



**Jerry Weitz & Associates, Inc.  
Planning & Development Consultants**

1225 Rucker Road, Alpharetta, Georgia 30004  
Phone: (404) 502-7228 E-Mail: [jweitz@bellsouth.net](mailto:jweitz@bellsouth.net)

Growth Management  
Comprehensive Planning  
Zoning & Land Use Regulations  
Land Development Applications  
Expert Testimony  
Zoning Administration

**MEMORANDUM**

TO: Honorable Mayor and City Council, City of Hoschtou

FROM: Jerry Weitz, Consulting Planner

DATE: August 17, 2023

RE: City Council Work Session Agenda Item: Z-23-02 Annexation and Zoning and Rezoning: from county and A (Agricultural) District to PUD (Planned Unit Development) District, State Route 332, East Jefferson Street, and West Jackson Road

---

This memorandum provides planning staff's recommended modifications to the set of zoning conditions attached to Ordinance Z-23-02, along with a rationale for changing the conditions.

The city planner and city manager have been involved in negotiations with the applicant, the Providence Group, since June 2023 in an effort to gain agreement on conditions of zoning approval for the development. We had succeeded in gaining agreement on many if not most of the conditions of approval. However, one of the points of disagreement during negotiations between planning staff and the Providence Group was staff's urging that the subject property be required to include a public street connection between SR 332 and East Jefferson Street (i.e., "interconnection") through the developed portion of the Planned Unit Development (PUD). I refer to this as option "A" and the "preferred" or "initial" recommendation and is shown on a map attached to this memo.

For various reasons, the applicant would not agree to Option "A" interconnection. At the last meeting between city staff and Providence Group, with participation of Shannon Sell (the major of three property owners), consensus was reached: the applicant agreed to reserve a future right of way that would allow for a road south of the developed part of the PUD connecting to other parts of the Sell farm and beyond. The ordinance, made part of the council's work session package for today, includes conditions relating to that alternative proposal for interconnectivity. That alternative is referred to here as option "B" or the alternative recommendation, and is shown on a map attached to this memo (along with other staff-proposed interconnecting streets).

For reasons not necessarily made evident to planning staff, The Providence Group has now terminated its agreement with the property owners and is no longer the applicant for the project. The major landowner, Shannon Sell, wishes to proceed with the project and has received letters that authorize him to continue with the subject application as applicant. City staff continued to negotiate with Mr. Sell, and the result was the recommended changes to zoning conditions in this memorandum. The remainder of this memo explains briefly the rationale for the changes.

Mr. Sell has agreed to modify the condition so that it *may* include Option A interconnection, at the option of the applicant. Again, this was the first and preferred alternative of planning staff to provide public street connectivity between SR 332 and East Jefferson Street. But there is no certainty that another developer would be willing to reserve and construct the public interconnecting road as urged by planning staff. That is, the owner/ developer would still be able to make the interconnecting street through the developed part of the PUD a *gated private street*. Hence a first change is to reinsert the option originally preferred by planning staff that it may (but is not required to) be an interconnecting *public* street.

Other conditions in Ordinance Z-23-02 would require that the owner/developer dedicate the right of way for Option “B” prior to approval of a final plat for the PUD. Another condition in Ordinance Z-23-02 would require the owner/ developer to purchase a piece of land not now in the city, and not part of the PUD but which was per Providence Group under contract, which provides the connection for Option “B” to SR 332. Mr. Sell, who again has assumed the status of applicant for Z-23-02, has indicated he is unable or unwilling to purchase the small piece of additional land. Also, Mr. Sell has indicated that the city has, or would still retain, leverage to ensure that an alternative such as “option B” interconnection could still occur. He noted that if planning staff insisted on getting the right of way reservation proposed by Providence Group, it would be basically a path to nowhere for now, and that through future rezoning and/or future development permitting of abutting parcels the city could still accomplish the objective of an interconnecting public street (through multiple parcels) even if the owner/developer elected not to make “Option A” a interconnecting public street.

Staff agrees that, through the technique referred to in a separate memo as an “official corridor map,” the city can ensure that land is reserved for an Option B in the event that Option A is not satisfied. Planning staff will explain this further during the work session.

Attachment

c: Shannon Sell

## RECOMMENDED CHANGES TO CONDITIONS OF ZONING APPROVAL, Z-23-02

### 5. Minimum/maximum required entrances/exits.

- (c) **Pendergrass Road (SR 332).** There shall be one street entrance/exit serving the PUD connecting to Pendergrass Road (SR 332), which will be private ~~unless a~~ **or** public street ~~is approved by City Council.~~, the location and design of which shall be subject to the approval of Georgia Department of Transportation. If private, the private street entrance/exit may be gated. In addition, **if private**, there shall be a right of way reserved for a future public street onto Pendergrass Road, as shown on the site plan, the location and design of which shall be subject to the approval of Georgia Department of Transportation (see further description below).
- (d) **Public or** private through street. The PUD subdivision design shall be required to include a street (private and gated ~~unless otherwise approved by the City Council~~ **or public**) that connects Pendergrass Road (SR 332) and East Jefferson Street which shall be constructed by the owner/developer as the PUD is developed/phased.
- (e) ~~**Public through street right of way (reservation and dedication).**~~ The owner/ developer shall reserve land (in substantial conformance with that shown on the site plan or as otherwise approved by City Council, the exact alignment of which may be modified if necessitated by site planning and engineering) for a future public street right of way connecting Pendergrass Road (SR 332) within the boundary of Map/Parcel 113/ 004 (controlled by the owner/developer at the time of this ordinance approval but not included within the boundary of the PUD), and extending across all of the southern boundary of that portion of Map/Parcel 119/019 controlled by the owner/ developer, to a point westerly where it intersects with the common property line of Map/Parcel 119/ 019 (within the PUD) and 119/019A (i.e., adjacent tract owned by Shannon Sell). There shall be no development authorized within the reserved right of way unless specifically approved by the City Council. If this future right of way is shown on an “official corridor map” as a future public street (or similarly titled planning document or component of the comprehensive plan) adopted by the City Council, then prior to issuance of final plat approval for any phase in the PUD, the owner/ developer shall dedicate the future public right of way in fee simple title at no cost to the city. If Map/Parcel 113/004, that part of Map/Parcel 119/019, or any other part of the land showing the future public street is sold or ownership transferred to another entity, such sale or ownership transfer shall be required to be deed restricted so that this obligation to reserve and dedicate the future public street right of way shall survive and be binding on any future owner of Map/Parcel 113/004 and that part of Map/Parcel 119/019. Furthermore, any subsequent owner of the right of way shall be required via deed restriction to dedicate said future public street right of way to the city at no cost to the city, prior to development permit approval for any development on Map/Parcel 113/ 004 or that portion of Map/Parcel 119/019A showing the future public street reservation. Once the right of way for the future public street is dedicated to the city, this zoning condition shall not be construed in any way to prohibit completion of the PUD by the owner/ developer per this ordinance.
- (f) ~~**Annexation of Map/ Parcel 113/004.**~~ To facilitate the above condition relative to the future public street right of way, the owner/ developer agrees to annexation of Map/Parcel 113/ 004 and agrees to apply for annexation of Map/Parcel 113/004 within six months of the effective date of this ordinance and to apply for zoning of said parcel to PUD to be incorporated into the PUD approved by this ordinance.

