

CITY OF HOSCHTON
CITY COUNCIL
THURSDAY, JANUARY 11, 2024 AT 6:00PM
HOSCHTON COMMUNITY CENTER
65 CITY SQUARE, HOSCHTON



PUBLIC HEARING
AGENDA

WELCOME AND CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

ADMINISTER OATHS OF OFFICE to Councilmember Christina Brown, Councilmember Scott Courter, and Councilmember Jonathan Jackson

AGENDA APPROVAL

NEW BUSINESS:

1. **Z-23-13 Rezoning:** Southeastern Property Developers, LLC, applicant, seeks to rezone to PUD (Planned Unit Development) five parcels of land totaling 12.74 acres from the existing zoning shown below:
 - (1) 1909, LLC, property owner, rezone from C-1, Neighborhood Business District, 1.7 acres (Map/Parcel 120/014A) fronting approximately 150 feet on the east side of State Route 53 and fronting approximately 360 on the south side of Pendergrass Road (SR 332); and
 - (2) Hilliard L. Lott, property owner, rezone from R-1, Single Family Low Density District, 2.73 acres (Map/Parcel 120/014) fronting on the south side of Pendergrass Road (SR 332); and
 - (3) Queen Frank as Trustee of The Queen Family Trust, property owner, from C-2 (General Commercial/Highway Oriented District) 2.31 acres (Map/Parcel 120/013H), fronting on the south side of Pendergrass Road/SR 332 and fronting on the west side of Towne Center Parkway); and
 - (4) Queen Frank as Trustee of The Queen Family Trust, property owner, from C-2 (General Commercial/Highway Oriented District) 4.14 acres (Map/Parcel 120/013G) between Pendergrass Road (SR 332) and Towne Center Parkway; and
 - (5) Queen Frank as Trustee of The Queen Family Trust, property owner, from C-2 (General Commercial/Highway Oriented District) 1.86 acres (Map/Parcel 120/013M) fronting on the southeast side of Towne Center Parkway.

Proposed uses: 292 luxury apartments and a brew pub.
[Planning staff recommendation: Denial]

ADJOURN

OATH OF OFFICE
CITY OF HOSCHTON

STATE OF GEORGIA
COUNTY OF JACKSON

I, **Christina Brown**, a citizen of Jackson County, State of Georgia, do hereby solemnly swear and affirm that I will well, truly, and faithfully perform and discharge the duties devolved upon me as **City Councilmember** for the City of Hoschton, Georgia, that I will faithfully enforce the law of this City, that I will support and defend the Charter of the City of Hoschton as well as the Constitution and laws of the State of Georgia and of the United States of America, and that I will do all in my power to promote the general welfare of the inhabitants of the City of Hoschton, and the common interest thereof.

I do further solemnly swear and affirm that I am not the holder of any unaccounted for public money due this State or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which by the laws of the State of Georgia I am prohibited from holding; and that I am otherwise qualified to hold said office, according to the Constitution and Laws of Georgia.

So help me God.

Sworn to and subscribed before me,
this the ____ day of _____, 2024.

Official's Signature

Notary Public

Official's Printed Name

OATH OF OFFICE
CITY OF HOSCHTON

STATE OF GEORGIA
COUNTY OF JACKSON

I, **Scott Courter**, a citizen of Jackson County, State of Georgia, do hereby solemnly swear and affirm that I will well, truly, and faithfully perform and discharge the duties devolved upon me as **City Councilmember** for the City of Hoschton, Georgia, that I will faithfully enforce the law of this City, that I will support and defend the Charter of the City of Hoschton as well as the Constitution and laws of the State of Georgia and of the United States of America, and that I will do all in my power to promote the general welfare of the inhabitants of the City of Hoschton, and the common interest thereof.

I do further solemnly swear and affirm that I am not the holder of any unaccounted for public money due this State or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which by the laws of the State of Georgia I am prohibited from holding; and that I am otherwise qualified to hold said office, according to the Constitution and Laws of Georgia.

So help me God.

Sworn to and subscribed before me,
this the ____ day of _____, 2024.

Official's Signature

Notary Public

Official's Printed Name

OATH OF OFFICE
CITY OF HOSCHTON

STATE OF GEORGIA
COUNTY OF JACKSON

I, **Jonathan Jackson**, a citizen of Jackson County, State of Georgia, do hereby solemnly swear and affirm that I will well, truly, and faithfully perform and discharge the duties devolved upon me as **City Councilmember** for the City of Hoschton, Georgia, that I will faithfully enforce the law of this City, that I will support and defend the Charter of the City of Hoschton as well as the Constitution and laws of the State of Georgia and of the United States of America, and that I will do all in my power to promote the general welfare of the inhabitants of the City of Hoschton, and the common interest thereof.

I do further solemnly swear and affirm that I am not the holder of any unaccounted for public money due this State or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which by the laws of the State of Georgia I am prohibited from holding; and that I am otherwise qualified to hold said office, according to the Constitution and Laws of Georgia.

So help me God.

Sworn to and subscribed before me,
this the ____ day of _____, 2024.

Notary Public

Official's Signature

Official's Printed Name

**CITY OF HOSCHTON, GEORGIA
ZONING ADMINISTRATOR'S
REPORT**



TO: Honorable Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting City Planner

DATE OF REPORT: January 3, 2024

SUBJECT REQUEST: **Z-23-13:** Rezoning from C-1 (Neighborhood Business District), C-2 (General Commercial/highway Oriented District), and R-1 (Single-Family Low Density Residential District to PUD (Planned Unit Development District)

CITY COUNCIL HEARING: January 11, 2024 @ 6:00 p.m.

VOTING SESSION: January 15, 2024 @ 6:00 p.m.

APPLICANT: Southeastern Property Developers, LLC

OWNER(S): 1909, LLC; Hilliard L. Lott; and Queen Frank as Trustee of The Queen Family Trust

PROPOSED USE: 292 luxury apartments (6 buildings, 77,520 square feet) and a restaurant brew pub (6,120 square feet)

LOCATION: Fronting approximately 150 feet on the east side of State Route 53, and fronting on the south side of Pendergrass Road (SR 332) between SR 53 and Towne Center Parkway, and fronting on the north and south sides of Towne Center Parkway

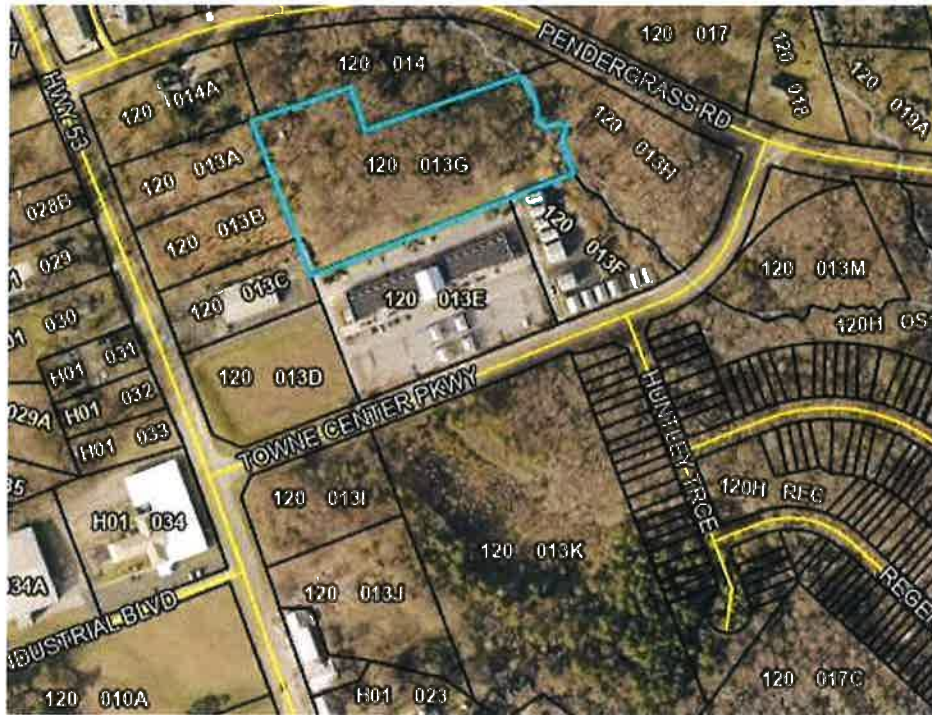
PARCEL(S) #: 120/014A, 120/014, 120/013H, 120/013G and 120/013M

