



# Mayor and City Council Regular Meeting

Thursday, January 06, 2022 at 7:00 PM

Dacula City Hall, Council Chambers

442 Harbins Rd. | P.O. Box 400 | Dacula, Georgia 30019 | (770) 963-7451

## Agenda

### **CALL TO ORDER AND ROLL CALL OF MEMBERS:**

### **INVOCATION:**

### **PLEDGE OF ALLEGIANCE:**

### **OATHS OF OFFICE**

1. Mayor Hugh D. King III
2. Council Member Denis W. Haynes, Jr.
3. Council Member Daniel R. Spain

### **CONSENT AGENDA:**

4. Approval of the Minutes from the Regular Meeting on December 2, 2021.
5. Approval of the Minutes from the Budget Public Hearing of December 2, 2021.
6. Appointment of Mr. Jack Wilson (175.00/hr.) for legal services
7. Appointment of Mr. Jack Wilson (175.00/hr.) as City Prosecutor
8. Appointment of Judge Bill Brogdon and Judge Jammie Taire (200.00/hr.) as City Magistrate(s)

### **OLD BUSINESS:**

### **NEW BUSINESS:**

9. Election of Mayor Pro Tem
10. Appointment of Planning Commission Members
11. City Council oversight appointments
12. Appointment of City Chaplain
13. **PUBLIC HEARING: 2021-CD-RZ-07**, Applicant: Hector Abreu, Owner: Mark Everson requests rezoning from C-1 Neighborhood Business District to C-2 General Business District. The property is located in Land Lot 302A, Parcel 153 of the 5th District and contains 3.53 acres more or less.

14. **Rezoning Application: 2021-CD-RZ-07**, Applicant: Hector Abreu, Owner: Mark Everson requests rezoning from C-1 Neighborhood Business District to C-2 General Business District. The property is located in Land Lot 302A, Parcel 153 of the 5th District and contains 3.53 acres more or less.
  
15. **PUBLIC HEARING: 2022-CD-VAR-01**, Applicant: BLT Alcovy Road, LLC c/o Mahaffey Pickens Tucker, LLP, Owner: BLT Alcovy Road, LLC requests variance to waive the rental restriction. The property is located in Land Lot 277 of the 5th District and contains 11.48 acres more or less.
  
16. **Variance Application: 2022-CD-VAR-01**, Applicant: BLT Alcovy Road, LLC c/o Mahaffey Pickens Tucker, LLP, Owner: BLT Alcovy Road, LLC requests variance to waive the rental restriction. The property is located in Land Lot 277 of the 5th District and contains 11.48 acres more or less.

**STAFF COMMENTS:**

**MAYOR AND COUNCIL COMMENT(S):**

**PUBLIC COMMENTS:**

**ADJOURNMENT:**

# OFFICIAL OATH

**STATE OF GEORGIA  
GWINNETT COUNTY**

I, **Hugh D. King III** swear that I will duly faithfully perform all the duties required of me as Mayor of the City of Dacula, according to the best of my ability and understanding, SO HELP ME GOD.

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

SO HELP ME GOD.

Sworn to and subscribed  
Before me, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)

# OFFICIAL OATH

**STATE OF GEORGIA  
GWINNETT COUNTY**

I, Denis W. Haynes, Jr. swear that I will duly faithfully perform all the duties required of me as a councilperson of the City of Dacula, according to the best of my ability and understanding, SO HELP ME GOD.

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

SO HELP ME GOD.

Sworn to and subscribed  
Before me, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Council

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)



# OFFICIAL OATH

**STATE OF GEORGIA  
GWINNETT COUNTY**

I, **Daniel R. Spain** swear that I will duly faithfully perform all the duties required of me as a councilperson of the City of Dacula, according to the best of my ability and understanding, SO HELP ME GOD.

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

SO HELP ME GOD.

Sworn to and subscribed  
Before me, this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Council

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

(Seal)

# CITY OF DACULA

442 Harbins Rd  
P. O. Box 400  
Dacula, GA, 30019

## COUNCIL MEETING MINUTES

December 2, 2021

### **I. CALL TO ORDER AND ROLL CALL OF MEMBERS:**

Mayor King called the December 2, 2021 Council Meeting to order at 7:00 p.m. and a roll of the members was taken. A quorum was present. He welcomed everyone to the meeting.

#### **Council Members Present:**

Trey King, Mayor  
Sean Williams, Council  
Daniel Spain, Council  
Ann Mitchell, Council  
Denis W. Haynes, Jr., Council

#### **City Staff Present:**

Heather Coggins, Assistant City Administrator  
Jack Wilson, City Attorney  
Courtney Mahady, Administrative Clerk  
Angelica Schaper, Court Administrator  
Amy Morris, Accounts Payable  
Amy White, City Marshal  
Chris Parks, Public Works Supervisor

### **II. INVOCATION:**

Marshal Amy White gave the invocation.

### **III. PLEDGE OF ALLEGIANCE:**

Mayor Trey King led the Pledge of Allegiance

### **IV. MINUTES:**

#### **1. Approval of the Minutes from the Regular Council Meeting on November 4, 2021**

Mayor King called for a motion to approve the minutes of the regular Council meeting on November 4, 2021.

City of Dacula  
 Meeting Minutes  
 December 2, 2021  
 Page Two

Councilman Spain motioned to approve. Councilwoman Mitchell seconded. Motion passed unanimously.

**2. Approval of the Minutes from the First Budget Public Hearing on November 4, 2021**

Mayor King called for a motion to approve the minutes of the First Budget Public Hearing on November 4, 2021.

Councilman Williams motioned to approve. Councilwoman Mitchell seconded. Motion passed unanimously.

**V. OLD BUSINESS:**

- 3. Rezoning Application: 2021-CD-RZ-04**, Applicant: Starlight Homes of Georgia, LLC c/o Mahaffey, Pickens, Tucker, LLP, Owner(s): Ernest Walker Cain, Jr. and James H. Wilbanks requests rezoning from R-1200 Single-Family Residential District to TRD Transitional Residential District. The property is located in Land Lot 275, Parcel 001 of the 5th District and contains 74.04 acres more or less. (Public hearing was held on October 7, 2021)

Mayor King read amended Condition #20 into the record.

20. To allow for the installation of necessary infrastructure and to plan and provide for services to accommodate new residents, no more than 30 residential building permits shall be issued prior to the end of 2022, and no more than 100 additional permits will be issued by the end of 2023. All remaining permits may be available to be issued in 2024.

Mayor King called for a motion to approve or deny application 2021-CD-RZ-04 with conditions as amended.

Councilman Haynes, Jr. motioned to approve as amended. Councilman Williams seconded. Motion passed unanimously.

1. The property shall be developed in accordance with the conceptual site plan prepared by Christopher Planning & Engineering dated August 10, 2021, revised September 14, 2021 and with the provided zoning conditions. Any substantial deviation from the approved conceptual plan and/or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
2. The open space shall not be subdivided and shall be owned and maintained by a mandatory homeowners association. The deed to the mandatory homeowners association shall require that the open space be perpetually maintained.
3. The developer shall submit the Final Plat to the City of Dacula prior to the issuance of any building permits.
4. The maximum number of dwelling units shall not exceed 173.

