

CITY OF HOSCHTON
CITY COUNCIL
THURSDAY, MARCH 14, 2024 AT 6:00PM
HOSCHTON COMMUNITY CENTER
65 CITY SQUARE, HOSCHTON



PUBLIC HEARING
AGENDA

WELCOME AND CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

NEW BUSINESS:

- 1. Z-24-01 Rezoning (formerly Z-23-13):** 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.

- 2. V-24-01 Variance:** City of Hoschton, applicant, for Towne Center 53, LLC, Property Owner, seeks a variance to the Hoschton Zoning Ordinance, Article IV, "Zoning Districts," Section 4.11, "C-2, General Commercial Highway Oriented District," (Table 4.4, "Dimensional Requirements for Non-Residential Zoning Districts," to waive or

reduce the required front building setback of the proposed Peachtree Road Extension right of way (east property line) from 15 feet to 5 feet or 0 feet for property (Map/Parcel 120/013I; 1.54 acre) fronting on the east side of SR 53 and the south side of Towne Center Parkway) (C-2 zoning). Proposed use: Commercial.

3. **Ordinance O-2024-02:** An Ordinance Amending the Code of Ordinances of the City of Hoschton, Georgia, Chapter 3, "Administration," Article VIII, "Boards and Commissions" To Adopt a New Section 3-801, "Planning and Zoning Commission;" To Repeal Conflicting Ordinances; To Provide For Severability; To Provide an Effective Date; and for Other Purposes
4. **Ordinance O-2024-03:** An Ordinance To Amend the Hoschton Subdivision and Land Development Ordinance, Article III, "General Provisions," Section 303, "City Council Authority" To Retitle Said Section and Assign Roles to The Hoschton Planning Commission; To Amend Article IV, "Preliminary Plat," Section 405, "Preliminary Plat Process Administration," To Repeal the Existing Process Flow Chart and To Adopt a New Process Flow Chart; To Adopt a New Section 408, "Planning Commission Review and Recommendation," To Amend Section 1204, "Variances" To Establish a Role For The Planning Commission; To Amend Section 1207, "Amendment" to Establish a Role for the Planning Commission;" To Repeal Conflicting Ordinances; To Provide for Severability; To Provide an Effective Date; and For Other Purposes
5. **Ordinance TA 2024-01:** An Ordinance To Amend the Hoschton Zoning Ordinance, Article I, "General," Section 1.04, "Purposes," Paragraph 5 to Assign Roles to the Hoschton Planning and Zoning Commission; To Amend Article VIII, "Zoning Amendments and Applications," Section 8.01, "Procedures for Calling and Conducting Public Hearings," Section 8.02, "Text Amendments," Section 8.03, "Amendment to the Official Zoning Map," Section 8.04, "Conditional Uses," and Section 8.05, "Variances" To Assign Roles For The Planning Commission; To Repeal Conflicting Ordinances; To Provide for Severability; To Provide an Effective Date; and for Other Purposes

ADJOURN

ITEM 1:

Z-24-01 Rezoning
(formerly Z-23-13)

**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: March 5, 2024

SUBJECT REQUEST: **Z-24-01:** 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: March 14, 2024 @ 6:00 p.m.

VOTING SESSION: March 19, 2024 @ 6:00 p.m.

ZONING HISTORY: Z-23-13 PUD (withdrawn prior to public hearing)

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

East: Across Town Center Parkway: Open space, MFR Conditional (Z-19-01 and Z-18-07)

South: Vacant, C-2; Commercial Shopping Center, C-2; Commercial/office, C-2; Open space, MFR Conditional (Z-19-01 and Z-18-07)

West: Across SR 53: Vacant/undeveloped, C-2; East side of SR 53: Vacant and commercial, C-2

RECOMMENDATION: Denial



Tax Map/Aerial Photograph (1 of 5)



Tax Map/Aerial Photograph: 2 of 5



Tax Map/Aerial Photograph: 3 of 5



Tax Map/Aerial Photograph: 4 of 5

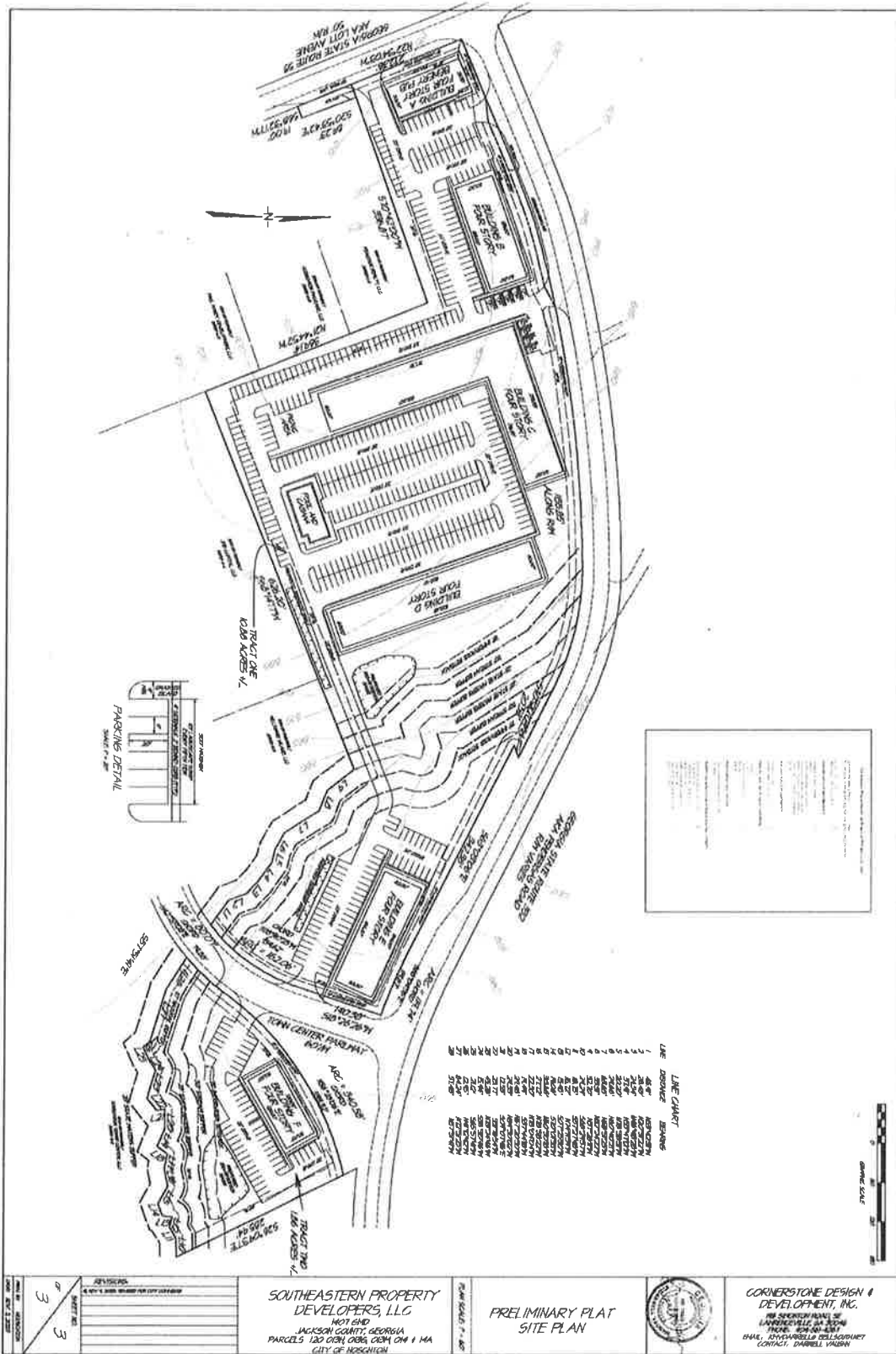


Tax Map/Aerial Photograph: 5 of 5

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.

