

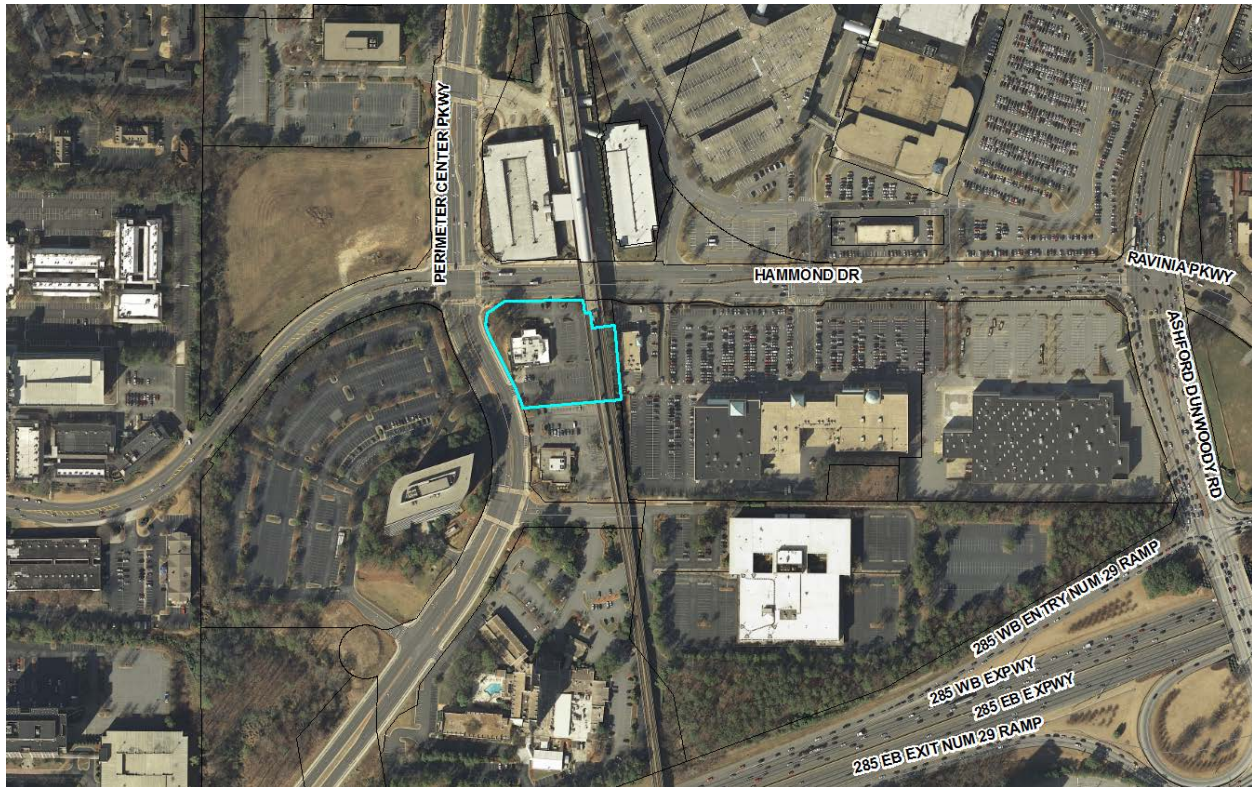
## MEMORANDUM

**To:** Mayor & City Council

**From:** Steve Foote, AICP

**Date:** April 27, 2015

**Subject:** **RZ 15-042:** Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Metropolitan Atlanta Rapid Transit Authority, on behalf of owner, Atlanta Office Investments Phase I, L.L.C. c/o KDC Real Estate, seeks permission to rezone property currently zoned Office-Institution (O-Ic) Conditional District to Local Commercial (C-1) District to allow MARTA to own and operate a new connection to the Dunwoody MARTA station. The subject property is located at 236 Perimeter Center Parkway, Dunwoody, GA, 30346. The tax parcel ID is 18 348 02 015.



## **BACKGROUND**

The property, 236 Perimeter Center Parkway, is located at the State Farm Site, on the south side of Hammond Drive just east of the intersection with Perimeter Center Parkway. The property consists of one parcel, currently zoned Office-Institution conditional (O-Ic), on approximately 2.04 acres of land.

MARTA proposes to rezone a small portion of this 2.04 acre parcel, on behalf of the property owner (KDC/State Farm), from O-Ic to C-1. The rezoned area (0.081 acres) will be subdivided from the State Farm site (2.04 acres) and would then be combined with adjacent land that MARTA owns that is currently zoned C-1. The rezoning is necessary to properly subdivide the property from the owner's existing parcel and combine it with the existing MARTA property, pursuant to the Land Development Ordinance, which prohibits dual-zoned parcels. Since the initiation of this request the 0.081 acres has been transferred to MARTA.

The concurrent lot subdivision and combination will accommodate MARTA's plans to create a new access point to the MARTA station on the south side of Hammond Drive, where no access currently exists. Staff has worked out a process for acquiring additional right-of-way along Hammond Drive adjacent to the State Farm site and the pedestrian access from the south. We continue to discuss an avenue to secure additional right-of-way adjacent to the MARTA site. A condition addressing the right-of-way adjacent to MARTA has been added to the approval ordinance.

Direction	Zoning	Use	Current Land Use
N	C-1	Commercial	Transit/Commercial/Retail
S	O-I	Commercial	Office/Retail/Hotel (future)
E	C-1	Commercial	Retail
W	O-1	Commercial	Office

## ANALYSIS

### Zoning Ordinance Analysis

Dunwoody's nonresidential and mixed-use districts are generally intended to promote consistency with the comprehensive plan and provide opportunities for shopping, employment, entertainment and living.

The primary purposes of the C-1 district are as follows:

- To provide convenient local retail shopping and service areas within the city;
- To provide for the development of new local commercial districts; and
- To accommodate uses designed to serve the convenience shopping and service needs of groups of neighborhoods.

### Comprehensive Plan Analysis

The Comprehensive Plan is a living document that is not only created from public input and sentiment, but it also lays out the community's vision for how to grow and develop today, and in the future. The Dunwoody Comprehensive Plan is organized primarily by regions, delineated as 'character areas.' The subject parcel is located in the 'Perimeter Center

Character Area,' summarized on the attached excerpt from the Comprehensive Plan. The intent of this area is to create a "livable" regional center with first-class office, retail, and high-end restaurants in a pedestrian- and bicycle-oriented environment that serves as a regional example of high quality design standards. The Perimeter Center Character Area is divided into three distinct sub-areas— Transitional, High-Density, and Transit Village— in order to guide development and design standards effectively as the commercial center moves towards residential neighborhoods.

The subject parcel is located in the Transit Village sub-area, defined by a half-mile radius around the existing MARTA station. The Comprehensive Plan established the vision that the Transit Village area will develop as an urban district promoting a mix of residential, commercial and institutional uses. The Comprehensive Plan offers and supports the argument that the Perimeter Mall Transit Village area can serve as the prototypical model, and spearhead development at other MARTA stations.

The applicant's proposed development aligns with the following goals of the Perimeter Center Character Area:

- Reduces surface parking and promotes livable centers in the immediate areas surrounding the MARTA station
- Encourages hotel and convention development near MARTA in order to foster commerce along the mass transportation route
- Creates bicycle, pedestrian, and potential golf cart options to connect with the rest of the City of Dunwoody
- Work with the Perimeter Transportation Management Association to actively reduce automobile dependency and emerge as a leader in alternative transportation for the region.
- Promotes/establishes new connectivity
- Coordinate with MARTA regarding Bus Rapid Transit (BRT) (or other regional service) and urban design surrounding all transit stations.

## REVIEW AND APPROVAL CRITERIA

In accordance with Georgia and local law, the following review and approval criteria shall be used in reviewing the respective amendment applications:

### Section 27-335. Review and approval criteria.

- b. *Zoning Map Amendments.* The following review and approval criteria must be used in reviewing and taking action on all zoning map amendments:
  1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan;  
***The zoning proposal is in conformity with the intent of the comprehensive plan.***
  2. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties;  
***The proposed use associated with the proposal will provide adjacent properties with increased access to the MARTA rail transit line, which is a suitable use.***
  3. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;

***The property does have an economic use as currently zoned. The property owner is choosing to transfer the property to MARTA. The transfer and the proposed use are intended to enhance the overall transit-oriented area by improving accessibility to the existing MARTA station.***

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

***The zoning proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.***

5. Whether there are other existing or changing conditions affecting the use and development of the property that provide supporting grounds for either approval or disapproval of the zoning proposal;

***The proposed use of the property as an access point to the MARTA rail line is supported by the goals of the Comprehensive Plan, and therein lies support for approval.***

6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources;

***The zoning proposal will not affect historic buildings, sites, districts or archaeological facilities.***

7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

***An excessive or burdensome use of existing streets, transportation facilities, utilities or schools is not expected.***

## RECOMMENDATION

### Community Council

At their February 2015 Special Called meeting, the Community Council heard the applicant's request to rezone the property from O-Ic to C-1. After some discussion with the applicant and staff related to the nature of the project and the proposed use of the subject property specifically, a motion was made to recommend approval of the request. The motion was voted and passed (5 – 0). The Community Council commended the enhanced connectivity and viability this project will bring to the city.

At the Community Council meeting the applicant passed out a handout dated February 11, 2015.

### Planning Commission

At their regular March 2015 meeting, the Planning Commission heard the applicant's request to rezone the property from O-Ic to C-1. After some discussion with the applicant and staff, a motion was made to recommend approval of the request. The motion was voted and passed (5 – 0).

At the Planning Commission meeting on March 10, 2015, the applicant passed out the same handout that was passed out at the Community Council meeting, dated February 11, 2015. A page of which is attached as Exhibit B, with markups by staff that point out MARTA's current property lines, and the words "Future MARTA" that correspond to the land proposed to be rezoned.



### **Staff Recommendation**

Based on the above analysis and findings, staff has determined that the requested amendments to the official zoning map meet the requirements of Chapter 27, §27-335. Therefore, staff recommends the application be **approved** with the following exhibit(s) and condition(s):

**EXHIBIT A:** "Site Plan" dated January 20, 2015 by Kimley-Horn.

**EXHIBIT B:** "State Farm Atlanta HUB – Phase I" page 4 of 5, dated February 11, 2015 by Cooper Carry, KDC.

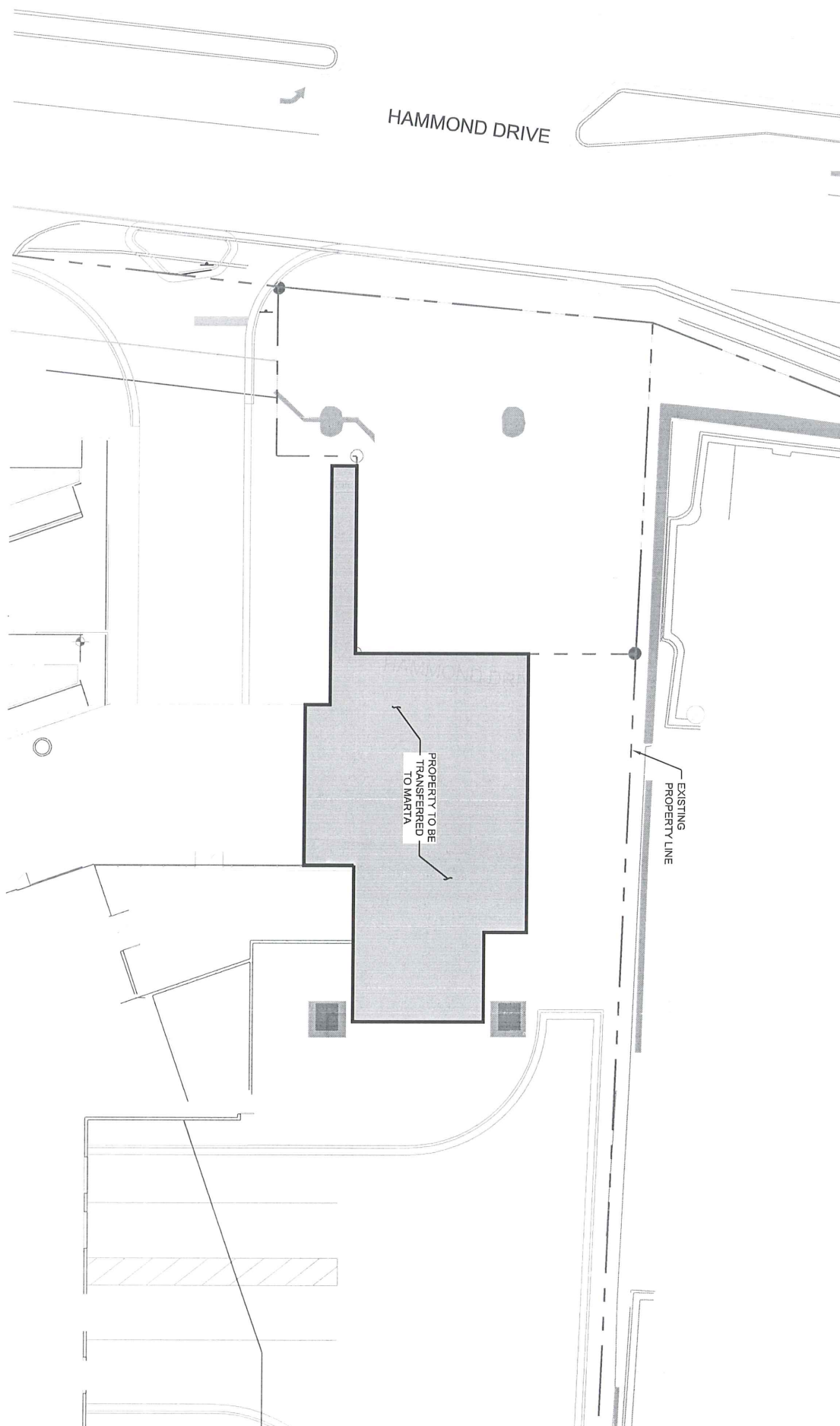
**EXHIBIT C:** Plan produced by Kimley-Horn, dated April 21, 2015 and showing approximate area needed for right-of-way adjacent to MARTA.