City of Dacula  
Meeting Minutes  
December 2, 2021  
Page Three

5. The minimum heated floor area per dwelling unit shall be 1,800 square feet for one-story units and 2,000 square feet for two-story units.
6. The front and side façades of all dwelling units shall consist primarily of brick or stone with architectural treatments utilizing other masonry products of fiber cement siding. The rear façade of the dwelling units shall be constructed of brick, stone, stucco, concrete fiber, or similar material.
7. All dwelling units shall have at least a two-car garage.
8. 5-foot wide sidewalks shall be constructed on both sides of the internal subdivision streets.
9. 5-foot wide sidewalks shall be constructed along the entire property frontage of Stanley Road.
10. Provide a decorative entrance feature with landscaping at each subdivision entrance to include a decorative fence to extend 100 feet of both sides of the Stanley Road entrance(s). Fencing shall be wrought-iron style with stacked stone or brick columns spaced every 30 feet. Provide a minimum 10-foot wide landscape strip along the entire property frontage of Stanley Road. Subject landscape strip shall include understory plantings and a 6-foot high landscape berm with a minimum of two (2), 6-foot high decorative trees planted every 15 linear feet. The tree species shall be approved by the City Administrator prior to planting. Any dead or diseased trees or plantings shall be removed and replaced with like kind materials. The subject landscape strip/berm shall be maintained by the mandatory homeowners association. The subject entrance feature and landscape plan along Stanley Road shall be submitted to the City for review and approval.
11. Provide a left turn lane on Stanley Road at the subdivision entrances subject to City of Dacula approval. A standard deceleration lane with appropriate taper and adequate right-of-way shall be required. Prior to the issuance of a development permit, a sight distance certification shall be provided that meets required distance for the speed limit posted on Stanley Road. The developer shall be limited to two curb cuts.
12. Underground utilities shall be provided throughout the development.
13. The development shall include an amenity area with a swimming pool, cabana with restrooms, playground, and adequate parking. The cabana shall be finished to match the façades of the adjacent dwelling units.
14. Provide a mail kiosk center with a minimum of one (1) postal box for each dwelling unit and a minimum of ten (10) parking spaces.
15. Street light service fees and maintenance are the responsibility of the mandatory homeowners association.
16. All grassed areas except the open space/common area shall be sodded. The open space/common area shall be hydro-seeded or sodded.
17. Each building lot shall have a minimum of two (2) decorative trees (maple, oak, birch, elm, etc.) at least 3 inches in diameter (DBH).

City of Dacula  
 Meeting Minutes  
 December 2, 2021  
 Page Four

18. Incorporated into the declaration of restrictive covenants of the mandatory homeowners association will be a statement limiting the number of leased or rented homes to no more than thirty percent (30%) of the total number of units in the development. The declaration shall also require owners wishing to lease their property to obtain a written permit to rent or lease from the homeowners association.
19. All lots shall abide by the City of Dacula's undisturbed stream buffer and impervious setback requirements as stated in Section 1504 of the Zoning Resolution.
20. To allow for the installation of necessary infrastructure and to plan and provide for services to accommodate new residents, no more than 30 residential building permits shall be issued prior to the end of 2022, and no more than 100 additional permits will be issued by the end of 2023. All remaining permits may be available to be issued in 2024.

**4. Rezoning Application: 2021-CD-RZ-06**, Applicant: City of Dacula, Owner: City of Dacula requests rezoning from R-1200 Single-Family Residential District to C-2 General Business District. The property is located in Land Lot 301, Parcels 009, 009A, and 010 of the 5th District and contains 12.03 acres more or less.

Mayor King called for a motion to approve or deny application 2021-CD-RZ-06 with conditions.

Councilman Spain motioned to approve. Councilman Williams seconded. Motion passed unanimously.

1. The following uses in the C-2 Zoning district shall be prohibited and made part of the owner's restrictive covenants: Adult entertainment establishments, automotive body repair shops, automotive muffler, brake, tune-up, oil change, repair shops or tire stores, automotive sales or service facilities, boat sales establishments, boarding and rooming houses, building supply centers, contractor's offices with outdoor storage, equipment rental sales or service, hotels or motels, lawnmower repair shops, storage lots, machine/welding/radiator repair shops, mobile home leasing or sales lots, taxicab or limousine services, vehicle rental establishments.
2. No outdoor storage shall be permitted.
3. Parking lot and security lighting shall be directed in towards the property so as to minimize the adverse impact on neighboring properties.
4. All trash dumpsters shall be screened by an enclosure using the same exterior building material as the adjacent occupied buildings. Pickup shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday.
5. A 5-foot wide sidewalk shall be constructed/replaced on the property frontage of Harbins Road, McMillan Road, and Sanjo Street.
6. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site without appropriate permit(s). No decorative balloons or hot-air balloons shall be displayed on the site.
7. Human sign spinners and/or twirlers shall be prohibited.

City of Dacula  
 Meeting Minutes  
 December 2, 2021  
 Page Five

**VI. NEW BUSINESS:**

**5. 2021 General Election Results**

Election Superintendent, Heather Coggins, read the official 2021 General Election results into the minutes pursuant to O.C.G.A § 21-2-497. The City of Dacula certified the election results as followed:

**Mayor to succeed Hugh D. King III:**

Hugh D. King III – 309  
 Wade Anthony – 165  
 No Vote – 0  
 Voided/Spoiled Ballots – 1  
 Write-Ins – 1

**Council Member to succeed Daniel Spain:**

Daniel Spain – 388  
 No Vote – 92  
 Voided/Spoiled Ballots – 1  
 Write-Ins – 2

**Council Member to succeed Denis W. Haynes, Jr:**

Denis W. Haynes, Jr. – 391  
 No Vote – 92  
 Voided/Spoiled Ballots – 0  
 Write-Ins – 2

**Provisional Ballots Rejected – 69**

**Spoiled Ballots – 1**

**Total Ballots Issued – 546**

**6. Adoption of the FY-2022 Proposal and Revised FY-2021 Budget Adjustment**

Mayor King called for a motion to approve the adoption of the FY 2022 Budget proposal and amended FY 2021 Budget and authorize the Mayor to execute the Budget Resolution.

Councilman Haynes, Jr. motioned to adopt. Councilwoman Mitchell seconded. Motion passed unanimously.

**7. Waste Management contract renewal**

Mayor King called for a motion to renew the contract with Waste Management and authorize the Mayor and Assistant City Administrator to sign and execute all necessary documents.

City of Dacula  
 Meeting Minutes  
 December 2, 2021  
 Page Six

Councilman Spain motioned to renew the contract. Councilman Williams seconded. Motion passed unanimously.

#### **8. Rector, Reeder & Lofton, PC Audit Engagement Letter Approval**

Mayor King called for a motion to renew the contract with Rector, Reeder & Lofton, PC. and authorize the Mayor and Assistant City Administrator to sign and execute all necessary documents.

Councilwoman Mitchell motioned to renew the contract. Councilman Spain seconded. Motion passed unanimously.

#### **9. Hebron Church Road Asphalt Improvement Project bid results**

Mayor King called for a motion to award the Hebron Church Road Asphalt Improvement Project bid to Allied Paving Contractors, Inc. in the amount of \$191,000 and authorize the Mayor and Assistant City Administrator to execute all necessary documents to move forward with the project.

Councilman Williams motioned to award. Councilman Haynes, Jr. seconded. Motion passed unanimously.