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, parking for 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. 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.

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 development property which give supporting grounds for either approval or disapproval of the proposal.

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 other zoning 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 to 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-24-01

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 ___ day of _____, 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:

Jennifer Kidd-Harrison, City Clerk

Approved as to Form:

Abbott S. Hayes, Jr., City Attorney

**EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY REZONED**

All that tract or parcel of land lying and being in Jackson County, Georgia, constituting a total of 12.74 acres, and being known as Map/Parcels 120/014A, 120/014, 120/013H, 120/013G and 120/013M, records of the Jackson County Tax Assessor, as shown on the following tax maps made a part of this Exhibit A.



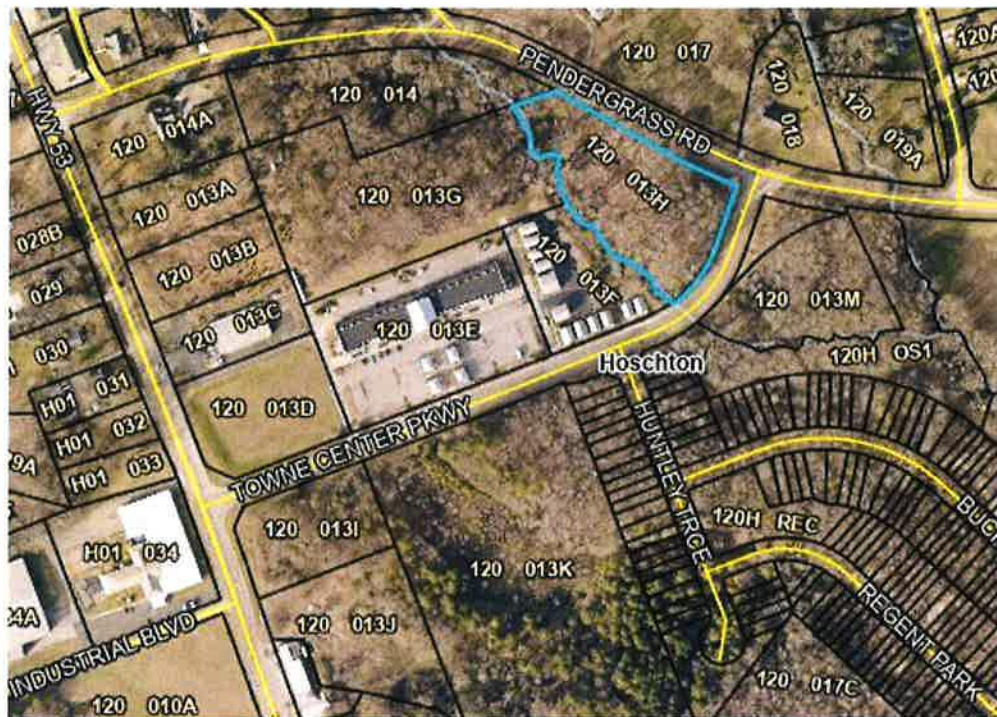
Tax Map/Aerial Photograph (1 of 5)



Tax Map/Aerial Photograph: 2 of 5



Tax Map/Aerial Photograph: 3 of 5



Tax Map/Aerial Photograph: 4 of 5

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 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.

ITEM 2:

V-24-01 Variance

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



TO: Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting City Planner

DATE OF REPORT: February 28, 2024

SUBJECT REQUEST: **V-24-01** Variance to the Hoschton zoning ordinance, Article IV, "Zoning Districts," Section 4.11, "C-2, General Commercial Highway Oriented District," (Table 4.4, "Dimensional Requirements for Non-Residential Zoning Districts," to reduce the required front building setback of Peachtree Road Extension right of way (east property line) from 15 feet to 5 feet

EXISTING ZONING: C-2, General Commercial/Highway Oriented District

CITY COUNCIL HEARING: March 14, 2024 @ 6:00 p.m.

VOTING SESSION: March 19, 2024 @ 6:00 p.m.

APPLICANT: City of Hoschton, for property owner

OWNER(S): Town Center 53, LLC

PROPOSED USE: Commercial (to be determined)

LOCATION: Fronting approximately 200 feet on the east side of State Route 53 and 280 feet on the south side of Towne Center Parkway (SE Corner)

PARCEL(S) #: 120/ 013I

ACREAGE: 1.545

SURROUNDING LAND USE AND ZONING:

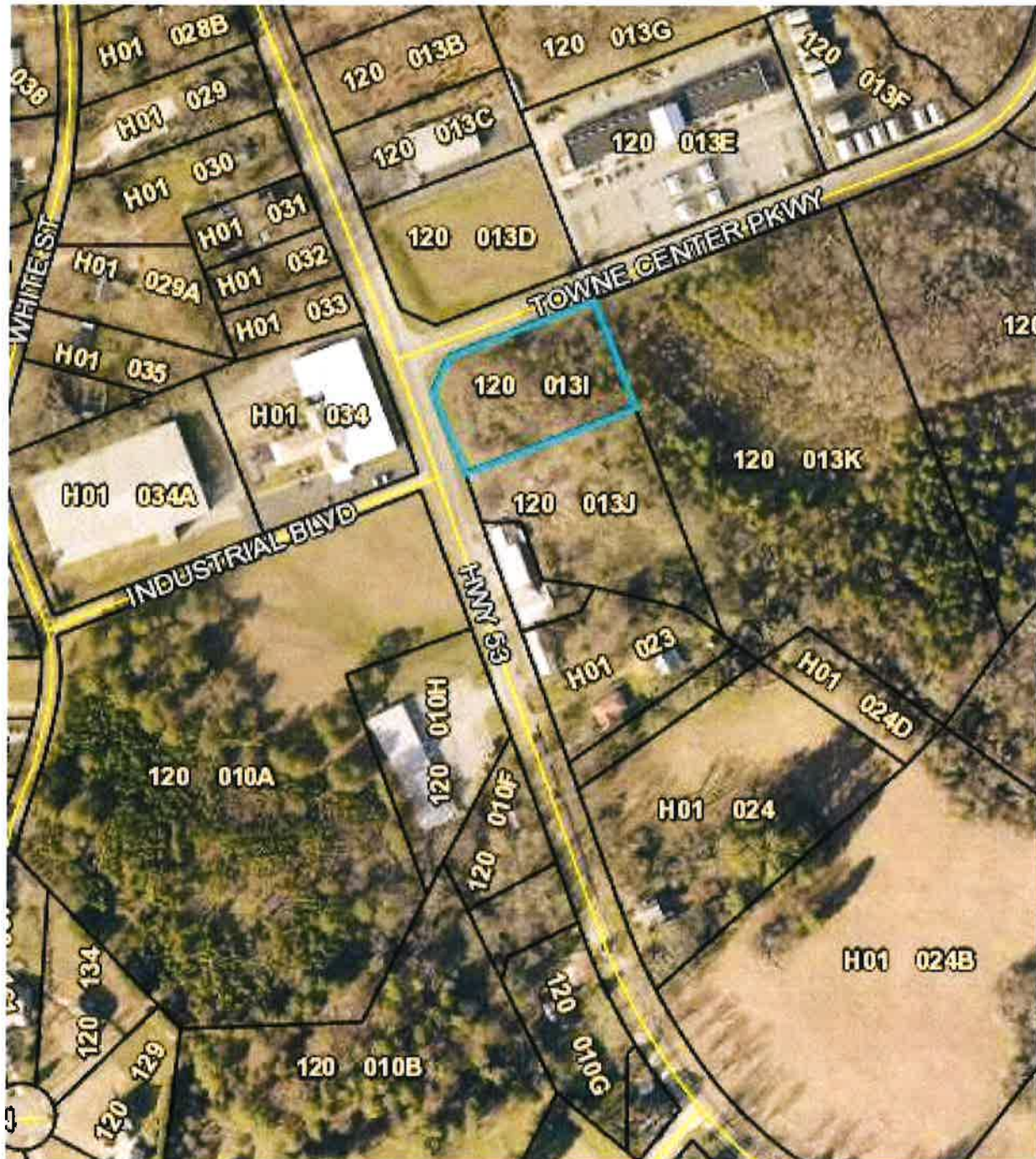
North: Vacant, C-2 (General Commercial Highway Oriented District) (across Towne Center Parkway)