1. The rezoning shall not take effect until the portion of the subject property to be rezoned is subdivided and recombined with the adjacent MARTA property to the north (parcel ID 18 348 01 027) in accordance with the zoning and subdivision requirements and procedures in effect at the time the subdivision application is made.
2. Development shall substantially conform to Exhibit A and Exhibit B, copies of which are attached hereto and incorporated herein by reference.
3. Property shown on Exhibit C as "proposed" right-of-way shall extend as a straight line across the MARTA site, and shall be dedicated or conveyed to the City of Dunwoody upon request, subject to applicable Federal regulations and the MARTA approval process.

### **ATTACHMENTS**

- Exhibit(s); Planning Commission Minutes 3-10-15; Community Council Minutes 2-11-15
- Ordinance
- Location Map, Zoning Districts Map, Future Land Use Map
- Comprehensive Plan excerpt
- Application packet

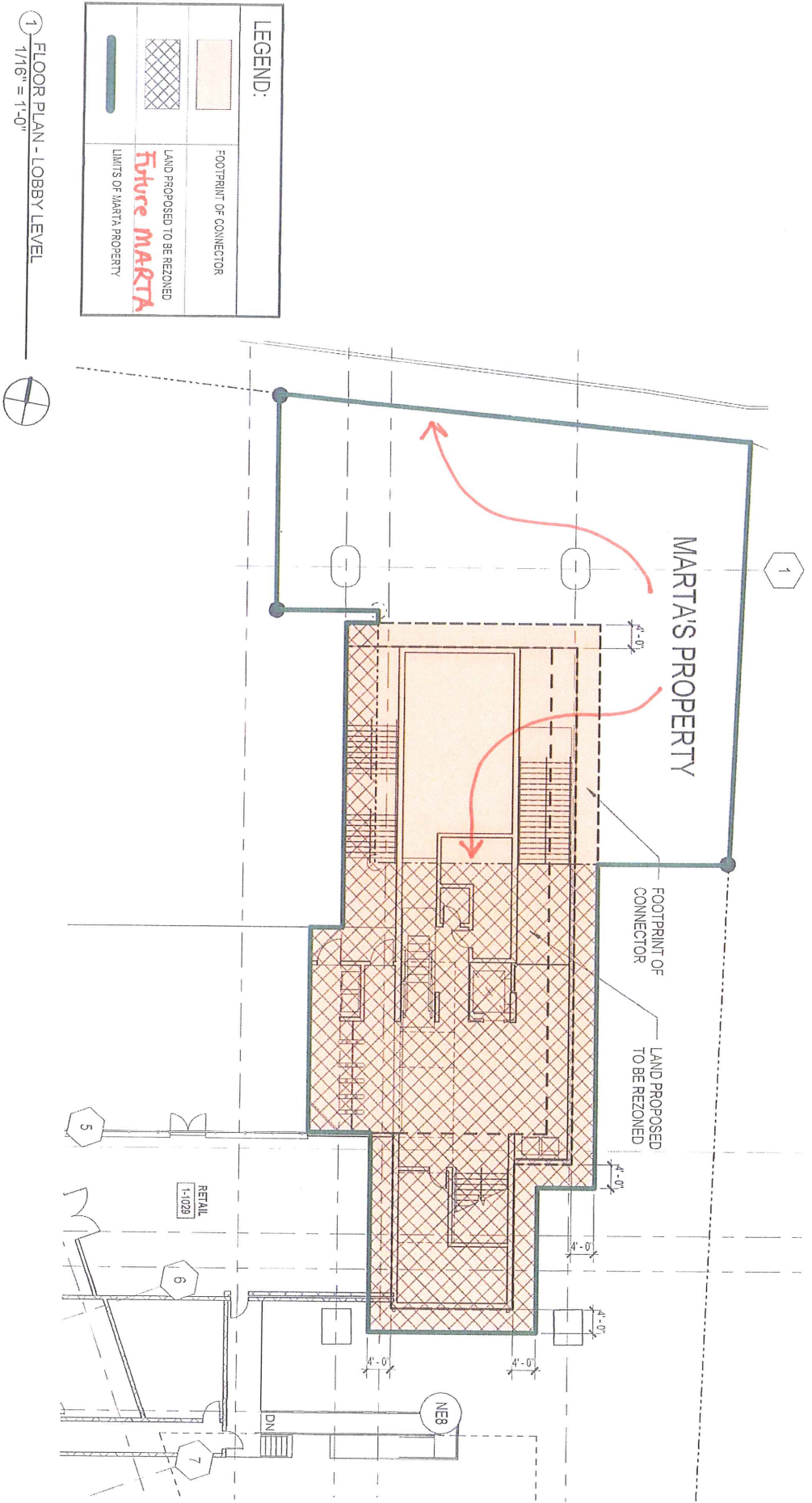
Kimley»Horn



MARTA LAND TRANSFER EXHIBIT

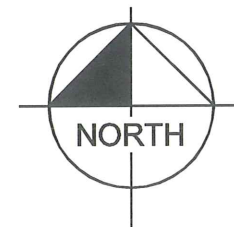
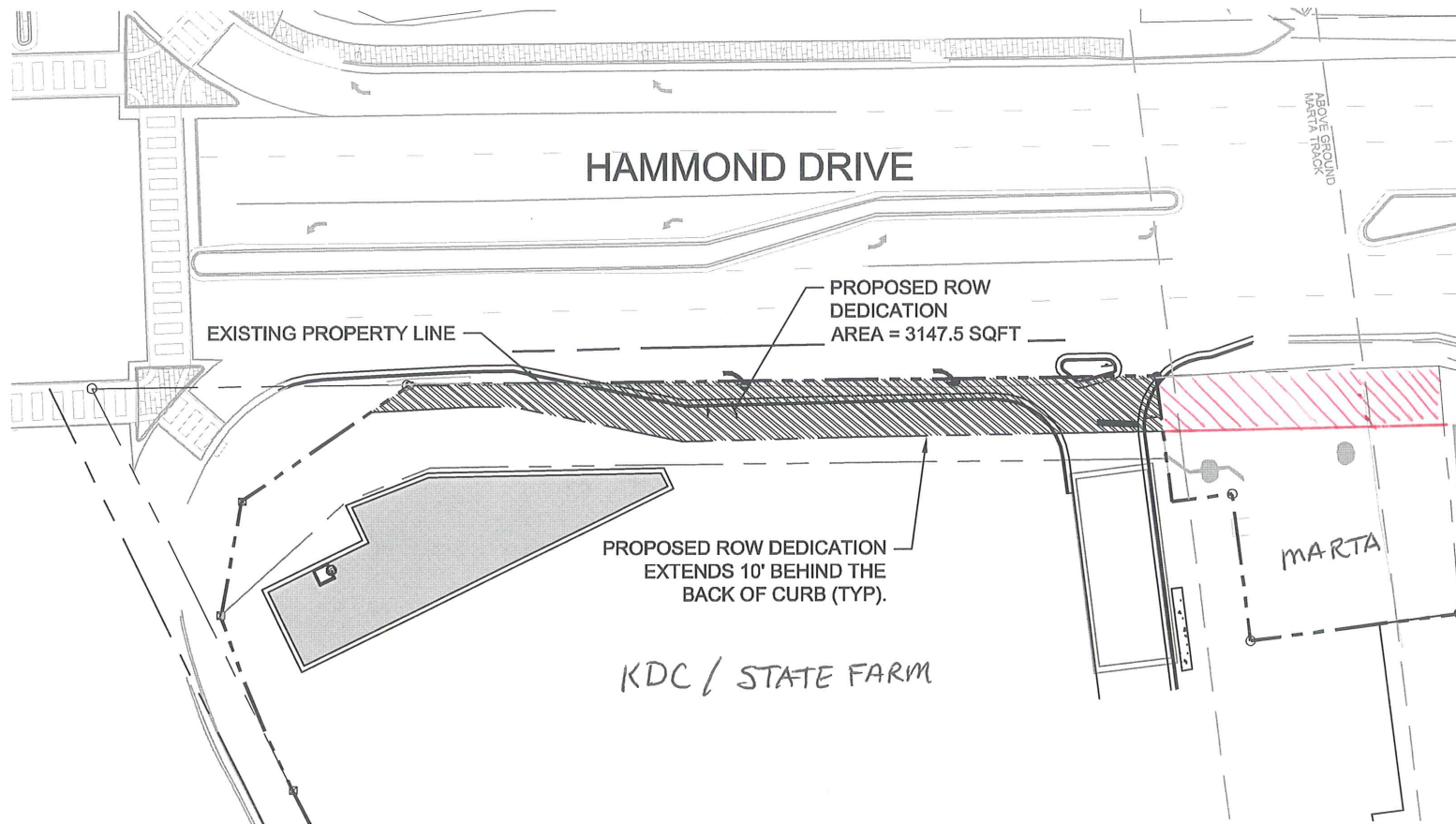
SCALE: 1"=20'

JANUARY 20, 2015

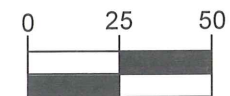


State Farm Atlanta **HUB** - Phase I February 11, 2015

# Exhibit C



## GRAPHIC SCALE



( IN FEET )  
1 inch = 50 ft.

 MARTA ROW - proposed

**Kimley»Horn**

10 ROSWELL STREET, SUITE 210  
ALPHARETTA, GEORGIA 30009  
PHONE: (770) 619-4280 www.kimley-horn.com

STATE FARM PHASE I  
ATLANTA HUB

KDC REAL ESTATE  
DEVELOPMENT & INVESTMENTS

ROW DEDICATION  
HAMMOND DRIVE

APRIL 21, 2015



**CITY OF DUNWOODY  
MARCH 10, 2015  
PLANNING COMMISSION MINUTES**

The Planning Commission of the City of Dunwoody held a Meeting on March 10, 2015 at 7:00 PM. The meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for the meeting were the following:

Voting Members:            Bob Dallas, Chair  
                                     Bill Grossman, Vice-Chair  
                                     Renate Herod, Commission Member  
                                     Heyward Wescott, Commission Member  
                                     Claire Botsch, Planning Commission Member

Also Present:                Steve Foote, Community Development Director  
                                     Rebecca Keefer, City Planner  
                                     Andrew Russell, Planning Coordinator

A.    CALL TO ORDER

B.    ROLL CALL

**Bob Dallas discussed re-arranging the order of the agenda to allow a representative of Pond and Company to give a presentation first, due to time considerations.**

**Bill Grossman motioned to approve. Claire Botsch seconded.**

**The motion was voted and passed (5 - 0).**

C.    MINUTES

1.    Approval of Meeting Minutes from February 10, 2015 Planning Commission Meeting

**Heyward Wescott motioned to approve. Claire Botsch seconded.**

**The motion was voted and passed (5 - 0).**

D.    ORGANIZATIONAL AND PROCEDURAL ITEMS

E.    UNFINISHED BUSINESS

1.    RZ 15-021: Cypress Communities, LLC, applicant, on behalf of owner, CQ Dunwoody Village Court, LLC, seeks permission to rezone property currently zoned Office-Institution (O-I) District to Multi-dwelling Residential District (RM-100) to allow for construction of an 81-unit townhome development. The subject property consists of two parcels: tax parcel 18-366-060-61 located at 1530 Dunwoody Village Parkway, Dunwoody, GA 30338, and tax parcel 18-366-060-65 located at 1536 Dunwoody Village Parkway, Dunwoody, GA 30338.