ACREAGE: 12.74

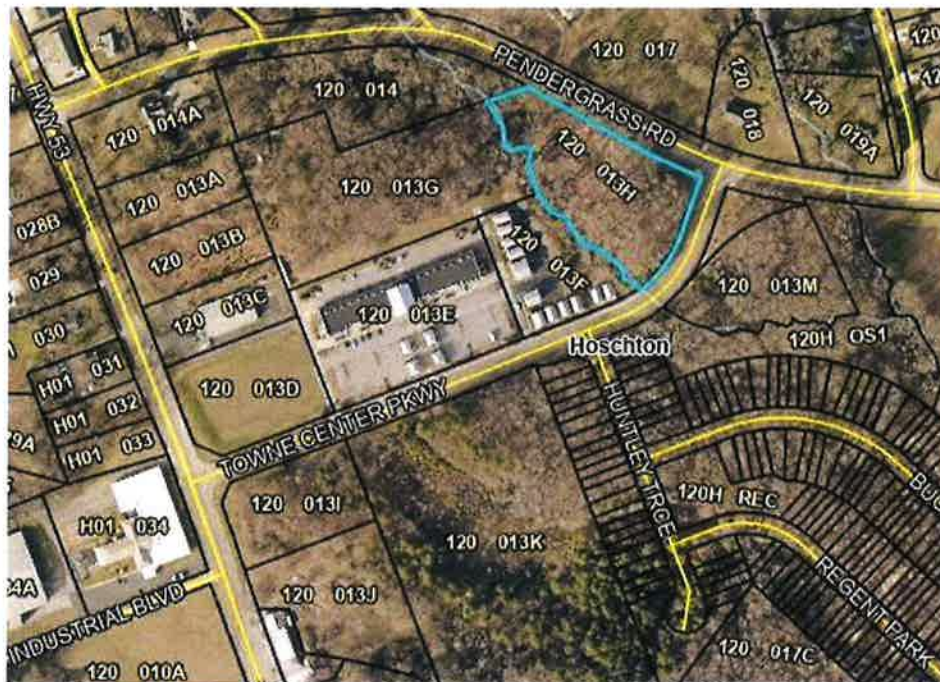
EXISTING LAND USE: House and garage (vacant, previously used as a real estate office); Vacant/undeveloped

SURROUNDING LAND USE AND ZONING:

North: Across Pendergrass Road (SR 332): Commercial, C-1 (Neighborhood Business District); Office, C-1; Single-family detached dwelling, C-2 (General Commercial/Highway Oriented District); Single-family detached dwelling, OR (Office Residential District); Park/open space, INST; Single-family detached dwelling, A (Agricultural District); Single-family detached dwelling, C-1 (Z-23-02); Highway right of way, C-2



Tax Map/Aerial Photograph: 3 of 5



Tax Map/Aerial Photograph: 4 of 5



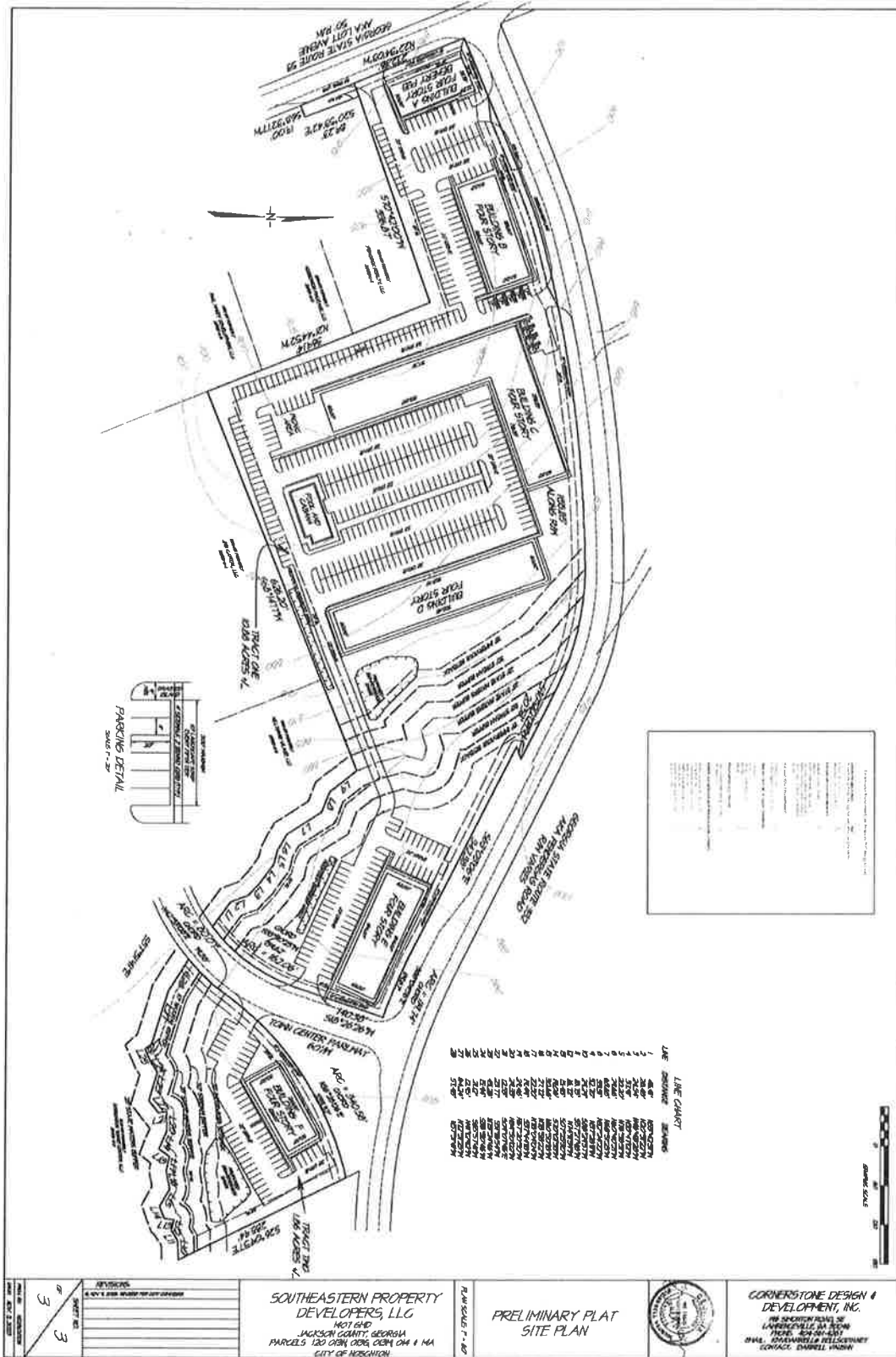
Tax Map/Aerial Photograph: 5 of 5

APPLICATION SUMMARY AND SITE PLAN REVIEW

Overview. The applicant seeks rezoning from C-1, C-2, and R-1 to PUD for a planned unit development including a 6,120-square foot restaurant (microbrewery) and 292 apartments. The site plan shows six apartment buildings (one with first floor commercial space for a brew pub), with four stories each, for a total of 77,520 square feet of residential space. A letter of intent, development summary, community benefit statement, and dimensional requirements summary are attached to this staff report along with the proposed site plan for the property.

Constitutional objections. In addition to these application materials, the applicant's attorney has filed a letter demanding that the application be considered complete and that it be processed. That letter also raises constitutional objections to the current zoning as applied to the subject properties. The applicant claims that the current zoning is unconstitutional and deprives the applicant of all viable economic uses. Further, the applicant objects to any effort to condition the development or to reduce density from that requested in the application. A written request by planning staff to the applicant's attorney, requesting confirmation that no conditions would be acceptable, was made but was unanswered at the time of this writing.

Frontage and access. The subject property has frontage on SR 53, SR 332, and both sides of Towne Center Parkway. The site plan shows one proposed curb cut onto SR 53 south of SR 332 and two proposed curb cuts on the south side of SR 332 west of Oak Street, as well as one curb cut on the west side of Towne Center Parkway and one curb cut on the east side of Towne Center Parkway. All driveways proposed onto a state route will require approval by the Georgia Department of Transportation. The two curb cuts proposed closest to the intersection of SR 53 and SR 332 may be problematic, because they may not be separated sufficiently from the intersection (i.e., they are within approximately 150 feet of the intersection).



Access (additional considerations): The site plan does not show existing access and utility easements that have been recorded on the final plat for Hoschton Towne Center. Specifically, 44-foot-wide access and utility easements are shown abutting the south property line and including part of the west property line. Some of the access easements may need to be mutually abandoned by the property owners, while others may need to be utilized to provide access. Similarly, until a utility plan for the subject PUD is provided, it is unclear whether the existing utility access easements will need to be utilized.

