

CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council                      DATE: November 29, 2011

FROM: John McDonough, City Manager

AGENDA ITEM: **RZ11-008** - 5525 Interstate N. Pkwy., Applicant: Peacock Partnership, To rezone the subject property from C-1 (Community Business District) to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District

MEETING DATE: For Submission onto the December 6, 2011, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum  
Rezoning Petition

APPROVAL BY CITY MANAGER:                     JFM                     APPROVED

\_\_\_\_\_ NOT APPROVED

PLACED ON AGENDA FOR:                     12/6/2011                    

CITY ATTORNEY APPROVAL REQUIRED: (  ) YES      (    ) NO

CITY ATTORNEY APPROVAL:                     [Signature]                    

REMARKS:

To: John McDonough, City Manager

From: Angela Parker, Director of Community Development 

Date: November 21, 2011 for submission onto the December 6, 2011 City Council meeting

Agenda Item: **RZ11-008 5525 Interstate North parkway**, a request to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District.

***CMO (City Manager's Office) Recommendation:***

**APPROVAL CONDITIONAL** of the request to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District.

***Background:***

The site is located 450 feet southwest of the intersection of Northside Drive and Interstate North Parkway, between I-285 and Interstate North Parkway. The property is zoned C-1 (Community Business District) conditional under zoning case Z78-005 and is developed with a 6,701 building. The Zoning Conditions of Z78-005 restrict the use on the property to a restaurant.

***Discussion:***

The subject property is currently zoned C-1 (Community Business District) under zoning case Z78-005 and conditioned to restaurant use only. The applicant is requesting to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District.

***Concurrent Review:***

The staff held a Focus Meeting on September 7, 2011 at which the following city departments provided comments:

- Building and Development Division
- Fire Department
- Transportation Division
- Code Enforcement

In addition, the following external departments were contacted for comment:

- Atlanta Regional Commission
- Fulton County Board of Education
- Fulton County Department of Environment and Community Development (*comments received*)
- Fulton County Department of Public Works
- Fulton County Environmental Health Services (*comments received*)
- Sandy Springs Council of Neighborhoods
- Sandy Springs Revitalization Inc.
- Georgia Department of Transportation
- City of Atlanta Department of Watershed Management (*comments received*)
- U.S. Postal Service Address Management Systems
- MARTA
- Fulton County Emergency Management



**Rezoning Petition No. RZ11-008**

**HEARING & MEETING DATES**

<b>Community Zoning Information Meeting</b>	<b>Community Developer Resolution Meeting</b>	<b>Planning Commission Hearing</b>	<b>Mayor and City Council Hearing</b>
August 23, 2011	September 21, 2011	October 20, 2011 November 17, 2011	November 15, 2011 December 6, 2011

**APPLICANT/PETITIONER INFORMATION**

<b>Property Owners</b>	<b>Petitioner</b>	<b>Representative</b>
Preferred Real Estate Equities, Inc.	Peacock Partnership	Peacock Partnership/Brent Conway

**PROPERTY INFORMATION**

<b>Address, Land Lot, and District</b>	5525 Interstate North Parkway Land Lot 205, District 17
<b>Council District</b>	3
<b>Frontage and Area</b>	285 feet of frontage along the southeast side of Interstate N. Parkway and 230 feet of frontage along the northwest side of I-285. The subject property has a total area of 1.58 acres (68,825 square feet).
<b>Existing Zoning and Use</b>	C-1 (Community Business District) conditional under zoning case Z78-005. The property is currently developed with a restaurant building.
<b>Overlay District</b>	N/A
<b>2027 Comprehensive Future Land Use Map Designation</b>	Living-Working Community (LWC), Node 5: Powers Ferry at I-285
<b>Proposed Zoning</b>	C-1 (Community Business District)

**INTENT**

**TO REZONE THE SUBJECT PROPERTY FROM C-1 (COMMUNITY BUSINESS DISTRICT) CONDITIONAL TO C-1 (COMMUNITY BUSINESS DISTRICT) TO ALLOW AN OFFICE AND OTHER USES PERMITTED IN THE C-1 ZONING DISTRICT**

The subject property is currently zoned C-1 (Community Business District) under zoning case Z78-005 and conditioned to restaurant use only. The applicant is requesting to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District.

The following are permitted uses in the C-1 Zoning District:

- Amusement, indoor
- Apartment, above or behind commercial and office uses in the same building
- Art gallery
- Assembly hall
- ~~Automotive parking lot~~
- ~~Automotive specialty shop~~
- Catering, carry-out and delivery business

- ~~Church, temple or other place of worship~~
- Clinic
- Day care facility
- Delicatessen
- Financial establishment/institution
- ~~Funeral home~~
- ~~Garage, automobile repair (except painting, body repair and overhaul of major components)~~
- Group residence
- Gymnasium
- Hospice
- Hotel/motel
- Health club/spa
- ~~Laundromat~~
- ~~Landscaping business, garden center~~
- ~~Laundry and dry cleaning shop~~
- Library
- Communication service
- ~~Millinery or similar trade whenever products are sold retail, exclusively on the site where produced~~
- Museum
- Nursing home
- Office
- Parking garage\deck
- ~~Parking lot~~
- Personal care home/assisted living
- Personal service, including barber, beauty
- Pet grooming (no overnight stay)
- Photography studio
- ~~Plant nursery~~
- Printing shop, convenience
- ~~Recycling center, collecting~~
- ~~Repair shop not involving any manufacturing on the site~~
- Research laboratory
- Restaurants
- Retail store or shop
- School of business, dance, music or similar schools
- ~~Service station (except that repair and service offerings shall not include painting, body repair or overhaul of major components, and no portion of the site shall be used for the display of cars for sale)~~
- ~~Stadium~~
- Theater

~~Adult Establishments would be allowed with an approved Administrative Permit.~~

NOTE #1: On the subject property, the applicant/owner has proferred not to operate the above C-1 uses that are stricken through.

**DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION  
RZ11-008 - APPROVAL CONDITIONAL**

---

**PLANNING COMMISSION RECOMMENDATION****RZ11-008- APPROVAL CONDITIONAL**

**The petition was heard at the October 20, 2011 Planning Commission meeting.** The Commission recommended deferral. Approved (6-0, Maziar, Thatcher, Rupnow Pond, Rubenstein, and Tart for; Duncan not voting).

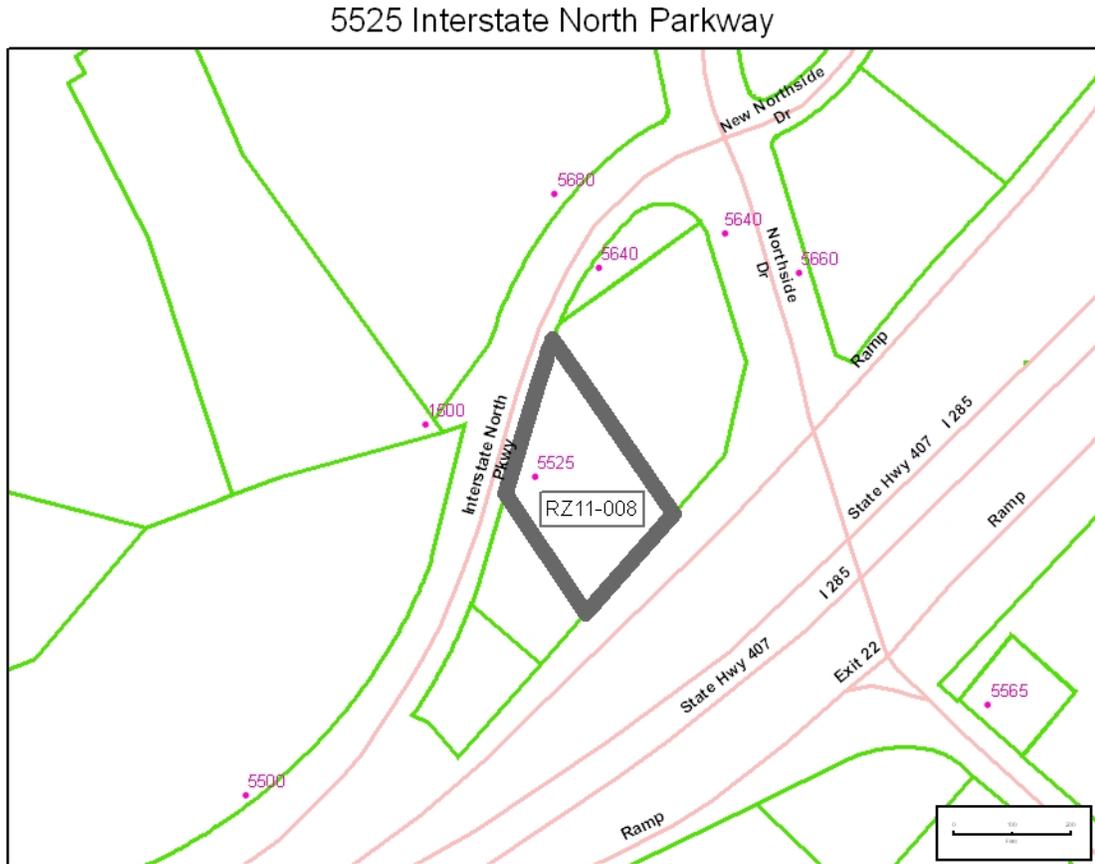
**The petition was heard at the November 17, 2011 Planning Commission meeting.** The Commission recommended approval subject to Staff conditions amended as follows: Add 'Parking Lot' to the list of prohibited uses written in the staff recommended condition 1.d. And as a part of the approval, the Commission requested the report reflect that the owner/applicant has proffered not to operate an Adult Establishment that could be applied for under an Administrative Permit. Approved (5-0, Thatcher, Pond, Rubenstein, Maziar, and Tart for; Duncan and Rupnow not voting).