#### **VII. STAFF COMMENTS:**

*None*

#### **VIII. MAYOR AND COUNCIL COMMENT(S):**

Mayor and Council thanked Heather Coggins and staff for all of their hard work on the Budget and Elections.

#### **IX. PUBLIC COMMENTS:**

Karla Price, 415 McMillan Road, Dacula, GA 30019, expressed her concern with the 2021-CD-RZ-06 rezoning application and felt the Council should reconsider zoning the property to C-1 rather than C-2, which would allow for another city park. Ms. Price also had concerns of the impact the C-2 General Business zoning would have on McMillan Road where her property is located.

#### **X. EXECUTIVE SESSION: Personnel matters**

Councilman Williams motioned to exit regular session and enter executive session. Councilman Spain seconded. Motion passed unanimously. Regular session adjourned and executive session began for the purposes of personnel matters at 7:22 p.m.

Councilman Spain motioned to exit executive session and reconvene regular session. Councilman Haynes, Jr. seconded. Motion passed unanimously. Regular session reconvened at 7:49 p.m.

City of Dacula  
Meeting Minutes  
December 2, 2021  
Page Seven

City Attorney, Jack Wilson, reported there were no votes taken in executive session. The Council met to discuss personnel matters as allowed by the Open Meetings Act.

Mayor King called for a motion to amend the agenda to add personnel items.

Councilman Williams motioned to amend agenda to add personnel items. Councilwoman Mitchell seconded. Motion passed unanimously.

**XI. APPROVAL TO HIRE NEW EMPLOYEES:**

Mayor King requested a motion to hire Alethia Hyman as the City Tax Clerk at a yearly rate of \$42,000 with benefits effective Monday, December 13, 2021 and Dana Stump as Planning & Zoning Administrative Assistant at a yearly rate of \$42,000 with benefits effective Monday, December 20, 2021.

Councilman Haynes, Jr. motioned to hire Ms. Hyman and Ms. Stump. Councilman Williams seconded. Motion passed unanimously.

Mayor King called for a motion to amend the agenda to allow additional public comment.

Councilman Haynes, Jr. motioned to approve. Councilman Williams seconded. Motion passed unanimously.

*Public comment*

Wade Anthony, 1717 Rolling View Way, Dacula, GA 30019, thanked Mayor King for being a worthy opponent. He then expressed appreciation to Ms. Coggins and staff for running a successful election.

**XII. ADJOURNMENT:**

Councilman Haynes, Jr. motioned to adjourn. Councilman Spain seconded. Motion passed unanimously. Meeting adjourned at 7:53 p.m.

*Minutes approved*

\_\_\_\_\_

*Date*

\_\_\_\_\_

*Signature*



# CITY OF DACULA

442 Harbins Rd  
P. O. Box 400  
Dacula, GA, 30019

## SECOND BUDGET PUBLIC HEARING MINUTES December 2, 2021

### **I. CALL TO ORDER AND ROLL CALL OF MEMBERS:**

Mayor King called the December 2, 2021 second budget public hearing to order at 6:30 p.m. and a roll of the members was taken. A quorum was present.

#### **Council Members Present:**

Trey King, Mayor  
Sean Williams, Council  
Daniel Spain, Council  
Ann Mitchell, Council  
Denis W. Haynes, Jr., Council

#### **City Staff Present:**

Heather Coggins, Assistant City Administrator  
Jack Wilson, City Attorney  
Courtney Mahady, Administrative Clerk  
Angelica Schaper, Court Administrator  
Amy Morris, Accounts Payable  
Amy White, City Marshal  
Chris Parks, Public Works Supervisor

### **II. NEW BUSINESS:**

#### **1. Presentation of the FY-2022 Proposed Budget and FY-2021 Budget Adjustment**

Assistant City Administrator, Heather Coggins, presented an overview of the budget and budget amendment.

#### **2. Public Hearing: FY-2022 Proposed Budget and FY-2021 Budget Adjustment**

Councilman Haynes, Jr. motioned to open the public hearing. Councilman Williams seconded. Motion passed unanimously.

*Public comment:*

City of Dacula  
Budget Meeting Minutes  
December 2, 2021  
Page Two

None

Councilman Spain motioned to close the public hearing. Councilman Haynes, Jr. seconded. Motion passed unanimously.

**III. ADJOURNMENT:**

Councilwoman Mitchell motioned to adjourn. Councilman Haynes, Jr. seconded. Motion passed unanimously. Meeting adjourned at 6:39 p.m.

*Minutes approved* \_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Signature*

# Memorandum

**To:** City of Dacula Planning Commission/  
City of Dacula Mayor and City Council

**From:** Brittini Nix, Director of Planning & Economic Development

**Date:** December 30, 2021

**Subject:** Rezoning Case: 2021-CD-RZ-07

**Existing Zoning:** C-1 (Neighborhood Commercial District)

**Proposed Zoning:** C-2 (General Business District)

**Size:** 3.53 acres

**Applicant:** Hector Abreu  
1742 Prospect Church Road  
Lawrenceville, GA 30043

**Owner:** Mark Everson  
235 McMillan Road  
Dacula, GA 30019

**Location:** LL 302A - 5th District

## Existing Land Use and Zoning:

The site is located at the southwest quadrant of the intersection of McMillan Road, Stanley Road, and Church Street and is approximately .08 miles south of the McMillan Road and Winder Highway intersection. The subject property totals 3.53 acres more or less and is currently zoned C-1 (Neighborhood Commercial District) within the City of Dacula. The site is currently developed with a 4,835 square foot commercial building with gravel parking area. A 6-foot high wood privacy fence screens the rear storage area of the site and a portion of the front parking area is secured with a six-foot high chain link fence. A recent site visit has revealed that adequate landscaping and vegetation is currently onsite.

A mixture of commercial and residential zoning districts and uses characterizes neighboring properties. Properties zoned C-1 (Neighborhood Commercial District) and C-2 (General Business District) are located across Stanley Road to the north extending towards Winder Highway. Commercial and residential properties zoned C-2 (General Business District) and R-1200 (Single-Family Residential District) are located across McMillan Road to the east. Residential properties zoned R-1200 (Single-Family Residential District) border to the south and west.

### **The Proposed Rezoning & Development:**

The applicant has requested rezoning from C-1 to C-2 to utilize the existing commercial structure for a kitchen and bathroom-remodeling contractor's office. The concept plan does not propose any new expansion or addition to the existing site. Two (2) gravel entrances provide site access, one each to McMillan Road and Stanley Road. The existing parking area is gravel and unmarked but appears to be able to accommodate parking minimums (8-total for the site) for the use indicated. The site plan shows the required 75-foot undisturbed buffer along the western and eastern property lines where adjacent to R-1200 Single-Family Residential Zoning Districts.

### **Summary:**

The requested rezoning could be considered suitable at this location as it brings an existing commercial site into compliance and is located at an emerging commercial node adjacent to other C-1 and C-2 properties. As such, the Department recommends that the requested rezoning at this location be approved with the provided conditions.

### **Comprehensive Plan:**

The subject parcel is designated as Mixed Use on the City of Dacula's 2030 Future Land Use Plan.

The analysis of the applications should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of The 2000 Zoning Resolution of the City of Dacula.

***1. Whether the proposed rezoning that is suitable in view of the use and development of an adjacent and nearby property?***

Yes, the proposed uses would remain consistent with neighboring properties surrounding the McMillan Road, Stanley Road, and Church Street intersection.