East: Vacant, C-2

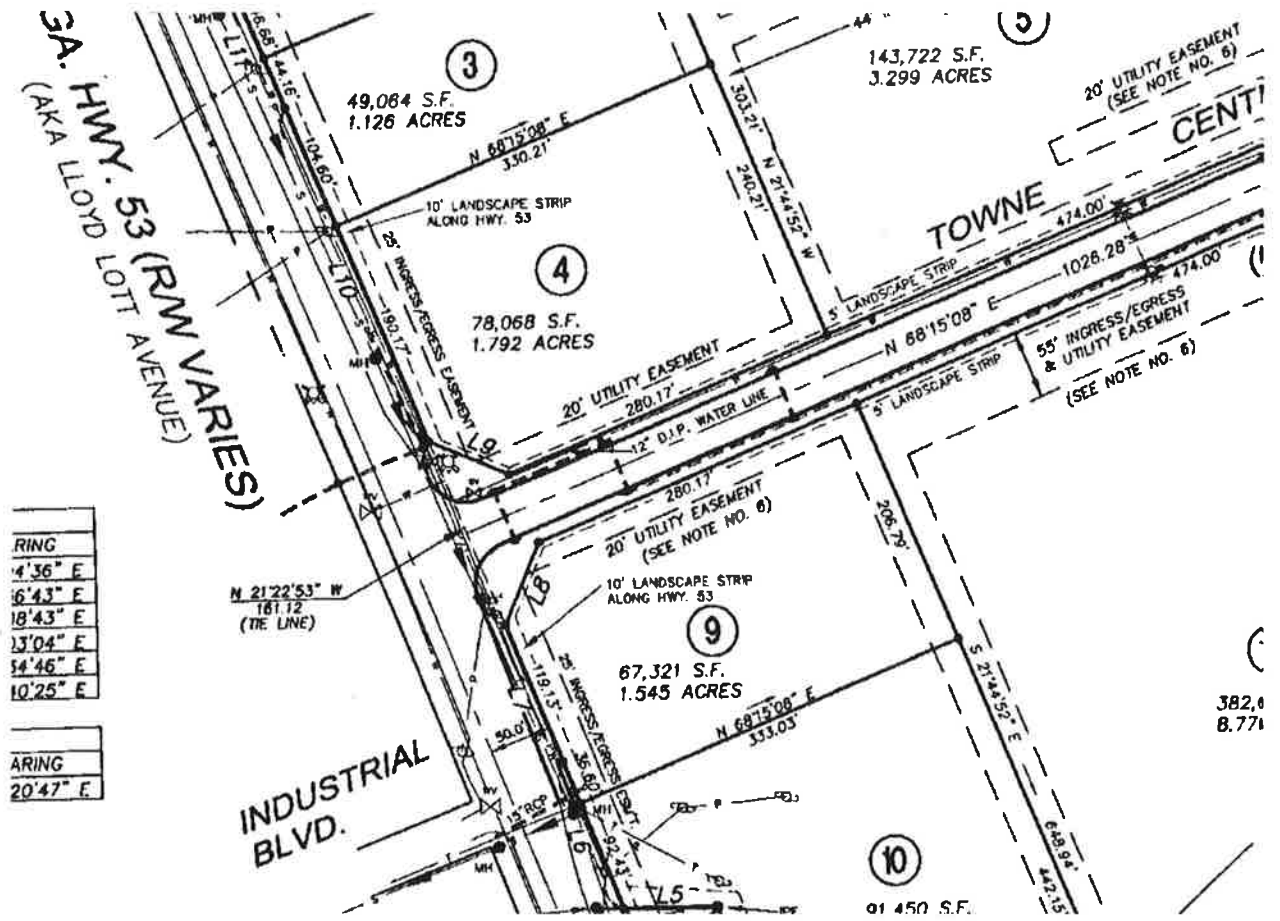
South: Vacant, C-2 Conditional

West: Church, C-2 (across SR 53)

RECOMMENDATION: Approval



Tax Map/ Aerial Photograph



Recorded Plat Excerpt of Subject Property (Lot 9)
 (there is a 44' wide access and utility easement along the east side, 22' wide on property)

SUMMARY OF THE REQUEST

This request originates with the planning staff based on discussions with the group (Southeastern) working on the Kroger commercial development assemblage. The group is moving ahead with plans to eventually build and dedicate a new road and right of way referred to as the "Peachtree Road Extension." The Council has already established policy to acquire this road right of way via conditions of zoning and conditional use approval for the Kroger project and also by adopting via Resolution 23-14 the Peachtree Road Extension as part of the city's official corridor map (attached is a map excerpt).

The group (Southeastern) controls all of the land needed to dedicate the full right of way to the city, with the exception of ½ of the right of way (the western portion) at the proposed road's intersection with Towne Center Parkway (shown as a solid blue line on the attached graphic). There is currently a 44-foot-wide access easement, 22 feet of which is off-site and owned by Towne Center 53, LLC. Southeastern has been in contact with Towne Center 53, LLC in an effort to get that owner to voluntarily dedicate the small remainder of right of way needed to make the Peachtree Road extension a public street/ right of way.

Southeastern communicated to staff previously that Town Center 53, LLC's major concern with dedicating the requested right of way (25 feet from the current property line) is that doing so would create a building setback of 15 feet from the new right of way line, and that any such additional setback may make it more difficult to place a building on the site. Accordingly, planning staff suggested that this concern could be alleviated if a variance was granted to reduce the building setback abutting the east property line (or the right of way of the proposed Peachtree Road extension) from 15 feet to 5 feet. Approval of such a variance is expected to be sufficient to get the owner to agree to dedicate the right of way.

ANALYSIS OF VARIANCE CRITERIA

Criteria for variance decisions are specified in Sec. 8.05 of the Hoschton zoning ordinance. One or more of the following criteria may be considered applicable or potentially applicable to decisions on variances. Staff findings regarding these criteria follow. (the applicant has addressed these criteria and those responses are attached to this staff report).

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 their own determinations as they determine appropriate. They may modify the language provided here, as necessary, in articulating their own findings. Or, the council can reject these findings and make their own determinations and findings for one or more of the criteria provided below. They do not need to address each and every criterion, but only those that are relevant to support its own determination.