---

**MAYOR AND CITY COUNCIL ACTION****RZ11-008- DEFERRAL**

**The petition was heard at the November 15, 2011 Mayor and City Council Hearing.** The Council approved a deferral until the December 6, 2011 hearing. The deferral was unanimously approved to allow staff time to update the analysis and to allow the Planning Commission to consider the application at its November 17, 2011 meeting.

**Location Map**



**BACKGROUND**

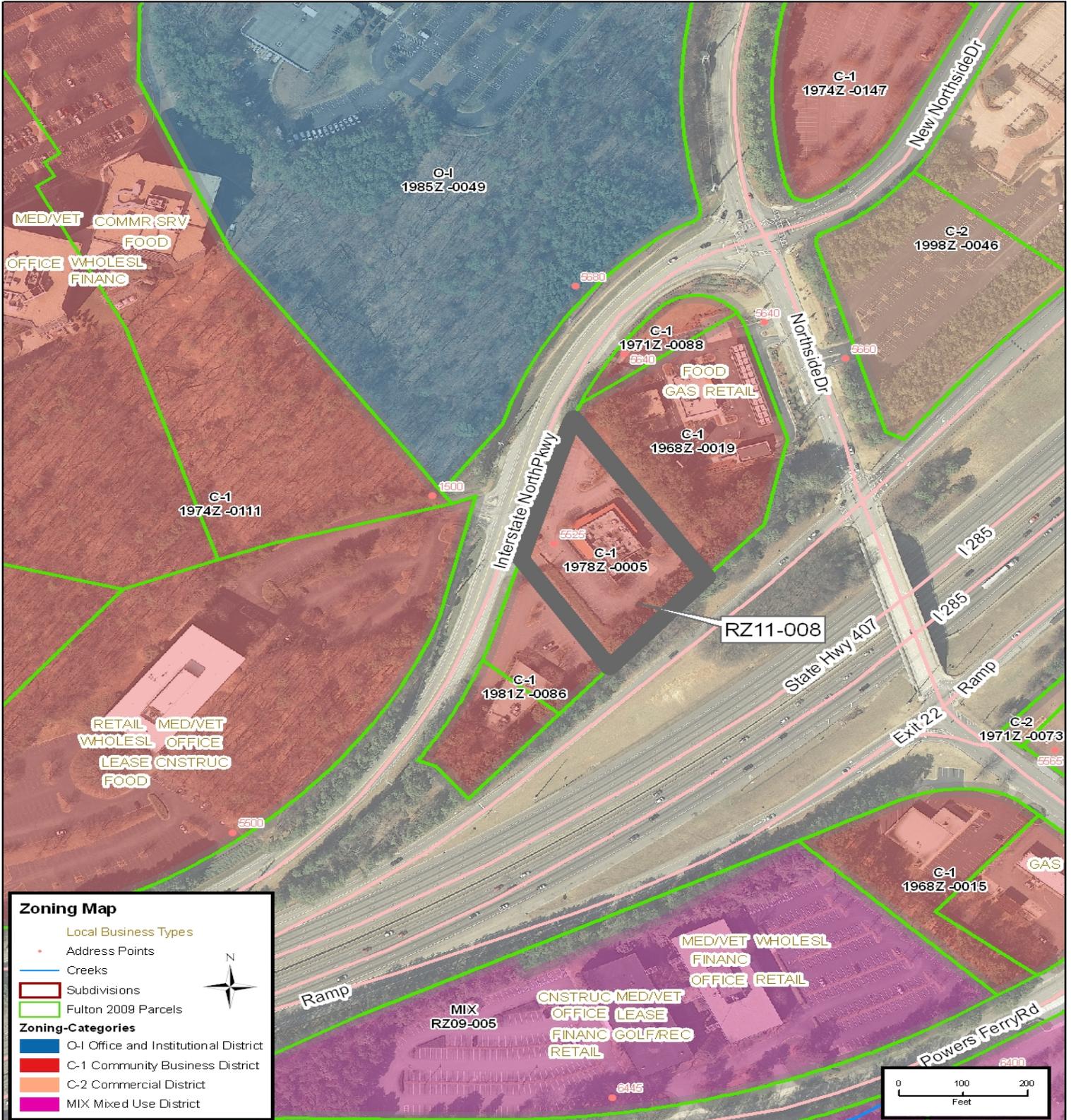
The site is located 450 feet southwest of the intersection of Northside Drive and Interstate North Parkway, between I-285 and Interstate North Parkway. The property is zoned C-1 (Community Business District) conditional under zoning case Z78-005 and is developed with a 7,451 building. The Zoning Conditions of Z78-005 restrict the use on the property to a restaurant.

**EXISTING LAND USE AND ZONING OF ABUTTING PROPERTY**

<b>SUBJECT PETITION</b>	<b>Requested Zoning</b>	<b>Proposed Use</b>	<b>Land Area (Acres)</b>	<b>Square Feet</b>	<b>Density (SF Per Acre)</b>
<b>RZ11-008</b>	C-1	Office and other uses permitted under the C-1 zoning districts	1.58	7,451 SF 11,701 SF 21,701 SF	4,716 SF/acre 7,406 SF/acre 13,735 SF/acre
<b>Location in relation to subject property</b>	<b>Zoning</b>	<b>Use</b>	<b>Land Area (Acres)</b>	<b>Number of Units/Square Feet</b>	<b>Density (Square Feet or Units Per Acre)</b>
North	O-I Z85-049	Office	22.90	541,146 SF	23,630 SF/acre
East	C-1 Z68-019	Shell Automotive	2.10	7,500 SF	3,571 SF/acre
South	C-1 Z81-086	Office	1.12	13,555 SF	12,103 SF/acre
West	C-1 Z74-111	Office	9.84	135,300 SF	13,750 SF/acre
		Retail		20,000 SF	2,033 SF/acre