**Bob Dallas introduced the item and opened the public hearing.**

Rebecca Keefer presented on behalf of staff and recommend the Commission approve applicant's request for deferral to the regularly scheduled April meeting.

Carl Westmoreland, 4343 Peachtree Road, representative of the applicant, presented on behalf of the application. Carl cited the need for the land use plan application to run concurrently, and the need for time for staff to review the site plan that was recently amended as a result of staff comments, as reasons for the request for deferral. Carl responded to comments made in opposition to the application, and responded to questions from the Commission.

Robert Miller, 1332 Martina Drive, spoke in opposition to the application. Robert cited incompatibility with the Comprehensive Plan and the Dunwoody Village Master Plan, and concerns over quality of materials, walkability and connectivity, greenspace, the proposal to place active greenspace in the stream buffer, community-gathering spaces and quality outdoor living, and options for empty-nester residents. Robert stated that the development is not being designed specific to the target demographic that is outlined in the Dunwoody Village Master Plan.

Linda Dunlavy, representative of the Office Condominium Association at 1742 Mount Vernon Road, spoke in opposition to the application. Linda addressed issues related to easements between the properties, and responded to questions from the Commission.

Heyward Wescott said he would like to see more renderings of facades and sidewalks pulled away from buildings.

Renate Herod voiced concerns over remaining the encroachment of the City's 75 foot stream buffer.

Lonnie Moss, 2970 Peachtree Road, applicant, spoke in response to the Commissions concerns over easement agreements with the neighboring property, 1742 Mount Vernon Road.

Bob Dallas asked the applicant to improve the site vistas, pedestrian orientation, and interconnectivity of the site plan, and to make it more like the conceptual site plan in the Dunwoody Village Master Plan.

Claire Botsch spoke and voiced the need for this project to be the beginning of the cycle of rebirthing the Dunwoody Village area.

Heyward Wescott motioned to continue. Claire Botsch seconded.

The motion was voted and passed (4 - 0).

F. NEW BUSINESS

1. RZ 15-042: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Metropolitan Atlanta Rapid Transit Authority, on behalf of owner, Atlanta Office

Investments Phase I, L.L.C. c/o KDC Real Estate, seeks permission to rezone property currently zoned Office-Institution (O-I) Conditional District to Local Commercial (C-1) District to allow MARTA to own and operate a new connection to the Dunwoody MARTA station. The subject property is located at 236 Perimeter Center Parkway, Dunwoody, GA, 30346. The tax parcel ID is 18 348 02 015.

**Bob Dallas introduced the item and opened the public hearing.**

**Rebecca Keefer presented on behalf of staff and recommended approval with conditions.**

**Doug Dillard presented on behalf of the applicant. Doug distributed a handout to the Commission and staff, and asked that the handout be entered into the record.**

**Heyward Wescott motioned to approve with staff's conditions. Bill Grossman seconded.**

**The motion was voted and passed (5 - 0).**

2. SLUP 15-041: Civic Center Partners, LTD., applicant and owner of 1441 Dunwoody Village Parkway, Dunwoody, GA 30338, seeks the requirement for a building to come into full compliance be waived to allow for building renovations in the Dunwoody Overlay District under the approval of a Special Land Use Permit. The tax parcel number is 18 358 06 017.

**Bob Dallas introduced the item.**

**Rebecca Keefer presented on behalf of staff and recommended denial.**

**Kristen Ware, presented on behalf of the applicant, and responded to the Commission's questions.**

**The Commission discussed and asked questions of the applicant's representative.**

**Steve Foote stated that a lot of the goals of the Dunwoody Village Overlay could probably be met with the exception of moving the entire building. Steve stated that staff is going to take a look at in detail the kinds of things that could be done to a building without contributing to the 25% when remodeling or renovations are not being performed. Steve stated that knocking down or moving walls would contribute to the 25%.**

**Renate Herod motioned to approve with the following conditions:**

1. **That the property was purchased prior to the Overlay district rules coming into effect in October 2013.**
2. **The owners make the building more accessible to the street, with a stamped walkway in the front of the building connected to the sidewalk on Dunwoody Village Parkway, and public improvements**

**made to the sidewalk as the owner had offered originally.**

**Claire Botsch seconded.**

**The motion was voted and passed (3 - 1).**

**G. OTHER BUSINESS**

1. Presentation by Pond and Company on the Winters Chapel Road corridor study.

**Item moved to D. Organizational and Procedural Items**

**Bob Dallas introduced the item.**

**Steve Foote introduced Michelle Alexander, consultant with Pond and Company.**

**Michelle Alexander presented on the Winters Chapel Corridor study and the recent community workshop with the City of Dunwoody and the City of Peachtree Corners.**

**H. PUBLIC COMMENT**

**Robert Miller spoke regarding the scheduling of hearing of application RZ 15-021 in April.**

**The Commission asked questions of staff.**

**Steve Foote responded to the Commission's questions, and clarified that he does not have the authority to override the Commission's hearing an application that has been deferred by the Commission.**

**I. COMMISSION COMMENT**

**J. ADJOURN**

Approved by:

\_\_\_\_\_  
Chair

Attest:

\_\_\_\_\_  
Secretary



**CITY OF DUNWOODY  
FEBRUARY 11, 2015  
COMMUNITY COUNCIL MINUTES**

The Community Council of the City of Dunwoody held a Special Called Meeting on February 11, 2015 at 7:00 PM. The meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for the meeting were the following:

Voting Members:           Norb Leahy, Chair  
                                  Richard Grove, Community Council Member  
                                  Deborah G. Shendelman, Community Council Member  
                                  Brian Sims, Community Council Member  
                                  Sam Verniero, Community Council Member

Also Present:               Steve Foote, Community Development Director  
                                  Rebecca Keefer, City Planner  
                                  Andrew Russell, Planning Coordinator

A. CALL TO ORDER

B. ROLL CALL

Council Member Rick Callihan was absent.

C. MINUTES

1. Approval of Meeting Minutes from the January 8, 2015 Community Council Meeting

Deborah G. Shendelman motioned to approve. Richard Grove seconded.

The motion was voted and passed (5 – 0).

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

Rebecca Keefer announced that iPad training for the Community Council will be held on Friday, February 13, 2015 at 11:00 AM.

Rebecca Keefer introduced the new motion sheets to the Community Council and explained how the sheets will be used going forward.

E. UNFINISHED BUSINESS

1. RZ 15-021: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Cypress Communities, on behalf of CQ Dunwoody Village Court, LLC, seeks permission to rezone property currently zoned Office-Institution (O-I) District to Multi-dwelling Residential District (RM-100) to allow for construction of a 81-unit townhome development. The subject property consists of two parcels: tax parcel 18 366 060 61 located at 1530 Dunwoody Village Parkway, Dunwoody, GA 30338, and tax parcel 18 366 060 65 located at 1536 Dunwoody Village Parkway, Dunwoody, GA 30338.

Norb Leahy opened the public meeting.

Rebecca Keefer presented on behalf of staff, and responded to the Council's questions.

Carl Westmoreland, representative of Morris, Manning & Martin, LLP, presented on behalf of applicant Cypress Communities. The condition that no more than two adjacent units will share a certain area, as was a condition encouraged by the DHA. Lighting will not be cast on adjacent properties. Carl responded to concerns over easements with neighboring properties, and clarified that access of service, delivery, and emergency vehicles is the main concern and that the applicant is in talks with representatives of that neighboring property, 1742 Mt. Vernon.

Robert Wittenstein, 1146 Bordeaux Court, presented as a representative of the DHA, and recommended approval. He stated that this is the sort of development the Village needs. He stated the DHA has agreed to enter into an agreement with the developer. He stated rental units will be confined to 8, just under 10%.

Robert Miller, spoke and suggested that certain conditions be added to the application: real balconies be required on the unit fronts to encourage connectivity with the city and with people, materials be high quality, outside stairs should be bull-nosed brick, hvac units should be out of sight, shutters should be real-wood operating shutters, 1x4 brick band around the windows should be required, exterior designs should not repeat more than three times, there should be active at least 1.5 acres of active green space and use of which should be encouraged from the parkway, there should be the potential for single-floor living, half of all the units should have the kitchen and master bedroom on the same level. Robert suggested that DHA's rental condition, confining rental units to 8 total units, would be unenforceable.

Lonnie Moss, representative of applicant, Cypress Communities, spoke. He clarified that the front doors of the units located on Dunwoody Parkway would face the parkway. He stated the homeowners would be responsible for repaving all surfaces internal to the complex. He stated that closets will be stacked so that any unit can be adjusted to have an elevator.

Sam Verniero motioned to approve. Brian Sims seconded.

The motion was voted and passed (5 – 0).

#### F. NEW BUSINESS

1. RZ 15-042: Pursuant to the City of Dunwoody Zoning Ordinance, applicant, Metropolitan Atlanta Rapid Transit Authority, on behalf of owner, Atlanta Office Investments Phase I, L.L.C. c/o KDC Real Estate, seeks permission to rezone property currently zoned Office-Institution (O-I) Conditional District to Local Commercial (C-1) District to allow MARTA to own and operate a new connection to the Dunwoody MARTA station. The subject property is located at 236 Perimeter Center Parkway, Dunwoody, GA, 30346. The tax parcel ID is 18 348 02 015.

Norb Leahy opened the public meeting.

Rebecca Keefer presented on behalf of staff, and responded to the Council's questions.

Doug Dillard, representative of Pursley Friese Torgrimson, presented on behalf of applicant, MARTA.

Jim George, representative of KDC, and Stan Williams, representative of Cooper Carry, responded to the Council's questions regarding the design and layout of the proposed structure.

Greg Floyd, representative of applicant, MARTA, responded to the Council's questions.

The Council commended the enhanced connectivity and viability this project will bring to the city.

Sam Verniero motioned to approve. Richard Grove seconded.

The motion was voted and passed (5 – 0).

G. OTHER BUSINESS

H. PUBLIC COMMENT

I. COMMUNITY COUNCIL COMMENT

J. ADJOURN

**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2015-XX-XX**

**AN ORDINANCE TO AMEND THE CITY OF DUNWOODY ZONING CLASSIFICATION AND MAP FOR ZONING CONDITIONS OF LAND LOT 348, District 18 IN CONSIDERATION OF ZONING CASE RZ-15-042 (236 PERIMETER CENTER PARKWAY)**

**WHEREAS:** Metropolitan Atlanta Rapid Transit Authority (MARTA), on behalf of owner Atlanta Office Investments Phrase I, LLC, c/o KDC Real Estate, seeks to rezone the property designated as 236 Perimeter Center Parkway from its current zoning designation Office-Institution Conditional (O-Ic) to Local Commercial (C-1) District; and

**WHEREAS:** the Property is located on the South Side of Hammond Drive, just east of its intersection with Perimeter Center Parkway, and consists of one parcel of 2.04 acres; and

**WHEREAS:** the owner currently desires to rezone a small portion of said Property, consisting of 0.081 acres which is intended to be transferred to MARTA and subdivided in order to allow MARTA to operate a new connection to the Dunwoody MARTA station; and

**WHEREAS:** the Council finds that this connection to the MARTA stations will serve the purpose of improved connectivity and reducing traffic by encouraging more frequent usage of public transportation; and

**WHEREAS:** Notice to the public regarding said rezoning and modification to conditions of zoning has been duly published in The Dunwoody Crier, the Official News Organ of the City of Dunwoody; and

**WHEREAS:** A public hearing was held by the Mayor and City Council of the City of Dunwoody as required by the Zoning Procedures Act.