- ***There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.***

Finding: The subject property is unique in that the city desires to have right of way from the subject property dedicated for purposes of the Peachtree Road extension. If property is dedicated by the owner for right of way as proposed, it has an impact on the subject property, and such impacts are not applicable to other lands in the same district. Specifically, the setback

required without the dedication of right of way would be 15 feet from the property line which is the centerline of the 44-foot wide access and utility easement. Of course, the building would not be able to be set inside the easement, so the effective building setback from the property line would be 22 feet. With the proposed dedication of right of way (25 feet from the centerline), without a variance the building setback would be required to be 40 feet from the original property line (centerline of easement). The literal application of the required C-2 zoning's front building setback would constitute a hardship on the development of the site, because it would require more building setback (18 feet) just because of the proposal to dedicate right of way. A reduction of the building setback to just 5 feet from the new right of way line, via this variance request (30 feet from the current property line) will relieve the applicant of this problem that would be created by the right of way dedication (***meets criterion/supports request***).

A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.

Finding: Not applicable.

Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.

Finding: Not applicable.

The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.

Finding: The building setback variance if approved will be in harmony with the overall purpose and intent of this zoning ordinance and will not be injurious to the neighborhood or to the general welfare (***meets criterion/supports request***).

The special circumstances are not the result of the actions of the applicant.

Finding: The need for a variance to reduce the building setback abutting the east property line is due entirely to the city's request that the applicant dedicate right of way for the Peachtree Road extension, which will convert the 44-foot-wide access and utility easement to a 50 foot wide right of way. Therefore, these special circumstance are clearly not the result of the actions of the applicant (***meets criterion/supports request***).

The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the zoning district in which the development is located.

Finding: There is no site plan associated with this request, because the property owner does not at this time propose any development. However, the reduction of required setback from 15 feet to 5 is considered the minimum variance needed to provide relief to the property owner in exchange for dedicating right of way (25 feet from the current property line, 22 feet of which is a dedicated access and utility easement) for the Peachtree Road extension.

CONCLUSION

The city's request for right of way dedication for the Peachtree Road extension is the cause of the need for this variance. More than one of the criteria are met for the granting of a variance. Therefore, staff recommends approval. Because the variance is being granted in order to facilitate the applicant's dedication of right of way, the dedication of right of way is a recommended condition of approval.

CONDITION OF APPROVAL

The variance should be subject to the following condition:

1. The variance granted shall apply only to the east property line, and this variance shall be null and void unless the property owner dedicates 25 feet of property from the current east property line in fee simple title to the City of Hoschton to provide right of way (25 feet from the current property line) for the Peachtree Road extension.

CITY OF HOSCHTON
STATE OF GEORGIA

RESOLUTION NO. V-24-01

A RESOLUTION APPROVING A VARIANCE
TO THE HOSCHTON ZONING ORDINANCE FOR CERTAIN
PROPERTY AND FOR OTHER PURPOSES

WHEREAS, The Hoschton Council previously voted to initiate variance application V-24-01;
and

WHEREAS, The City of Hoschton, applicant, has initiated a request on behalf of Town Center 53, LLC, property owner, for a variance from the requirements of the Hoschton zoning ordinance, Article IV, "Zoning Districts," Section 4.11, "C-2, General Commercial Highway Oriented District," (Table 4.4, "Dimensional Requirements for Non-Residential Zoning Districts") to reduce the required front building setback from the future east property line (after dedication of right of way for Peachtree Road Extension) from 15 feet to 5 feet, for property (Map/Parcel 120/ 013I) (1.45 acre) fronting approximately 200 feet on the east side of State Route 53 and 280 feet on the south side of Towne Center Parkway; and

WHEREAS, the property 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 upon application grant variances; and

WHEREAS, the city planner has prepared a report evaluating the criteria for variance decisions as they pertain to the requested variance; and

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

WHEREAS, the City Council finds that the application meets one or more criteria for the granting of a variance;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE HOSCHTON CITY COUNCIL AS FOLLOWS:

Section 1. A variance is hereby granted to the Hoschton Zoning Ordinance," Section 4.11, "C-2, General Commercial Highway Oriented District," (Table 4.4, "Dimensional Requirements for Non-Residential Zoning Districts)," to reduce the required front building setback from the future east property line (after dedication of right of way for Peachtree Road Extension) from 15 feet to

Resolution V-24-01

5 feet, for property for property described in Exhibit A, attached to this resolution, subject to the condition of approval specified in Exhibit B, attached to this resolution.,

So RESOLVED, this the 19th Day of March, 2024.

Debbie Martin, Mayor

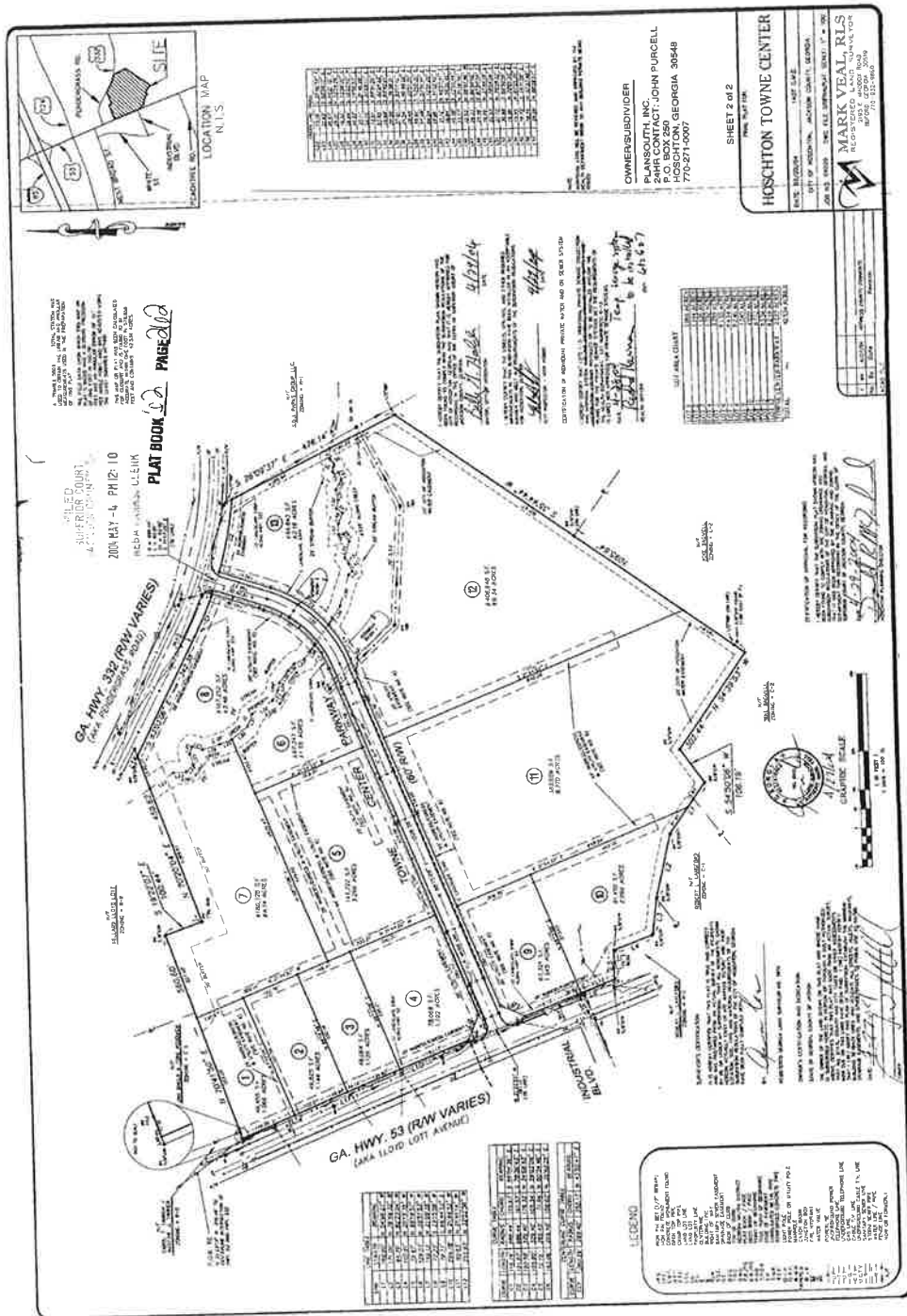
This is to certify that I am City Clerk of the City of Hoshton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