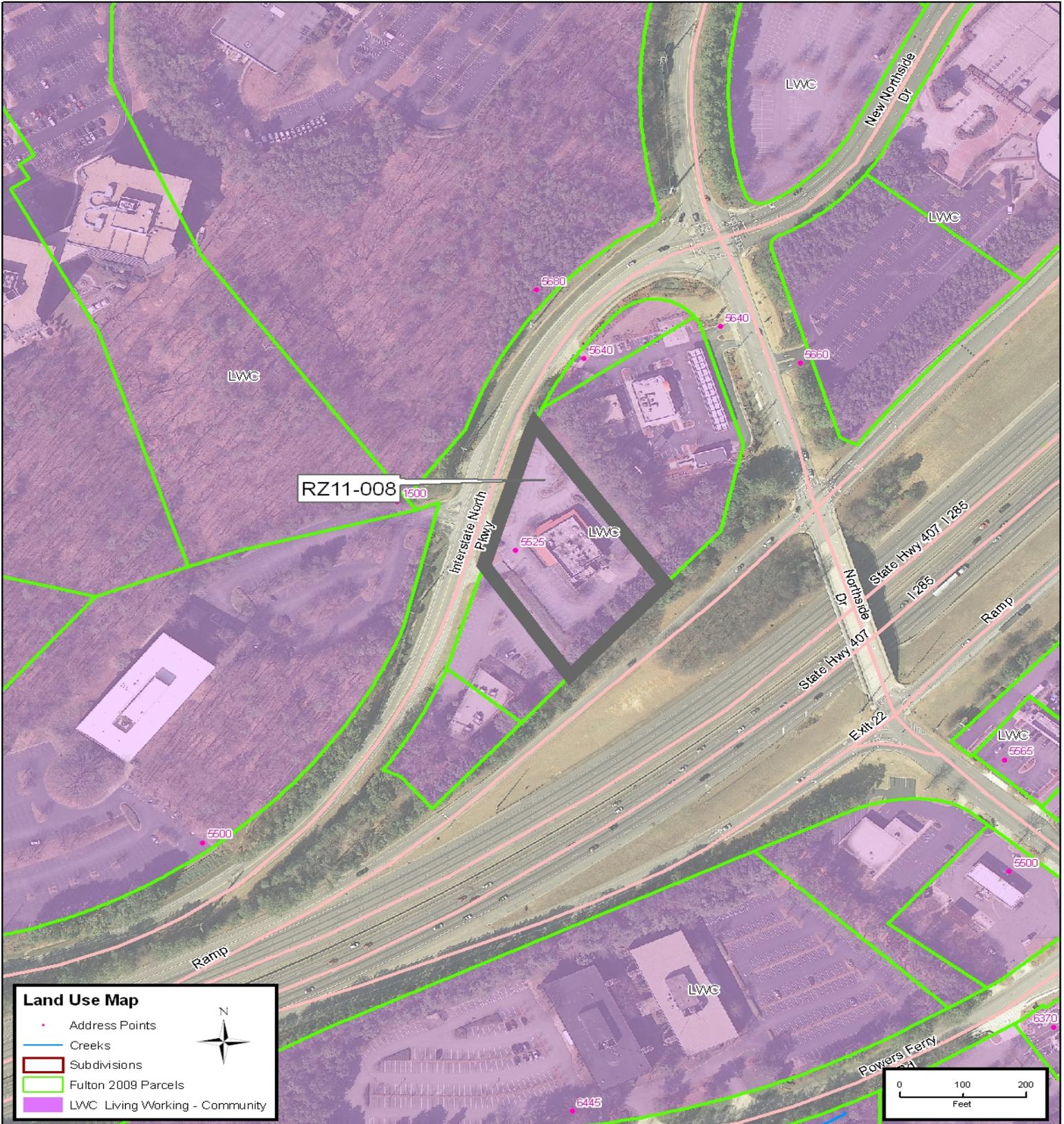
# Zoning Map

## 5525 Interstate North Parkway



# Future Land Use Map

# 5525 Interstate North Parkway





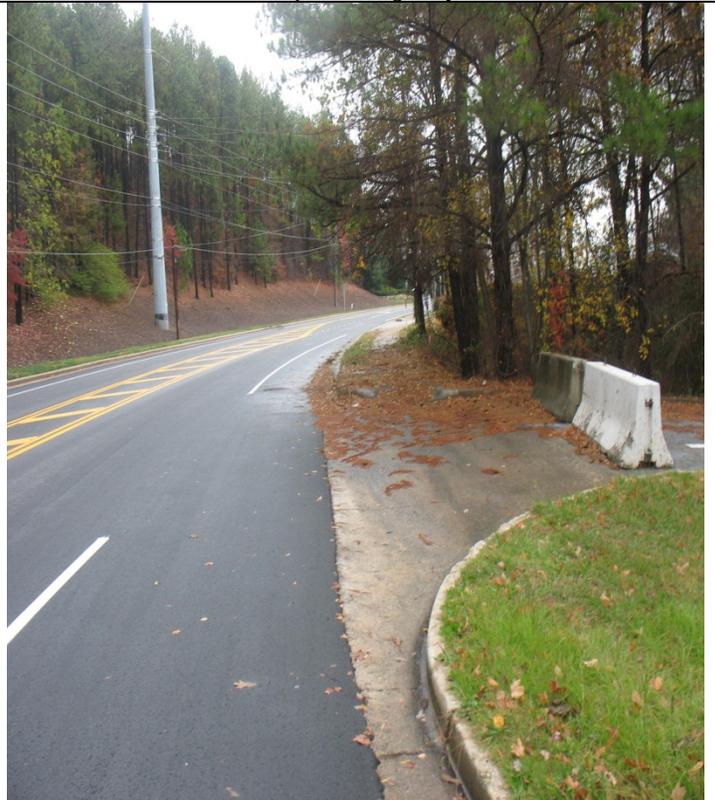
Subject Property



Subject Property



North of Subject Property



Shell Sidewalk



East of Subject Property



East of Subject Property



East of Subject Property



East of Subject Property



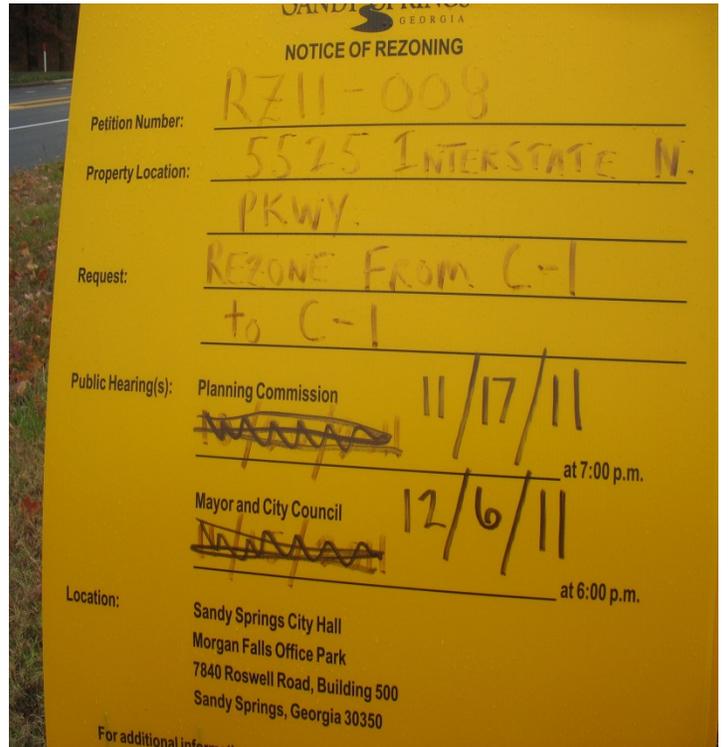
South of Subject Property



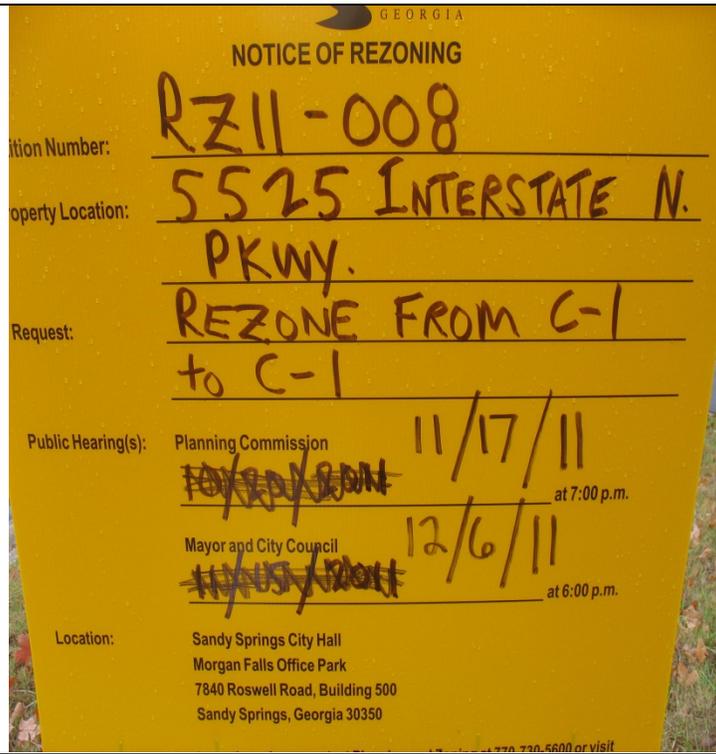
South of Subject Property



West of Subject Property



Sign



Sign

**SITE PLAN ANALYSIS**

The submitted site plans show the subject property to be irregularly shaped and indicates the following:

Existing:

- An existing 7,451 square foot building.
- 53,836 square feet (78%) of total impervious surface
- 5,942 square feet (9%) of landscaping
- 8,960 square feet (13%) of undeveloped space
- 120 parking spaces

Phase I:

- A proposed 11,701 square foot building.
- 53,836 square feet (78%) of total impervious surface
- 5,942 square feet (9%) of landscaping
- 8,960 square feet (13%) of undeveloped space
- 100 parking spaces

Phase II:

- A proposed 21,701 square foot, two (2) story building.
- 53,836 square feet (78%) of total impervious surface
- 5,942 square feet (9%) of landscaping
- 8,960 square feet (13%) of undeveloped space
- 84 parking spaces

**PARKING IMPACT ANALYSIS**

Section 18.2.1, *Basic Off-street Parking Requirements*, requires a minimum amount of parking spaces for Specific Use Groups. The applicant expressed a desire to have unconditional C-1 zoning; therefore, any permitted C-1 use that would possibly occupy the property, after phase II, would have to require 84 parking spaces or less.

**LANDSCAPE PLAN ANALYSIS**

Photographs indicate the subject property is well screened at the eastern perimeter of the lot. Additionally, the site plans indicate 5,942 square feet (9%) of landscaping.

**ENVIRONMENTAL SITE ANALYSIS**

The Environmental Site Analysis Report is sufficient and satisfies the requirements of the Sandy Springs Zoning Ordinance. The reporting on all items of the analysis stated either positive, minimal, or no environmental issues. The report, in its entirety, is within the case file as a matter of record.

**DEPARTMENT COMMENTS**

The staff held a Focus Meeting on September 7, 2011 at which the following departmental comments were provided:

<b>BUILDING &amp; DEVELOPMENT DIVISION</b>	Sandy Springs Building Officer	<ul style="list-style-type: none"> <li>There are no building and compliance requirements that need to be addressed at this time.</li> </ul>
	Sandy Springs Chief Engineer	<ul style="list-style-type: none"> <li>There are no engineering requirements that need to be addressed at this time.</li> </ul>
	Sandy Springs Landscape Architect/Arborist	<ul style="list-style-type: none"> <li>There are no landscape or stream requirements that need to be addressed at this time.</li> </ul>
<b>CODE ENFORCEMENT</b>	Officer	<ul style="list-style-type: none"> <li>There are no maintenance code violations.</li> </ul>
<b>FIRE DEPT.</b>	Sandy Springs Fire Protection Engineer	<ul style="list-style-type: none"> <li>There are no Fire Department requirements that need to be addressed at this time.</li> </ul>
<b>TRANSPORTATION</b>	Sandy Springs Transportation Planner	<ul style="list-style-type: none"> <li>Interstate North Parkway is classified as a minor arterial and is included in the City of Sandy Springs Sidewalk Master Plan. Public Works requests that the applicant consider installation of sidewalks fronting property per Section 11.11 of the Development Ordinance.</li> </ul>
	Georgia Department of Transportation	<ul style="list-style-type: none"> <li>There are no GDOT requirements that need to be addressed at this time.</li> </ul>

The staff has not received any additional comments from the Fulton County Board of Education.

## PUBLIC INVOLVEMENT

### Required Meetings

The applicant attended the following required meetings:

- Community Zoning Information Meeting held August 23, 2011 at the Sandy Springs City Hall
- Community/Developer Resolution Meeting held September 21, 2011 at the Sandy Springs City Hall

### Public Comments

Community input includes the following:

- Concerns that unconditional zoning would allow “unsavory” businesses to open there.

### Notice Requirements

The petition will have been advertised on October 13, 2011 and on October 27, 2011. The applicant has posted signs issued by the Department of Community Development along the frontage of Interstate North Parkway on September 9, 2011.

### Public Participation Plan and Report

The applicant will meet the Public Participation Plan requirements. The applicant is required to submit the Public Participation Report seven (7) days prior to the Mayor and City Council Hearing on November 15, 2011. The Public Participation Report will be submitted on or before November 8, 2011.

## ZONING IMPACT ANALYSIS

Per Article 28.4.1, *Zoning Impact Analysis by the Planning Commission and the Department*, the staff shall make a written record of its investigation and recommendation on each rezoning petition with respect to the following factors:

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

Finding: The staff is of the opinion that the proposed C-1 uses, other than Adult Establishments, Businesses Performing Specified Sexual Activities, Massage Parlors, and Lingerie/Bathing Suit Modeling, would be suitable in view of the existing density and character of the surrounding area. Please see pages 5, 6, and 7 of this report.

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

Finding: The staff is of the opinion that the proposed uses, other than Adult Establishments, Businesses Performing Specified Sexual Activities, Massage Parlors, and Lingerie/Bathing Suit Modeling, would not adversely affect the existing use and usability of adjacent property. Please see pages 5, 6, and 7 of this report.

C. *Whether the property to be affected by the zoning proposal may have reasonable economic use as currently zoned.*

Finding: The staff is of the opinion that the property has a reasonable economic use as currently zoned.

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

Finding: The staff does not anticipate a significant impact on public services and facilities.

Public Works states that Interstate North Parkway is classified as a minor arterial and is included in the City of Sandy Springs Sidewalk Master Plan. Public Works requests that the applicant consider installation of sidewalks fronting property per the Development Ordinance.

*E. Whether the zoning proposal is in conformity with the policies and intent of the land use plan.*

**Finding:** The staff is of the opinion that the proposed uses, other than Adult Establishments, Businesses Performing Specified Sexual Activities, Massage Parlors, and Lingerie/Bathing Suit Modeling, are mostly consistent with the Future Land Use Map, which designates the property as Living-Working Community (LWC). The applicant is proposing to allow for a uses consistent with C-1 zoning.

The LWC land use designation recommends: a density of up to 25,000 square feet per acre for commercial and office uses, a 100,000 square foot/tenant limitation, and a 15 % minimum of Open and Green Space Components (10% must be G.S. and 5% may be O.S.). The proposed density for the subject parcel is between 4,241 and 13,735square feet per acre. And the applicant is proposing to maintain the 8,960 square feet (13%) of undeveloped space and to maintain the 5,942 square feet (9%) of landscaping, which is not consistent with what LWC recommends.

The proposal lends itself to the overall intent of the LWC designated areas that are intended for medium density mixed land uses (residential and commercial) intended to serve a group of adjacent neighborhoods and to be compatible with low and medium density residential neighborhoods. The subject site is located in Living Working Node 5 at Powers Ferry at I-285. The vision of Node 5 is a large office market and commercial uses commonly found at highway exits with the potential for mixed use having limited residential components. The guidelines and policies of Node 5 recommend: up to 10 residential units per acre, a four (4) story building height limitation, a restriction that commercial uses be accessory in nature, and, due to the proximity to the Chattahoochee River, projects should have significant green space. Staff notes, after the proposed phase II, the building height would be two (2) stories.

*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 zoning proposal.*

**Finding:** The staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

*G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of Sandy Springs.*

**Finding:** The staff is of the opinion that the zoning proposal will not permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of Sandy Springs.

**CONCLUSION TO FINDINGS**

It is the opinion of the staff that the proposal is in conformity with the intent of the Comprehensive Plan Policies and the Future Land Use Map, as the proposal involves uses (other than Adult Establishments, Businesses Performing Specified Sexual Activities, Massage Parlors, and Lingerie/Bathing Suit Modeling) and a density that are consistent with abutting and nearby properties. Therefore, based on these reasons, the staff recommends APPROVAL CONDITIONAL of this petition.