Topography and hydrology. There is a stream that runs through the site, splitting property on the south side of SR 332 and also forming the southern boundary of the property east of Towne Center Parkway. The site plan shows buffers and impervious surface setbacks as required by code. Topography of the site ranges from a high of 905 feet to a low of about 855 feet, or an elevation difference of 50 feet. The low point is the stream on the east side of Towne Center Parkway.

Parking. Surface parking is shown on the site plan for 499 spaces. At 292 units proposed, plus 6,000 square feet of restaurant space, the minimum parking requirements for the project are as follows:

- Restaurant, bar or tavern: 1 space per 125 square feet (48 spaces required)
- Apartments (1 or 2 bedroom): 1.5 per unit plus 0.1 per unit for guest space (292 units) (467 spaces required); or
- Apartments (3 bedroom): 2 per unit plus 0.2 per unit for guest space (292 units) (642 spaces required).

The application does not specify the distribution of the 292 units by number of bedrooms. However, it is clear that, even if all units are 1 and 2 bedroom, the 499 units shown on the site plan will not be sufficient to meet minimum code requirements for the apartments and the restaurant. To the extent that any of the units are proposed to be three bedrooms, there will definitely not be enough parking spaces to meet the city's requirements.

Recreation and open space. The site plan shows a pool and cabana are proposed for the project. Open space is required to be at least 20% of the total site area. The site plan shows the project would greatly exceed the minimum open space requirement.

Stormwater management. The site plan indicates that stormwater detention will be underground. However, the site plan also shows two bioretention basins and two enhanced swales, therefore reflecting an intent to utilize infiltration techniques at the ground surface for stormwater management.

STANDARDS GOVERNING EXERCISE OF ZONING POWER

Note: The City Council may adopt the findings and determinations of staff as written (provided below), or it may modify them. The council may cite one or more of these in its own determinations, as it determines appropriate. Council may modify the language provided here, as necessary, in articulating its own findings. Or, the council can reject these findings and make its own determinations and findings for one or more of the criteria provided below. Council does not need to address each and every criterion, but only those that are relevant to support its own determination.

Criteria Adopted in the Hoschton Zoning Ordinance (Section 8.03) are shown below followed by staff findings: (note: the applicant has provided responses to these criteria which are included at the end of this staff report):

Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Finding: Density and building height are unsuitable in consulting planner's view. The density of the proposed apartment project is approximately 23 units per acre, and the proposed height is four stories. The density exceeds the allowance of any zoning districts established by the city zoning ordinance (12 units per acre is the maximum in the Multi-Family Residential (MFR) zoning district, although the PUD zoning district allows an applicant to propose any development standard it desires). The city council approved density of approximately 31 units per acre when it approved a PUD rezoning for G.P.'s Enterprises along Nancy Industrial Drive. There are no buildings currently with four stories in Hoschton, although the city council recently approved a PUD rezoning for G.P.'s Enterprises along Nancy Industrial Drive that includes building heights of four stories for apartments. The proposed density and height are considered by planning staff/ consulting planner to be unsuitable for Hoschton, especially in the subject location where only one-story structures exist (see images below).



SR 332 at SR 53



SR 332 at Towne Center Parkway



North Side Town Center Parkway



East Side of SR 53 South of SR 332

In addition, the site plan shows buildings will come up to 20 feet to the right of way of Pendergrass Road (SR 332), which is shown on surveys as a 60-foot right of way but shown on the site plan as a variable right of way. A larger setback from Pendergrass Road is recommended, particularly since SR 332 might need to be widened in the future (at least, near its intersection with SR 53), and so as to provide better compatibility with existing lower intensity

development along the other side of the Pendergrass Road corridor. Also, some of the buildings have facades that are more than 300 feet long; that type of bulk and scale is also considered unfitting for the subject properties. The proposed PUD is considered unsuitable in view of surrounding and nearby land uses (**does not support request**).

Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.

Finding: Due to density, building height, and proposed apartment use, the project if constructed is likely to have adverse effects on existing low density residential, office, and commercial uses in the area. The introduction of residents in what is otherwise primarily a commercial area may mean that the residents will object to certain activities of commercial development such as noise, lighting, traffic, etc. (**does not support request**).

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

Finding: Those parcels zoned C-1 and C-2 have reasonable economic uses as currently zoned. This staff finding is in complete contrast with the applicant's "reservation of constitutional objections" letter, which indicates that the proposed use is the (one and) only viable use for the properties. The parcel zoned R-1 may not have a reasonable economic use, or at least it appears unlikely that (with frontage on a state route in a mostly nonresidential area) it will develop for one-acre lots as allowed by the R-1 zoning district. The R-1 zoning district does allow for uses other than one-acre lots, such as a church, which may be a reasonable economic use for that tract (**does not meet criteria/ does not support request**).

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.

Finding (generally): With 292 dwelling units, the residential component of the PUD would result in an estimated new residential population of 730 persons.

Findings: (streets): A traffic impact study is not required and has not been submitted with the application. With an estimated trip generation of about 6 to 8 vehicle trips per day per unit, the residential portion of the project will generate an additional 1,750 to 2,335 vehicle trips per day (excludes the restaurant). With no new roads proposed, these vehicle trips will utilize the existing road network (SR 53, SR 332, and Towne Center Parkway). There will therefore be some degradation of the level of service for such streets. Improvements to the state routes accessed would be required per the Georgia Department of Transportation. The city would require some improvement to both sides of Towne Center Parkway to accommodate the additional traffic. It is unclear whether the project traffic would be burdensome on the existing road network, absent a traffic study, but the addition of some 2,000 vehicle trips per day is likely to be a burden on the existing road network (**inconclusive**).

Findings: (utilities): The subject request has not been factored into the city's expansion plans for water and sanitary sewer. Due to recent approvals of other large-scale planned unit developments, the city does not have sewer capacity available for the project (**does not support request**). The applicant was informed of this issue prior to filing the rezoning application.

Finding (schools): The school impact policy in the Hoschton comprehensive plan reads as follows: "Evaluate impacts of residential development on the public school system. Where impacts are evident, seek a development agreement to provide school site(s) or otherwise mitigate the impact of residential development on the public school system." The Jackson County 2050 comprehensive plan has school student generation multipliers (year 2019) that are recommended for use in evaluating development proposals. For all grades, the data show that a residential development will generate 0.5291 public school students per household. At that multiplier, the proposed PUD would generate more than 150 additional public school students. That is a functional equivalent of 7.5 classrooms at 20 students per classroom. The units within the proposed PUD are probably not going to generate public school students at this rate of 0.5291 students per household, however. Therefore, this is most likely an overstatement of the impact the proposed units would have on the county school system. Nonetheless, whatever impacts the PUD would have on the county school system are not mitigated by the proposal, and the county public school system is reportedly already overcrowded and expected to continue being overcrowded even considering current capital spending programs (**does not support request**).

Findings (other facilities): Hoschton has adopted impact fees for police and park and open space land. Also, in its comprehensive plan the city has adopted by reference certain county level of service standards for public facilities and services.

- **Law enforcement:** two officers per 1,000 population. The proposed development would create an additional population of an estimated 730 people and hence a demand for additional police officers. Those additional officers are also required to be equipped with vehicles and other equipment. While the proposed development upon construction will generate property taxes for the city, the overall impact on the police department's operations will not be fully mitigated (**does not support request**). Furthermore, prior research and opinion by the Hoschton police chief reveals that apartment complexes have disproportionate demands on law enforcement personnel when compared with other residential land uses.
- **Police capital facilities:** A per residential unit impact fee (city) would be required and assessed for police capital facilities. Thus, that impact will be mitigated (**supports request**).
- **Park and open space land.** A per residential unit impact fee (city) would be required and assessed for park and open space land. In addition, the project is proposed to include a swimming pool and additional open spaces controlled by a homeowners association. Thus, the impact on park and open space land and recreational facilities is expected to be mostly if not entirely mitigated (**supports request**).
- **Emergency medical services (EMS):** Jackson County adopted an EMS impact fee in 2022. Although it does not apply in Hoschton, the level of service standard of 0.1926 square feet of EMS space per functional population is utilized here for purposes of assessing impacts. The residential only portion of the project will generate a need for approximately 140 square feet of EMS facility space. The EMS impact would not be mitigated with the subject proposal (**does not support request**).
- **Fire stations and rolling stock.** Hoschton adopted a fire impact fee in 2020, but it was discontinued in 2023. The level of service standard for fire facilities adopted in the city's

capital improvements element (now discontinued) was 0.87 square feet of fire and rescue building per functional population and 0.41 fire and rescue vehicle per 1,000 functional population. If rezoned and constructed, the project's impact on fire stations and rolling stock will not be mitigated (**does not support request**).