***2. Whether the proposed rezoning will adversely affect the existing use or usability of adjacent or nearby properties?***

With the recommended conditions, the development would not be expected to negatively impact surrounding properties.

***3. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned?***

Yes, the subject property has a reasonable economic use as currently zoned.

***4. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?***

Increased usage of existing streets, transportation facilities, and utilities would be minimal. No additional impacts are anticipated for area schools.

5. ***Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan?***

The proposed rezoning will remain consistent with the Mixed Use designation of the City of Dacula's Future Land Use Map which encourages a mixture of commercial and residential uses in certain areas.

6. ***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 proposed rezoning?***

The proposed rezoning would bring the existing site into compliance with regulations of the Dacula Zoning Resolution which requires contractors offices be located in C-2 Zoning District. The previous owner operated a contractor's office in a grandfathered status. The change of ownership removes that status and requires the new owner seek C-2 zoning to continue operation with the same use.

**Recommendation:**

*The Department notes the Planning Commission recommended approval with conditions (#1 – 10) at the Public Hearing on December 27, 2021.*

Based upon the application, the requested rezoning is recommended for **approval with the following conditions:**

1. The property shall be developed in accordance with the conceptual site plan prepared by Ringo Abernathy & Associates dated November 12, 2021. Any substantial deviation from the approved conceptual plan and/or conditions of zoning shall be resubmitted to the Mayor and City Council for consideration. The Mayor or his or her designee shall determine what constitutes substantial deviation.
2. The addition of any outbuildings or building expansion shall have the following: exterior facades constructed of brick, stone or stucco, and mechanical, HVAC and like systems shall be screened from street level on all sides by an opaque wall of brick, stucco, or split faced block. Final architectural plans and color palate shall be submitted to the City for approval.
3. The addition of a paved parking lot or entrance / exit drives shall have the following: a parking lot landscape plan submitted to the City for approval. At a minimum, the landscape plan shall include monument sign location and should insure that each parking island / strip will have a minimum of two (2) ornamental shade trees. All parking area trees shall be a minimum of 2-inch dbh caliper.
4. Ground signage shall be limited to one monument-type sign for each commercial lot fronting McMillan Road and Stanley Road. Monument signs shall be constructed with a brick base (minimum two feet in height) matching the materials of the buildings. Neon

signs shall be prohibited. Signs shall be set back 15-feet from right-of-way of McMillan / Stanley Roads and located so as to not impede site distance. Sign location and design subject to review and approval by the City of Dacula.

5. Outdoor storage shall only be allowed in the screened rear portion of the site.
6. Parking lot lighting shall be directed in toward the property so as not to shine directly onto adjacent properties.
7. All trash dumpsters shall be screened by an enclosure using the same exterior building material and color as the primary structure. Pickup shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday.
8. No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site without appropriate permit(s). No decorative balloons or hot-air balloons shall be displayed on the site.
9. No outside loudspeakers shall be allowed.
10. Human sign spinners and/or twirlers shall be prohibited.



City of Dacula  
 P. O. Box 400  
 Dacula, GA 30019  
 (770) 962-0055 / Fax (770) 513-2187

- Reverted undisturbed buffer  
 - Stream buffers  
 - 1,000

Item 13.

**REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.  
 (Please Type or Print using BLACK INK)

APPLICANT *	PROPERTY OWNER *
NAME <u>HECTOR ABREU</u>	NAME <u>MARK EVERSON</u>
ADDRESS <u>1742 PROSPECT CHURCH RD.</u>	ADDRESS <u>235 McMILLAN ROAD</u>
CITY <u>LAWRENCEVILLE</u>	CITY <u>DACULA</u>
STATE <u>GEORGIA</u> ZIP <u>30043</u>	STATE <u>GA</u> ZIP <u>30019</u>
PHONE <u>978-476-5800</u> FAX <u>—</u>	PHONE <u>678-300-5217</u> FAX <u>—</u>

**APPLICANT IS THE:**

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

\* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

CONTACT PERSON HECTOR ABREU

COMPANY NAME TREND TRANSFORMATIONS

ADDRESS 1880 BRASELTON HWY. - SUITE 124  
LAWRENCEVILLE, GA 30043

PHONE 678-541-8122 FAX —

PRESENT ZONING DISTRICT(S) C1 REQUESTED ZONING DISTRICT C2

LAND LOT(S) 302A PARCEL # 153 DISTRICT(S) 5 ACREAGE 3.53

PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED KITCHEN & BATHROOM  
REMODELING

**RESIDENTIAL DEVELOPMENT:**

NO. OF LOTS/DWELLINGS UNITS \_\_\_\_\_

DWELLING UNIT SIDE (SQ. FT.) \_\_\_\_\_

**NON-RESIDENTIAL DEVELOPMENT:**

NO. OF BUILDINGS/LOTS 1

TOTAL GROSS SQ. FEET 4,835

**LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY**

\*\*\* PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED \*\*\*

**CASE NUMBER**

**L E G A L   D E S C R I P T I O N**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 302A OF THE 5th LAND DISTRICT OF GWINNETT COUNTY, GEORGIA AND BEING IN THE CITY OF DACULA, GEORGIA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE RIGHT OF WAY INTERSECTION OF THE WESTERLY 60' RIGHT OF WAY OF McMILLAN STREET AND THE SOUTHERLY 30' RIGHT OF WAY OF STANLEY ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING.

THENCE South 32 degrees 59 minutes 18 seconds East for a distance of 108.62 feet TO A CAPPED REBAR;  
THENCE South 62 degrees 40 minutes 10 seconds West for a distance of 249.85 feet TO AN AXLE FOUND;  
THENCE South 20 degrees 18 minutes 41 seconds West for a distance of 40.92 feet TO A CAPPED REBAR FOUND;  
THENCE South 69 degrees 53 minutes 59 seconds East for a distance of 61.73 feet TO AN IRON PIN SET;  
THENCE South 28 degrees 41 minutes 50 seconds West for a distance of 404.10 feet TO A 1" OTP;  
THENCE North 25 degrees 45 minutes 57 seconds West for a distance of 429.13 feet TO AN IRON PIN SET;  
THENCE North 80 degrees 21 minutes 56 seconds East for a distance of 114.93 feet TO A 1/2" REBAR FOUND;  
THENCE North 25 degrees 47 minutes 52 seconds West for a distance of 157.48 feet TO AN IRON PIN SET ON THE SOUTHERLY 30' RIGHT OF WAY OF STANLEY ROAD;  
THENCE North 80 degrees 35 minutes 55 seconds East for a distance of 223.29 feet TO A POINT;  
THENCE North 81 degrees 01 minutes 35 seconds East for a distance of 141.31 feet TO A POINT;  
THENCE North 81 degrees 41 minutes 26 seconds East for a distance of 96.00 feet TO A POINT, SAID POINT BEING THE TRUE POINT OF BEGINNING.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 3.50 acres.



**RINGO/ABERNATHY & ASSOCIATES**

November 12, 2021

City of Dacula  
442 Harbins Road  
Dacula, GA 30019

RE: Letter of Intent  
235 McMillan Road  
Property Owner: Mark Everson  
Applicant: Hector Abreu  
Parcel: 5-302A-153

To Whom it May Concern:

Our Client, Mr. Abreu, is asking for the parcel of land listed above to be rezoned from C1 to C2.