**STAFF RECOMMENDED CONDITIONS**

Should the Mayor and City Council decide to approve the petition to rezone the subject property from C-1 (Community Business District) conditional to C-1 (Community Business District) to allow an Office and other uses permitted in the C-1 Zoning District, the staff recommends the approval be subject to the following conditions. The applicant's agreement to these conditions would not change staff recommendations. These conditions shall prevail unless otherwise stipulated by the Mayor and City Council.

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. To the existing 7,451 square foot building and a total density of 4,716 square feet per acre. The applicant/owner may renovate and maintain the existing building on an as needed basis.
  - b. To the proposed Phase I building having 11,701 square feet and a total density of 7,406 square feet per acre.
  - c. To the proposed Phase II building having 21,701 square feet and a total density of 13,735 square feet per acre.
  - d. To Uses permitted in the C-1 Zoning District, excepting Adult Establishments, Businesses Performing Specified Sexual Activities, Massage Parlors, and Lingerie/Bathing Suit Modeling, Automotive parking lot, Automotive specialty shop, Church (temple or other place of worship), Funeral home, Automotive Repair Garage, Laundromat, Landscaping business (garden center), Laundry & dry cleaning shop, Millinery or similar trade whenever products are sold retail exclusively on the site where produced, Parking lot, Plant nursery, Recycling collecting center, Repair shop not involving any manufacturing on the site, Service station, and Stadium shall be prohibited.
2. To the owner's agreement to abide by the following:
  - a. To be in accordance with the site plans (Existing, Phase I, and Phase II) received by the Department of Community Development on October 28, 2011. Said site plans are conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of a Certificate of Occupancy.
  - b. The applicant/owner shall install sidewalks fronting the subject property per the Development Ordinance and as approved by the Director of the Public Works Department prior to the issuance of a Certificate of Occupancy.
3. To the owner's agreement to provide the following site development standards:
  - a. To reduce the zoning regulations to the extent necessary for all the existing non-conforming (grandfathered) structure(s) to comply in accordance with the site plans received by the Department of Community Development on October 28, 2011.

**Attachments**

Site Plans dated received October 28, 2011

Letter of Intent dated received August 2, 2011

First Amendment to Rezoning Application received October 28, 2011

Applicant Zoning Impact Analysis dated received August 2, 2011

Letter Fulton County Dept. of Environment and Community Development received September 20, 2011

Letter City of Atlanta Dept. of Watershed Management received September 20, 2011

Letter Fulton County Dept. of Health Services received October 10, 2011

Letter of Support received November 2, 2011

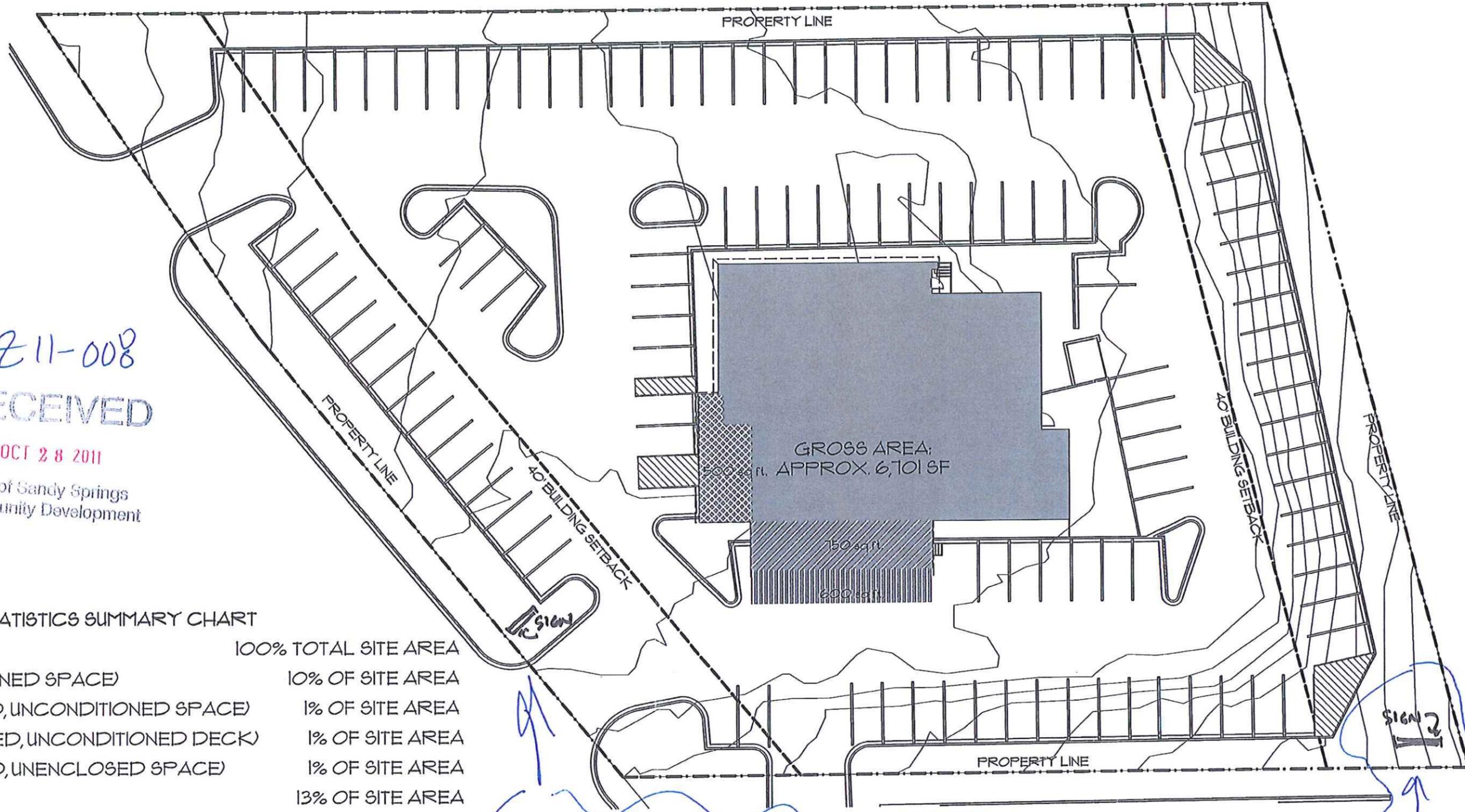
Second Amendment to Rezoning Application received November 15, 2011

J:\236.00.00 PEACOCK PARTNERSHIP\236.01.00 INTERSTATE NORTH PARKWAY\236.01.01 BUILDING RENOVATION Schematic Options\5525 N Interstate Pluypin

RZ 11-008  
RECEIVED

OCT 28 2011

City of Sandy Springs  
Community Development



DEVELOPMENT STATISTICS SUMMARY CHART

1.578 AC.	100% TOTAL SITE AREA
6,701 SF (CONDITIONED SPACE)	10% OF SITE AREA
750 SF (ENCLOSED, UNCONDITIONED SPACE)	1% OF SITE AREA
750 SF (UNCOVERED, UNCONDITIONED DECK)	1% OF SITE AREA
500 SF (COVERED, UNENCLOSED SPACE)	1% OF SITE AREA
8,701 SF (TOTAL)	13% OF SITE AREA
120	32% PARKING SPACES
53,836 SF	78% TOTAL IMPERVIOUS AREA
5,942 SF	9% LANDSCAPING
0 SF	0% FLOOD PLAIN
8,960 SF	13% UNDEVELOPED

EXISTING  
SIGN MAY BE IN R.O.W.