- **Administrative space:** 0.5 square feet per functional population. Estimated impact of the residential part of the PUD is approximately 350 square feet of administrative space. That impact will be only partially mitigated by payment of property taxes if the project is approved and constructed (**does not support request**).

Whether the proposal is in conformity with the policy and intent of the comprehensive plan including the character area map and/or future land use plan map.

Finding: The city's future land use plan map shows the site as being suitable for commercial use. The requested PUD, with almost entirely multi-family residential uses, is inconsistent with that recommendation (**does not support request**), except for the proposal to include a restaurant/ brewery.

Finding (economic development): The comprehensive plan suggests that "the city may need to take more aggressive measures to preserve its nonresidential land supply and prevent conversion to residential that would impede future economic development" (p. 7). That warning in the comprehensive plan, written initially in 2020, is even more applicable today. The proposed PUD would replace future commercial development with multi-family residential development (**does not support request**). The conversion of nonresidential zoning and vacant land to multi-family residential development would be inconsistent with the city's need to preserve sufficient land for nonresidential development (**does not support request**). In planning staff's opinion, this is a critical issue of some urgency, since the City Council rezoned 55 acres (for G.P.'s Enterprises) for mostly residential development that will take away planned nonresidential (light industrial land use) which is needed to balance the city's property tax base. Further erosion of the nonresidential property tax base will lead to an increased property tax burden on existing city residents.

Finding (multi-family residential density): The comprehensive plan provides that the maximum density for multi-family residential is 12 units per acre (per the zoning ordinance). The PUD zoning district allows the applicant to propose different development standards and therefore there is no beginning density maximum for PUD projects. However, the proposed apartment density of some 21 units per net acre is inconsistent with this provision of the comprehensive plan (**does not support request**).

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 proposal.

Finding: The city currently has very few apartments. However, hundreds have been approved in two other projects in the city. The significant apartment residential development already approved in the city, tends to give supporting grounds for disapproval of this request (**does not support request**).

Whether the proposal would create an isolated zoning district unrelated to adjacent and nearby districts.

A PUD zoning if approved might be considered an isolated zoning district, because there is not a PUD zoning district adjacent to the proposal (**does not support request**). Also, any proposed zoning districts that are not fully supported by the comprehensive plan policies and future land use map can and are considered to be isolated or “spot zoning” to the extent that they do not relate to abutting and adjacent zoning districts (**does not support request**).

Whether the proposal would have an impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

Finding: The project, if zoned and developed, would not be expected to have a detrimental impact on the environment (**supports request**), although it would result in extensive deforestation since most of the subject properties are heavily wooded.

CONCLUSION

The proposed apartment residential land use is considered inappropriate at the proposed location. The proposed PUD is too intense for Hoschton with a net density of some 21 units per acre. If approved, it would be excessive in terms of density (units per acre) and height (four stories), would be constructed too close to SR 53, and would be out of character with the city as a whole and the area specifically, which includes one-story structures surrounding it. Taking away land from nonresidential uses is inconsistent with the overall need for the city to preserve its existing commercial and industrially zoned land (i.e., its nonresidential property tax base). Conversion of more nonresidential land for more residential use is not in the long-term interests of the city, in the consulting planner’s opinion.

The city has not planned for the water and sanitary sewer capacity that would be needed for this development, if approved. Even if the city begins immediately to fully implement another phase of capacity expansion to 2 mgd at the city’s treatment plant, it appears that it is going to be some time (i.e., years) before the city could serve the dwelling units proposed with sewer. It is not desirable for the city to plan and program treatment plant expansion too far in advance, particularly if there is any risk of economic recession or economic downturn. The city must protect itself against having to pay debt on facility expansion that might not be utilized right away, in the case of an extended economic recession or downturn.

The impact on other public facilities, in addition to roads, is not fully mitigated. For all of these reasons, consulting planner recommends **DENIAL**. However, conditions of approval are specified in the event the City Council elects to approve the subject request.

RECOMMENDED CONDITIONS OF APPROVAL

If this request for PUD zoning is approved, it should be approved PUD conditional, subject to the applicant's agreement to abide by the following:

1. **Permitted uses and density.** The PUD shall be limited to apartments, and office, institutional, and commercial uses, as well as accessory uses and structures normally incidental to such uses, and including open space and active recreation facilities, as more fully authorized and restricted in these conditions of zoning approval.
 - a. There shall be no more than 144 dwelling units total in the PUD.
 - b. Commercial uses shall be limited to uses permitted in the C-2 zoning district of the Hoschton zoning ordinance, and uses listed as conditional in the C-2 zoning district may be authorized as conditional uses following conditional use procedures of the Hoschton zoning ordinance.
 - c. The following commercial uses are specifically prohibited: Adult establishment, automobile-oriented use (sales, service, repair), check cashing/ payday loan facility, gas station, dollar store, fireworks sales, funeral home, hookah/vapor bar or lounge, self-storage or mini-warehouse; smoke or vape shop, tattoo or body piercing parlor, and title loan facility.
2. **Dimensional requirements and improvement standards generally.**
 - a. The PUD shall be subject to the dimensional requirements specified by these conditions of zoning approval.
 - b. Where the PUD application or these conditions of zoning approval fail to articulate a given regulation, such as accessory building setbacks, maximum lot coverage, and the like, residential uses in the project shall be required to adhere to dimensional requirements of the MFR zoning district and general provisions of the Hoschton zoning ordinance, unless a variance is applied for and obtained.
 - c. Commercial uses shall be required to adhere to dimensional requirements for the C-2 zoning district.
 - d. The PUD shall be subject to the improvement requirements specified in the application, except as modified by these conditions of zoning approval. Where the PUD application or these conditions of zoning fail to articulate a given improvement standard, such as the depth of sidewalk concrete and the like, the project will be required to adhere to the Hoschton subdivision and land development regulations, unless a variance is applied for and obtained.
3. **Dimensional requirements – apartments.**
 - a. Building height for apartments buildings shall not exceed three (3) stories or 50 feet.
 - b. No more than 36 apartment units shall be included in any one building.

- c. Building setbacks for apartment buildings shall be 20 feet front, 10 feet side, and 20 foot rear; provided, however, that apartment buildings shall be setback a minimum of 40 feet from the right of way of Pendergrass Road (SR 332).
 - d. Minimum separation between apartment buildings: 30 feet or 10 feet per story, whichever is greater.
 - e. Each apartment unit shall have an external balcony or (if on ground level) a patio.
 - f. The minimum heated floor area for an apartment unit shall be 700 square feet, and the maximum heated floor area per unit shall be 1,400 square feet.
 - g. The owner/developer shall submit management plans and occupancy/ maintenance rules and regulations for apartment tenants to follow, to the zoning administrator for review and approval by the City Council. There shall be a single entity established to manage the apartment units. There shall be an on-site apartment manager office with dedicated space within the PUD project boundary and with a 24-hour phone contact posted at the management office.
4. **Right of way dedication and road improvements.**
- a. The owner/developer shall dedicate at no cost to the city or the Georgia Department of Transportation 10 feet of additional right of way along the entire property frontage along State Route 53, prior to issuance of a certificate of occupancy for any building in the Planned Unit Development.
 - b. The owner/developer shall install road improvements along SR 53 and SR 332 as may be required and as approved by the Georgia Department of Transportation.
 - c. The owner/developer shall install road improvements along both sides of Towne Center Parkway from its intersection with SR 332 (Pendergrass Road) to include turn lanes (right in and left turn) for both driveways as approved by the public works director and zoning administrator. If additional right of way is required to install these improvements the owner/developer shall dedicate said right of way at no cost to the city.
5. **Architectural elevations and external building material finishes.** The owner/developer shall submit for City Council's consideration and approval, prospective front, side and rear elevations of the apartment buildings, and commercial/residential mixed-use building, prior to issuance of a building permit for any such building. Once approved, the elevation drawings shall be binding on builders and enforceable at the time of building permit issuance.
6. **Recreational amenities.** There shall be recreational amenities for the PUD provided by the owner/ developer to include, at minimum, a swimming pool with surface area commensurate with the number of residential units served, and a bathroom.
7. **Gates.** If gates to the development are provided, the gates shall be setback from the right of way of state highways and public streets a minimum distance determined safe and appropriate by a traffic engineer and as approved by the city's public works director.

