

**DEVELOPMENT COMMENTS:**

If the requested rezoning is granted then the project will be reviewed for compliance with applicable regulations prior to issuance of a development permit. The comments below are intended to highlight significant issues and are not intended to be comprehensive.

Access to the property will be subject to the review and approval of Gwinnett County Department of Transportation. There appears to be one area which may meet the definition of state waters. This will need to be determined prior to submittal for a review. The architecture for the building will be subject the City of Suwanee Architectural Standards.

The concept plan does not appear to show any sidewalk along the road frontage of the property. The City of Suwanee requires sidewalks along all road frontages. The applicant should be prepared to provide sidewalks along Old Peachtree Road.

**ANALYSIS:**

The subject property totals approximately 9.99 acres. The subject property is a heavily wooded site with steep topography. The site drops more than 80 feet from the highest point along Old Peachtree Road to the lowest point along I-85 North. There does not appear to be any environmental constraints (streams, wetlands, floodplain, etc.) on the property, although this will

need to be confirmed prior to issuance of a development permit for the property. It appears that the subject property can accommodate the proposed development.

The subject property is located in a highly industrialized area of Suwanee and Gwinnett County. The property is bounded by I-85 North to the west and Old Peachtree Road to the east. North of the subject property is undeveloped RM-8 property that was formerly part of the same tract as the subject property. Beyond that, farther north, is an industrial park adjacent to Horizon drive. Across Old Peachtree Road, to the east, are three isolated single-family homes surround by industrial uses in unincorporated Gwinnett County. The subject property actually faces the rear of industrial tracts that face Horizon Drive. To the south of the subject property is a utility substation and a self storage facility, both zoned M-1. Across I-85, to the east, are several office warehouse facilities, all zoned M-1. The proposed use of the property as office warehouse is consistent with the surrounding land uses and zoning.

In 2001, when the City was sued after denying a multi-family rezoning on the property, the Future Land Use Plan in the 2020 Comprehensive Plan recommended industrial uses for the subject property. During the rezoning process and in the subsequent law suit, the City argued that industrial uses are appropriate in this location. Now, the Future Land Use Plan in the 2040 Comprehensive Plan still recommends office-industrial uses for the subject property. Industrial uses are consistent with the surrounding area. Residential uses are out of place on the subject property.

The surrounding area is not well suited for townhomes. If developed residentially, the property would be the only residential development within the city limits on the east side of I-85, which would expand the geographic footprint for city services serving residential, specifically police services. Typically, townhomes would be located near supporting commercial uses, such as shopping centers, restaurants, and grocery stores. No such uses are located within walking distance. If such uses were nearby, it would be uncomfortable to walk to these uses. Old Peachtree Road, in this area, does not have sidewalks and is not pedestrian friendly.

The subject property is exposed to multiple negative externalities that are not conducive to the long-term success of residential uses. First, the property is surrounded by industrial uses. Residential uses are not typically located in the midst of industrial uses since industrial uses commonly produce noise and are viewed as aesthetically unappealing. Second, the proximity of the proposed project to I-85 means that the development would be subject to significant noise pollution from the cars and trucks traveling at high rates of speed on I-85. Third, Gwinnett County has a candy cane shaped sanitary sewer vent located near the subject property. This vent frequently releases sewer system related odors. Residents of a proposed development would be impacted by noise, visual unappealing surroundings, and sewage related odors. This combination of unappealing environmental factors would detract from the viability of the residential development on the property.

In summary, the use of the property for townhomes (as currently zoned) is not consistent with the 2040 Comprehensive Plan. The proposed request to rezone the property to M-1 for speculative office-warehouse is consistent with the Comprehensive Plan. Additionally the proposed use is consistent with the surrounding uses. As such, the Planning Department recommends **APPROVAL** of **RZ-2021-007**.

## 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 proposed development is consistent with the surrounding uses.

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

The proposed rezoning would not adversely affect existing uses or usability of adjacent or nearby property.