EXISTING SITE PLAN

5525 INTERSTATE NORTH PARKWAY

SANDY SPRINGS, GEORGIA

SIGN 2  
↑  
EXISTING



PEACOCK  
architects

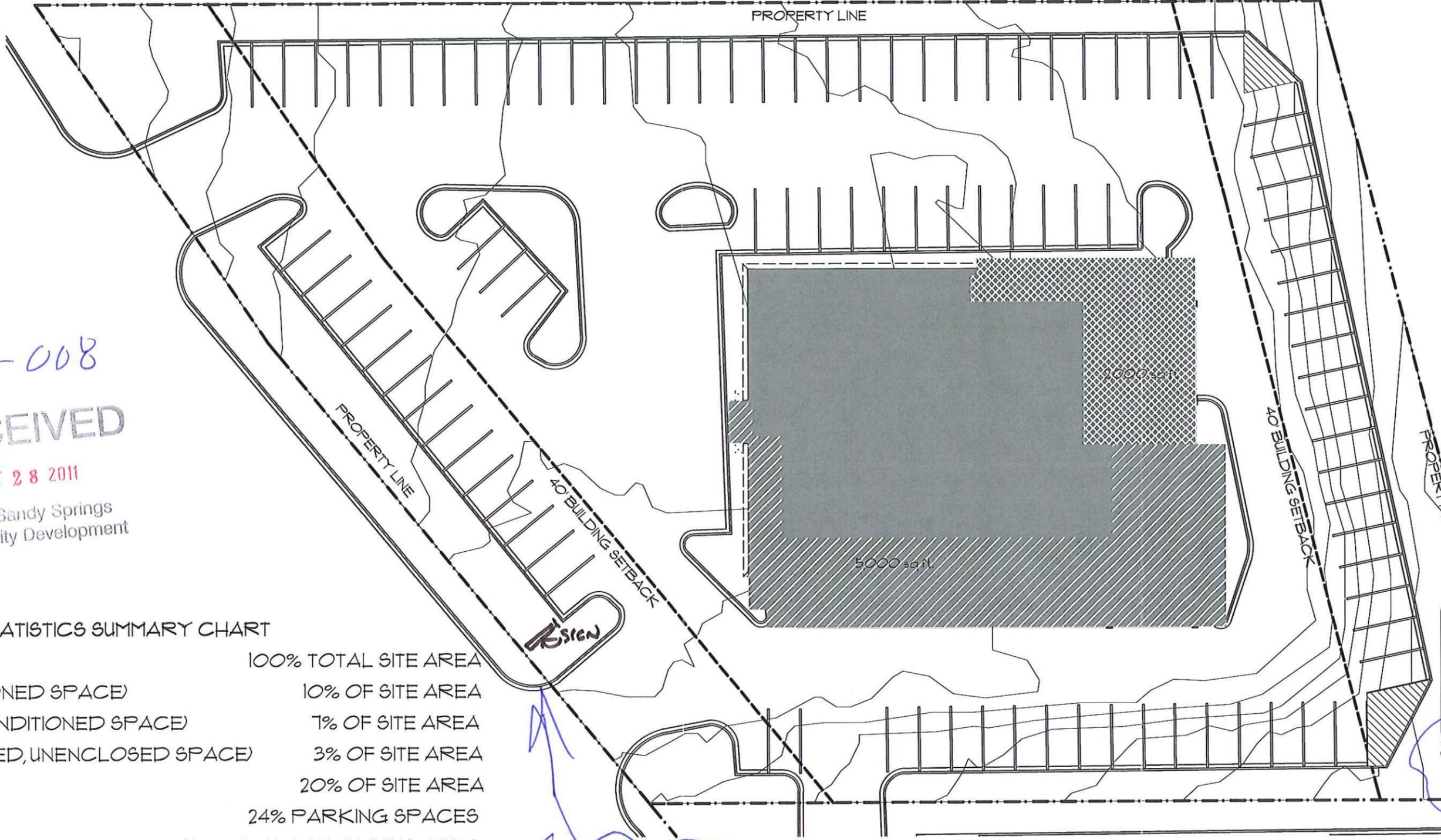
J:\236,00,00 PEACOCK PARTNERSHIP\236,01,00 5525 INTERSTATE NORTH PKWY\236,01,01 BUILDING RENOVATION\Schematic Options\5525 N Interstate Pkwy Option 3.dwg

RZ11-008

RECEIVED

OCT 28 2011

City of Sandy Springs  
Community Development



DEVELOPMENT STATISTICS SUMMARY CHART

1.578 AC.	100% TOTAL SITE AREA
6,701 SF (CONDITIONED SPACE)	10% OF SITE AREA
5,000 SF (NEW CONDITIONED SPACE)	7% OF SITE AREA
2,000 SF (COVERED, UNENCLOSED SPACE)	3% OF SITE AREA
13,701 SF (TOTAL)	20% OF SITE AREA
100	24% PARKING SPACES
53,836 SF	78% TOTAL IMPERVIOUS AREA
5,942 SF	9% LANDSCAPING
0 SF	0% FLOOD PLAIN
8,960 SF	13% UNDEVELOPED

EXISTING SIGN MAY BE IN R.O.W.

EXISTING SIGN

PHASE I ALTERATIONS AND ADDITION

5525 INTERSTATE NORTH PARKWAY

SANDY SPRINGS, GEORGIA

SCALE: 1" = 30'

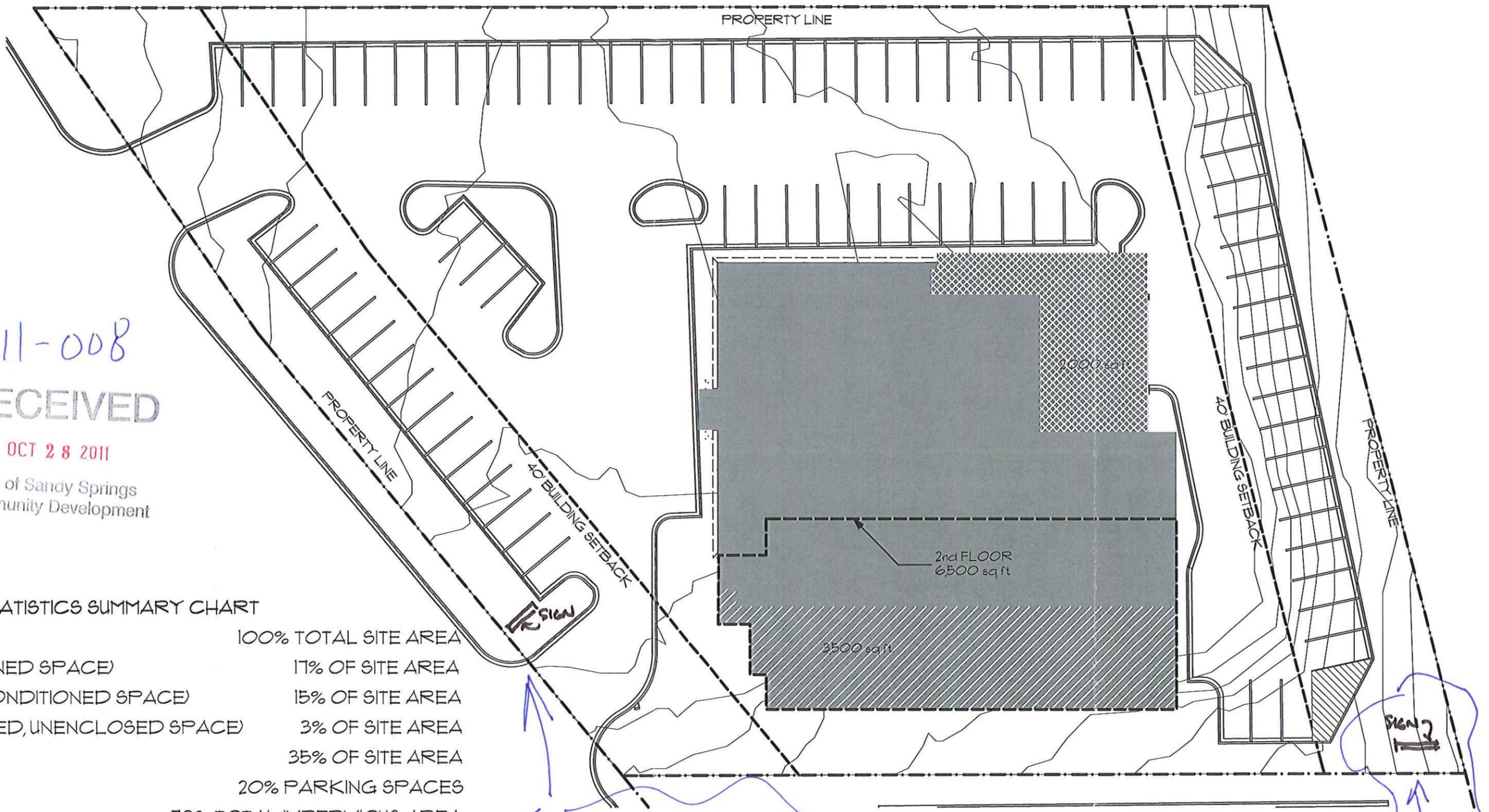
10/28/2011



PEACOCK architects

J:\236.00.00 PEACOCK PARTNERSHIP\236.0100 5525 INTERSTATE NORTH PKWY\236.0101 BUILDING RENOVATION\Schematic Options\5525 N Interstate PKwy Option 4.pln

12711-008  
RECEIVED  
OCT 28 2011  
City of Sandy Springs  
Community Development



DEVELOPMENT STATISTICS SUMMARY CHART

1.578 AC.	100% TOTAL SITE AREA
11,701 SF (CONDITIONED SPACE)	17% OF SITE AREA
10,000 SF (NEW CONDITIONED SPACE)	15% OF SITE AREA
2,000 SF (COVERED, UNENCLOSED SPACE)	3% OF SITE AREA
23,701 SF (TOTAL)	35% OF SITE AREA
84	20% PARKING SPACES
53,836 SF	78% TOTAL IMPERVIOUS AREA
5,942 SF	9% LANDSCAPING
0 SF	0% FLOOD PLAIN
8,960 SF	13% UNDEVELOPED

EXISTING  
SIGN MAY BE IN R.O.W.