8. **Residential development phasing; sewer capacity.** The owner/developer shall acknowledge as part of these conditions of approval that the PUD project is not vested with rights to connect to sanitary sewer until the connection fees are paid, and that no sanitary sewer capacity will be available until at least a sanitary sewer treatment plant expansion providing for a total of 2.0 MGD facility is on line and operating.

9. **No waiver of codes.** Unless specified otherwise or in conflict with these conditions of approval, the PUD shall be governed by city ordinances in effect at the time of development, as may be amended, including but not limited to applicable portions of the zoning ordinance, subdivision and land development ordinance, development impact fee ordinance, stream buffer ordinance, stormwater management ordinance, stormwater utility ordinance, flood damage prevention ordinance, sign ordinance, building and life safety codes, and adopted water and sewer specifications and standard drawings.



Miles Hansford, LLC
ATTORNEYS AT LAW

Main Office: 202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

Joshua A. Scoggins
jscoggins@MilesHansford.com

December 5, 2023

VIA E-MAIL & FIRST CLASS U.S. MAIL

City of Hoschton, Georgia
Attn: Dr. Jerry Weitz, Consulting City Planner (jweitz@bellsouth.net)
61 City Square
Hoschton, Georgia 30548

RE: Rezoning Application of Southeastern Property Developers, LLC - Demand to Process Rezoning Application, Reservation of Constitutional and Other Legal Rights and Ante Litem Notice Pursuant to O.C.G.A. § 36-33-5

Rezoning Applicant: Southeastern Property Developers, LLC

Property Owners: 1909, LLC (Toni B. McGowan & Jan Baker), Hilliard L. Lott, Gwen Harris, Queen Frank as Trustee of The Queen Family Trust

Subject Property: Jackson County Tax Parcel(s): 120014A; 120014; 120013G; 120013H; 120013M

Current Zonings: C1 (Commercial), C2 (Commercial) and R2 (Residential)

Proposed Government Action: Rezoning to Planned Unit Development – PUD

Application Number: Z-23-13

ROW Access: Lloyd Lott Avenue (GA Hwy 53) and Pendergrass Rd.

Governing Jurisdiction: City of Hoschton, Georgia

Dr. Weitz:

Our firm represents Southeastern Property Developers, LLC (“SPD”). SPD is currently under contract to purchase the above-referenced Subject Property, consisting of approximately 12.74+/- acres of land located in the City of Hoschton (“City”) for the purpose of developing a mixed-use project pursuant to the PUD Rezoning Concept Plan attached hereto as Exhibit “A” and incorporated herein by reference (the “Master Plan”). In order to facilitate its proposed mixed-use development, SPD submitted a rezoning application to the City on November 3, 2023 requesting approval of a rezoning to the City’s Planned Unit Development (PUD) zoning district. This rezoning application has been designated by the City as “Z-23-13” (the “Application”).





Miles Hansford, LLC
ATTORNEYS AT LAW

Main Office: 202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

Demand to Process Rezoning Application

First, it is my understanding that since the Application was filed, you have met with representatives of SPD on at least two occasions to discuss what you consider to be deficiencies with the Application. Based on my discussions with representatives of SPD, you have requested certain information be corrected in the Application documents and that SPD submit additional information confirming the amount of open space and the total number of parking spaces proposed within the project. The Master Plan for the project was recently revised on December 4, 2023 and submitted to the City for the purpose of addressing your concerns and to provide the additional requested information. So as an initial matter, I respectfully request that you provide written confirmation either to me or to SPD that the Application is "Complete" and that it will promptly be processed. This includes, but is not limited to, promptly scheduling all required public hearings, publishing all required legal ads and posting all required signs on the Subject Property.

Reservation of Constitutional and Other Legal Rights

Second, I am submitting this Reservation of Constitutional and Other Legal Rights (the "Reservation") to the City on behalf of SPD and the Property Owners in order to place the City on notice of SPD's and the Property Owners' assertion of their constitutional and legal rights in the event that the City refuses to approve the Application as requested by SPD. This Reservation is intended to supplement and form a part of the Application (including any request for zoning, conditional use permit, site plan approval, and variances) of SPD and the Property Owners.

SPD has filed a timely application, has provided all required information and has submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

SPD and the Property Owners object to the standing of any opponents who are not owners of land adjoining the Subject Property and to the consideration by the City of testimony or evidence presented by any party without standing in making its decision regarding the Application. SPD and the Property Owners also object to the consideration of testimony or evidence that is hearsay, violates any applicable rules of procedure or evidence, or that is presented by any party who fails to comply with notice and campaign disclosure requirements.

The Current Zonings (and/or zoning conditions) of the Subject Property are unconstitutional and deprive the Subject Property of any and all viable economic use thereof. The Proposed Use is the only viable economic use of the Subject Property, and the City has deemed the Application necessary to allow the Proposed Use. As such, SPD and the Property Owners filed the Application for the purpose of changing the Current Zonings (and/or zoning conditions) to facilitate the Proposed Use, and to exhaust administrative remedies in the event the Application is denied and litigation is pursued against the City. SPD and the Property Owners reserve the right to challenge the Current Zonings and any zoning conditions as well as any other restrictions affecting the Subject Property.



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Denial of the Application or approval of the Application in any form that is different than as requested by SPD in the Application, will impose a disproportionate hardship on SPD and the Property Owners without benefiting any surrounding property owners. There is no reasonable use of the Subject Property other than as proposed by the Application and no resulting benefit to the public from denial of or modification to the Application.

Any provisions in the applicable land use, subdivision, and/or zoning ordinances (collectively the "Zoning Ordinance") that classify, or may classify, the Subject Property into any of the non-requested zoning or use classifications, including the proposed PUD zoning district at a density or intensity less than that requested by SPD in the Application, are unconstitutional in that they constitute a taking of SPD's and the Property Owners' property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Subject Property is suitable for development as proposed in the Application and it is not suitable for development under any other zoning classification, use, or at a density or intensity less than that requested by SPD in the Application. Failure to approve the Application as requested by SPD and the Property Owners would be an unreasonable application of local land use authority, which bears no relationship to the public health, safety, morality or general welfare of the public and would constitute an arbitrary and capricious abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the City to approve the Application as requested by SPD will prohibit the only viable economic use of the Subject Property, will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between SPD and the Property Owners and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the City to approve the Application as requested by SPD and the Property Owners without the consent of persons who are not elected to the governing body of the City will amount to an unlawful delegation of the City's authority, in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, as amended.

Furthermore, the City cannot lawfully impose more restrictive standards on the Subject Property's development than are presently set forth in the Zoning Ordinance. Any conditions or other restrictions imposed on the Subject Property without the consent of SPD and the Property Owners that do not serve to reasonably ameliorate the negative impacts of the development are invalid and void. The imposition of improvements or design requirements that are unnecessary to facilitate the proposed development would constitute unlawful exactions, illegal impact fees, an





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unconstitutional condemnation, or all of the foregoing. As such, SPD and the Property Owners reserve the right to challenge any such conditions, restrictions, or design requirements.

Finally, SPD and the Property Owners assert that the Zoning Ordinance, Character Area Map, Future Land Use Map/Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Application based upon provisions illegally adopted will deprive SPD and the Property Owners of due process under the law.

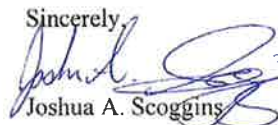
This Reservation forms an integral part of the Application, and we ask that this Reservation be included with SPD's and the Property Owners' other Application materials. SPD and the Property Owners reserve the right to amend and supplement this Reservation at any time.

Ante Litem Notice Pursuant to O.C.G.A. § 36-33-5

In addition to the constitutional violations described above, a denial of the Application as requested will result in SPD and the Property Owners incurring monetary damages for inverse condemnation under both State and Federal law.

This Ante Litem Notice ("Notice") is given to afford the City an opportunity to investigate SPD's and the Property Owners' claims, ascertain the evidence, and avoid the incurrence of unnecessary litigation. SPD and the Property Owners reserve all rights and remedies available to them under the United States Constitution, the Georgia Constitution of 1983 as amended, all applicable federal, state, and local laws and ordinances, and in equity against the City and its officials, agents, employees and contractors both individually and officially, including without limitation, claims for just and adequate compensation, damages, and attorney's fees. The undersigned counsel as well as SPD and the Property Owners reserve the right to amend this Notice in the event that additional facts and/or claims are uncovered that give rise to damages remedies. In the event that new facts are uncovered that give rise to claims against the City for monetary damages, the undersigned counsel, SPD and/or the Property Owners will either amend this Notice or tender a new Notice to the City in accordance with O.C.G.A. § 36-33-5 prior to initiating a lawsuit that includes claims for monetary damages.

