

City of Sugar Hill  
Planning Staff Report  
RZ 21-001

DATE: June 30, 2021  
TO: Mayor and City Council  
FROM: Planning Director  
SUBJECT: Rezoning RZ 21-001  
Peachtree Industrial Boulevard at Price Road



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**ISSUE** The City of Sugar Hill has received an application dated March 5, 2021, from RSJIT Properties, LLC c/o Douglas Dillard & R. Baxter Russell requesting to change the zoning from existing general business (BG) zoning to medium density mixed residential district (R36) for the ±27.68 acres at Peachtree Industrial Boulevard at Price Road.

**DISCUSSION**

- The site is within an existing employment area and adjoins right-of-way for the future Sugarloaf Parkway extension, a long range transportation project planned by Gwinnett County.
- Its future land use designation is “Industrial District” which identifies only Light Manufacturing (LM), Heavy Manufacturing (HM1) and Heavy Industrial (HM2) as appropriate land use zones. However, the property lies on the edge of the “Transition District”.
- Along the Peachtree Industrial Boulevard corridor, there is a wide variety of uses and building types.
- Several utilities tri-sect the entire length of the property parallel to Peachtree Industrial Boulevard, which is likely to render it unsuitable for manufacturing, industrial or distribution use.
- The proposed development is responsive to the need for workforce housing within an existing employment area and an emerging neighborhood activity center.
- While expected at cross-streets along principal arterial roads such as Peachtree Industrial Boulevard, drivers currently experience notable delays during peak hours at North Price Road and Peachtree Industrial Boulevard.
- The project is within a 15 minute walk to nearest greenway access point via the nearest signalized crossing at Peachtree Industrial Boulevard and North Price Rd.

## RECOMMENDED ACTION

### Approval of request to rezone the property to R36 with the following conditions:

1. Total number of parking spaces on all tracts shall not exceed 404 spaces.
2. Number of three bedroom units shall not exceed 6% of the total number of units.
3. Provide interconnected pedestrian paths to access the public sidewalks system.
4. Developer shall conduct a traffic impact study prior to receiving a development permit.
5. Developer shall provide intersection improvements to include a dedicated left-turn and improvements to pedestrian crossing at Peachtree Industrial Boulevard and North Price Road prior to receiving certificates of occupancy for 50% of the dwellings. Subject to coordination and approval by Gwinnett County and City of Sugar Hill. Developer may elect to make a monetary contribution of \$50,000 to the City of Sugar Hill in lieu of installing the improvements.
6. Exterior materials and architectural detail of each attached/detached dwelling shall resemble the image samples attached as Exhibit 2.
7. Developer shall install a masonry entrance feature and a minimum 20' wide landscaped berm a minimum of three feet high at its apex along the project's Peachtree Industrial Boulevard. Landscape plan and masonry entrance feature to be approved by the city manager prior to issuance of any permits.
- ~~8. Developer shall provide an easement for a trail as shown on the attached site plan labeled Exhibit 1 to facilitate possible future trail connections associated with the Sugarloaf Parkway extension or other independent trail projects.~~
8. Developer shall provide written notification to the school board to include number of units, type of housing, number of bedrooms and phasing of the project.

### **PLANNING COMMISSION RECOMMENDATION:**

*The Planning Commission held a scheduled public hearing on June 21, 2021. Applicant representative Julie Sellers and owner Rob Jordan spoke on behalf of this request.*

*Citizen Greg Braswell spoke and indicated his concerns. His elderly mother lives adjacent to this property, he and his siblings own the piece right at the corner of N. Price Road and PIB. He has concerns with the proposed entrance on N. Price Road and the way traffic backs up especially during school. He does not want them to take more right-of-way for improvements, this would devalue their property, and he wants as much buffer as he can get between his mother's house and the development and does not want the foot traffic along his property frontage along PIB going down to the intersection. There were no other public comments.*

*Planning Commission recommends approval of the rezoning to R36 as recommended by staff with conditions along with the following changes; condition #3 "interconnected sidewalks" be replaced with "interconnected trail," condition #6 remove; "and contained within an easement to be maintained by the HOA, as recorded in the covenants," and replace with; "and maintained by the Owner," condition #7 remove "an easement for a," and replace with; "the" and add the statement at the end of the condition to read; "The trail on the property is a private amenity for the on-site residents." Staff will continue working with the applicant on condition #4. Commission Member Jason Jones made the second. Motion approved 4-0.*

## BACKGROUND

Owner/Applicant:	RSJIT Properties LLC c/o G. Douglas Dillard & R. Baxter Russell
Existing Zoning:	General Business District (BG)
Request(s):	Medium Density Mixed Residential District (R36)
Purpose:	Multi-family residential community.
Property Size:	± 27.68 acres
Location:	Tax Parcel Id Number: 7-274-002A Peachtree Industrial Boulevard at N. Price Road
Public Notice:	Letters to adjoining owners via USPS regular mail on 3/31/21 Sign posted at 1113 Buford Highway 3/31/21 Ad in legal section of Gwinnett Daily Post on 3/31/21 & 4/14/21
Public Comments:	Mrs. Bernice Braswell and her son Mr. Greg Braswell submitted a request to move the dumpster to a location further away from Mrs. Braswell's residence in addition to increased landscaping along the common property line. Mr. Braswell's comments are summarized above with the planning commission's recommendation.