Attest: Jennifer Harrison, City Clerk

Approved as to Form:

Abbott S. Hayes, Jr., City Attorney

Said property also legally described as lot 9 of the Final Plat for Hoschton Towne Center, recorded in Plat Book 62, Page 262, records of the Clerk of Superior Court of Jackson County, Georgia, a copy of which is attached to this Exhibit A.



Recorded Plat

**EXHIBIT B
CONDITION OF VARIANCE APPROVAL**

1. The variance granted shall apply only to the east property line, and this variance shall be null and void unless the property owner dedicates 25 feet of property from the current east property line in fee simple title to the City of Hoschton to provide right of way (25 feet from the current property line) for the Peachtree Road extension.

ITEM 3:

Ordinance 0-2024-02

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE O-2024-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HOSCHTON, GEORGIA, CHAPTER 3, "ADMINISTRATION," ARTICLE VIII, "BOARDS AND COMMISSIONS" TO ADOPT A NEW SECTION 3-801, "PLANNING AND ZONING COMMISSION"; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The City of Hoschton desires to establish a Planning and Zoning Commission and provide for its composition, membership, functions, and meetings; and

Now, therefore, Council of the City of Hoschton hereby ordains as follows:

Section 1.

The Code of Ordinances of the City of Hoschton, Georgia, Chapter 3, "Administration," Article VIII, "Boards and Commissions," is amended to add a new Section 3-801, "Planning and Zoning Commission" as follows:

"Section 3-801 Planning and Zoning Commission"

1. Establishment. The Mayor and City Council recognize that City business is best conducted by reliance on citizen involvement through the use of advisory committees. Accordingly, a Planning and Zoning Commission for the City of Hoschton is hereby established as provided in this section.

2. Appointment and Qualifications. Members of the Planning and Zoning Commission shall be appointed by City Council and shall serve at the pleasure of the City Council. The Commission shall be comprised of seven (7) members. All members of the Commission shall be residents of the City of Hoschton.

3. Term. The term of office for members of the commission shall be three years, and the Council may appoint all members for three-year terms to run concurrently; provided, however, that if the Council desires to stagger the terms of members, then for initial appointments it shall appoint two members to one-year terms, two members to two-year terms, and three members to three-year terms.

4. Removal. The City Council may remove any member by majority vote at a regularly scheduled City Council meeting, for due cause shown.

5. Vacancies. Prior to the expiration of a term, the City Clerk shall announce the vacancy and shall state that the city is seeking applicants and shall set forth the qualifications required. The City Council may interview applicants, after which a majority of the City

Council may select the applicant to fill the vacancy by vote of the council at a regular meeting. Vacancies occurring prior to expiration of a term shall be filled by appointment for the unexpired portion of the term, in the same manner provided herein for initial appointment.

6. Absences. If any member of the commission is absent for more than three regularly scheduled meetings in a calendar year, the City Clerk shall declare the appointment vacant and shall notify the City Council of the need for a replacement to fill the vacant position.

7. Conflict of Interest. Any member of the Planning Commission who has a property interest in any real property affected by a rezoning action to be considered by the Hoschton City Council, or has a financial interest in any business entity which has a property interest in any real property affected by a rezoning action to be considered by the Hoschton City Council, or who has a family member with such a real property interest or financial interest in a business entity, pursuant to O.C.G.A. 36-67A-2, shall immediately disclose the nature and extent of such interest, in writing, to the Hoschton City Council. The planning commissioner who has an interest as defined in this paragraph shall disqualify himself from voting on the rezoning action. The disqualified planning commissioner shall not take any other action on behalf of himself or herself or any other person to influence action on the application for rezoning. The disclosures provided for in this paragraph shall be a public record and available for public inspection at any time during normal working hours. A member of the Commission may raise the question of conflict of interest of another member regarding a specific issue that is before the Commission. A majority vote of those planning commissioners without such conflict shall determine if such conflict does exist.

8. Officers and Duties.

A. Chairperson. The members of the Planning Commission shall annually elect a chairperson. His/her term of office shall be one year but renewable without restriction. The chairperson shall decide all points of order and procedures. The chairperson may make motions and vote in all matters that come before the Commission.

B. Vice-Chairperson. The members of the Planning Commission shall annually elect a vice-chairperson. His/her term of office shall be for one year but renewable without restriction. The vice chairperson shall serve as acting chairperson in the absence of the chairperson. When acting as chairperson, the vice-chairperson shall have the same powers and duties as the chairperson.

C. Secretary and Minutes. The Hoschton City Clerk or designee shall serve as the secretary of the commission but shall not be a member of the commission. The secretary shall keep all records and generally supervise the clerical work of the Planning Commission, including but not limited to, the agenda and minutes of every meeting. Meeting minutes shall indicate all important facts pertaining to each meeting, and all votes taken by the members and those members who are in attendance and who are absent from the meeting.

9. Compensation, Quorum, Meetings and Duties.

A. Compensation. The members of the Planning Commission shall not be compensated for their services, but shall be reimbursed for any training and travel expenses approved by City Council.

B. Quorum. A majority of the Commission (four members) shall constitute a quorum for purposes of conducting business.

C. Meetings. The commission shall hold regular meetings once a month on a date of the week and at a time and place approved by the City Clerk; provided, however, that the commission shall not be required to meet if there is no business to conduct. Whenever there is no business for the Planning Commission, the City Clerk shall notify members at least 48 hours prior to the scheduled meeting that the upcoming regularly scheduled meeting has been canceled. The chair may call a special meeting of the commission for due cause, subject to compliance with applicable open meeting laws.

D. Duties. It shall be the duty of the commission to provide recommendations to the City Council regarding the adoption and implementation of the City's comprehensive plan and to serve in those roles assigned to it by the Hoschton zoning ordinance and the subdivision and land development ordinance of the city, as well as any other ordinance that assigns functions to the commission."

Section 2.

All ordinance sand parts of ordinances in conflict herewith are hereby repealed.

Section 3.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 4.

The ordinance shall become effective immediately upon its adoption.