Property Information:

The subject property is 3.53 acres, zoned C1, located on the southwestern intersection of Stanley Road and McMillan Road, in the city limits of Dacula, Georgia. The property is surrounded by properties having either a C1 or a R1200 zoning.

Project Information:

The owner of the property, Mr. Everson, is interested in rezoning the property to C2 in order to allow the property to be used for a kitchen and bathroom remodeling company, which requires a C2 zoning. The intent for this property is to rezone the property to C2 in order for Trend Transformation to use the building for their remodeling company.

Official Request:

The request is to rezone property from C1 to C2.

Reason / Justification for the Request:

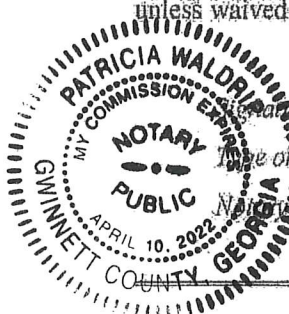
The property, as zoned, does not allow for a commercial remodeling company. The proposed use for this site will not make a significant impact on the surrounding areas, traffic wise.



Kevin Ringo  
Ringo Abernathy & Associates  
-- on behalf of client Hector Abreu

**APPLICANT CERTIFICATION**

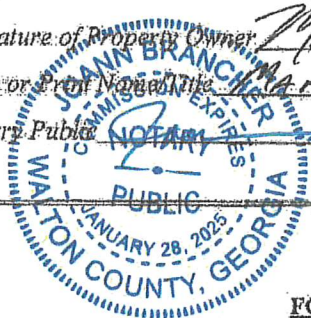
The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.



Signature of Applicant: [Signature] Date: 11/12/2021  
Type or Print Name/Title: HECTOR B. ABRAHAM APPLICANT  
Notary Public: Patricia Waldrip Date: Nov. 12, 2021

**PROPERTY OWNER CERTIFICATION**

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.



Signature of Property Owner: [Signature] Date: 11-11-2021  
Type or Print Name/Title: Mark Everson President  
Notary Public: [Signature] Date: 11/11/2021

**FOR ADMINISTRATIVE USE ONLY**

DATE RECEIVED \_\_\_\_\_ RECEIVED BY \_\_\_\_\_ FEE \_\_\_\_\_ RECEIPT # \_\_\_\_\_

LAND LOT \_\_\_\_\_ DISTRICT \_\_\_\_\_ PARCEL # \_\_\_\_\_ HEARING DATE \_\_\_\_\_

ACTION TAKEN \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STIPULATIONS \_\_\_\_\_



City of Dacula  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**IMPACT ANALYSIS STATEMENT**

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE Nov. 12, 2021 APPLICANT HECTOR ABREU

A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: YES

B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: No

C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: YES, BUT NOT TO THE APPLICANT WHO IS BUYING THE PROPERTY

D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No

E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: YES

F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: THE AREA AROUND THIS PROPOSED REZONING SITE IS BECOMING A LITTLE MORE COMMERCIALIZED

**CONFLICT OF INTEREST CERTIFICATION**

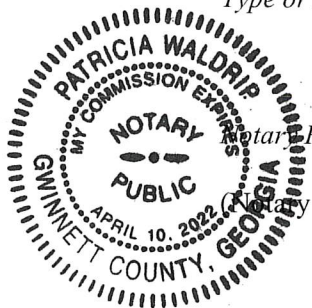
The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Applicant H. E. B. K. Date NOVEMBER 12, 2021

Type or Print Name/Title HECTOR ABREU

Signature of Applicant' Attorney \_\_\_\_\_ Date \_\_\_\_\_

Type or Print Name/Title \_\_\_\_\_



Notary Public Patricia Waldrip Date NOVEMBER 12, 2021

**Official Use Only**

DATE RECEIVED \_\_\_\_\_ ZONING CASE NUMBER \_\_\_\_\_

RECEIVED BY \_\_\_\_\_



**City of Dacula**  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

If the answer is *Yes*, please complete the following section:

<b>Name of Government Official</b>	<b>Contributions</b> <i>(All which aggregate to \$250.00+)</i>	<b>Contribution Date</b> <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

If the answer is *Yes*, please complete the following section:

<b>Name of Government Official</b>	<b>Description of Gifts</b> <i>(Valued aggregate \$250.00+)</i>	<b>Date Gift was Given</b> <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

*(Attach additional sheets if necessary to disclose or describe all contributions/gifts)*



2362 STANLEY ROAD LLC  
1944 COLLINS HILL ROAD  
LAWRENCEVILLE, GA 30043

ERNEST WALKER CAIN, JR.<sup>†</sup>  
JAMES H. WILBANKS  
5400 VIA VENETO COURT  
SANFORD, FLORIDA 32771

CAROLYN FERGUSON  
251 ROOKS ROAD  
Dacula, GA 30019

EMANUEL RUSU  
245 McMILLAN ROAD  
Dacula, GA 30019

ADJOINING PROPERTY OWNER(S)  
RECORD NOTIFICATION

DATE: NOVEMBER 12, 2021

TO: EMANUEL RUSU  
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: HECTOR ABREU

RE: Proposed Change of Conditions Case #: \_\_\_\_\_  
Proposed Rezoning / SUP Case #: \_\_\_\_\_  
Property Location: 5th District, Land Lot 302A Parcel 108B

LOCATION/ADDRESS: 235 McMillan Road  
Dacula, GA 30019

You are hereby notified that an application a zoning change from C1  
to CZ has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on DEC. 27, 2021 at 6:30 P. M. in the Council Chambers.  
(date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on JANUARY 6, 2022 at 7:00 P. M. in the Council Chambers.  
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.

ADJOINING PROPERTY OWNER(S)  
RECORD NOTIFICATION

DATE: NOVEMBER 12, 2021

TO: CAROLY FERGUSON  
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: HECTOR ABREU

RE: Proposed Change of Conditions Case #: \_\_\_\_\_

Proposed Rezoning / SUP Case #: \_\_\_\_\_

Property Location: 5th District, Land Lot 302A Parcel 108F

LOCATION/ADDRESS: 235 McMILLAN ROAD  
DACULA, GA 30019

You are hereby notified that an application a zoning change from C1  
to C2 has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on DEC. 27, 2021 at 6:30 P. M. in the Council Chambers.  
(date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on JANUARY 6, 2022 at 7:00 P. M. in the Council Chambers.  
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.



ADJOINING PROPERTY OWNER(S)  
RECORD NOTIFICATION

DATE: NOVEMBER 12, 2021

TO: ERNEST WALKER CAIN, JR & JAMES H. WILBANKS  
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: HECTOR ABREU

RE: Proposed Change of Conditions Case #: \_\_\_\_\_  
 Proposed Rezoning / SUP Case #: \_\_\_\_\_  
 Property Location: 5th District, Land Lot 215 Parcel 001

LOCATION/ADDRESS: 235 McMILLAN ROAD  
Dacula, GA 30019

You are hereby notified that an application a zoning change from C1  
 to C2 has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

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 (date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on JANUARY 6, 2022 at 7:00 P. M. in the Council Chambers.  
 (date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.