## FINDINGS OF FACT

Adjacent zoning to the north, south and east: HM1

Adjacent zoning to the west: BG

The proposed site plan shows 12 two-story buildings with 252 apartment style dwellings, a club house with pool and other community amenities throughout the site.

The proposed units are proposed to range in size from 600 square feet to 1400 square feet, with units varying between 1, 2, and 3 bedrooms.

The proposed development is introduced as a private community, complete with gated access and private roads.

A total of 404 parking spaces are provided for the site.

## ZONING ANALYSIS

**1. *Will the rezoning requested permit a use that is suitable in view of the use and development of adjacent and nearby property?***

Yes. The subject property lies adjacent to employment area along the Peachtree Industrial Boulevard and Brogdon Road corridors. Adjacent properties are developed as single family detached housing, the development is residential and provides additional housing options.

**2. *Will the rezoning requested adversely affect the existing use or usability of adjacent or nearby properties?***

Yes. The proposed development would impose additional buffers on adjoining non-residential properties.

**3. Does the property for which the rezoning is requested have a reasonable economic use as current zoned?**

Yes.

**4. Will the rezoning requested create an overcrowding condition with respect to the existing streets, transportation facilities, or schools?**

There is current need for an additional lane on the side street approach at North Price Road and Peachtree Industrial Boulevard. The proposed development could exacerbate existing delays.

New housing is likely to add new students to the school population. The city's planning department is coordinating with the school board's planner with each new project. At this time, there is no indication that capacity in the Lanier cluster schools is a concern.

**5. Does the rezoning requested conform to the Sugar Hill Land Use Plan?**

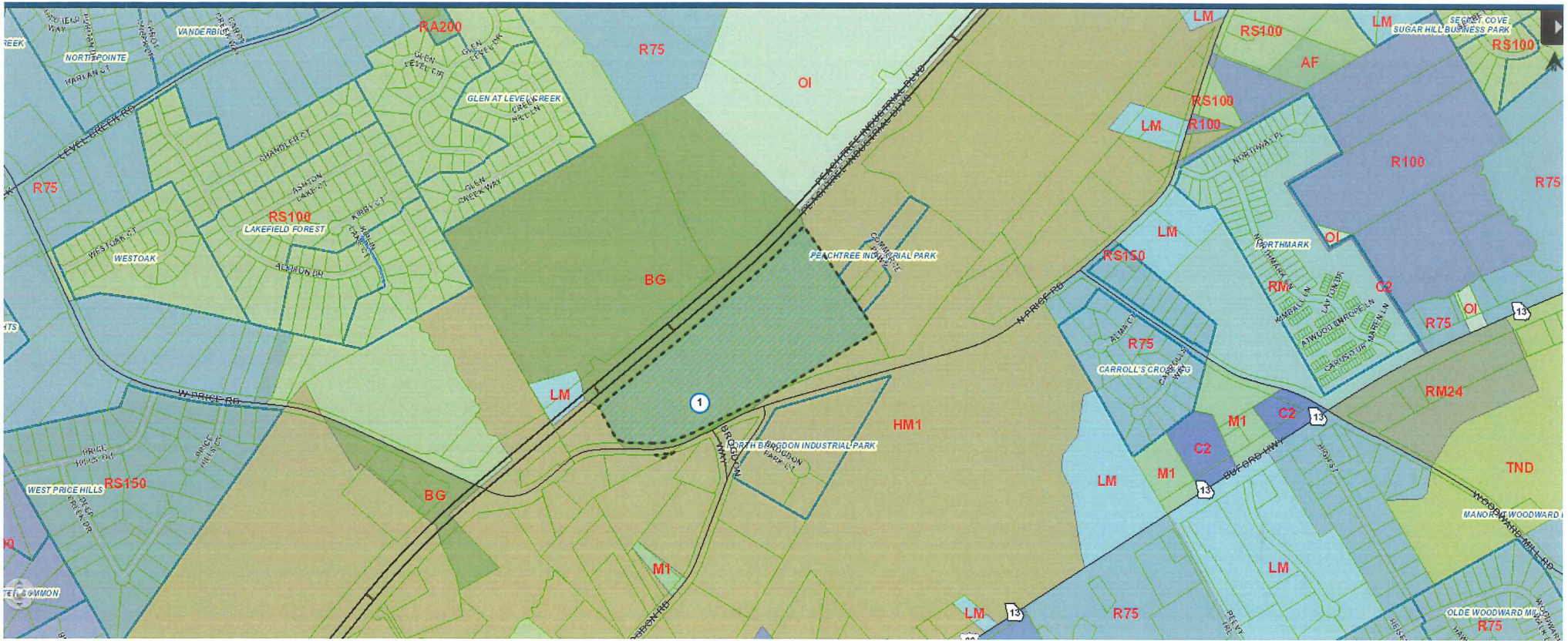
Yes, RM is shown as an appropriate zoning. RM was reclassified as R36 in late 2020.