Ordinance O-24-02 Planning Commission

Adopted this ____ day of March, 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:

Jennifer Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney

ITEM 4:

Ordinance 0-2024-03

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE O-2024-03

AN ORDINANCE TO AMEND THE HOSCHTON SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ARTICLE III, "GENERAL PROVISIONS," SECTION 303, "CITY COUNCIL AUTHORITY" TO RETITLE SAID SECTION AND ASSIGN ROLES TO THE HOSCHTON PLANNING COMMISSION; TO AMEND ARTICLE IV, "PRELIMINARY PLAT," SECTION 405, "PRELIMINARY PLAT PROCESS ADMINISTRATION," TO REPEAL THE EXISTING PROCESS FLOW CHART AND TO ADOPT A NEW PROCESS FLOW CHART; TO ADOPT A NEW SECTION 408, "PLANNING COMMISSION REVIEW AND RECOMMENDATION," TO AMEND SECTION 1204, "VARIANCES" TO ESTABLISH A ROLE FOR THE PLANNING COMMISSION; TO AMEND SECTION 1207, "AMENDMENT" TO ESTABLISH A ROLE FOR THE PLANNING COMMISSION;" TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The City of Hoschton desires to establish a Hoschton Planning and Zoning Commission (Planning Commission, for brevity) and assign it functions with regard to the review of preliminary plats, variances to the terms of the subdivision and land development ordinance, and amendments to the subdivision and land development ordinance; and

WHEREAS, Notice of a public hearing before the Hoschton City council was published in a newspaper of general circulation within the City of Hoschton as required by the Hoschton subdivision and land development ordinance; and

WHEREAS, The City Council conducted a public hearing on this matter;

Now, therefore, Council of the City of Hoschton hereby ordains that the Hoschton Subdivision and Land Development Ordinance, adopted April 4, 2016, as most recently amended December 18, 2023, is hereby amended in the following respects:

Section 1.

The Hoschton subdivision and land development ordinance, Article III, "General Provisions," Section 303, "City Council Authority," is retitled and amended as follows:

"Sec. 303. **Planning Commission and** City Council Authority.

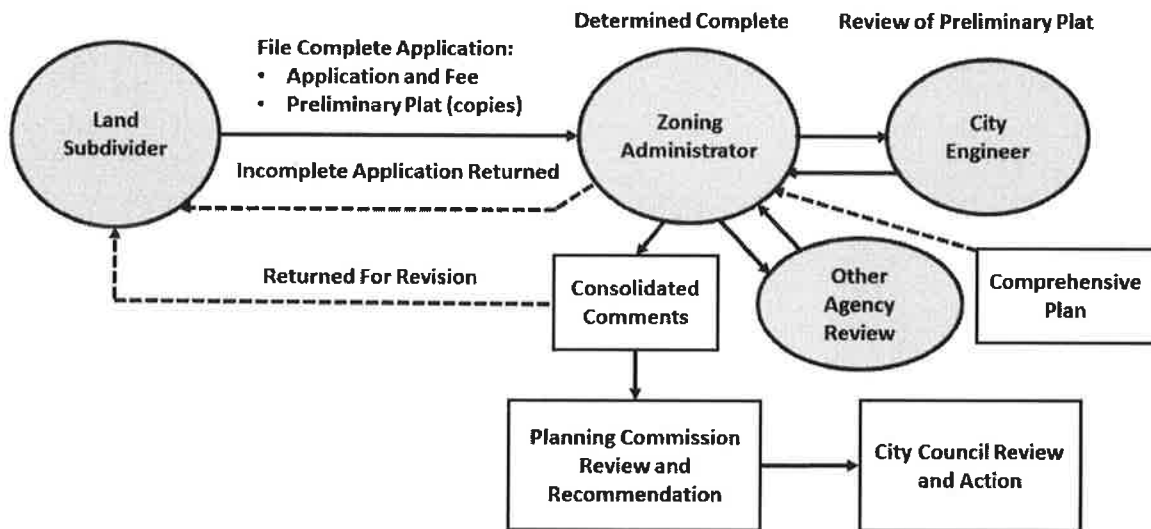
The Planning Commission, as established in the city code, shall have the authority and duty to make recommendations to the City Council regarding preliminary plats for major subdivisions and applications for a variance to the strict terms of this Ordinance. The Hoschton City Council shall review and have decision making authority on applications for

preliminary plat approval and final plat approval for major subdivisions, and applications for a variance to the strict terms of this Ordinance.

Section 2.

The Hoschton subdivision and land development ordinance, Article IV, “Preliminary Plat,” Section 405, “Preliminary Plat Process Administration,” that figure titled “Preliminary Plat” is hereby repealed and replaced with the following figure:

PRELIMINARY PLAT



Section 3.

The Hoschton subdivision and land development ordinance, Article IV, Section 408, “Reserved,” is amended to adopt a new Section 408, retitled “Planning Commission Review and Recommendation,” to read as follows:

“Sec. 408. ~~Reserved~~ Planning Commission Review and Recommendation.”

- (a) Upon completion of the agency review for a preliminary plat and plat application, the Zoning Administrator shall schedule the preliminary plat application for the next regularly scheduled meeting of the Planning Commission and forward all pertinent materials in the application to the commission for review and recommendation.
- (b) The applicant or his or her authorized representative shall attend the Planning Commission meeting at which preliminary plat approval is sought. The Planning Commission may elect to take no action on a preliminary plat application unless the subdivider or his or her authorized representative is present.

- (c) Meetings of the Planning Commission during which a preliminary plat is considered shall be open to the public, but the Planning Commission shall not be required to provide notice to adjacent or nearby property owners of the application and shall not be required to convene a public hearing on the matter. This shall not preclude the Planning Commission from recognizing and hearing from any member of the public, when in its judgment it may be advantageous to do so.
- (d) The Planning Commission shall recommend approval, conditional approval, or denial of the application within thirty-five (35) calendar days from the date it first considers a preliminary plat application at one of its public meetings. The time limitation imposed in this Section shall be suspended when an applicant fails to attend the meeting at which his preliminary plat application is scheduled for consideration by the Planning Commission.
- (e) The basis of the Planning Commission’s review of and action on a preliminary plat shall be whether the preliminary plat meets the purposes and requirements of this Ordinance and other applicable laws and is consistent with the comprehensive plan.”

Section 4.

The Hoschton subdivision and land development ordinance, Article XII, “Administrative and Legal Status Provisions,” Section 1204, “Variances,” is amended to read as follows:

“Sec. 1204. Variances.

- (a) Standard for Approval of Variances. Upon application by the subdivider or land developer and after review by the Planning Commission, the Hoschton City Council shall be authorized to grant a variance or variances upon a showing that one or more of the following criteria has been met:
 - 1. There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or use district, and such conditions are not the result of the owner’s or occupant’s own actions. Such conditions may include topography, unique natural conditions, surroundings of the subject property, or the size or peculiar shape of the lot.
 - 2. As a result of such unusual circumstance or conditions, there is an unnecessary hardship or practical difficulties that render it difficult to carry out the provisions of this Ordinance.
 - 3. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, and the variance will be in harmony with the general purposes and intent of the provisions of this Ordinance.

4. The variance approved is the minimum variance that will reasonably make possible the legal use of the lots, land, building or structure.

(b) Procedure for Obtaining Variance.