ADJOINING PROPERTY OWNER(S)  
RECORD NOTIFICATION

DATE: NOVEMBER 12, 2021

TO: 2362 STANLEY ROAD LLC  
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: HECTOR ABREU

RE: Proposed Change of Conditions Case #: \_\_\_\_\_

Proposed Rezoning / SUP Case #: \_\_\_\_\_

Property Location: 5th District, Land Lot 302A Parcel 108C

LOCATION/ADDRESS: 235 McMILLAN ROAD  
Dacula, GA 30019

You are hereby notified that an application a zoning change from C1  
to C2 has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

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(date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula, Georgia on JANUARY 6, 2021 at 7:00 P. M. in the Council Chambers.  
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.

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Extra Services & Fees (check box, add fee as appropriate)	\$0.00		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00		
<input type="checkbox"/> Return Receipt (electronic)	\$0.00		
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00		
<input type="checkbox"/> Adult Signature Required	\$0.00		
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00		
Postage	\$0.58		
Total Postage and Fees	\$4.33		

Sent To  
2362 STANLEY ROAD LLC  
1944 COLLINS HILL ROAD  
LAURENCEVILLE, GA 30043

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Dacula, GA 30019

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<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00		
Postage	\$0.58		
Total Postage and Fees	\$4.33		

Sent To  
CAROLYN FERGUSON  
251 KOOKS ROAD  
DACULA, GA 30019

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Saint Cloud, FL 32771

**OFFICIAL USE**

Certified Mail Fee	\$3.75	0224	11
Extra Services & Fees (check box, add fee as appropriate)	\$0.00		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00		
<input type="checkbox"/> Return Receipt (electronic)	\$0.00		
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00		
<input type="checkbox"/> Adult Signature Required	\$0.00		
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00		
Postage	\$0.58		
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Sent To  
ERNEST CAIN & JAMES WILBANKS  
5400 VIA VENETO COURT  
SAINT CLOUD, FLORIDA 32771

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Dacula, GA 30019

**OFFICIAL USE**

Certified Mail Fee	\$3.75	0224	11
Extra Services & Fees (check box, add fee as appropriate)	\$0.00		
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00		
<input type="checkbox"/> Return Receipt (electronic)	\$0.00		
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<input type="checkbox"/> Adult Signature Required	\$0.00		
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00		
Postage	\$0.58		
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Sent To  
EMANUEL RUSU  
245 McMILLAN ROAD  
DACULA, GA 30019

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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- A receipt (this portion of the Certified Mail label).
  - A unique identifier for your mailpiece.
  - Electronic verification of delivery or attempted delivery.
  - A record of delivery (including the recipient's signature) that is retained by the Postal Service™ for a specified period.
- Important Reminders:**
- You may purchase Certified Mail service with First-Class Mail®, First-Class Package Service®, or Priority Mail® service.
  - Certified Mail service is *not* available for international mail.
  - Insurance coverage is *not* available for purchase with Certified Mail service. However, the purchase of Certified Mail service does not change the insurance coverage automatically included with certain Priority Mail items.
  - For an additional fee, and with a proper endorsement on the mailpiece, you may request the following services:
    - Return receipt service, which provides a record of delivery (including the recipient's signature). You can request a hardcopy return receipt or an electronic version. For a hardcopy return receipt, complete PS Form 3811, *Domestic Return Receipt*; attach PS Form 3811 to your mailpiece;
    - Restricted delivery service, which provides delivery to the addressee specified by name, or to the addressee's authorized agent.
    - Adult signature service, which requires the signee to be at least 21 years of age (not available at retail).
    - Adult signature restricted delivery service, which requires the signee to be at least 21 years of age and provides delivery to the addressee specified by name, or to the addressee's authorized agent (not available at retail).
  - To ensure that your Certified Mail receipt is accepted as legal proof of mailing, it should bear a USPS postmark. If you would like a postmark on this Certified Mail receipt, please present your Certified Mail item at a Post Office™ for postmarking. If you don't need a postmark on this Certified Mail receipt, detach the barcoded portion of this label, affix it to the mailpiece, apply appropriate postage, and deposit the mailpiece.
- IMPORTANT: Save this receipt for your records.**

PS Form 3800, April 2015 (Reverse) PSN 7530-02-000-9047

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PS Form 3800, April 2015 (Reverse) PSN 7530-02-000-9047

# Memorandum

**To:** City of Dacula Mayor and City Council

**From:** Joey Murphy, Consultant, City of Dacula

**Date:** November 11, 2021

**Subject:** Variance Case: 2022-CD-VAR-01

**Existing Zoning:** R-TH (Single-Family Residence Townhouse District)

**Applicant:** BLT Alcovy Road, LLC c/o Mahaffey Pickens Tucker, LLP  
1550 North Brown Road, Suite 125  
Lawrenceville, Georgia 30043  
(770) 232-0000

**Owner:** BLT Alcovy Road, LLC  
1550 North Brown Road  
Lawrenceville, Georgia 30043  
(770) 232-0000

**Location:** 5th District, Land Lot 277

## Existing Land Use and Zoning:

The subject property totals 11.48 +/- acres and is approximately 0.24 miles east of the Alcovy Road and Ewing Chapel Road intersection on the north side of Alcovy Road. In 2020, the property was rezoned to R-TH zoning classification for townhome development pursuant to CD-RZ-2020-01. The property remains vacant of any development at this time.

Existing single-family residential properties and a recently approved 277-unit single-family residential subdivision, zoned TRD (Transitional Residential District), are located west of the subject property. Alcovy Elementary, a Gwinnett County School, and a recently approved self-storage development, zoned C-3 (Central Business District and Heavy Commercial District), are across Alcovy Road to the south. Kid's Galaxy Childcare and Early Learning, zoned C-3, and the Gwinnett County Eastside Precinct neighbor to the east. The northern portion of the subject property is located adjacent to the south side of State Route 316 right-of-way.

A portion of the site has recently been condemned by GDOT for future road improvements and a modified site plan has been provided with the application package. The Submitted letter of intent indicates that the GDOT condemnation has presented a developmental hardship on the property necessitating the variance.

## Variance Request and Summary:

The applicant has requested a variance to waive Section 915(A)(17) of the Dacula Zoning Resolution which provides that within the R-TH zoning district "no more than 10% of the total units may be leased by individual owners at any one time." The applicant has requested that the stated section be waived to allow a single corporate owner to own all community lots and have the ability to lease them to residents as needed.

### Recommendation:

The provision in Section 915(A)(17) of the Dacula Zoning Resolution was instituted to ensure that property maintenance standards are upheld, lessen the frequency of move-ins and move-outs, and to promote community standards within an established community. The City's Marshal's frequently encounter property maintenance concerns. The language of Section 915(A)(17) is intended promote and encourage property ownership as a civic virtue, a path to economic advancement, and a mechanism for ensuring property maintenance and promotion of increasing property values. The text of the ordinance provides a balancing of interests by allowing for reasonable accommodation for some rental units. The code section is economically and racially neutral. The term "individual" applies to the particular owner of a lot, not to a "person" as distinct from a corporate entity. As such, staff hereby recommends that the subject variance request be **denied** as proposed.