**NOW THEREFORE,** The Mayor and City Council of the City of Dunwoody hereby **ORDAINES AND APPROVES** the rezoning of said property from Office-Institution Conditional (O-Ic) to Local Commercial (C-1) District. The rezoning of the 0.081 acres of this Property shall consist of the following Exhibits:

**EXHIBIT A:** "Site Plan" dated January 20, 2015 by Kimley-Horn.

**EXHIBIT B:** "Atlanta HUB MARTA Connection Review" dated February 11, 2015 by Cooper Carry, KDC

**EXHIBIT C:** Plan produced by Kimley-Horn, dated April 21, 2015, and showing approximate area needed for right-of-way adjacent to MARTA.

Development of the site shall be substantially consistent with the above Exhibits, Zoning Ordinance and the following conditions:

1. The rezoning shall not take effect until the portion of the subject property to be rezoned is subdivided and recombined with the property to the north (parcel ID 18 348 01 027) in accordance with the zoning and subdivision requirements and procedures in effect at the time the subdivision application is made.



**STATE OF GEORGIA  
CITY OF DUNWOODY**

**ORDINANCE 2015-XX-XX**

2. Development shall substantially conform to Exhibit A and Exhibit B, copies of which are attached hereto and incorporated herein by reference.
3. Property shown on Exhibit C as "proposed" right-of-way shall extend as a straight line across the MARTA site, and shall be dedicated or conveyed to the City of Dunwoody upon request, subject to applicable Federal regulations and the MARTA approval process.

The City of Dunwoody Zoning Map shall be changed to reflect said rezoning.

**SO ORDAINED AND EFFECTIVE**, this the \_\_\_\_ day of \_\_\_\_\_, 2015.

Approved by:

Approved as to Form and Content

\_\_\_\_\_  
Michael G. Davis, Mayor

\_\_\_\_\_  
City Attorney

Attest:

\_\_\_\_\_  
Sharon Lowery, City Clerk

SEAL

**236 Perimeter Center Parkway**

RZ 15-042

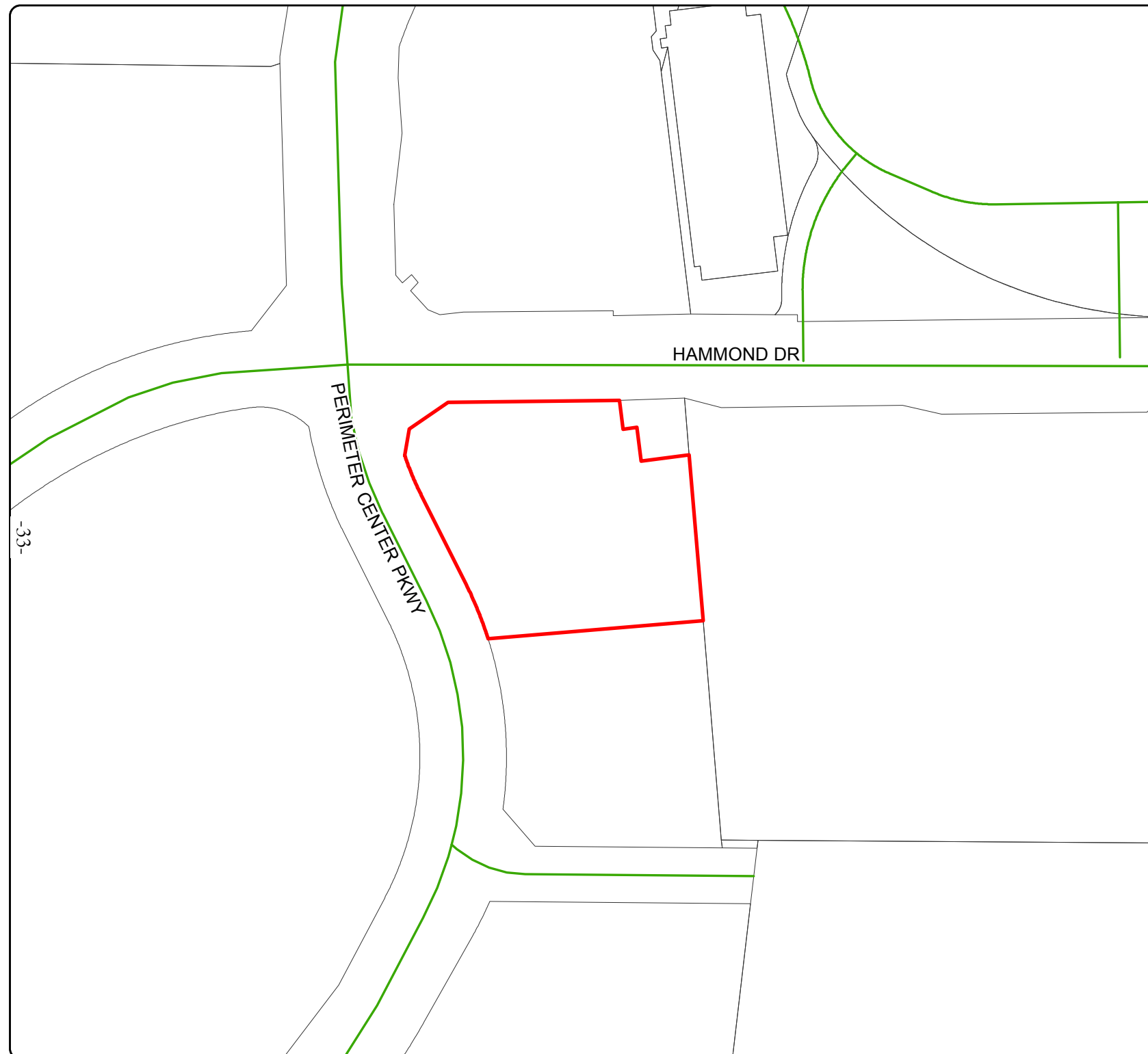
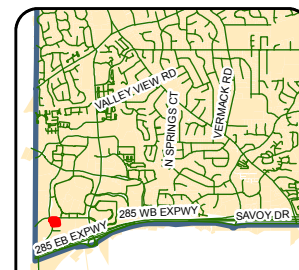
February 2015

**Legend**

- Street Centerlines
- Parcels



Scale: 1" = 166'  
(1:2000)



## 236 Perimeter Center Parkway

RZ 15-042

February 2015

### Legend

Street Centerlines

Parcels

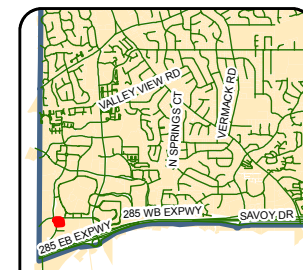
### City Zoning

#### DISTRICT

- Commercial-Residential Mixed-Use
- General Commercial
- Industrial
- Local Commercial
- Multi Family Residential
- Multi-Family Residential
- Neighborhood Shopping
- Office-Commercial-Residential
- Office-Distribution
- Office-Institution
- Office-Institution-Transitional
- Planned Development
- Residential Community Development
- Single Family Cluster Residential
- Single Family Residential



Scale: 1" = 166'  
(1:2000)



OCR

HAMMOND DR

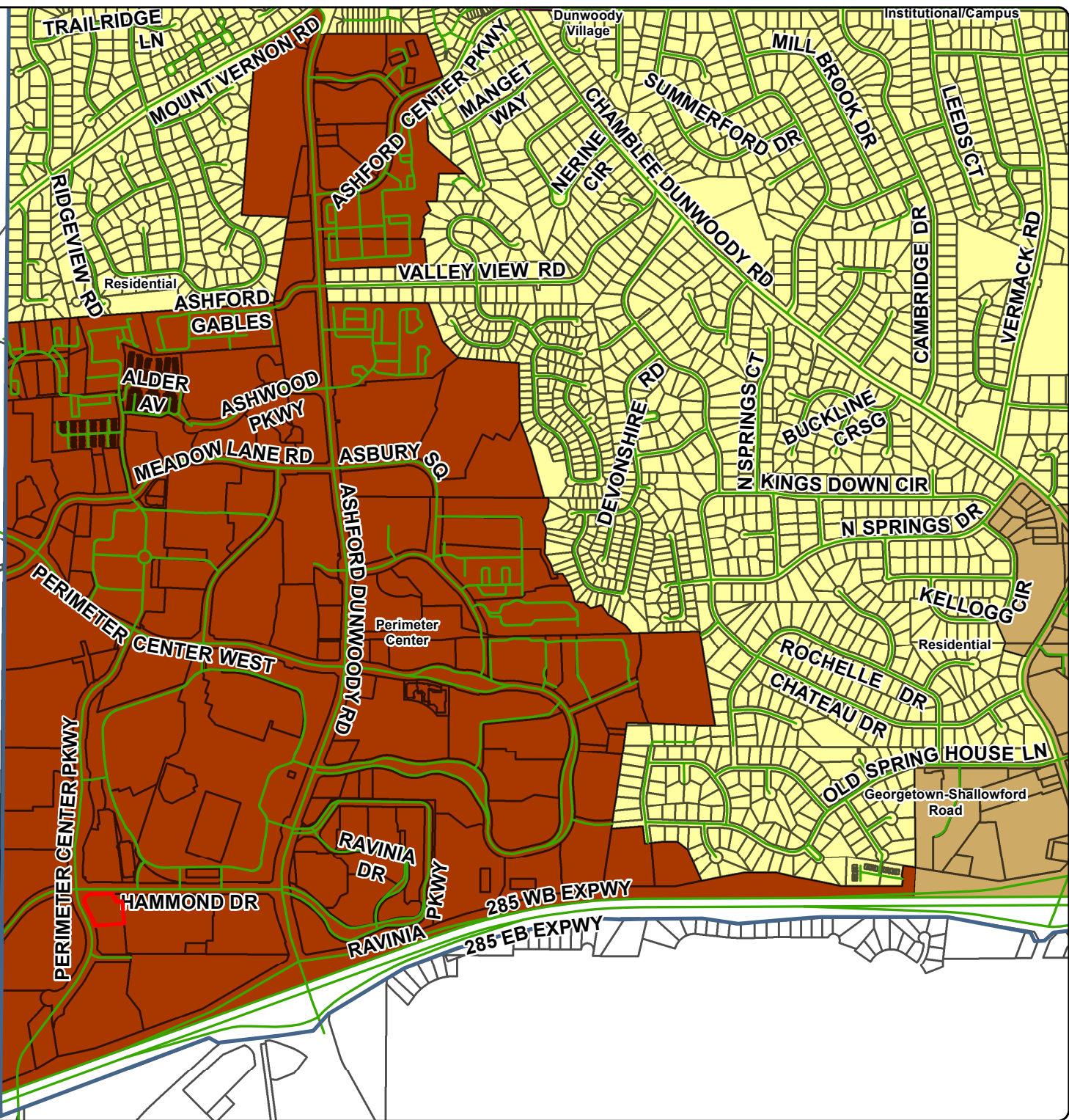
C-1

PERIMETER CENTER PKWY

O-1c

O-1

R-150



**Dunwoody\***  
\*Smart people - Smart city  
Community Development  
41 Perimeter Center East Suite 250 Dunwoody, Georgia 30346-1902  
678-382-6800 ~ www.dunwoodyga.gov