1. Application. Application for a variance shall be filed with the Zoning Administrator on a form prescribed by the City.
2. **Hearing before Planning Commission. Upon receiving a completed application for a variance, the Zoning Administrator shall arrange for the application to be scheduled for public hearing before the Planning Commission. The applicant shall be notified in writing of the date, time, and place of the hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in the City's legal organ at least fifteen (15) days prior to the public hearing. At the public hearing, the applicant shall have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application for a variance.**
3. **Recommendations and Report to Council. The Planning Commission shall review the application at the advertised public hearing. The Planning Commission shall determine whether the evidence supports a finding that the required criteria have been met and recommend approval, conditional approval, or denial of the application to the Hoschton City Council. The Zoning Administrator may write a report and provide findings or recommendations, including conditions of approval.**
4. Hearing before Hoschton City Council. The Hoschton City Council shall consider and act upon (i.e., approve, conditionally approve, or deny) the variance application after conducting a public hearing and considering the recommendations of the Planning Commission and, if provided, those findings and recommendations of the Zoning Administrator. The applicant shall be notified in writing of the date, time, and place of the hearing held by the Hoschton City Council, by written mail, personal service, or electronic mail, at least fifteen (15) days prior to the public hearing. The public shall be given notice of the date, time, place, and nature of the hearing by publication in the City's legal organ at least fifteen (15) days prior to the public hearing. At the public hearing, the applicant shall have an opportunity, personally or through counsel, to present evidence and argument in support of his or her application for a variance.
5. Posted Notice of Hearing. In addition to any notice of hearing already specified in this Section, at least fifteen (15) days prior to any public hearing referenced in this Section, the City shall post at least one (1) sign in a conspicuous location on the property where a variance is sought, stating the date, time, and place of the hearing and specifying the name and address of the current owner of the property, the location of the property, the current zoning district of the property, and the nature of the proposed variance. The sign shall remain on the property until the public

Ordinance O-2024-03 Subdivision and Land Development Ordinance Amendment

hearing is held. The City is authorized to charge the applicant a fee for any such sign to cover any costs incurred for its preparation, installation, and removal.

- (c) Compliance with Conditions of Variance and Approved Plans. Compliance with any conditions imposed in the Hoschton City Council’s approval of a variance, and adherence to the submitted plans, as approved, is required. Any departure from such conditions of approval and approved plans constitutes a violation of this Ordinance and invalidates any variance issued subject to such conditions.”

Section 5.

The Hoschton subdivision and land development ordinance, Article XII, “Administrative and Legal Status Provisions,” Section 1207, “Amendment,” is amended as follows:

“Sec. 1207. Amendment.

The Hoschton City Council may amend this Ordinance in a manner consistent with Georgia law. Before enacting such amendment to this Ordinance, **the Planning Commission shall hold a public hearing and provide a recommendation on the proposed amendment.** The Hoschton City Council shall hold a public hearing thereon, notice of which shall be published at least fifteen (15) days prior to such hearing in the City’s legal organ or a newspaper of general circulation in the City.”

Section 6.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 7.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 8.

This ordinance shall become effective immediately upon its adoption.

Adopted this ____ day of March, 2024.

Debbie Martin, Mayor

Ordinance O-2024-03 Subdivision and Land Development Ordinance Amendment

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:

Jennifer Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney

ITEM 5:

Ordinance TA-2024-01

CITY OF HOSCHTON
STATE OF GEORGIA

ORDINANCE TA 2024-01

AN ORDINANCE TO AMEND THE HOSCHTON ZONING ORDINANCE, ARTICLE I, “GENERAL,” SECTION 1.04, “PURPOSES,” PARAGRAPH 5 TO ASSIGN ROLES TO THE HOSCHTON PLANNING AND ZONING COMMISSION; TO AMEND ARTICLE VIII, “ZONING AMENDMENTS AND APPLICATIONS,” SECTION 8.01, “PROCEDURES FOR CALLING AND CONDUCTING PUBLIC HEARINGS,” SECTION 8.02, “TEXT AMENDMENTS,” SECTION 8.03, “AMENDMENT TO THE OFFICIAL ZONING MAP,” SECTION 8.04, “CONDITIONAL USES,” AND SECTION 8.05, “VARIANCES” TO ASSIGN ROLES FOR THE PLANNING COMMISSION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, The City of Hoschton seeks to assign a role for the Hoschton Planning and Zoning Commission (“Planning Commission” for brevity) with regard to the review and recommendations pertaining to applications for text amendments, amendments to the official zoning map, conditional uses, and variances; and

WHEREAS, Notice of public hearings was published in a newspaper of general circulation within the City of Hoschton as required by the zoning procedures law and the Hoschton zoning ordinance for text amendments; and

WHEREAS, The City Council conducted a public hearing on this matter;

Now, therefore, Council of the City of Hoschton hereby ordains that the Hoschton Zoning Ordinance adopted January 4, 2016, most recently amended September 18, 2023, is hereby amended in the following respects:

Section 1.

The Hoschton zoning ordinance, Article I, “General,” Section 1.04, “Purposes,” paragraph 5 is amended as follows:

5. ~~Reserved~~ **To assign to the planning commission roles and responsibilities with regard to amendments to the text of this zoning ordinance, applications for amendments to the official zoning map, applications for conditional use, and application for variances, and;**

Section 2.

The Hoschton zoning ordinance, Article VIII, “Zoning Amendments and Applications,” Section 8.01, “Procedures for Calling and Conducting Public Hearings,” paragraphs 1, 2, 4, and 13 are amended as follows:

“Section 8.01. Procedures for Calling and Conducting Public Hearings.

1. Applicability. Public hearings held by the Hoschton City Council as required by this ordinance with regard to rezoning requests (amendments to the official zoning map), applications for conditional uses, applications for variances, and appeals of any administrative decision shall be called and conducted in accordance with the procedures of this section. **If the Planning Commission elects to hold a public hearing or is otherwise obligated to hold a public hearing per the requirements of this ordinance, then the Planning Commission shall call and conduct its public hearings in accordance with this section, and this section shall in such cases be interpreted accordingly.** Nothing in this section shall be construed as prohibiting the presiding officer from conducting a public hearing in a fair, orderly, and decorous manner.
2. Presiding Officer. The presiding officer shall preside over the public hearing. In the case of the Hoschton City Council, the Mayor shall preside, or in the absence of the Mayor the Mayor Pro Tempore shall preside, or in the absence of both the Mayor and Mayor Pro Tempore, another member of the City Council shall be designated to preside over the public hearing. **In the case of the Hoschton Planning Commission, if a public hearing is required or held, the chairperson of said commission shall preside, or in the absence of the chairperson, the vice chairperson, or if neither is present to preside, another member of the commission shall be designated to preside.**
4. Report of Zoning Administrator. Upon opening the public hearing, the presiding officer may recognize the Zoning Administrator, who may provide a summary of the application and present any recommendations or results of investigations. **The Zoning Administrator shall also summarize the recommendations made by the Planning Commission.** Any member of the City Council upon recognition by the presiding officer may ask questions of the Zoning Administrator or designee or other city representative providing a report or recommendations. The Zoning Administrator may be represented at the public hearing by written report in lieu of oral testimony.
13. Decision. After the public hearing is closed, the City Council may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this article, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held. After hearing evidence, in making a decision, the City Council will apply the evidence to the criteria specified in this article for the application in question and other considerations and recommendations as may be considered appropriate. If the City Council determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the City Council on its own initiative or as recommended by the ~~Zoning Administrator~~ **Planning Commission**. Otherwise, such application shall be denied.

Section 3.