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

The subject 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;

Approval of the request likely would not result in 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 development proposal is consistent with the Future Land Use Plan in the 2040 Comprehensive Plan, which calls for Office-Industrial land uses for the subject property similar to those that surround the property.

- 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;

In 2005, Gwinnett County Superior Court determined that the subject property's former zoning, M-1 (Light Industry District) was not appropriate for the property, and the property was rezoned to RM-8 (Residential Multi-family Duplex District) with conditions in order to settle the case. The resulting zoning of the property as RM-8 with conditions is entirely inconsistent with the 2040 Comprehensive Plan.



### REZONING APPLICATION

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

<p align="center"><b>APPLICANT INFORMATION*</b></p> <p>NAME: <u>Oakmont Pacolet Acquisitions, LLC</u></p> <p>ADDRESS: <u>3520 Piedmont Road</u> <u>Suite 100</u> <u>Atlanta, GA 30305</u></p> <p>PHONE: <u>678-904-3608</u></p>	<p align="center"><b>OWNER INFORMATION*</b></p> <p>NAME: <u>Carriage Hill Associates, Inc.</u></p> <p>ADDRESS: <u>146 Highway 138, #376</u> <u>Monroe, GA 30655</u></p> <p>PHONE: <u>404-456-0239</u></p>
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Melody A. Glouton, Esq.; mglouton@atclawfirm.com  
 CONTACT PERSON: Hunter Himes CONTACT PHONE: 770-815-1104  
 EMAIL ADDRESS: hhimes@oakmontre.com FAX NUMBER: 404-869-9996

**PROPERTY INFORMATION**

PRESENT ZONING DISTRICT(S): RM8 REQUESTED ZONING DISTRICT M-1

PROPOSED DEVELOPMENT: 150,000 - 165,000 SF speculative light industrial building

TAX PARCELNUMBER(S): #R7171 001B

ADDRESS OF PROPERTY: 100 Old Peachtree Rd. NE Suwanee, GA 30024

TOTAL ACREAGE: 9.988 PUBLIC ROADWAY ACCESS: Old Peachtree Road NE

<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>150,000</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.

<p><u>[Signature]</u> Authorized _____        Signature of Applicant* _____        Print Name* <u>Stephen L. Nelson</u>  <u>[Signature]</u>        Signature of Notary</p>	<p><u>[Signature]</u> _____        Signature of Owner* _____        Print Name* <u>J Row Stephen</u>  <u>[Signature]</u>        Signature of Notary</p>
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\* If Additional Applicant or Owner Information is Needed Please Complete Additional Application Form  
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CITY OF SUWANEE USE ONLY

Date Received: 10-1-21 Case No.: RZ-2021-007 Accepted By: AD

# ANDERSEN | TATE | CARR

**LETTER OF INTENT**  
**AND**  
**RESPONSE TO STANDARDS GOVERNING EXERCISE OF**  
**THE ZONING POWER**

and other materials required by  
the Code of Ordinances, City of Suwanee, Georgia  
for the  
Rezoning Application

of

**OAKMONT INDUSTRIAL GROUP, LLC**

for

±9.988 Acres of Land  
Located at Old Peachtree Rd. NE and Interstate 85, Suwanee, Georgia 30024  
Land Lot 171, 7<sup>th</sup> District, City of Suwanee, Gwinnett County, Georgia  
Parcel ID: R7171 001B

**From RM-8 to M-1**

Submitted for Applicant by:

Melody A. Glouton, Esq.  
Andersen Tate & Carr, P.C.  
One Sugarloaf Centre  
1960 Satellite Blvd.  
Suite 4000  
Duluth, Georgia 30097  
770.822.0900  
[mglouton@atclawfirm.com](mailto:mglouton@atclawfirm.com)

## **I. INTRODUCTION**

This Application for Rezoning is submitted for an 9.988-acre parcel of land located in Land Lot 171 of the 7<sup>th</sup> District of Gwinnett County, City of Suwanee, and identified as Tract 1 of Parcel ID R7171 001B (hereinafter the “Property”) on the survey prepared by Paulson Mitchell, Inc. dated September 23, 2021 and filed with this Application.