### Approved Zoning Conditions:

1. The property shall be developed in accordance with the conceptual site plan prepared by Planners and Engineers Collaborative dated June 19, 2020 and with the provided zoning conditions. Any substantial deviation from the approved conceptual plan and/or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
2. The open space shall not be subdivided, and shall be owned and maintained by a mandatory homeowners association. The deed to the mandatory homeowners association shall require that the open space be perpetually maintained.
3. The maximum number of dwelling units shall not exceed 14 buildings consisting of 84 units total.
4. The minimum heated floor area per dwelling unit shall be 1,800 square feet.
5. The front and side façades of all dwelling units shall consist of architectural treatments of brick, stone, or stucco with fiber cement siding for the remainder of the elevation. The remainder of the structures shall be constructed of brick, stone, stucco, concrete fiber, or similar material.
6. All dwelling units shall have at least a two-car garage.
7. 5-foot wide sidewalks shall be constructed on both sides of the internal subdivision streets.
8. A 5-foot wide sidewalk shall be constructed along the entire property frontage of Alcovy Road.
9. Provide a decorative entrance feature with landscaping to include a decorative fence with stacked stone or brick along the entire property frontage of Alcovy Road. Fencing shall be wrought-iron style with stacked stone or brick columns spaced

every 30 feet. A 6-foot high landscape berm shall be provided along the entire subdivision property line fronting Alcovy Road. The berm shall have minimum 6-foot high trees planted every 15 linear feet. The tree species shall be approved by the City Administrator prior to planting. An entrance feature, landscape and fence plan along Alcovy Road shall be submitted to the City for review and approval.

10. Establish a 40-foot wide landscape strip along the western and eastern property lines (sides), and a 40-foot landscape strip along the northern property line (rear). Subject landscape strips shall include two rows of staggered evergreen trees that are 6 to 8 feet tall at the time of installation and are spaced out no further than 12 feet on center with each row. Acceptable evergreen trees to be planted are as follows: Cryptomeria, Cypress, Hollies, Southern Magnolia, and Wax Myrtles.
11. The developer shall submit the Final Plat to the City of Dacula prior to the issuance of any building permits.
12. Right-of-way reservation is required for the Sugarloaf Parkway Extension Phase 2 project.
13. A 200-foot standard deceleration lane with appropriate taper and adequate right-of-way shall be approved by Gwinnett Department of Transportation. The developer shall be limited to one curb cut. Access to Alcovy Road is required to meet the Gwinnett County Unified Development Ordinance (UDO).
14. Coordinate with the Gwinnett County Department of Transportation for the proposed access on Alcovy Road and the right-of-way reservation for the Sugarloaf Parkway Extension Phase 2 project.
15. Underground utilities shall be provided throughout the development.
16. The development shall include an amenity area with a swimming pool, cabana with restrooms, playground, and adequate parking. The cabana shall be finished to match the façades of the adjacent homes. Prior to issuance of a development permit, an amenity area plan shall be reviewed and approved by the City Administrator or his/her designee.
17. Street light service fees and maintenance are the responsibility of the mandatory homeowners association.
18. All grassed areas shall be sodded.
19. Each townhome building shall have landscape features to include, but not necessarily limited to flowerbeds, landscape trees, evergreen understory plantings and the like. Subject to review and approval by the City Administrator or his/her designee.



P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**APPLICATION**

<b>City Council</b>
<input type="checkbox"/> Waivers
<input checked="" type="checkbox"/> Variance

**Staff Approval Only**

Modifications

*(Please Type or Print using BLACK INK)*

APPLICANT *	PROPERTY OWNER *
NAME <u>BLT Alcovy Road, LLC c/o Mahaffey Pickens Tucker, LLP</u>	NAME <u>BLT Alcovy Road, LLC</u>
ADDRESS <u>1550 North Brown Road, Suite 125</u>	ADDRESS <u>1550 North Brown Road, Suite 125</u>
CITY <u>Lawrenceville</u>	CITY <u>Lawrenceville</u>
STATE <u>Georgia</u> ZIP <u>30043</u>	STATE <u>Georgia</u> ZIP <u>30043</u>
PHONE <u>770 232 0000</u> FAX <u>678 518 6880</u>	PHONE <u>770 232 0000</u> FAX <u>678 518 6880</u>

**APPLICANT IS THE:**

- OWNER'S AGENT
- PROPERTY OWNER

*\* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).*

CONTACT PERSON Shane Lanham

COMPANY NAME Mahaffey Pickens Tucker, LLP

ADDRESS 1550 N Brown Rd, Ste 125  
Lawrenceville, GA 30043

PHONE 770 232 0000 FAX \_\_\_\_\_

PRESENT ZONING DISTRICT(S) R-TH LAND LOT(S) 277 DISTRICT(S) 5

ADDRESS OF PROPERTY 2213-2223 Alcovy Rd, Dacula, GA 30019 ACREAGE +/-11.48

Describe your request in detail and state justification/hardship: \_\_\_\_\_

Please see attached Letter of Intent

*(Attach additional sheets if necessary)*

HAS THE APPLICANT FILED ANY OTHER APPLICATIONS FOR THIS PROPERTY WITHIN THE PAST 12 MONTHS ?  Yes  No

If Yes, please describe: \_\_\_\_\_

*(Attach additional sheets if necessary)*

**LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY**

\*\*\* PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING REQUEST and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AFFECTED \*\*\*

**CASE NUMBER:** \_\_\_\_\_



**APPLICANT CERTIFICATION**

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

[Signature] \_\_\_\_\_  
Signature of Applicant  
11/9/21 \_\_\_\_\_  
Date

Shane Lanham, attorney for the Applicant  
Type or Print Name/Title

[Signature] \_\_\_\_\_  
Notary Public  
  
11/9/2021 \_\_\_\_\_  
Date

**PROPERTY OWNER CERTIFICATION**

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

BLT Alcorn Road, LLC  
By: [Signature] \_\_\_\_\_  
Signature of Applicant  
11/9/21 \_\_\_\_\_  
Date

R. Lee Tucker, Jr.  
Type or Print Name/Title  
[Signature] \_\_\_\_\_  
Notary Public  
  
11/9/2021 \_\_\_\_\_  
Date

**FOR ADMINISTRATIVE USE ONLY**

DATE RECEIVED \_\_\_\_\_ RECEIVED BY \_\_\_\_\_ FEE \_\_\_\_\_ RECEIPT # \_\_\_\_\_

LAND LOT \_\_\_\_\_ DISTRICT \_\_\_\_\_ PARCEL # \_\_\_\_\_ HEARING DATE \_\_\_\_\_

**FOR ADMINISTRATIVE USE ONLY**

ACTION TAKEN \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STIPULATIONS \_\_\_\_\_



P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to the Mayor and/or a member of the City Council.

Yes       No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission or Zoning Board of Appeals.

Yes       No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

*(Attach additional sheets if necessary to disclose or describe all contributions/gifts)*

ADJOINING PROPERTY OWNER(S)  
RECORD NOTIFICATION

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: \_\_\_\_\_

RE: Proposed Variance Case # \_\_\_\_\_

Property Location: 5th District, Land Lot \_\_\_\_\_ Parcel \_\_\_\_\_

LOCATION/ADDRESS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

You are hereby notified that an application for variance \_\_\_\_\_

\_\_\_\_\_ to \_\_\_\_\_ has been submitted to the City of

Dacula.

The proposed variance is contiguous to your property.

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd., Dacula,

Georgia on \_\_\_\_\_ at \_\_\_\_\_ in the Council Chambers.  
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.