**236 Perimeter Center Parkway**  
**RZ 15-042**  
**Comprehensive Plan**  
**Future Land Use Map**  
*February 2015*

**Legend**

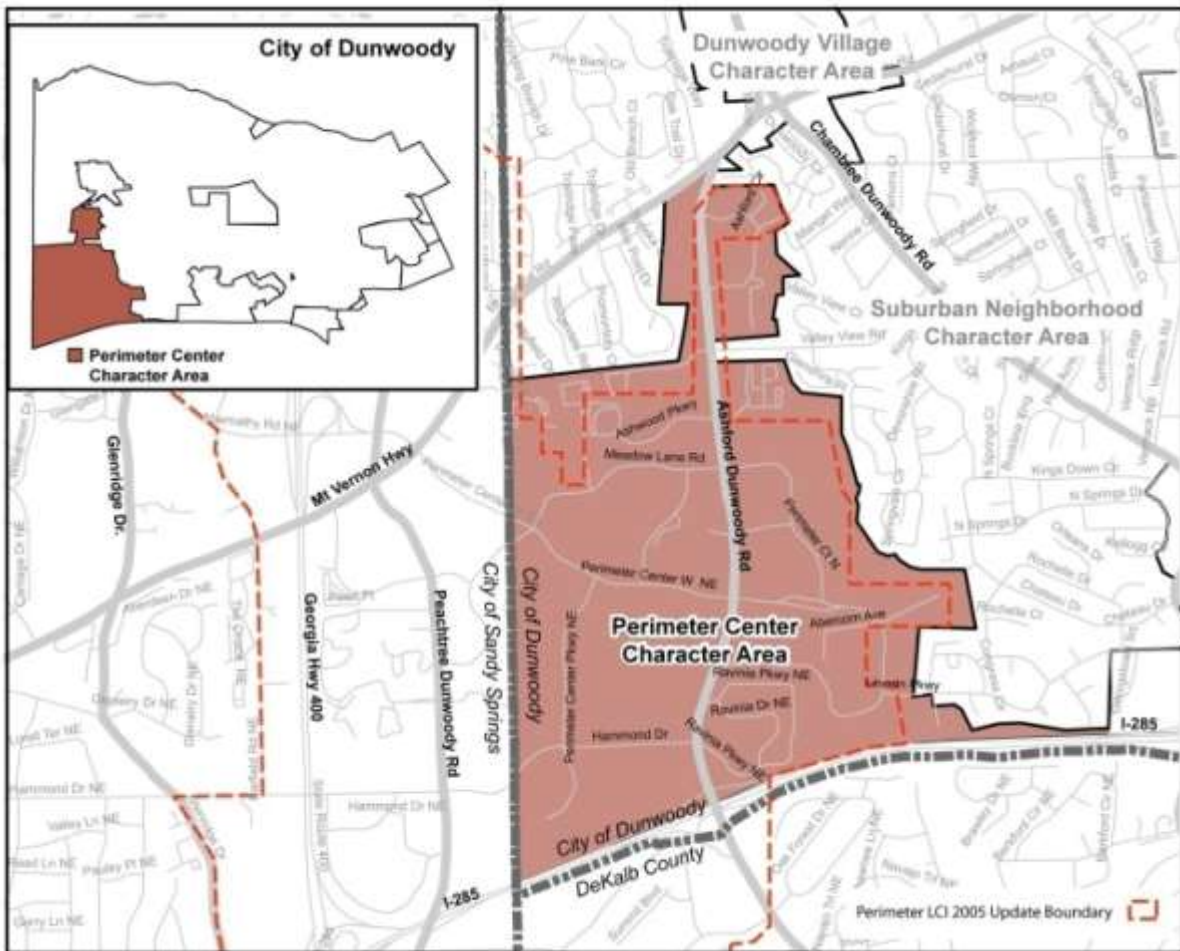
- Parcel
- Street Centerline
- Perimeter Center
- Community Facility/Water Treatment
- Dunwoody Village
- Georgetown-Shallowford Road
- Institutional/Campus
- Office
- Jett Ferry Gateway
- Tilly Mill Gateway
- Winters Chapel Redevelopment Area
- Multi-Family/Mixed-Use
- Residential

**Scale:**  
1 in = 1,333 ft





## Perimeter Center



## Vision/Intent

To create a "livable" regional center with first-class office, retail and high-end restaurants in a pedestrian and bicycle-oriented environment that serves as a regional example of high quality design standards. The City of Dunwoody works in partnership with the Perimeter Community Improvement Districts (PCIDs) to implement and compliment the framework plan and projects identified in the Perimeter Center Livable Centers Initiative study (LCI) and its current and future updates.

By 2030, the area successfully adds public gathering space and pocket parks, continues to create transportation alternatives, mitigates congestion, and reduces remaining excessive surface parking. The area creates the conditions of possible true "live-work" environment. All future development continues to emphasize high quality design standards and building





materials and incorporates the current national best practices on energy efficiency, where possible.

The City of Dunwoody recognizes the value of creating mixed-use, transit-oriented development within walking distance of public transit stations. However, the City has concerns about the impact of such development on the City's infrastructure and schools. To ensure proper controls on residential growth in the PCID, the City recommends zoning changes to require Special Land Use Permits (SLUP) for future high-density housing projects.

### **Future Development**

The boundary of the Character Area designation extends slightly beyond the boundary of the PCIDs/LCI study area to include either existing commercial or to provide a transition where the Character Area abuts adjacent Suburban Character. The locator map also shows where the PCIDs/LCI boundary extends both west into Sandy Springs and into unincorporated DeKalb County, south of I-285.

The first section identifies the City's intent for the area outside the PCIDs; the subsequent section incorporates components which lie within the City of Dunwoody boundaries.

#### *Outside the Perimeter CIDs/LCI:*

Development within the Perimeter Center Character Area that abuts the Suburban Character area should demonstrate conformance with the principles of a transitional area. Unless accompanied by an exceptional buffering and usable open space provisions, density should be no greater than 4-8 units to the acre and commercial should be very low intensity (under 20,000 square feet).





1999 parking lot conditions in the Perimeter Center area



2009 conditions above (outparcel development); the City envisions continuing the trend of converting existing surface parking to better uses, ideally including pocket park and green space

*Within the Perimeter CIDs/LCI study area:* In 2000, the Perimeter CIDs engaged in a Livable Cities Initiative study to craft a vision and strategy for the Fulton and DeKalb Perimeter Community Improvement Districts. This process resulted in a future land use plan that divided the CIDs into defined, development sub-areas -- **Transitional, High-Density, and Transit Village** -- indicated below. Where located within the Dunwoody City limits, new development should conform to the intent of these areas, as described below. In 2005, the Perimeter CIDs went through a process to update a LCI and document potential growth strategies for each area. The City will partner with the PCIDs for a future update and amend this Comprehensive Plan, if appropriate.

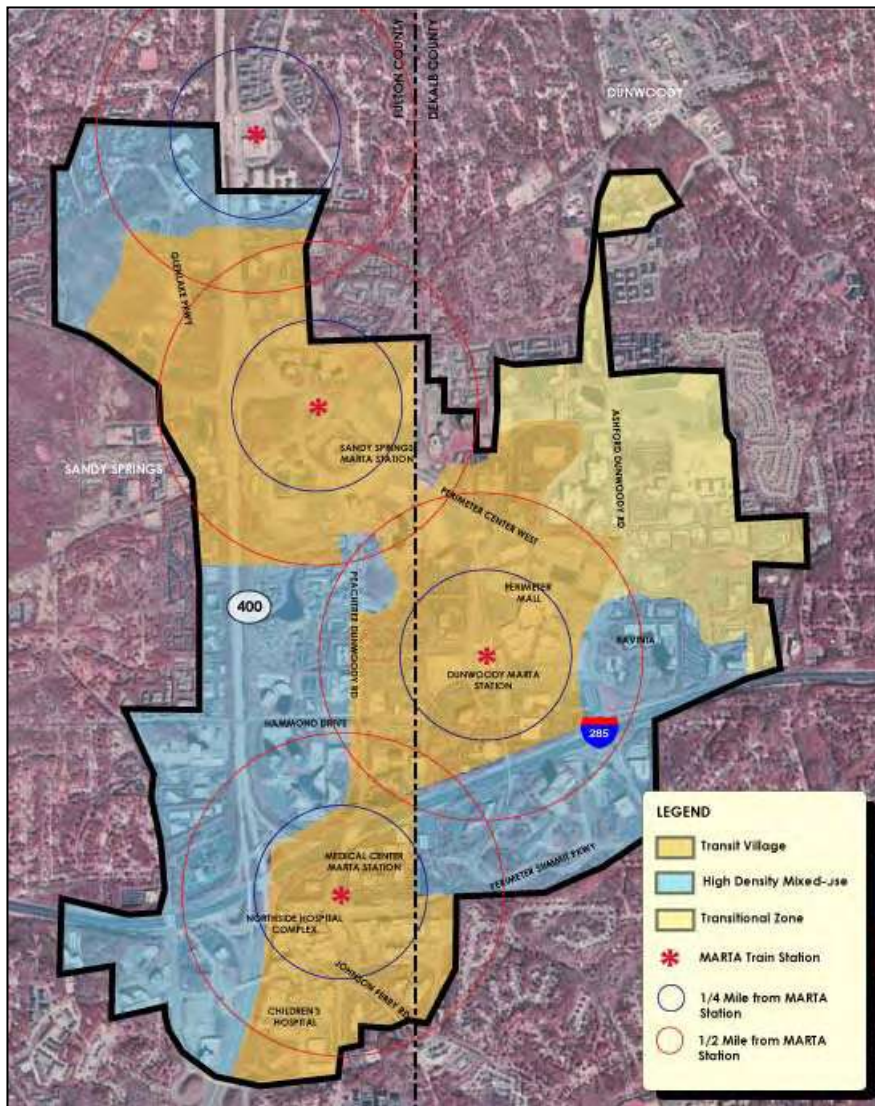


FIGURE 4: Perimeter Center LCI Framework Plan: development types

### A Community Improvement District (CID)

is an authorized self-taxing district dedicated to infrastructure improvements within its boundaries. The PCIDs are governed by two boards – one each for Fulton and DeKalb. The PCIDs spent or leveraged public funds to invest \$55 million in Dunwoody alone; over \$7 million from ARC's LCI program was directed to the PCIDs. This makes it one of the most, if not the most, successful CIDs in the region. The PCIDs' mission focuses exclusively on transportation improvements:

***To work continuously to develop efficient transportation services, with an emphasis on access, mobility, diversification and modernization.***

Zoned when the area was under unincorporated DeKalb County jurisdiction, several of the parcels located within the City's character area remain undeveloped. As actual market values adjust in the post-recession climate, the City anticipates opportunities to establish development





regulations to provide appropriate recreation and open space amenities for the public, especially where open space potential is identified within the Perimeter LCI “Transit Village” and “Transitional” section described further below.

### **Perimeter Center - Transit Village:**

#### **Transit Village Sub-Area:**

Defined by a half-mile radius around the existing MARTA Stations, the Transit Village area will develop as an urban district promoting a mix of residential, commercial and institutional uses. This decision is based on the location of major transit infrastructure which provides opportunities for alternative transportation.

The desire is to generate a “Town Center” near Perimeter Mall to reinforce business development and a sense of identity for the area emerged. The plan argues the vision for the Perimeter Mall “Transit Village” can serve as the “prototype spearheading development at other MARTA Stations.”

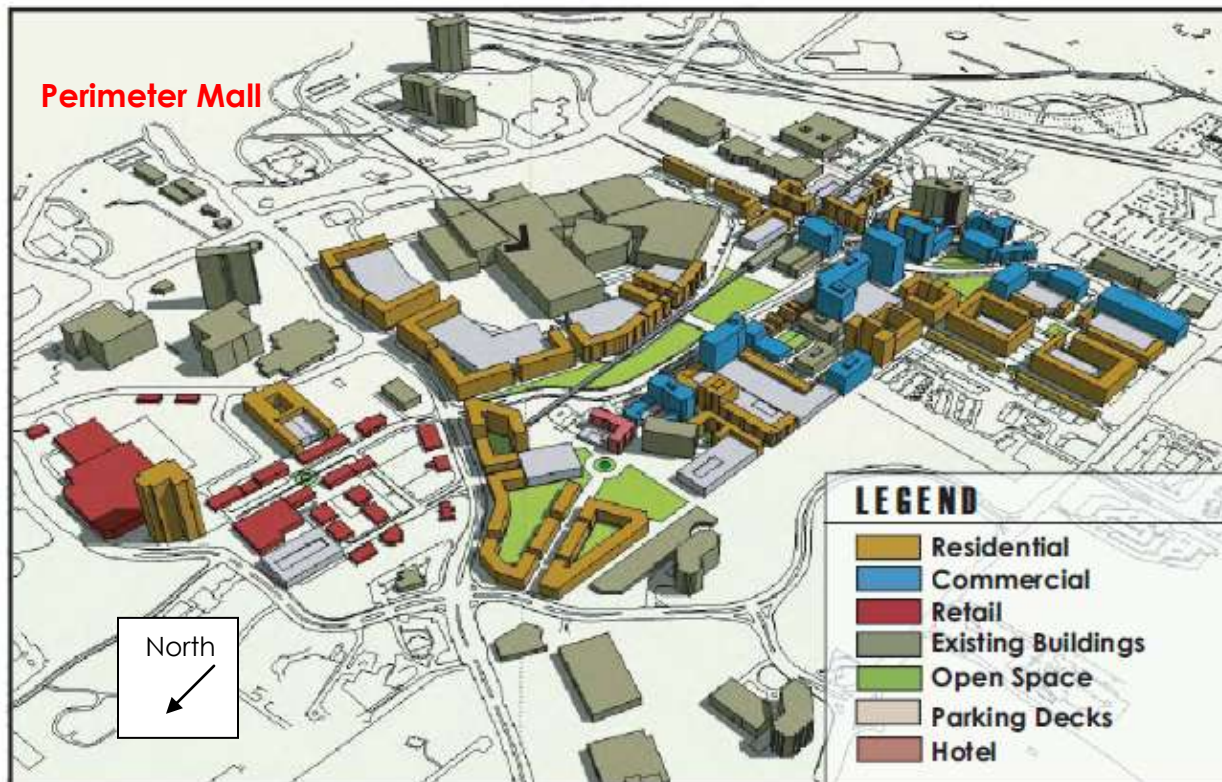


FIGURE 5: Plan-view Perimeter Center Parkway Build-Out with Linear Park and Green Space



FIGURE 6: Transit Village Vision: *Perimeter Focus: Envisioning a New Atlanta Center Update* (LCI 2005) [EDITOR'S NOTE: Cannot change the name of official documents.]