The Property is currently zoned RM-8 (Residential Multi-Family). The Applicant, Oakmont Industrial Group (“Oakmont”) now seeks approval to rezone the entire Property to M-1 (Light Industrial District) to permit development of a Distribution Facility, totaling up to 165,000 square feet.

This document is submitted as the Letter of Intent, Response to Standards Governing the Exercise of Zoning Power, and other materials required by the Zoning Ordinance of the City of Suwanee, Georgia.

## **II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

The Property is a mostly rectangular tract bounded to the south by Old Peachtree Road and to the north by Interstate I-85. It is surrounded by industrial uses with a utility sub-station and Public Storage to the southwest and the Georgia Highway Patrol station to the northeast. Additional industrial buildings and uses are located directly across I-85 from the Property. The Property is undeveloped and heavily wooded. The adjacent parcels are zoned M-1 and improved with service businesses, storage facilities, warehouses, and distribution facilities. There are also two R-100 properties across the street that store dump trucks and appear to be used for a concrete company.

The Property lies within “Suwanee Gateway Character Area,” which includes the four quadrants of the I-85 interchange. The major goal of the redevelopment in this Character Area is economic development that increases and diversifies employment opportunities over time. Proximity of the I-85 interchange and other major roadways make this node a regional activity center that can accommodate uses that have both a local and regional draw. As indicated, the Property is undeveloped and surrounded by mostly developed warehouse and light industrial uses. These existing warehouse properties contribute to the industrial base of the City’s economy. The Property is located in an area where Light Industrial zoning has proven to be successful and higher intensity commercial uses are appropriate land uses.

## **III. PROJECT SUMMARY**

As shown on the conceptual site plan prepared by Paulson Mitchell Incorporated dated September 30, 2021 and filed with this Application (hereinafter the “Site Plan”), Oakmont proposes to develop the Property with one, single-story, 150,000-165,000 square foot industrial warehouse / distribution facility with approximately 27 bay doors, 36’ clear height, approximately 36 trailer parking spaces and 138 surface parking spaces. Two entrances are proposed on Old Peachtree Rd. Storm water management facilities will be designed and



installed in accordance with the City of Suwanee Soil Erosion and Sedimentation Control Ordinance, as well as the City of Suwanee Development Regulations related to Stormwater Detention. The building façade will be in compliance with the City of Suwanee Architectural and Design Standards for buildings within M-1 zoning districts and more particularly described in Table II (Allowed Building Materials). The Property is located immediately adjacent to large-scale industrial uses and the proposed warehouse distribution facility is an appropriate in-fill development which is compatible with surrounding land uses. As a result, the proposed development will be compatible with the surrounding uses and will blend harmoniously into the area.

#### **IV. RESPONSE TO STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER**

The Applicant provides the following information in response to the required analysis:

- (A) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent or nearby property.

Yes, the proposed development will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed development will be an approximately 150,000-165,000 square foot warehouse/distribution facility, which is the same type of structure as the surrounding properties along Old Peachtree Rd. Most of the surrounding properties are zoned M-1 and use of the Property for Light Industrial is appropriate for this area considering its proximity to the I-85 interchange. The recent denial of the City Council to rezone the Property to multifamily reflects a policy determination to support industrial uses and development at a larger scale.

- (B) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

No, approval of the proposed rezoning will not adversely affect the existing use or usability of adjacent or nearby properties from an environmental, noise, easement, accessibility, traffic, or any other standpoint. Site access will be via Old Peachtree Rd which does not conflict with existing ingress and egress of adjacent parcels. Moreover, the immediate area already has several industrial uses, and the addition of the proposed development would be complementary to what is already in the vicinity.

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

The Applicant submits that due to the size, location, layout, topography, market conditions, and natural features of the Property, it does not have reasonable economic use as currently zoned. The current property, as zoned RM-8, has been undeveloped since purchased by the current owner.

- (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.