**ADJACENT PROPERTY OWNER LIST**

<b>Parcel #</b>	<b>Name</b>	<b>Address</b>
5277 016	Gwinnett County Police	770 Hi Hope Road Lawrenceville, GA 30043
5277 083	Haryana Investments, LLC	P.O. Box 5446 Alpharetta, GA 30023
5277 062	Old Roswell Townhomes, LLC	6845 Shiloh Road E. Suite D2 Alpharetta, GA 30005

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL BEING IN LAND LOT 277 OF THE 5TH DISTRICT OF GWINNETT COUNTY, GEORGIA.

COMMENCING AT THE INTERSECTION OF THE CENTER LINE OF ALCOVY ROAD AND EWING CHAPEL ROAD; THENCE N47°38'25"E FOR A DISTANCE OF 1200.37 FEET TO A POINT ON THE NORTHERN RIGHT OF WAY OF ALCOVY ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY N30°06'35"W A DISTANCE OF 806.80'; THENCE S60°49'30"W A DISTANCE OF 270.00'; THENCE N00°16'45"W A DISTANCE OF 269.75' TO A POINT ON THE SOUTH RIGHT OF WAY OF UNIVERSITY PARKWAY; THENCE ALONG SAID RIGHT OF WAY N88°51'30"E A DISTANCE OF 296.76'; THENCE S30°38'15"E A DISTANCE OF 105.79'; THENCE N70°10'00"E A DISTANCE OF 284.72'; THENCE N80°43'05"E A DISTANCE OF 323.98' TO A FOUND CONCRETE MONUMENT; THENCE LEAVING SAID RIGHT OF WAY S30°07'30"E A DISTANCE OF 232.86' TO A FOUND IRON 1/2" REBAR; THENCE S60°08'20"W A DISTANCE OF 215.11' TO A FOUND IRON 1/2" REBAR; THENCE S30°09'00"E A DISTANCE OF 405.51' TO A FOUND IRON 1/2" REBAR WITH YELLOW CAP 3014 ON THE NORTHERN RIGHT OF WAY OF ALCOVY ROAD; THENCE ALONG SAID RIGHT OF WAY S60°23'30"W A DISTANCE OF 33.95' TO A FOUND IRON 1" SMOOTHBAR; THENCE S60°48'50"W A DISTANCE OF 329.14' TO A FOUND IRON 1/2" REBAR; THENCE S60°49'31"W A DISTANCE OF 130.00' TO THE POINT OF BEGINNING. HAVING AN AREA OF 500201.90 SQUARE FEET, 11.483 ACRES.

Matthew P. Benson  
Catherine W. Davidson  
Gerald Davidson, Jr.\*  
Rebecca B. Gober  
Brian T. Easley  
Christopher D. Holbrook

Samuel C. Kennon  
Shane M. Lanham  
Jeffrey R. Mahaffey  
Steven A. Pickens  
Andrew D. Stancil  
R. Lee Tucker, Jr.

\*Of Counsel

**LETTER OF INTENT FOR VARIANCE APPLICATION  
OF BLT ALCOVY ROAD, LLC**

Mahaffey Pickens Tucker, LLP submits this Letter of Intent and the attached variance application (the "Application") on behalf of the property owner, BLT Alcovy Road, LLC (the "Applicant") to seek relief from the requirements of Section 915(A)(17) of Appendix B of the City of Dacula Code of Ordinances (the "Code"). The requested variance relates to the development of an approximately 11.48-acre property located on the north side of Alcovy Road, just west of the intersection of Harbins Road and University Parkway (State Route 316) (the "Property").

The Property was rezoned to the R-TH zoning classification in 2020 pursuant to case number 2020-CD-RZ-01 by Resolution of the Mayor and City Council dated July 6, 2020. The Zoning Resolution of the City of Dacula (the "ZR") is set forth in Appendix B of the Code. Section 915(A)(17) provides that within R-TH developments, "[n]more than 10% of the total units may be leased by individual owners at any one time." In conversations with City staff, the Applicant has taken the position that by adding the terms "individual owners" Section 915(A)(17) must mean that developments with individual owners (as opposed to corporate owners) or multiple owners (as opposed to a single owner of all lots) are limited to no more than 10% rentals. Otherwise, why add the terms "individual owners?" If Section 915(A)(17) is meant to prohibit more than 10%

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NorthPoint Office || 11175 Cicero Drive, Suite 100, Alpharetta, Georgia 30022

TELEPHONE 770 232 0000

FACSIMILE 678 518 6880

www.mptlawfirm.com

rentals in *any* R-TH development, it could have read “no more than 10% of the total units may be leased at any one time.” Adding the terms “individual owners” creates a distinction among such property ownership structures. However, the Applicant understands that the City interprets Section 915(A)(17) differently. Accordingly, the Applicant submits this variance to allow a single, corporate owner to own all of the lots within the community and lease them to residents.

Approval of the Application would allow the development of the Property for use as high-quality single-family residential townhome development. The Property faces significant physical challenges including a recent Georgia DOT condemnation of a portion of the Property located along University Parkway. This constriction of the developable portions of the Property has created a hardship on the owner and resulted in increased fixed development costs associated with the project. Allowing a single, corporate ownership structure allows the Applicant to more efficiently develop, build, operate, and maintain the homes in the community.

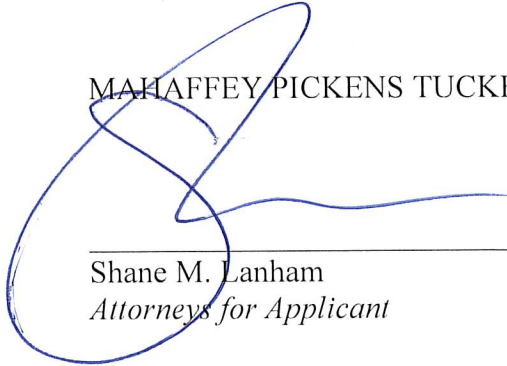
A variance may be granted in cases where the application of the local zoning ordinance to a particular piece of property would create unnecessary hardship, and that relief, if granted, would not cause substantial detriment to the public good or impair the intent of the local ordinance. Here, the Applicant submits that, in its current state, special conditions and circumstances unique to the Property make development in compliance with the zoning provisions of the ZR unreasonably burdensome. Further, approval of the Application would not cause substantial detriment to the public good. As the City of Dacula continues to grow, many residents seek housing options that are currently unavailable or inaccessible. Many people are choosing to rent given their individual circumstances and preferences. For example, many young couples and empty nesters prefer the low-maintenance, flexible lifestyle that single-family rental communities can provide. Residents have the flexibility to “lock and leave” knowing that the property management company is

responsible for maintenance of their home as well as landscaping and other traditional housing obligations. Ultimately, the Applicant is not requesting an increase in unit count, density, or project size and approval of the Application would not result in a decrease in quality, longevity, or aesthetics. Rather, approval of the Application would simply allow a different ownership structure than a strict reading of the ZR would permit.

The Applicant and its representatives welcome the opportunity to meet with staff of the City of Dacula Planning & Development Department to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Application filed herewith. Your favorable consideration is sincerely appreciated.

Respectfully submitted this 9th day of November, 2021.

MAHAFFEY PICKENS TUCKER, LLP



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Shane M. Lanham  
*Attorneys for Applicant*