The Hoschton zoning ordinance, Article VIII, "Zoning Amendments and Applications," Section 8.02, "Text Amendments," is amended as follows:

1. Authority to Amend. The City Council may amend any article or section of this zoning ordinance, subject to compliance with the requirements of this section.
2. Authority to Initiate. An application to amend this zoning ordinance may be initiated by the City Council, ~~or~~ **the Planning Commission, or** the Zoning Administrator with prior consent of the Mayor. In addition, any person, firm, corporation, or agency may initiate by application to the Zoning Administrator a proposal to amend the text of this zoning ordinance, provided said individual, firm, corporation, or agency is the owner or owner's agent of property in the city and the amendment sought pertains in some way to said property within the city, and provided further that the applicant has attended a pre-application meeting with the Zoning Administrator to discuss the amendment proposal prior to filing.
3. Application. Applications to amend the text of this zoning ordinance shall require submittal of an application fee, application form, and proposed text amendment in a form approved in advance by the Zoning Administrator. The Zoning Administrator shall waive the application fee required by this section when an application is initiated by the City Council or the **Planning Commission or** Zoning Administrator.
4. ~~Reserved.~~ **Referral to and Recommendation by Planning Commission. Upon receipt of a completed application for a text amendment or within a reasonable time thereafter, the Zoning Administrator shall refer the text amendment to the Planning Commission. The meeting at which the Planning Commission considers a text amendment shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the text amendment. The Planning Commission shall make a recommendation on the text amendment within 35 days of the meeting it is first scheduled to consider the text amendment, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within seven (7) working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.**
5. Notice of City Council Public Hearing. At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the text amendment. The notice shall state the time, place, and purpose of the public hearing.

6. City Council Public Hearing and Action. The City Council shall hold a public hearing on the text amendment as advertised **and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available.** In rendering a decision on any such text amendment, the City Council shall consider all information supplied by the Zoning Administrator **and the Planning Commission**, any information submitted by the applicant, and any information presented at the public hearing. The City Council may approve or disapprove the proposed text amendment as written, or it may modify the proposed text amendment and approve it as modified. The applicant will be notified in writing by the Zoning Administrator of the decision within seven (7) working days of the decision.
7. Withdrawal. Any application for an amendment to the text of this zoning ordinance may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application for a text amendment is initiated by a party other than the City Council, ~~or the~~ **Planning Commission or the** Zoning Administrator, no refund of the required application fee or portion thereof shall be made once the text amendment has been scheduled for public hearing.

Section 4.

The Hoschton zoning ordinance, Article VIII, "Zoning Amendments and Applications," Section 8.03, "Amendment to the Official Zoning Map," is amended as follows:

1. Authority to Amend. The City Council may amend any boundary of a zoning district as shown on the official zoning map, subject to compliance with the requirements of this section.
2. Authority to Initiate. An application to amend the official zoning map may be initiated by the City Council. In addition, any person, firm, corporation, or agency may initiate by application to the Zoning Administrator a proposal to amend the official zoning map, provided said individual, firm, corporation, or agency is the owner or owner's agent of the property involved in said application.
3. Application. Applications to amend the official zoning map shall require submittal of an application fee, application form, and supporting materials specified by this. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the

application and refuse to process it. The Zoning Administrator shall waive the application fee required by this section when an application is initiated by the City Council.

4. Application Requirements. No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:

- (a) Application fee as established by resolution of the City Council;
- (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
- (c) Metes and bounds legal description of the property;
- (d) Boundary survey plat of the property; provided, however, that where no survey is available the Zoning Administrator may but is not obligated to, accept a map of the subject property from the Jackson County Tax Assessors or other reliable source;
- (e) Letter of intent describing the proposed use of the property or other action requested, which may include any special conditions voluntarily made by the applicant as a part of the request. The applicant is also strongly encouraged to address the extent to which the application meets the criteria specified in this section for amendments to the official zoning map; and
- (f) Site plan of the property and proposed development at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements. Site plans must show existing roads and streams, flood plains and wetlands where applicable, existing and proposed buildings and structures, parking and loading areas as may be applicable, areas of existing vegetation or parts of the site to be landscaped, conceptual information about drainage and stormwater management, and other information as reasonably required by the Zoning Administrator. Site plans may be waived for rezoning applications for agricultural or residential zoning districts.

5. ~~Reserved.~~ **Referral to and Recommendation by Planning Commission. Upon receipt of a completed application to amend the official zoning map or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 35 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within seven (7) working days of the decision. The recommendation and any report shall**

upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.

6. Notice of City Council Public Hearing. At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. If the application is initiated by a party other than the City Council, then in addition, notice shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.
7. City Council Public Hearing and Action. The City Council shall hold a public hearing on the application as advertised. **In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available.** In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator **and the Planning Commission**, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for amendments to the official zoning map as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within seven (7) working days of the decision.
8. Withdrawal. Any application for an amendment to the official zoning map may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application is initiated by a party other than the City Council, no refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.
9. Limitations on the Frequency of Filing Applications. No application regulated by this section and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve months shall have elapsed from the date said application was denied by the City Council. The same or any portion of property previously considered in a zoning map amendment which was denied by the City Council may not ~~again~~ be initiated **by the City Council** until the expiration of at least six months immediately following the final decision rendered on the application by the City Council.

Section 5.

The Hoschton zoning ordinance, Article VIII, “Zoning Amendments and Applications,” Section 8.04, “Conditional Uses,” is amended as follows:

1. Authority. Upon application, the City Council may approve, conditionally approve, or deny applications for conditional uses as specified in the zoning district regulations of this ordinance, subject to compliance with the requirements of this section.
2. Application. Applications for conditional use approval shall require submittal of an application fee, application form, and supporting materials specified by this section in advance by the Zoning Administrator. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the application and refuse to process it.
3. Application Requirements. No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:
 - (a) Application fee as established by resolution of the City Council;
 - (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
 - (c) Metes and bounds legal description of the property;
 - (d) Boundary survey plat of the property; provided, however, that where no survey is available the Zoning Administrator may but is not obligated to accept a map of the subject property from the Jackson County Tax Assessors or other reliable source;
 - (e) Letter of intent describing the proposed use of the property, which may include any special conditions voluntarily made by the applicant as a part of the request. The applicant is also strongly encouraged to address the extent to which the application meets the criteria specified in this section for conditional uses; and
 - (f) Site plan of the property and proposed development at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements. Site plans must show existing roads and streams, flood plains and wetlands where applicable, existing and proposed buildings and structures, parking and loading areas as may be applicable, areas of existing vegetation or parts of the site to be landscaped, conceptual information about drainage and stormwater

management, and other information as reasonably required by the Zoning Administrator.

4. ~~Reserved.~~ **Referral to and Recommendation by Planning Commission. Upon receipt of a completed application for conditional use or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 35 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within seven (7) working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.**
5. Notice of City Council Public Hearing. At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. If the application is initiated by a party other than the City Council, then in addition, notice shall include the location of the property, the present zoning classification of the property, and the proposed conditional use of the property; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.
7. City Council Public Hearing and Action. The City Council shall hold a public hearing on the application as advertised. **In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available.**—In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator **and the Planning Commission**, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for conditional uses as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.

8. Withdrawal. Any application for conditional use may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application is initiated by a party other than the City Council, no refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.
9. Limitations on the Frequency of Filing Applications. No application regulated by this section and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve months shall have elapsed from the date said application was denied by the City Council.

Section 6.

The Hoschton zoning ordinance, Article VIII, "Zoning Amendments and Applications," Section 8.05, "Variances," paragraphs "7" and "10" are amended as follows:

7. ~~Reserved.~~ **Referral to and Recommendation by Planning Commission. Upon receipt of a completed application for variance or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Hoschton Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 35 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within seven (7) working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.**
10. City Council Public Hearing and Action. The City Council shall hold a public hearing on the application as advertised **and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available.** In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator **and the Planning Commission**, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for conditional uses as prescribed in this section.

The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within seven (7) working days of the decision.

Section 7.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 8.

If any portion of this ordinance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair the remaining portions unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional.

Section 9.

This ordinance shall become effective immediately upon adoption.

Adopted this ____ day of March, 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:

Jennifer Harrison, City Clerk

APPROVED AS TO FORM

Abbott S. Hayes, Jr., City Attorney