No, the proposed development will not result in an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. We have received utility availability letters from local jurisdictions and do not foresee any burdens on existing utilities. More importantly, industrial facilities, especially distribution centers, use minimal water and sewer capacity.

(E) Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Yes, the proposed rezoning substantially conforms to the policy and intent of the land use plan. The City of Suwanee 2040 Comprehensive Plan identifies this specific parcel as potential commercial/retail/office within the Suwanee Gateway Character Area, but the positioning of the site does not support this as a residential development. The Property is adjacent to industrial uses and is listed on the Future Land Use Map as an industrial use.

(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.

Given the position of the Property and its proximity to existing industrial, as well as the I-85 Interchange, the proposed development is an appropriate use for this site. The warehouse/distribution facility will allow the Property to be developed and generate tax revenue for both the City and Gwinnett County.

## V. JUSTIFICATION FOR REZONING

The Applicant respectfully submits that "The 1998 Zoning Ordinance of the City of Suwanee, Georgia" (the "Ordinance"), as amended from time to time, to the extent that it classifies the Property in any zoning district that would preclude development of a warehouse / distribution facility, is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the Mayor and Council of the City of Suwanee to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current zoning classification and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute and arbitrary and

unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested rezoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Mayor and Council of the City of Suwanee cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably with the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See Guhl v. Holcomb Bridge Road Corp., 238 Ga. 322 (1977).

## **VI. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that this Application to Rezone from RM-8 to M-1 be approved. The Applicant welcomes the opportunity to meet with the City of Suwanee's Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 1<sup>st</sup> day of October, 2021.

ANDERSEN, TATE & CARR, P.C.

*Melody A. Glouton*

Melody A. Glouton, Esq.

Enclosures  
MAG/ag





P2-2021-007



**PAULSON MITCHELL**  
INCORPORATED  
224 Mill Street  
Lawrenceville, Georgia 30046  
770-962-1111  
www.paulsonmitchell.com

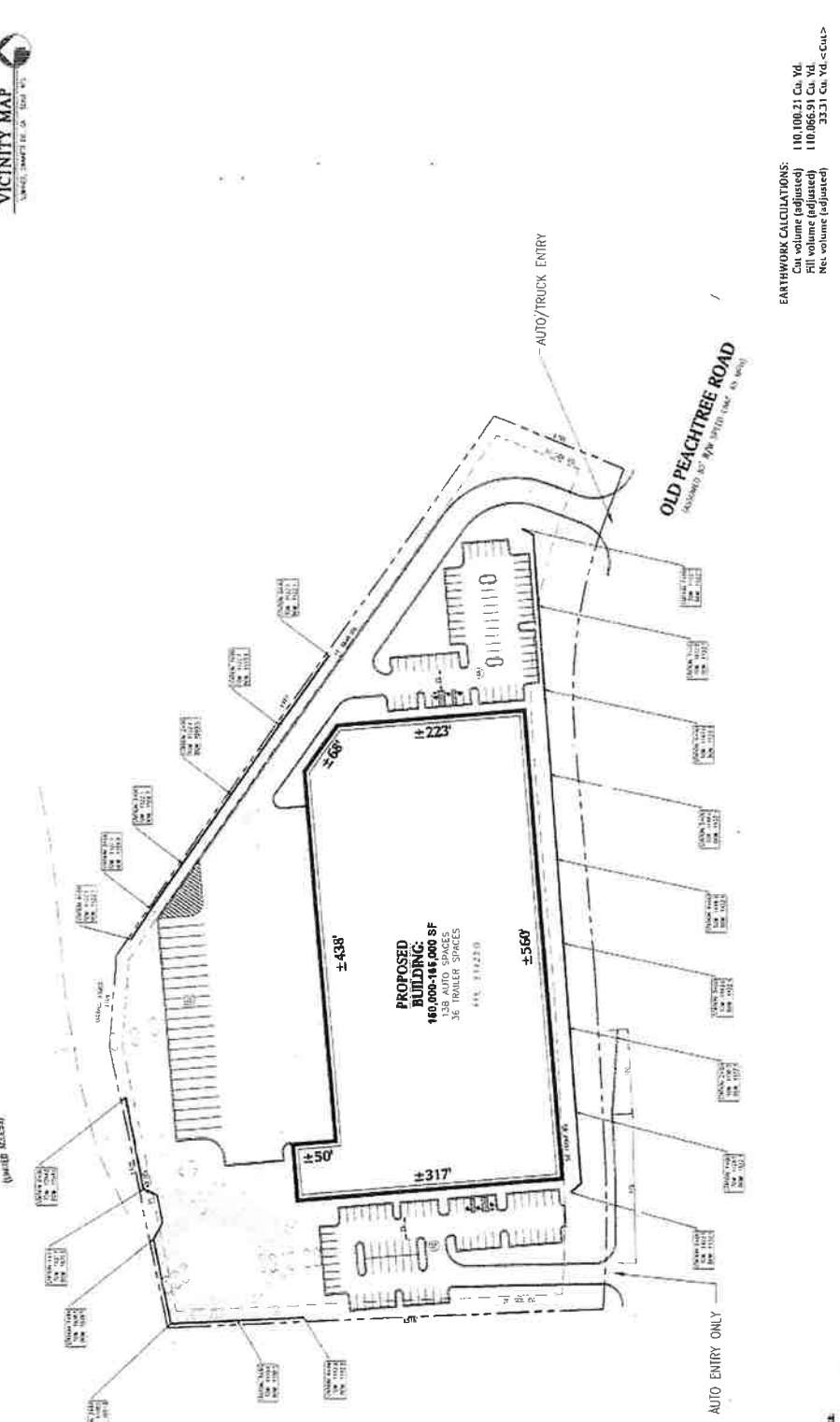
**PROPOSED DEVELOPMENT**  
610 PEACHTREE ROAD NE AT  
INTERSTATE 85  
LAWRENCEVILLE, GA 30046  
OWENETT, CO., GA 30024