Based on the foregoing, SPD and the Property Owners respectfully request that the City approve the Application as requested. Thank you for your attention to this matter.

Sincerely,

Joshua A. Scoggins

cc: Gary Callicott (via email)

Enclosure



LETTER OF INTENT

This rezoning would allow for the construction of 292 units of luxury apartments and a brew pub restaurant in downtown Hoschton.

Consistent with the "Needs and Opportunities" section of the Hoschton comprehensive plan we believe there to be a need for "... additional apartments in specified locations...."

There are a few apartments and zoning for additional apartments currently in Hoschton but none so ideal as this proposed site. The city wants to attract young professionals who want to live in a new luxury apartment which is within easy walking distance to shopping and dining.

We also believe that a quality restaurant in downtown Hoschton will be very much embraced by the local community as well as future residential inhabitants.

The proposed building fronting along Highway 53 would be the first to house both commercial and residential properties.

Respectfully Submitted,



Gary W. Callicott, Managing Partner
Southeastern Properties, LLC

Community Benefit Statement

Hoschton Commons which we have named this planned development will serve as the centerpiece of downtown Hoschton. Hoschton Commons consists of a class A 6000 square feet restaurant facing Hwy 53 at the intersection of Hwy 332 and 292 luxury apartments in a total of six four story buildings. Located in the center of the Hoschton business district and very close to city hall it will become the scene that most people will picture when they think of Hoschton. The projects four story height and urban design will reflect the future direction of the city.

In keeping with the recommendation as set forth in the housing section of the "City of Hoschton Comprehensive Plan" which states "The city needs to ensure that an adequate supply of housing will be available in order to retain young professionals and retired individuals for whom ownership is either not feasible or not desirable. Indeed, housing of all types of households should remain an important goal of the city..." this project provides a very important component of that housing. And, we do not believe many current or future residents would not welcome a new dining and entertainment choice in downtown Hoschton. It should also be noted that one of the main recommendations by state regional commissions is that higher density housing should be placed near routes that have good access to major roads which is the case with this location.

There has been much written in recent years about "live, work, play" communities and their desirability to the residents but also their benefit to the community. Young professionals today want to live in modern low maintenance housing that allows them not only to work from home but to have easy access to an expressway when they must travel, to have both on site and off site amenities that they can walk to, and to live in an area where they can become part of the community if they choose. Some of these young professionals will choose to eventually buy homes and raise families in the area becoming the future leaders of Hoschton and in the meantime they will support the local merchants, doctors, and dentist. This is a unique position that Hoschton finds itself in that is not shared by the vast majority of small cities in Georgia.

As shown on the site plan there is a very active stream flowing through the property which this project protects along with its buffers allowing for continued water quality. The property would be greatly reduced in desirability for any type of zoning other than the PUD. Also, a large portion of the property backs up to the rear of an adjoining shopping center which makes the property less than desirable for most other uses.

In summery, we believe that this mixed use project incorporating a retail restaurant with high end luxury apartments which target young professionals is the best use for this property and the most beneficial use of the land for the future of Hoschton.

Development Plan

This project will be developed in one phase. We anticipate the length of time from the issuance of a land disturbance permit until the project is issued a certificate of occupancy to be approximately 24 months. While we would like to begin the project as soon as possible we understand that the City of Hoschton does not currently have adequate sewer capacity to serve Hoschton Commons and estimates range from three to five years as to the availability. We understand that we would need to work with the City of Hoschton city engineer as to a start date.

**HOSCHTON, GEORGIA
PROPOSED PUD DEVELOPMENT
PENDERGAS ROAD, LOTT AVENUE, & TOWNE CENTER PARKWAY**

LAND USES AND DEVELOPMENT SUMMARY

LAND USES	AREA (SF)	PERCENTAGE OF TOTAL	NUMBER OF UNITS	TOTAL SQUARE FOOTAGE OF BUILDING PER USE(SF)
MICRO-BREWERY/PUB	6,120	7.32		6,120
APARTMENTS	77,520	92.68	292	77,520

IMPROVEMENT REQUIREMENTS COMPARISON

IMPROVEMENT	PUD	OTHERWISE
STREETS	22' WIDE, PRIVATE	26' WIDE, PUBLIC
RIGHTS-OF-WAY	N/A	50' WIDE
SIDEWALK	4' WIDE, ALONG PARKING AND ADJACENT TO BUILDINGS	5' WIDE, BOTH SIDES OF STREET
STORM WATER RETENTION	REQUIRED	REQUIRED
WATER QUALITY AND RUNOFF REDUCTION	REQUIRED	REQUIRED
DENSITY (UNITS/ACRE)	22.92	ZONING DEPENDENT

Rezoning Application, City of Hoschton, GA (continued)

ZONING DECISION CRITERIA

Per Section 8.03 of the Hoschton Zoning Ordinance, the following criteria are applicable to rezoning decisions. The applicant is urged but not required to substantiate the rezoning request by responding to these criteria which provide reasons for approving the application:

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

Response: YES, THIS PROPOSAL WILL PERMIT A SUITABLE USE TO NEARBY PROPERTY WHICH IS IN NEED OF DINING ALTERNATIVES AND LUXURY APARTMENTS IN WALKING DISTANCE TO DOWNTOWN

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

Response: THIS PROPOSAL WILL ENHANCE THE USABILITY OF NEARBY PROPERTY BY PROVIDING QUALITY DINING AND RECREATIONAL ALTERNATIVES AS WELL AS NEEDED HOUSING FOR YOUNG PROFESSIONALS

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

Response: THE CURRENT ZONING IS NOT PROVIDING MUCH ECONOMIC USE. THE PROPOSED ZONING WILL GREATLY ENHANCE THE TAX BASE AND WILL PROVIDE CUSTOMERS TO SUPPORT LOCAL BUSINESSES

- (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.

Response: THIS PROPOSAL WILL NOT CAUSE A BURDENSOME IMPACT ON LOCAL INFRASTRUCTURE.

Rezoning Application, City of Hoschton, GA (continued)

- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive including the character area map and/or future land use plan map.

Response:

THIS PROPOSAL DOES CONFORM WITH THE COMPREHENSIVE PLAN THAT WAS RECENTLY UPDATED.

- (f) Whether there are other existing or changing conditions affecting the use and develop property which give supporting grounds for either approval or disapproval of the prop

Response:

YOUNG PROFESSIONALS TODAY WANT TO LIVE WHERE THEY CAN WALK TO DINING AND SHOPPING. THIS SITE WOULD BE THE ONLY ONE IN HOSCHTON TO PROVIDE THAT.

- (g) Whether the proposal would create an isolated zoning district unrelated to adjacent and districts.

Response:

THE PROPOSAL WILL NOT CREATE AN ISOLATED ZONING DISTRICT

- (h) Whether the proposal would have an impact on the environment, including but not limited drainage, soil erosion and sedimentation, flooding, air quality and water quality.

Response:

WHILE ALL DEVELOPMENT HAS SOME IMPACT ON THE ENVIRONMENT, THE DEVELOPER WILL TAKE ALL PRECAUTIONS POSSIBLE TO INSURE ALL STATE AND LOCAL RULES WILL BE FOLLOWED.



Representative Architecture

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE NO. Z-23-13

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF
HOSCHTON AND FOR OTHER PURPOSES

WHEREAS, Southeastern Property Developers, LLC, applicant, 1909, LLC; Hilliard L. Lott; and Queen Frank as Trustee of The Queen Family Trust, property owners, have filed a complete application to rezone from C-1, Neighborhood Business District, C-2, General Commercial/ Highway Oriented District, and R-1, Single-family Low Density Residential District to PUD, Planned Unit Development District, property fronting on the east side of State Route 53, the south side of Pendergrass Road (SR 332) between SR 53 and Towne Center Parkway, and the north and south sides of Towne Center Parkway (12.74 acres; Map/Parcels 120/014A, 120/014, 120/013H, 120/013G and 120/013M); and

WHEREAS, the Property to be rezoned consists of all that tract or parcel of land lying and being in Jackson County Georgia, as described in more detail in Exhibit A which by reference is incorporated herein; and

WHEREAS, the City Council of the City of Hoschton has authority pursuant to the Hoschton Zoning Ordinance to amend the City of Hoschton’s Official Zoning Map; and

WHEREAS, the city’s zoning administrator has prepared a report evaluating the criteria for zoning decisions as they pertain to the requested zoning; and

WHEREAS, the Hoschton City Council held an advertised public hearing on the application and has complied with all applicable laws and ordinances with respect to the processing of such application; and

WHEREAS, it has been determined by the City Council that it is desirable, necessary and within the public’s interest to approve the rezoning request, and to amend the City of Hoschton’s Official Zoning Map accordingly;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE GOVERNING
AUTHORITY OF THE CITY OF HOSCHTON AS FOLLOWS:**

Section 1. The Property, legally described in Exhibit A attached to this ordinance, is hereby rezoned from C-1, Neighborhood Business District, C-2, General Commercial/ Highway Oriented District, and R-1, Single-family Low Density Residential District to PUD, Planned Unit Development District, Conditional, subject to conditions described in Exhibit B attached to this ordinance.