**6. Are there other existing or changing conditions affecting the use and development of the property which would give support to an approval or disapproval of the rezoning request?**

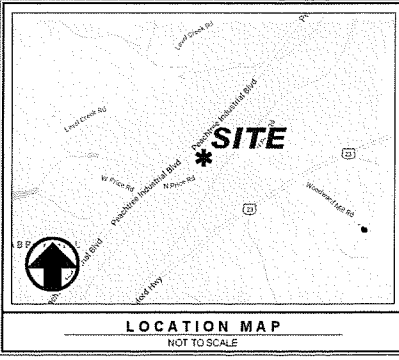
The City's Housing Study has revealed a gap in the housing market which demonstrates a need for market value, and below, multi-family housing for workforce housing market.

RZ-21-001

Request to rezone from BG to R36  
Multi-family Residential Community







**OWNER / DEVELOPER**  
**RSJIT PROPERTIES, LLC**  
 4000 NORTHSIDE PKWY, BLDG 3, SUITE A  
 ATLANTA, GA 30327  
 PHONE: (404) 441-1618  
 E-mail: rsjit@rsjitcompany.com

**24 HOUR EMERGENCY CONTACT**  
 MR. ROBERT JORDAN  
 PHONE: (404) 441-1618  
 E-mail: rsjit@rsjitcompany.com

**SITE ZONING:** EXISTING: BG, PROPOSED: R36

**BUILDING SETBACK LINES:**  
 FRONT YARD: 45 FT (Major St) 30 FT (Collector St)  
 REAR YARD: 20 FT  
 SIDE YARD: 10 FT

**EASEMENT AREAS:**  
 POWER EASEMENTS: 6.92 ACRES  
 GAS EASEMENTS: 0.44 ACRES  
 TOTAL: 7.36 ACRES  
 50% OF TOTAL: 3.68 ACRES

**DENSITY CALCULATIONS:**  
 SITE AREA: 27.69 ACRES  
 SITE AREA LESS 50% EASEMENTS: 24.01 ACRES  
 TOTAL UNITS: 252 UNITS  
 DENSITY: 10.5 UNITS/ACRE

**BUILDING SUMMARY:**

BUILDING #	BUILDING AREA
BUILDING 100	25,000 S.F.
BUILDING 200	11,800 S.F.
BUILDING 300	11,800 S.F.
BUILDING 400	11,800 S.F.
BUILDING 500	25,000 S.F.
BUILDING 600	11,800 S.F.
BUILDING 700	11,800 S.F.
BUILDING 800	25,000 S.F.
BUILDING 900	11,800 S.F.
BUILDING 1000	25,000 S.F.
BUILDING 1100	43,750 S.F.
BUILDING 1200	43,750 S.F.
CLUBHOUSE	7,100 S.F.
<b>TOTAL GROSS S.F. =</b>	<b>265,400 TOTAL</b>