**OAKMONT**  
INDUSTRIAL GROUP  
3520 PELLISSIER ROAD, SUITE 100  
ATLANTA, GA 30305

**ZONING INFORMATION**  
ZONING CLASSIFICATION: M-1 (MANUFACTURING)  
PERMITTED USES: LIGHT MANUFACTURING, STORAGE, DISTRIBUTION, REPAIR AND MAINTENANCE OF MOTOR VEHICLES, TRAILERS, AND EQUIPMENT, OFFICE USE, BUSINESS USES, AND USES CONSISTENT WITH THE CHARACTER OF THE AREA.  
BUILDING HEIGHT: 35' (MAX)  
BUILDING SETBACKS: 10' (FRONT), 10' (SIDE), 10' (REAR)

**BUILDING SUMMARY**  
TOTAL BUILDING AREA: 148,000 SF  
TOTAL TRAILER SPACES: 36  
TOTAL AUTO SPACES: 138  
TOTAL TRUCK SPACES: 1  
TOTAL OFFICE SPACE: 22,729 SF  
TOTAL STORAGE SPACE: 200,517 CU YD  
TOTAL TRUCK SPACES: 1  
TOTAL TRUCK SPACES: 200,517 CU YD

**PRELIMINARY SITE PLAN**  
6/8/21



**EARTHWORK CALCULATIONS:**  
Cut volume (adjusted): 110,000.21 Cu. Yd.  
Fill volume (adjusted): 110,065.91 Cu. Yd.  
Net volume (adjusted): 333.1 Cu. Yd. < Cut >

**PRELIMINARY SITE PLAN**



SCALE: 1" = 60'