### High-Density Mixed-Use sub-area:

This development sub-area currently has a concentration of commercial uses, mostly due to accessibility from I-285. The Ravinia complex on the north side of I-285 includes an upscale hotel (Crown Plaza) and two high-rise office towers. The parcels north of Ravinia are a part of the Perimeter Center East commercial properties, owned by Equity Office Properties. These buildings vary from low-density offices built in the 1970s (such as 77 Perimeter Center West) to high-rise buildings (including the former Philips regional headquarters) fronting I-285. The City envisions continuing commercial development along with encouraging compatible uses to balance office expansion.

Notable, the interchange at Ashford Dunwoody Road is one of the major transportation bottleneck locations in the Perimeter area. Current road patterns require all of the traffic on Ravinia Drive and Perimeter Center East to converge on to Ashford Dunwoody Road. Given the commercial nature of the developments on both these roads, morning and afternoon rush hour



times create huge congestion issues south of Perimeter Center West. Similar issues are created south of I-285 at Ashford Dunwoody Road, where vehicular traffic from offices at Perimeter Summit and Lake Hearn backs up during peak hours. The recent interchange improvements at Ashford Dunwoody Road are aimed at reducing congestion on Ashford Dunwoody Road, on both sides of I-285.

Additionally, the PCIDs completed the Perimeter Center Parkway Bridge (flyover) in 2007. This bridge provides much needed vehicular, pedestrian and bicycle accessibility connecting the Dunwoody MARTA Station to Perimeter Summit. The parkway improvements were achieved through a collaborative partnership between the Atlanta Regional Commission's Livable Centers Initiative, Georgia's Fast Forward bond program and DeKalb County.

The City also envisions realizing the goal of **expanding the open space** from the trails behind the Ravinia Towers to additional areas in the future. A public plaza would also be appropriate at Perimeter Summit, to serve the large number of residents and employees that will be using the complex. Public art such as sculptures or fountains could enhance these open spaces. This would anticipate a conversion of excess parking into usable pocket parks. A pocket park is defined as a small area – 2,500 sq. ft. to 1 acre – of open space for active or passive recreation within a development.

In 2009, the PCIDs broke ground on the nearly \$18 million half-diamond interchange at Hammond Drive and GA 400.

Construction will include building entrance and exit ramps from Hammond Drive to GA 400 and replace the four-lane Hammond overpass with a nine-lane, higher bridge to meet current and future traffic volumes. This will provide alternative access to the area. The project had been planned for more than 15 years.

#### **Perimeter Center Transitional Sub-Area:**

Geared specifically towards protecting the single-family communities that become vulnerable to density pressures given high land prices, this sub-area actively discourages incompatible infill and loss of neighborhood character. The City of Dunwoody intends to establish a "buffer zone" where transitional regulations can be put in place to offer contextual sensitivity. The plan envisions low and medium density office and some residential. The City of Dunwoody considers up to 8 units maximum to the acre "low density" and up to 12 units to the acre "medium density."

Two areas of potential open space, as indicated on the development opportunities map below, are identified. They include surface parking that could be converted into more appropriate uses, including usable open space amenities.





### Perimeter Center Character Area Goals

- Land Use
  - New residential development will include amenities and provide public functional green space
  - New residential development will address school capacity issues and applicants will work with Board of Education and City for better resolution of school issues
  - Reduce surface parking and promote livable centers in the immediate areas surrounding MARTA station
  - Encourage hotel and convention development near MARTA in order to foster commerce along the mass transportation route
  - Achieve a lifelong-community for residents who can age in place with safe access to medical, recreational and other necessary services
- Transportation and Circulation
  - Create bicycle, pedestrian and potential golf cart options to connect with the rest of the City of Dunwoody
  - Work with the Perimeter Transportation Management Association (TMA) to actively reduce automobile dependency and emerge as a leader in alternative transportation for the region
  - Promote/establish new connectivity
- Intergovernmental Coordination
  - Work to strengthen Board of Education relationship for creative solutions to school capacity
  - Work with the PCIDs' boards to implement vision
  - Coordinate with the City of Sandy Springs for LCI Updates and implementation
  - Coordinate with the Atlanta Regional Commission (ARC) for implementation of future LCI study updates
  - Coordinate with MARTA regarding Bus Rapid Transit (BRT) (or other regional service) and urban design surrounding all transit stations

# AMENDMENT APPLICATION

Community  
Development  
**Dunwoody**  
\*Smart people - Smart city\*

41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

## \* Applicant Information:

Company Name:	Metropolitan Atlanta Rapid Transit Authority		
Contact Name:	c/o G. Douglas Dillard, Esq., Weissman, Nowack, Curry & Wilco		
Address:	3500 Lenox Road, 4th floor, Atlanta, Georgia 30326		
Phone:	404-926-4545	Fax:	404-926-4745
Email:	dougillard@wncwlaw.com		
Pre-application conference date (required):	December 17, 2014		

## \* Owner Information: ☐ Check here if same as applicant

Owner's Name:	Atlanta Office Investments Phase I, L.L.C. c/o KDC Real Estate		
Owner's Address:	1040 Crown Pointe Parkway, Atlanta, GA 30338		
Phone:	770-810-2333	Fax:	214-360-5482
Email:	James.george@kdc.com		

## \* Property Information:

Property Address:	236 Perimeter Center Parkway, Atlanta, GA 30346		
Parcel ID:	18-34802015		
Current Zoning Classification:	O&I Conditional		
Requested Zoning Classification:	C1		

## \* Applicant Affidavit:

I hereby certify that to the best of my knowledge, this amendment application form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filling additional materials as specified by the City of Dunwoody Zoning Ordinance. I certify that I, the applicant (if different), am authorized to act on the owner's behalf, pursuant to this application and associated actions.

Applicant's Name: Gregory Floyd on behalf of MARTA  
Applicant's Signature: Gregory T. Floyd Date: 1-26-15

Notary:  
I, Willie James Walker Jr., do hereby certify that I am a Notary Public for the State of Georgia.  
I, Willie James Walker Jr., do hereby certify that I am a Notary Public for the State of Georgia.  
My Commission Expires: 2-21-16

WILLIE JAMES WALKER JR.  
Notary Public, Henry County, Georgia  
My Commission Expires 2-21-16

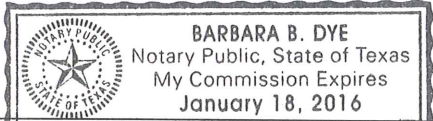
# Additional Property Owner(s) Notarized Certification



41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

I hereby certify that to the best of my knowledge, this amendment form is correct and complete. If additional materials are determined to be necessary, I understand that I am responsible for filing additional materials as specified by the City of Dunwoody Zoning Ordinance. I certify that the applicant(s) (if different) are authorized to act on my behalf, pursuant to this application and associated actions.

## \* Property Owner (If Applicable):

Owner Name: <u>Atlanta Office Investments Phase I, L.L.C. c/o KDC Real Estate</u>	
Signature: <u><i>[Signature]</i> M. SCOTT DZYM</u>	Date: <u>1-19-15</u>
Address: <u>1040 Crown Pointe Parkway, Atlanta, GA 30338</u>	
Phone: <u>770-810-2333</u>	Fax: <u>214-360-5482</u> Email: <u>James.george@kdc.com</u>
Sworn to and subscribed before me this <u>19</u> Day of <u>January</u> , 20 <u>15</u>	
Notary Public: <u>Barbara B. Dye</u>	
	

## \* Property Owner (If Applicable):

Owner Name: _____	
Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	

## \* Property Owner (If Applicable):

Owner Name: _____	
Signature: _____	Date: _____
Address: _____	
Phone: _____	Fax: _____ Email: _____
Sworn to and subscribed before me this _____ Day of _____, 20____	
Notary Public: _____	



# Campaign Disclosure Ordinance



41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

Campaign Disclosure Ordinance

**Please read the law and complete the Campaign Disclosure Statement on the following page if you are requesting an amendment.**

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

## **CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS** (Current through 2000 General Assembly)

### 36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)

*Official Code of Georgia Annotated Copyright 1982 – 2000 State of Georgia.*

CAMPAIGN DISCLOSURE STATEMENT

G. DOUGLAS DILLARD, of the law firm of WEISSMAN, NOWACK, CURRY & WILCO, P.C., has been retained to represent KDC REAL ESTATE DEVELOPMENT AND INVESTMENTS before the CITY OF DUNWOODY, GEORGIA. Pursuant to the provisions of O.C.G.A. §36-67A-3, please find below a list of the contributions made by the above-named individual, or the law firm of WEISSMAN, NOWACK, CURRY & WILCO, P.C., in the past two years, aggregating \$250.00 or more, to local government officials who may review this Application.

NAME OF GOV'T. OFFICIAL	POSITION	AMOUNT OF CONTRIBUTION	DATE OF CONTRIBUTION
----------------------------	----------	---------------------------	-------------------------

None

WEISSMAN, NOWACK, CURRY & WILCO, P.C.

By: \_\_\_\_\_

G. DOUGLAS DILLARD

Date: \_\_\_\_\_

3500 Lenox Road, N.E.  
4<sup>th</sup> Floor  
Atlanta, Georgia 30326  
(404) 926-4545  
110209599

# Campaign Disclosure Statement



41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission? ☐ YES ☒ NO

\* Applicant / Owner: Atlanta Office Investments Phase I, L.L.C. c/o KDC Real Estate

Signature: [Signature] M. SCOTT OZYMAY Date: 1-19-15  
Address: 1040 Crown Pointe Parkway, Atlanta, GA 30338

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

## Campaign Disclosure Statement



41 Perimeter Center East | Dunwoody, GA 30346  
Phone: (678) 382-6800 | Fax: (770) 396-4828

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Dunwoody City Council or a member of the City of Dunwoody Planning Commission?

☐ YES ☒ NO

\* Applicant/Owner: Metropolitan Atlanta Rapid Transit Authority

Signature: Gregory Thayer on behalf of MARTA Date: 1-26-15  
Address: c/o G. Douglas Dillard, WNCW, 3500 Lenox Road, 4th floor, Atlanta 30326

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

### **Neighbor Communications Summary**

This summary is being prepared in accordance with the City's requirement that a rezoning applicant send notice and information on a rezoning application when there are properties within 500 feet of the subject property zoned for residential use. The only property within 500 feet of the subject property that is zoned for residential use is the property located at 1051 Hammond Drive NE, which is zoned OCR. Please find below answers to the questions required for the neighbor communications survey.

**1. Efforts to notify neighbors about the proposal.**

The only property within 500 feet of the subject property that is zoned for residential use is the property located at 1051 Hammond Drive NE. The property owner is Windsor at Convergence 1051, LLC, with its principal office in Boston, Massachusetts. A letter was mailed to the Owner and also emailed to a representative of the Owner, Jeffrey Lowenberg. The letter is attached as Exhibit "A".

**2. How information about the proposal was shared.**

The information was shared by mail and e-mail.

**3. Who was involved in the discussions?**

Communications have been between the Applicant's counsel at Weissman, Nowack, Curry & Wilco and Jeffrey Lowenberg.

**4. Suggestions and concerns raised by neighbors.**

None at this time. If concerns or suggestions are raised, the Applicant will supplement its application with the information.