EXISTING

PHASE II ALTERATIONS AND ADDITION  
5525 INTERSTATE NORTH PARKWAY  
SANDY SPRINGS, GEORGIA



PEACOCK  
architects

PEACOCK PARTNERSHIP  
5525 INTERSTATE NORTH PARKWAY

LETTER OF INTENT

The purpose of this rezoning is to remove the condition of 'restaurants only' from the C-1 zoning classification on the subject property to C-1. This condition restricts the use of the existing building and property, and in turn facilitates the vacant status of the property.

There is an existing 6,701 square foot one-story building on the property, 120 parking spaces, an undisturbed buffer on the northeast and southeast property lines.

Property abutting the subject property to the northeast, beyond the undisturbed buffer, is zoned C-1 with a gas station/convenience store, fast food service, free standing car wash and free standing oil changing/emissions bay. Property abutting to the southwest is a parking lot and zoned C-1 also. Beyond that is a 2 story office building, zoned C-1. To the southeast is Interstate 285.

Uses permitted in C-1 should be allowed on this property in order to attract viable businesses. As currently zoned, C-1 with the restaurant condition, this promotes peak traffic flows during lunch and dinner and late night business hours as a restaurant/bar. Other permitted uses in C-1, without conditions, should be allowed the opportunity to operate on this property without negative impact on surrounding properties.

RZ11-008

RECEIVED

AUG 02 2011

City of Sandy Springs  
Community Development

IMPACT ANALYSIS  
FORM B

Applicant:

Analyze the impact of the proposed rezoning and answer the following questions:

1. Does the zoning proposal permit a use that is suitable in view of the use and development of adjacent and nearby property? YES. THE TWO ADJACENT PROPERTIES ARE ZONED C-1 (GAS STATION/CONVENIENCE STORE TO THE NORTHEAST, AND A PARKING LOT AND OFFICE BUILDING TO THE SOUTHWEST.) WE ARE ONLY REQUESTING A ZONING SIMILAR TO ADJACENT PROPERTIES BY REMOVING THE CONDITION OF RESTAURANT ONLY TO THE SUBJECT PROPERTY.
2. Does the zoning proposal adversely affect the existing use or usability of adjacent or nearby property? NO. THE REMOVAL OF THE RESTAURANT ONLY CONDITION ON THE SUBJECT PROPERTY WILL HAVE NO AFFECT ON THE ADJACENT PROPERTIES. THE BUILDING HAS BEEN VACANT OVER 2 YEARS BECAUSE OF THE RESTRICTION ON THE PROPERTY.
3. Does the property to be rezoned have a reasonable economic use as currently zoned? NO. THE BUILDING HAS BEEN VACANT FOR OVER 2 YEARS BECAUSE IT CAN ONLY BE A RESTAURANT/BAR. THE BUILDING WAS VACANT, PRIOR TO OPENING AS SIBLINGS IN 2006 +/-, FOR SEVERAL YEARS.
4. Will the zoning proposal result in a use that could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools? NO. IT WILL BE LESS INTENSE THAN THE GAS STATION TO THE NORTHEAST.
5. Is the zoning proposal in conformity with the policies and intent of the land use plan? YES
6. Are there existing or changing conditions that affect the use and development of the property which support either approval or denial of the zoning proposal? RESTAURANTS ARE STRUGGLING IN THIS ECONOMY. BY REMOVING THE RESTRICTION OF RESTAURANTS ONLY ON THIS PROPERTY, A USE CAN MOVE IN AND ENHANCE THE AREA RATHER THAN BE AN EMPTY BUILDING.
7. Does the zoning proposal permit a use that can be considered environmentally adverse to the natural resources, environment and citizens of the City of Sandy Springs? NO. ADJACENT PROPERTIES ARE C-1.

RECEIVED

AUG 02 2011

City of Sandy Springs  
Community Development

Attach additional sheets as needed.

RZ11-008



# CITY OF ATLANTA

KASIM REED  
MAYOR

BUREAU OF OPERATIONS  
651 14<sup>TH</sup> STREET, NW  
ATLANTA, GEORGIA 30318  
Office: (404) 235-2020 Fax: (404) 982-1400

DEPARTMENT OF  
WATERSHED MANAGEMENT  
JO ANN MACRINA  
Commissioner

September 8, 2011

Ms. Patrice S. Ruffin  
City of Sandy Springs  
Department of Community Development  
Planning and Zoning Division  
7840 Roswell Road, Building 500  
Sandy Springs, GA. 30350

**Subject: Water Availability at 5525 Interstate N. Pkwy**

Dear Ms. Ruffin:

Our records indicate there is an existing 8-inch water main along Interstate Pkwy which is owned and maintained by the City of Atlanta.

To integrate into Atlanta Water System or rearrange water facilities, the developer must submit the following to the City of Atlanta-Bureau of Drinking Water:

1. A set of stamped engineering drawings showing their developmental objectives for review and approval,
2. The enclosed basis of design,
3. A two thousand dollar deposit (\$2,000.00). Check must be made payable to City of Atlanta.

Once the plans have been approved, the developer will then receive additional instructions regarding the process and procedures from the Bureau of Drinking Water.

Should you need additional information, please contact me at 404-235-2095.

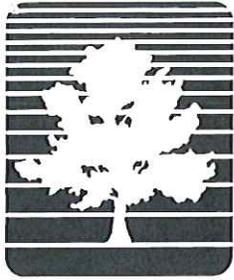
Sincerely

Nar Chaudhry, P.E. Chief Engineer  
Bureau of Drinking Water  
Department of Watershed Management  
651 14<sup>th</sup> Street, N.W.  
Atlanta, Georgia 30318  
Phone 404-235-2095  
Fax 404-235-1400  
E-mail nar.chaudhry@atlwater.com

RECEIVED

SEP 20 2011

City of Sandy Springs  
Community Development



**FULTON COUNTY**

Department of the Environment and Community Development  
Fulton County Government Service Center at Fulton Industrial  
5440 Fulton Industrial Boulevard  
Atlanta, GA 30336

---

September 14, 2011

---

Patrice S. Ruffin, AICP, Manager of Planning & Zoning  
City of Sandy Springs  
Department of Community Development  
Planning and Zoning Division  
7840 Roswell Road, Building 500  
Sandy Springs, Georgia 30350

Dear Ms. Ruffin:

I am in receipt of your zoning package soliciting comments on the upcoming City of Sandy Springs zoning agenda for the October Planning Commission and November Mayor and City Council Meetings. I have reviewed all items within the package and find none of them have a significant impact on Unincorporated Fulton County. Thank you for the opportunity to review the requests.