Section 2. The City Clerk is hereby directed to amend the Official Zoning Map to reflect the zoning classification of the subject property.

So ORDAINED this 15th day of January, 2024.

Debbie Martin, Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this ordinance was adopted as stated and will be recorded in the official minutes.

ATTEST:

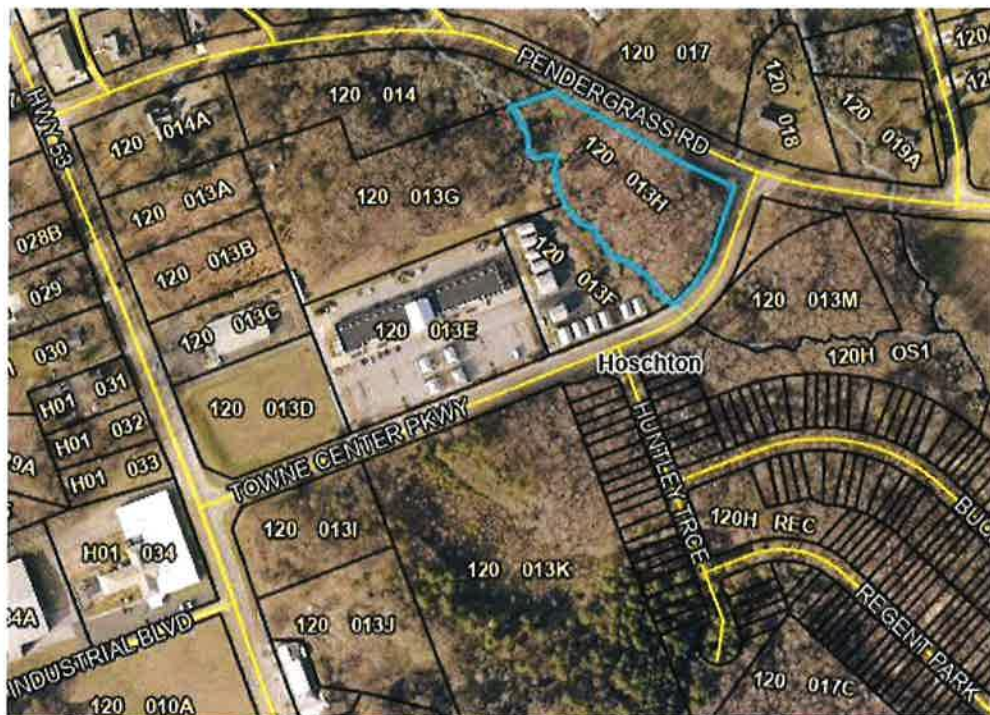
City Clerk

Approved as to Form:

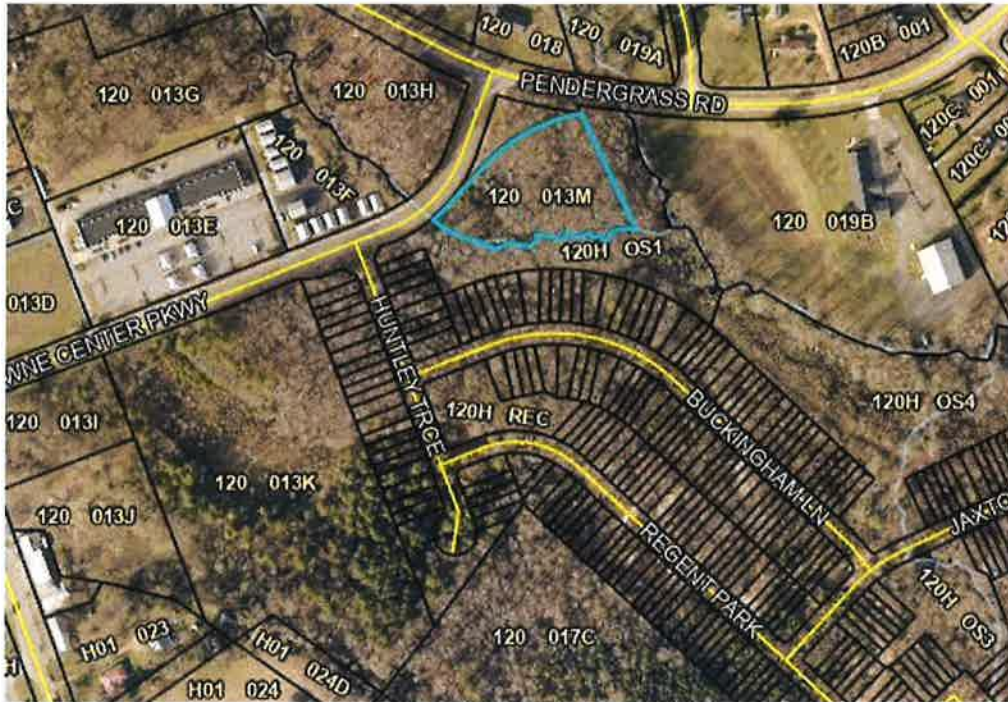
Abbott S. Hayes, Jr., City Attorney



Tax Map/Aerial Photograph: 3 of 5



Tax Map/Aerial Photograph: 4 of 5



Tax Map/Aerial Photograph: 5 of 5

Also, as described by metes and bounds for Tract one (10.88 acres) and Tract two (1.86 acres) as follows:

LEGAL DESCRIPTION
PUD REZONING
HOSCHTON, GA

Tract One

All that tract or parcel of land lying and being in GMD 1407, Jackson County, Georgia and being more particularly described as follows:

Beginning at a point at the intersection of the eastern right-of-way of Georgia State Route 53, aka Lott Avenue, and the southern right-of-way of Georgia State Route 332, aka Pendergas Road, and running thence northeasterly along the southern right-of-way of Georgia State Route 332 a distance of 1155.85 feet to a point; running thence along the right-of-way of State Route 332 on a bearing of S 70°20'04" W a distance of 20.53 feet to a point; running thence along the right-of-way of Georgia State Route on a bearing of S 63°03'06" E a distance of 342.38 feet to a point; running thence along the right-of-way of Georgia State Route 332 an arc distance 119.74 feet, said arc being defined by a chord having a bearing of S 66°04'36" E and a distance of 119.67 feet, to a point at the intersection of the southern right-of-way of Georgia State Route 332 and the western right-of-way of Towne Center Parkway; running thence along the right-of-way of Towne Center Parkway on a bearing of S 18°26'26" W a distance of 140.38 feet to a Point; running thence along the right-of-way of Towne Center Parkway an arc distance of 162.06 feet, said arc being defined by a chord having a bearing of S 35°40'25" W and a distance of 159.62 feet to a point at the intersection of the right-of-way of Towne Center Parkway and a creek; running thence along the centerline of the creek on a bearing of N 53°42'31" W a distance of 46.91 feet to a point; running thence along the centerline of the creek on a bearing of N 20°51'22" W a distance of 28.48 feet to a point; running thence along the centerline of the creek on a bearing of N 46°48'28" W a distance of 24.54 feet to a point; running thence along the centerline of the creek on a bearing of N 53°47'12" W a distance of 37.91 feet to a point; running thence along the centerline of the creek on a bearing of N 76°38'31" W a distance of 20.20 feet to a point; running thence along the centerline of the creek on a bearing of N 60°40'21" W a distance of 29.68 feet to a point; running thence along the centerline of the creek on a bearing of N 68°51'25" W a distance of 63.65 feet to a point; running thence along the centerline of the creek on a bearing of N 32°24'22" W a distance of 33.51 feet to a point; running thence along the centerline of the creek on a bearing of N 37°28'11" W a distance of 52.70 feet to a point; running thence on a bearing of S 68°14'17" W a distance of 626.20 feet to a point; running thence on a bearing of S 70°42'00" W and a distance of 336.87 feet to a point; running thence on a bearing of S 20°53'42" E a distance of 89.23 feet to a point; running thence on a bearing of S 68°32'17" W a distance of 19.00 feet to a point on the eastern right-of-way of Georgia State Route 53, aka Lott Avenue; running thence along the eastern right-of-way of Georgia State Route 53 on a bearing of N 22°34'03" W a distance of 272.76 feet to the Point of Beginning.