**5. What specific changes to the proposal were considered and/or made as a result of the communications.**

None at this time.



G. Douglas Dillard  
404-926-4545  
[doug@wncwlaw.com](mailto:doug@wncwlaw.com)



One Alliance Center, 4th Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
Telephone: (404) 926-4500  
Fax: (404) 926-4600  
[www.wncwlaw.com](http://www.wncwlaw.com)

January 19, 2015

Via Email (JLowenberg@gid.com) and U.S. Mail  
Windsor At Convergence 1051 LLC  
125 High Street, 27<sup>th</sup> floor  
Boston, MA 02110

Re: Neighbor notification of rezoning

Dear Property Owner:

We represent Atlanta Office Investment, LLC ("Owner") owner of property east of Perimeter Center Parkway and south of Hammond Drive in Dunwoody, Georgia near the High Street project. In accordance with the City's rezoning process, we are providing you with notice of the upcoming rezoning application. The Owner and Metropolitan Atlanta Rapid Transit Authority (MARTA), as applicant, are proposing to rezone a small portion of Tax Parcel #18-348-02-015 from O-I Conditional to C-1, and combine this parcel with MARTA's existing C-1 property on the south side of Hammond Drive. MARTA and the Owner intend to construct a new direct connection point to the MARTA platform on this combined property. This new MARTA connection will include escalators, elevators, stairs and a new set of fare gates. Though the direct connection is already permitted under the O-I Conditional zoning category, the rezoning is necessary to properly subdivide MARTA's parcel from Owner's remaining property. The proposed MARTA connection will be beneficial to the entire Perimeter Center area in terms of promoting transit ridership and reducing congestion on roads throughout the Perimeter Center area.

The City of Dunwoody requires rezoning applicants to communicate with neighboring properties regarding a rezoning. Please do not hesitate to contact us with any questions or concerns regarding the rezoning.

Sincerely,

WEISSMAN, NOWACK, CURRY & WILCO, P.C.

A handwritten signature in black ink, appearing to read 'Doug Dillard', written over the printed name.

G. Douglas Dillard  
Attorney for Applicant

GDD/drd

**Exhibit** A

### **Letter of Intent**

The subject property is located near the intersection of Hammond Drive and Perimeter Center Parkway, and more particularly described in the attached legal description. The current zoning is O-I Conditional. The Applicant, Metropolitan Atlanta Rapid Transit Authority ("MARTA"), is requesting said property be rezoned to the C-1 zoning classification to allow MARTA to own and operate a new connection to the Dunwoody MARTA station. A site plan showing the proposed connection is included in the rezoning application. The connection is currently permitted under the O-I Conditional zoning category, but in order to properly transfer ownership and subdivide, the Applicant must rezone the subject property. The subject property will then be added to MARTA's existing non-conforming lot on the south side of Hammond Drive pursuant to the City's Nonconforming Use Ordinance, Section 27-552(c).

The subject property is located in the Perimeter Center Character Area, which seeks to promote transit-oriented development and increase transportation alternatives. The Applicant's proposed MARTA connection furthers the goals of the Comprehensive Plan and is consistent with the policy and intent of the Perimeter Center Character Area.

The hereinafter constitutional and ante litem notice is required by Georgia law.

The portions of the City of Dunwoody Zoning Ordinance, facially and as applied to the Property, which restrict the Property to any zoning classification, uses, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the City of Dunwoody Zoning Ordinance, facially and as applied to the Property, which restricts the Property to any zoning classification, uses, or to any zoning classification other than the classification as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the City of Dunwoody City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the

Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

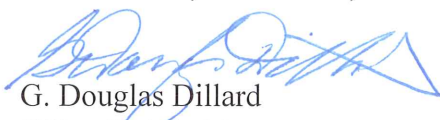
A refusal by City of Dunwoody City Council to rezone the subject property in accordance with the zoning criteria requirements as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

The existing zoning classification which prohibits the use of the property is unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional zoning classification within a reasonable time, a claim will be filed in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Property, diminution of value of the Property, attorney's fees and not less than \$1.4 million in other damages arising out of the unlawful deprivation of the Applicant's property rights.

If there are any questions about this rezoning request, please contact us at 404-926-4557 or [jilla@wncwlaw.com](mailto:jilla@wncwlaw.com).

Sincerely,

WEISSMAN, NOWACK, CURRY & WILCO, P.C.

  
G. Douglas Dillard  
Jillian S. Arnold  
Attorneys for the Applicant

Weissman, Nowack, Curry & Wilco, P.C.  
3500 Lenox Road, NE, 4<sup>th</sup> Floor  
Atlanta, GA 30326  
404-926-4557



## PROPERTY DESCRIPTION

### Proposed Land Transfer

All that tract or parcel of land lying and being in Land Lot 348 of the 18<sup>th</sup> District, City of Dunwoody, DeKalb County, Georgia and being more particularly described as follows:

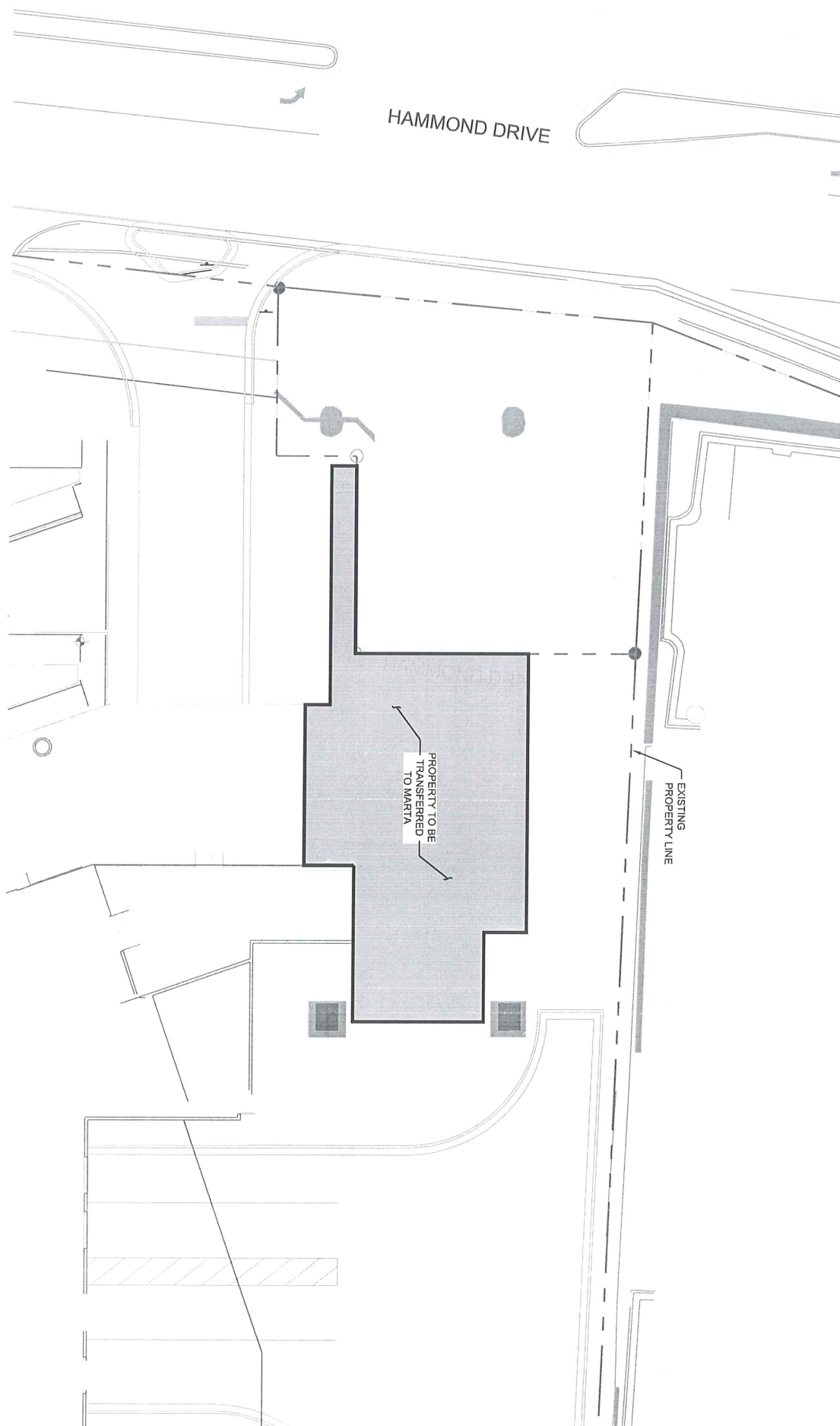
COMMENCING at the Intersection of the southerly right-of-way of Hammond Drive (having an apparent variable width right-of-way) and the easterly right-of-way of Perimeter Center Parkway (having an apparent variable width of right-of-way) if the right-of-ways were extended to intersect; thence, leaving the aforesaid point North 89° 26' 56" East, 92.49 feet; thence, continuing on the aforesaid right-of-way of Hammond Drive North 89° 26' 56" East, 217.32 feet; thence, leaving the aforesaid right-of-way of Hammond Drive, South 07° 06' 32" East, 36.88 feet; thence, North 82° 53' 30" East, 17.75 feet; thence, South 07° 06' 30" East, 2.10 feet to the POINT OF BEGINNING.

Thence, from said POINT OF BEGINNING as thus established,

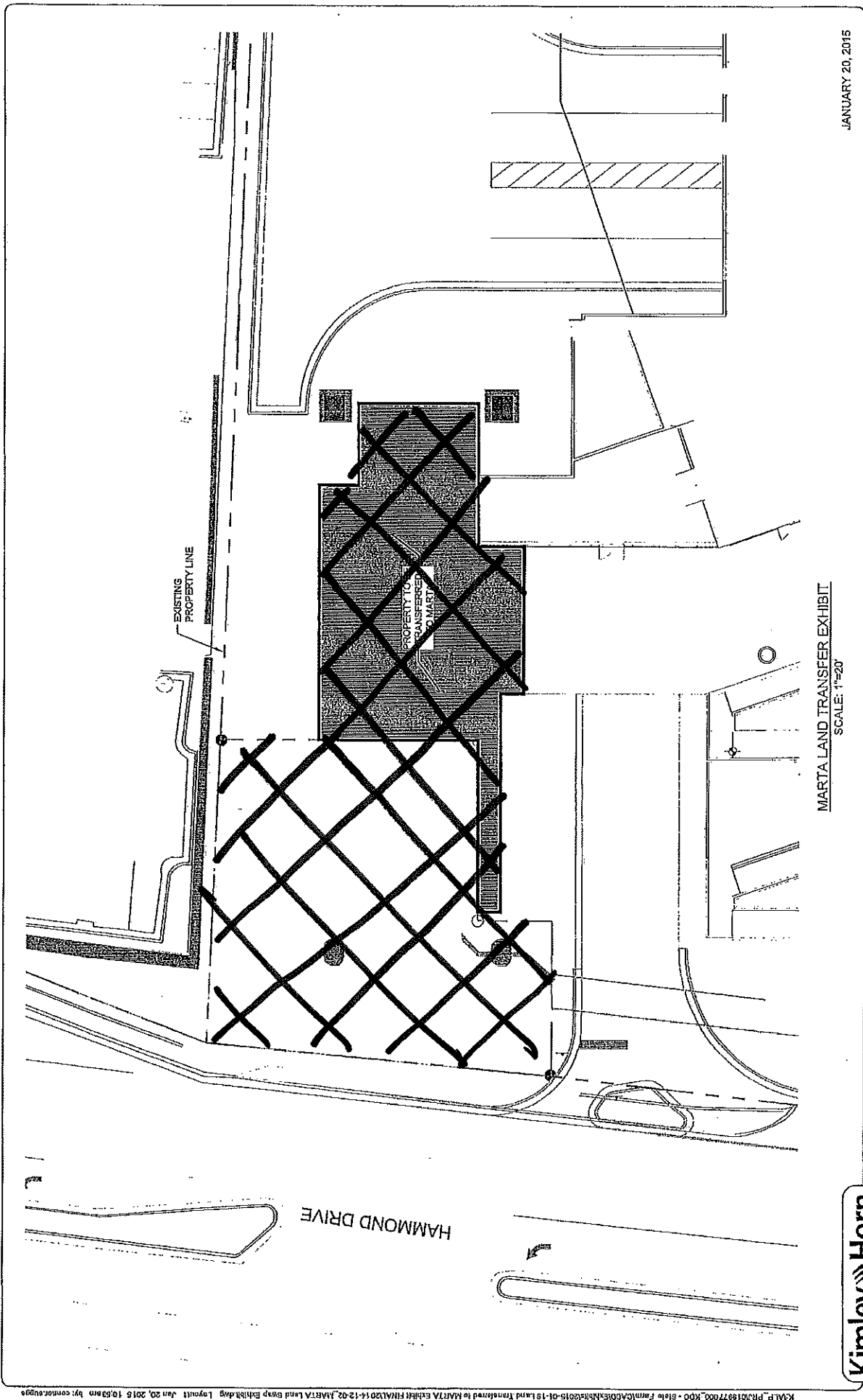
1. South 82° 53' 30" West, 5.58 feet; thence,
2. South 07° 06' 30" East, 51.96 feet; thence,
3. South 82° 53' 25" West, 5.50 feet; thence,
4. South 07° 06' 30" East, 35.02 feet; thence,
5. North 82° 53' 30" East, 10.83 feet; thence,
6. South 07° 06' 30" East, 34.02 feet; thence,
7. North 82° 53' 30" East, 29.00 feet; thence,
8. North 07° 06' 30" West, 25.50 feet; thence,
9. North 82° 53' 30" East, 9.17 feet; thence,
10. North 07° 06' 30" West, 54.60 feet; thence,
11. South 82° 53' 30" West, 37.92 feet; thence,
12. North 07° 06' 30" West, 43.00 feet to the point of beginning, containing 3,490 square feet or 0.0801 acres of land, more or less.