Sincerely,

Randy Beck,  
Deputy Director, E&CD

**RECEIVED**

SEP 20 2011

City of Sandy Springs  
Community Development



**MEMORANDUM**

**TO:** Patrice S. Ruffin, Assistant Director of Planning & Zoning  
City of Sandy Springs, Department of Community Development

**FROM:** Monica Robinson, B.S., M.B.A., Environmental Planner  
Department of Health Services, Office of the Director *MR*

**DATE:** October 3, 2011

**SUBJECT:** Zoning Comments for October 20, 2011 Planning Commission

**RECEIVED**

OCT 10 2011

City of Sandy Springs  
Community Development

AGENDA ITEM	ZONING COMMENTS
RZ11-007/ U11-003/ CV11-004	<p>If the two properties of 5400 and 5420 Peachtree Dunwoody Road are to be combined, the Fulton County Department of Health and Wellness requires that the plat be submitted for review and approval regarding water supply and sewage disposal prior to the approval by the appropriate jurisdiction and the recording of the plat. The owner may not sell, offer for sale, lease, begin construction or begin physical improvements of a residential development, nor shall a building permit be issued until this Department has reviewed and approved the plat.</p> <p>The Fulton County Department of Health Services recommends that the applicant be required to connect the proposed medical-related lodging to public water and public sanitary sewer available to the site.</p> <p>Since this proposed redevelopment constitutes a premise where people work, live or congregate, onsite sanitary facilities will be mandatory, prior to use or occupancy.</p> <p>This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse container be submitted for review and approval.</p> <p>This department is requiring that all existing structures to be demolished must be inspected by a certified pest control operator to insure that the premise is rat free. If evidence of rodent infestation is found, the property must be baited prior to demolition.</p> <p>The Fulton County Department of Health Services recommends that the developer reconsider a request for a variance for the requirement to plant trees. Trees and green spaces have been proven to provide health and environmental benefits.</p>
RZ11-008	<p>The provided offices and other uses proposed for the renovation of the existing building must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smokefree Air.</p> <p>The Fulton County Department of Health Services recommends that this proposed development be approved, provided the internal plumbing is inspected and adequate for the proposed use.</p> <p>If this proposed development includes a food service facility, the owner must submit kitchen plans for review and approval by this Department before issuance of a building permit and beginning construction. The owner must obtain a food service permit prior to opening.</p> <p>This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse container be submitted for review and approval.</p>

FIRST AMENDMENT TO REZONING APPLICATION

IN RE: )  
 Peacock Partnership ) Application Number: RZ11-008  
 APPLICANT )  
 )  
 PROPERTY: )  
 )  
 5525 Interstate Parkway )  
 City of Sandy Springs )

RECEIVED

OCT 28 2011

City of Sandy Springs  
Community Development

NOW COMES Peacock Partnership (hereinafter referred to as the "Applicant") who does hereby modify and amend the above referenced Rezoning Application and associated Letter of Intent as follows:

1.

The Site Plan originally submitted with the Rezoning Application is hereby deleted and there is substituted and placed in lieu thereof the Site Plan filed simultaneously herewith.

2.

In order to accommodate the phased development of the Property reflected on the Site Plan, the Applicant requests that the Property be rezoned for a total amount of density of 21,701 square feet. This results in a per acre density of 13,734.81 square feet which is noted to be well within the density range of up to 25,000 square feet per acre suggested under the Live Work Community designation for commercial and office uses which is the designation on the Comprehensive Land Use Plan Map for the Property.

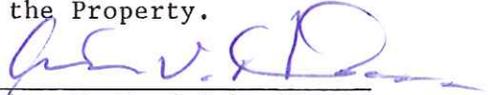
3.

The Applicant further requests that the Property be rezoned to allow any and all permitted uses under the C-1 Classification with the exception of Adult Establishments, Businesses Performing Specified Sexual Activities, Message Parlors and Lingerie/Bathing Suit Modeling which should be expressly prohibited under the Conditions of Zoning.

4.

Given the fact that the rezoning requested by the Applicant fits well with in not only the Live Work Community designation but also the mix and diversification of zonings and developments in the immediate area of the Property, this rezoning request is entirely appropriate and the appropriateness of this Rezoning Application and the constitutional assertions of the Applicant are more particularity stated and set forth on Exhibit "A" attached hereto which is incorporated herein by reference thereto.

NOW THEREFORE, the Applicant requests that this Rezoning Application be approved as submitted and as modified hereunder in order to allow the Applicant to enjoy the use and development of the Property.

  
\_\_\_\_\_  
Nathan V. Hendricks III  
Attorney for the Applicant

6085 Lake Forrest Drive  
Suite 200  
Sandy Springs, Georgia 30329  
(404) 255-5161

Exhibit "A"

APPROPRIATENESS OF APPLICATION  
AND  
CONSTITUTIONAL ASSERTIONS

The portions of the Zoning Resolution of the City of Sandy Springs as applied to the subject Property which classify or may classify the Property so as to prohibit its development as proposed by the Applicant are or would be 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 of the Constitution of the State of Georgia of 1983, Article I, 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 Zoning Resolution of the City of Sandy Springs to the Property which restricts its use to any classification other than that 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 Article I, 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 Sandy Springs City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, 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 the Sandy Springs City Council to rezone the Property as proposed by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of 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 subject 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 the Applicant's utilization of the subject Property would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

**iStar CTL RiverEdge Summit – Atlanta LLC**  
3480 Preston Ridge Road, Suite 575  
Alpharetta, GA 30005

September 12, 2011

Mr. Brent Conway  
Peacock Partnership  
2000 RiverEdge Parkway, Suite 700  
Atlanta, GA 30328

Re: Community/Developer Resolution Meeting  
RZ11-008 5525 Interstate North Parkway

Dear Brent,

iStar CTL RiverEdge Summit – Atlanta LLC (“iStar”), owner of 1500/1600 RiverEdge Parkway, is aware of the rezoning petition that has been filed for the property located at 5525 Interstate N. Parkway. Please be advised that iStar, as a neighboring property, is in support of the rezoning request.

Sincerely,



Gregory F. Camia  
Senior Vice President

RECEIVED

NOV 02 2011

City of Sandy Springs  
Community Development

RECEIVED

NOV 15 2011

City of Sandy Springs  
Community Development

SECOND AMENDMENT TO REZONING APPLICATION

IN RE: )  
 Peacock Partnership ) Application Number: RZ11-008  
 APPLICANT )  
 )  
 PROPERTY: )  
 )  
 5525 Interstate Parkway )  
 City of Sandy Springs )

NOW COMES Peacock Partnership (hereinafter referred to as the "Applicant") who does hereby modify and amend the above referenced Rezoning Application and associated Letter of Intent as follows:

1.

Applicant does hereunder request that under Staff's Recommended Condition 1.d. that there be added to the list of prohibited uses those uses more particularly deleted by being crossed through on the List of Permitted Uses in the C-1 Zoning District as shown on Exhibit "A" attached hereto which is incorporated herein by reference thereto.

NOW THEREFORE, the Applicant requests that this Rezoning Application be approved as submitted and as previously modified and as modified hereunder in order to allow the Applicant to enjoy the use and development of the Property.

Nathan V. Hendricks III  
Attorney for the Applicant

6085 Lake Forrest Drive  
Suite 200  
Sandy Springs, Georgia 30328  
(404) 255-5161

The following are permitted uses in the C-1 Zoning District:

- Amusement, indoor
- Apartment, above or behind commercial and office uses in the same building
- Art gallery
- Assembly hall
- ~~Automotive parking lot~~
- ~~Automotive specialty shop~~
- Catering, carry-out and delivery business
- ~~Church, temple or other place of worship~~
- Clinic
- Day care facility
- Delicatessen
- Financial establishment/institution
- ~~Funeral home~~
- ~~Garage, automobile repair (except painting, body repair and overhaul of major components)~~
- Group residence
- Gymnasium
- Hospice
- Hotel/motel
- Health club/spa
- ~~Laundromat~~
- ~~Landscaping business, garden center~~
- ~~Laundry and dry cleaning shop~~
- Library
- Communication service
- ~~Millinery or similar trade whenever products are sold retail, exclusively on the site where produced~~
- Museum
- Nursing home
- Office
- Parking garage\deck
- Parking lot
- Personal care home/assisted living
- Personal service, including barber, beauty
- Pet grooming (no overnight stay)
- Photography studio
- ~~Plant nursery~~
- Printing shop, convenience
- ~~Recycling center, collecting~~
- ~~Repair shop not involving any manufacturing on the site~~
- Research laboratory
- Restaurants
- Retail store or shop
- School of business, dance, music or similar schools
- ~~Service station (except that repair and service offerings shall not include painting, body repair or overhaul of major components, and no portion of the site shall be used for the display of cars for sale)~~
- ~~Stadium~~
- Theater

————— DELETE AS NOTED ABOVE

Exhibit "A"