This tract containing 10.88 acres +/-.

Tract Two

All that tract or parcel of land lying and being in GMD 1407, Jackson County, Georgia and being more particularly described as follows:

Beginning at a point at the intersection of the southern right-of-way of Georgia State Route 332, aka Pendergas Road, and the eastern right-of-way of Towne Center Parkway and running thence on a bearing of S 26°09'37" E a distance of 285.94 feet to a point at the centerline of a creek; running thence along the centerline of the creek on a bearing of S 88°29'57" W a distance of 29.29 feet to a point; running thence along the centerline of the creek on a bearing of S 57°27'48" W a distance of 18.75 feet to a point; running thence along the centerline of the creek on a bearing of N 74°11'59" W a distance of 16.72 feet to a point; running thence along the centerline of the creek on a bearing of S 07°25'30" W a distance of 15.45 feet to a point; running thence along the centerline of the creek on a bearing of S 70°01'33" W a distance of 19.06 feet to a point; running thence along the centerline of the creek on a bearing of N 60°50'18" W a distance of 30.68 feet to a point; running thence along the centerline of the creek on a bearing of N 78°58'22" W a distance of 27.72 feet to a point; running thence along the centerline of the creek on a bearing of N 78°04'04" W a distance of 22.50 feet to a point; running thence along the centerline of the creek on a bearing of S 37°44'18" W a distance of 19.49 feet to a point; running thence along the centerline of the creek on a bearing of N 67°20'30" W a distance of 29.46 feet to a point; running thence along the centerline of the creek on a bearing of S 89°50'02" W a distance of 29.33 feet to a point; running thence along the centerline of the creek on a bearing of S 09°07'46" E a distance of 12.53 feet to a point; running thence along the centerline of the creek on a bearing of S 51°16'54" W a distance of 23.77 feet to a point; running thence along the centerline of the creek on a bearing of N 73°24'46" W a distance of 45.28 feet to a point; running thence along the centerline of the creek on a bearing of S 56°30'46" W a distance of 15.94 feet to a point; running thence along the centerline of the creek on a bearing of S 65°57'41" W a distance of 21.12 feet to a point; running thence along the centerline of the creek on a bearing of N 41°12'42" W a distance of 12.95 feet to a point; running thence along the centerline of the creek on a bearing of N 72°51'25" W a distance of 84.24 feet to a point; running thence along the centerline of the creek on a bearing of N 57°51'41" W a distance of 57.48 feet to a point on the eastern right-of-way of Towne Center Parkway; running thence along the right-of-way of Towne Center Parkway an arc distance of 80.07 feet, said arc being defined by a chord having a bearing of N 42°53'08" E and a distance of 79.88 feet to a point; running thence along the right-of-way of Towne Center Parkway an arc distance of 340.58 feet, said arc being defined by a chord having a bearing of N 56°28'06" E and a distance of 333.32 feet to the point of Beginning.

This tract containing 1.86 acres +/-.

EXHIBIT B
CONDITIONS OF ZONING APPROVAL

1. **Permitted uses and density.** The PUD shall be limited to apartments, and office, institutional, and commercial uses, as well as accessory uses and structures normally incidental to such uses, and including open space and active recreation facilities, as more fully authorized and restricted in these conditions of zoning approval.
 - a. There shall be no more than 144 dwelling units total in the PUD.
 - b. Commercial uses shall be limited to uses permitted in the C-2 zoning district of the Hoschton zoning ordinance, and uses listed as conditional in the C-2 zoning district may be authorized as conditional uses following conditional use procedures of the Hoschton zoning ordinance.
 - c. The following commercial uses are specifically prohibited: Adult establishment, automobile-oriented use (sales, service, repair), check cashing/ payday loan facility, gas station, dollar store, fireworks sales, funeral home, hookah/vapor bar or lounge, self-storage or mini-warehouse; smoke or vape shop, tattoo or body piercing parlor, and title loan facility.
2. **Dimensional requirements and improvement standards generally.**
 - a. The PUD shall be subject to the dimensional requirements specified by these conditions of zoning approval.
 - b. Where the PUD application or these conditions of zoning approval fail to articulate a given regulation, such as accessory building setbacks, maximum lot coverage, and the like, residential uses in the project shall be required to adhere to dimensional requirements of the MFR zoning district and general provisions of the Hoschton zoning ordinance, unless a variance is applied for and obtained.
 - c. Commercial uses shall be required to adhere to dimensional requirements for the C-2 zoning district.
 - d. The PUD shall be subject to the improvement requirements specified in the application, except as modified by these conditions of zoning approval. Where the PUD application or these conditions of zoning fail to articulate a given improvement standard, such as the depth of sidewalk concrete and the like, the project will be required to adhere to the Hoschton subdivision and land development regulations, unless a variance is applied for and obtained.
3. **Dimensional requirements – apartments.**
 - a. Building height for apartments buildings shall not exceed three (3) stories or 50 feet.

- b. No more than 36 apartment units shall be included in any one building.
- c. Building setbacks for apartment buildings shall be 20 feet front, 10 feet side, and 20 feet rear; provided, however, that apartment buildings shall be setback a minimum of 40 feet from the right of way of Pendergrass Road (SR 332).
- d. Minimum separation between apartment buildings: 30 feet or 10 feet per story, whichever is greater.
- e. Each apartment unit shall have an external balcony or (if on ground level) a patio.
- f. The minimum heated floor area for an apartment unit shall be 700 square feet, and the maximum heated floor area per unit shall be 1,400 square feet.
- g. The owner/developer shall submit management plans and occupancy/ maintenance rules and regulations for apartment tenants to follow, to the zoning administrator for review and approval by the City Council. There shall be a single entity established to manage the apartment units. There shall be an on-site apartment manager office with dedicated space within the PUD project boundary and with a 24-hour phone contact posted at the management office.

4. Right of way dedication and road improvements.

- a. The owner/developer shall dedicate at no cost to the city or the Georgia Department of Transportation 10 feet of additional right of way along the entire property frontage along State Route 53, prior to issuance of a certificate of occupancy for any building in the Planned Unit Development.
- b. The owner/developer shall install road improvements along SR 53 and SR 332 as may be required and as approved by the Georgia Department of Transportation.
- c. The owner/developer shall install road improvements along both sides of Towne Center Parkway from its intersection with SR 332 (Pendergrass Road) to include turn lanes (right in and left turn) for both driveways as approved by the public works director and zoning administrator. If additional right of way is required to install these improvements the owner/developer shall dedicate said right of way at no cost to the city.

5. Architectural elevations and external building material finishes. The owner/developer shall submit for City Council's consideration and approval, prospective front, side and rear elevations of the apartment buildings, and commercial/residential mixed-use building, prior to issuance of a building permit for any such building. Once approved, the elevation drawings shall be binding on builders and enforceable at the time of building permit issuance.

6. **Recreational amenities.** There shall be recreational amenities for the PUD provided by the owner/ developer to include, at minimum, a swimming pool with surface area commensurate with the number of residential units served, and a bathroom.
7. **Gates.** If gates to the development are provided, the gates shall be setback from the right of way of state highways and public streets a minimum distance determined safe and appropriate by a traffic engineer and as approved by the city's public works director.
8. **Residential development phasing; sewer capacity.** The owner/developer shall acknowledge as part of these conditions of approval that the PUD project is not vested with rights to connect to sanitary sewer until the connection fees are paid, and that no sanitary sewer capacity will be available until at least a sanitary sewer treatment plant expansion providing for a total of 2.0 MGD facility is on line and operating.
9. **No waiver of codes.** Unless specified otherwise or in conflict with these conditions of approval, the PUD shall be governed by city ordinances in effect at the time of development, as may be amended, including but not limited to applicable portions of the zoning ordinance, subdivision and land development ordinance, development impact fee ordinance, stream buffer ordinance, stormwater management ordinance, stormwater utility ordinance, flood damage prevention ordinance, sign ordinance, building and life safety codes, and adopted water and sewer specifications and standard drawings.