Kimley»Horn

MARTA LAND TRANSFER EXHIBIT  
SCALE: 1"=20'



JANUARY 20, 2015



K:\M.P. PROJ\977000.KPO - State Farm\04000\Kb\Kb\0019-01-10 Land Transferred to MARTA EXHIBIT FINAL\2014-12-02 MARTA Land Swap Exhibit.dwg Layout Jan 20, 2015 10:59 am brc:consecutops

### **Zoning Map Amendment Criteria**

**1. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan.**

Yes, the zoning proposal is in conformity with the policy and intent of the comprehensive plan. The City's Comprehensive Plan designates this area as the Perimeter Center Character Area, which seeks to create a regional center with a focus on transit-oriented development. The proposed MARTA connection will improve existing transit infrastructure and provide a new access point to the MARTA station for transit users.

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

Yes, the zoning proposal will permit a use that is suitable in view of development on adjacent and nearby properties. The proposed MARTA connection will provide a new means of access to the existing Dunwoody MARTA station, which is suitable considering the density entitlements of surrounding properties. Surrounding uses include commercial, residential and office uses that will benefit from the increased transit access. The proposed connection will promote transit ridership and reduce the overall burden on road infrastructure and traffic congestion.

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

The property as zoned has economic value for development but the public good which will be served by providing a MARTA access facility on this land will be far greater than its commercial economic value.

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

No, the zoning proposal will not adversely affect the existing uses or usability of adjacent or nearby property. On the contrary, the zoning proposal will benefit surrounding land uses since the proposed connection will provide a convenient and safe means of pedestrian access to the MARTA platform. The proposed connection adds value to surrounding properties while at the same time providing safe walkable access to and from adjacent office and retail establishments.

**5. Whether there are other existing or changing conditions affecting the use and development of property that provide supporting grounds for either approval or disapproval of the zoning proposal.**

The proposed connection will benefit the public health, safety and welfare by promoting necessary transit-oriented development in the Perimeter Center area. Land uses in the Perimeter Center area are changing in such a way as to necessitate alternative modes of transportation. The areas surrounding the subject property have significant density entitlements which make the proposed zoning proposal and construction of a new MARTA connection highly beneficial to those commuting to and from the Perimeter Center area.

**6. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.**

No, the zoning proposal will not adversely affect historic buildings, sites, districts, or archaeological resources.

**7. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

No, the zoning proposal will not create an excessive or burdensome use of streets, transportation facilities, utilities or schools. The proposed zoning proposal will not generate any new students as it is merely a connection to an existing MARTA station. Moreover, the zoning proposal will reduce the burden on road infrastructure and existing transportation facilities by providing a new means of pedestrian access to the existing Dunwoody MARTA station to promote transit ridership and reduce the number of single-occupancy vehicles on already-congested roads in the Perimeter area.



Atlanta **HUB** MARTA Connection Review

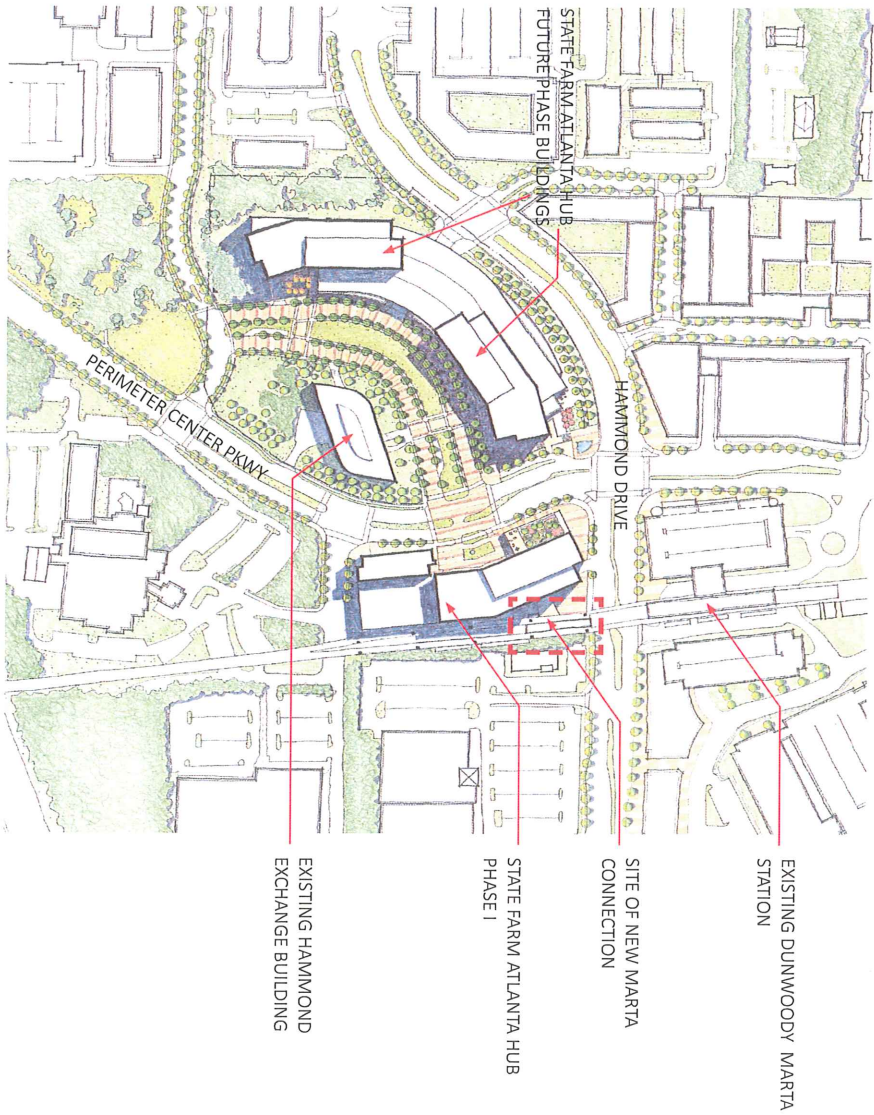
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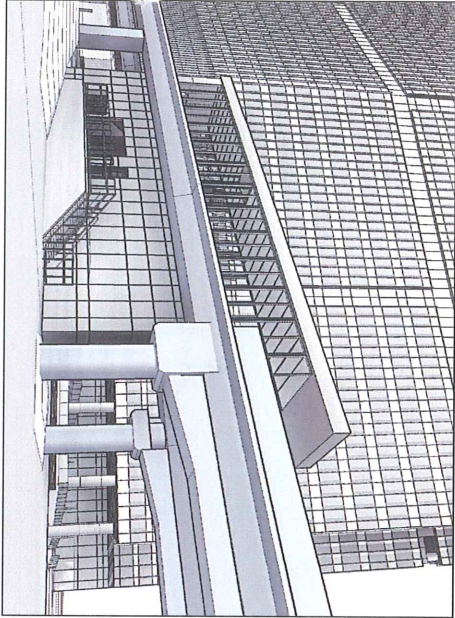
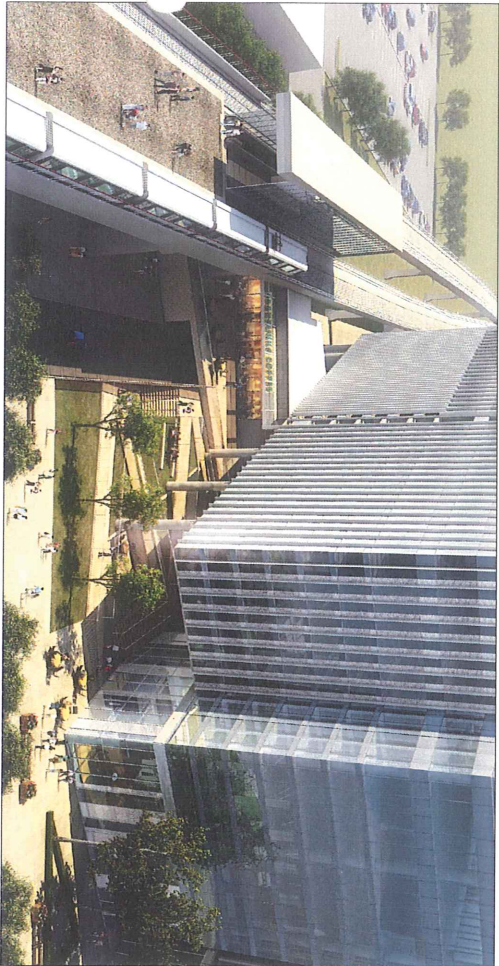


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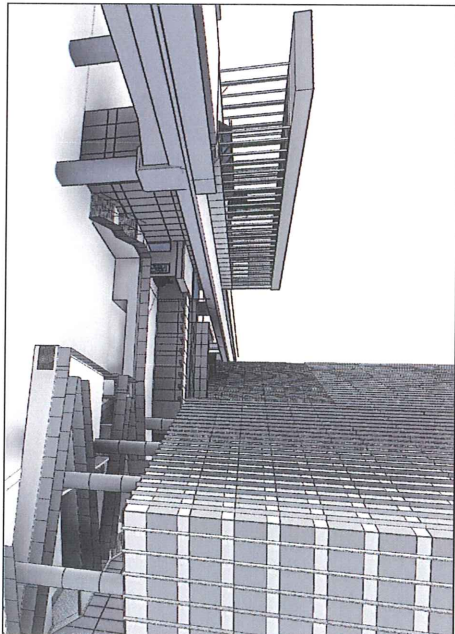
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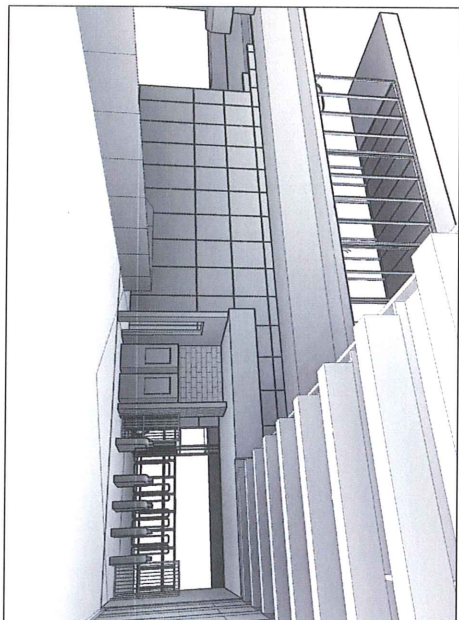




PERSPECTIVE FROM NORTH EAST  
SHOWING NEW MARTA CONNECTION MEETING EXISTING PLATFORM



PERSPECTIVE FROM NORTH  
SHOWING MARTA CONNECTION TO BUILDING



PERSPECTIVE FROM CONCOURSE  
LOOKING EAST AT ENTRY TO NEW MARTA STATION







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PERSPECTIVE  
LOOKING SOUTH FROM MARTA PLATFORM



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