PS-5

RZ-2021-007





# Location Map

RZ-2021-007

## Legend



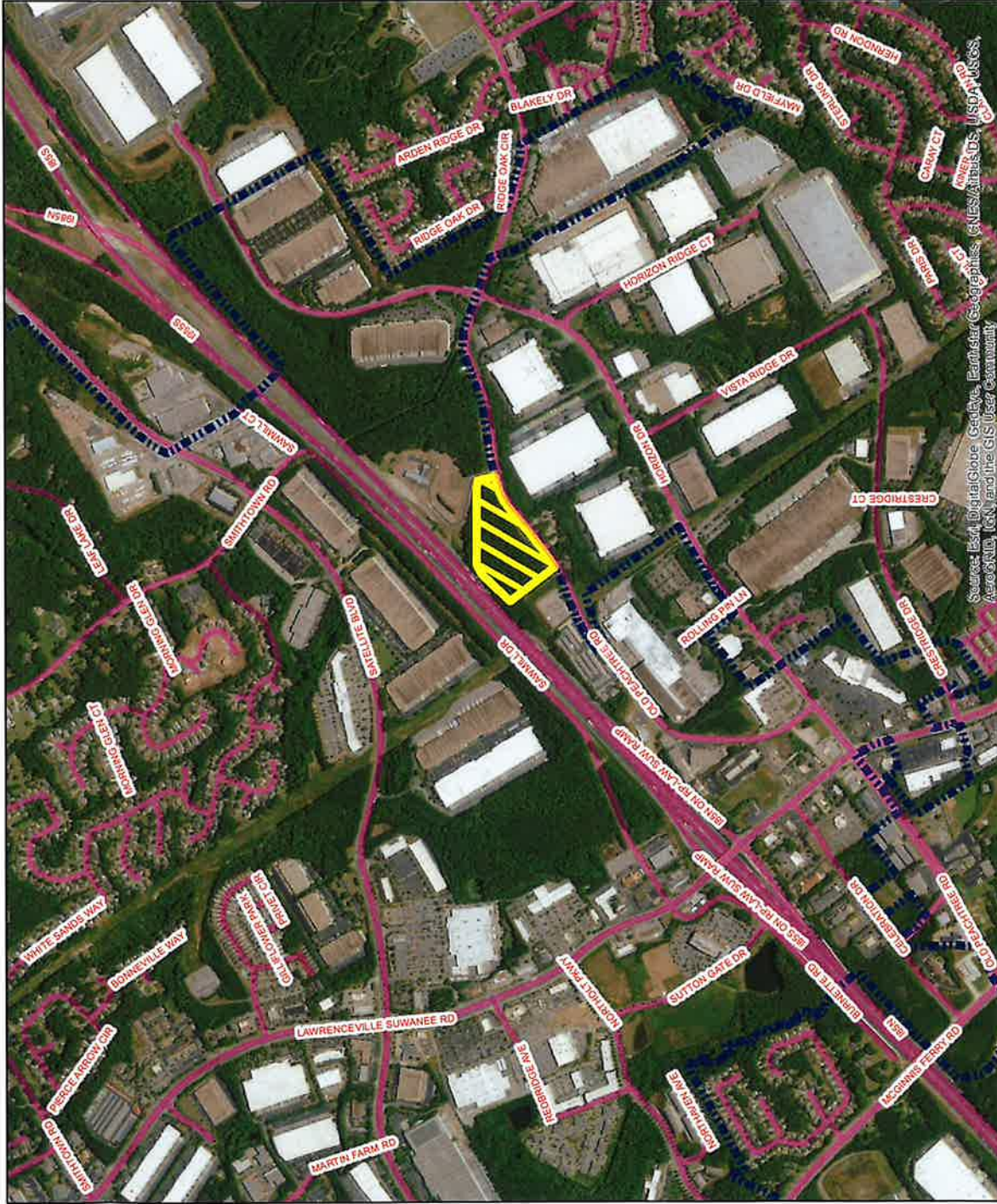
Subject Property



City Limits



Road



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





# Zoning Map RZ-2021-007



Legend	
	Site
	City Limits
ZONING	
	C-1
	C-2
	C-2A
	C-3
	GCA
	IRD
	M-1
	OI
	OTCD
	PMUD
	R-100
	R-140
	R-75
	R-85
	RM6
	RM8