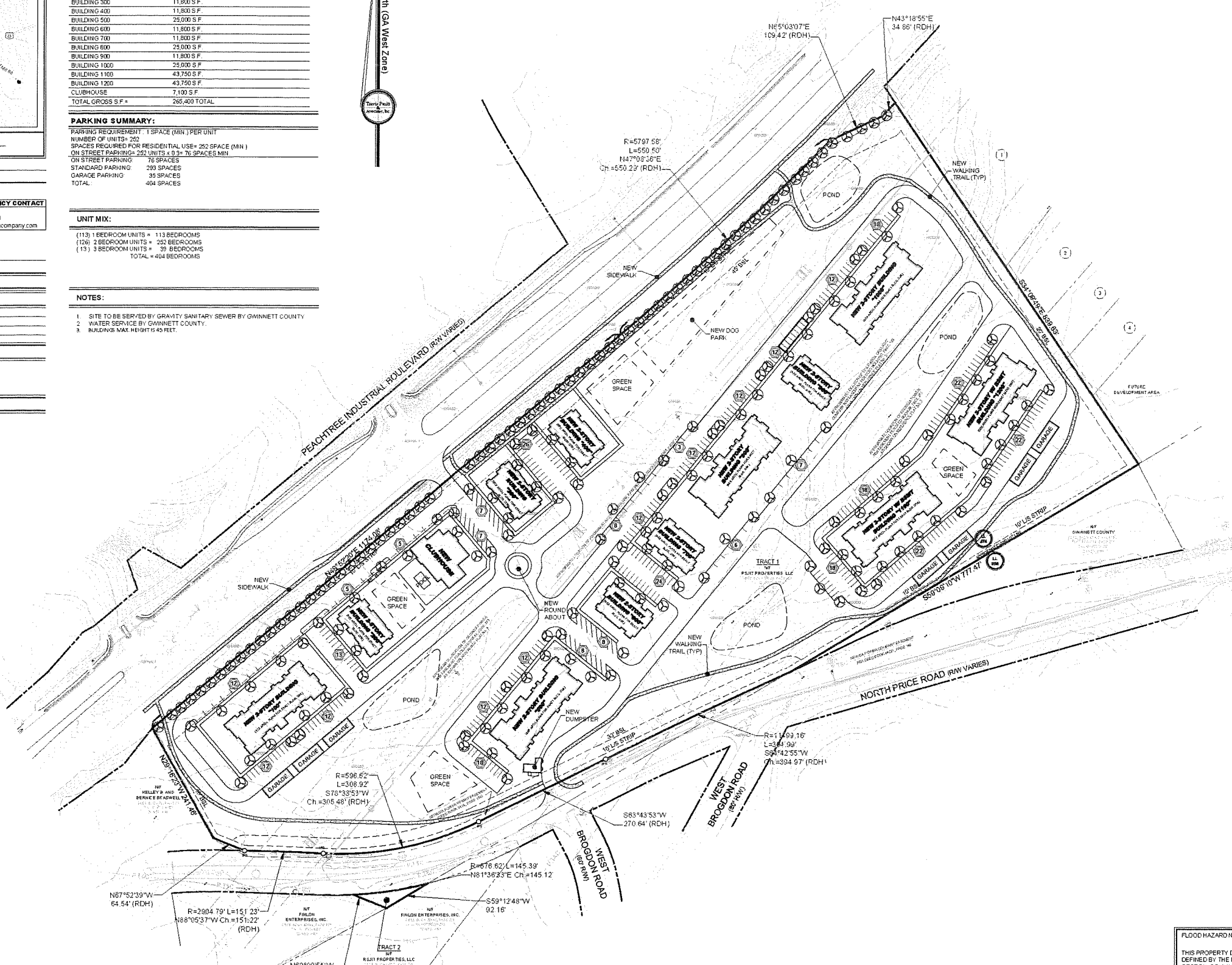
**PARKING SUMMARY:**

REQUIREMENT	SPACES (MIN.) PER UNIT
NUMBER OF UNITS	252
SPACES REQUIRED FOR RESIDENTIAL USE	252 SPACES (MIN.)
ON STREET PARKING	252 UNITS x 0.3 = 76 SPACES MIN.
ON STREET PARKING	76 SPACES
STANDARD PARKING	233 SPACES
GARAGE PARKING	35 SPACES
<b>TOTAL:</b>	<b>404 SPACES</b>

**UNIT MIX:**

(113) 1 BEDROOM UNITS =	113 BEDROOMS
(126) 2 BEDROOM UNITS =	252 BEDROOMS
(13) 3 BEDROOM UNITS =	39 BEDROOMS
<b>TOTAL =</b>	<b>404 BEDROOMS</b>

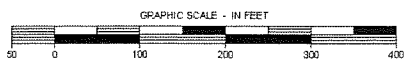
- NOTES:**
- SITE TO BE SERVED BY GRAVITY SANITARY SEWER BY GWINNETT COUNTY.
  - WATER SERVICE BY GWINNETT COUNTY.
  - BUILDING MAX HEIGHT IS 45 FEET.



**FLOOD HAZARD NOTE**  
 THIS PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD HAZARD ZONE AS DEFINED BY THE F.E.M.A. FLOOD INSURANCE RATE MAP OF GWINNETT COUNTY, GEORGIA COMMUNITY PANEL NUMBER 13135C02040, DATED 3/4/2013.

INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS AND HIS CONTRACTORS SHALL HEREBY DISTRICTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION.

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**REVISIONS**

NO.	DATE	DESCRIPTION
1	06-10-2021	REVISED SITE LAYOUT
2	06-16-2021	REVISED SITE LAYOUT
3		
4		
5		
6		

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 Norcross, Georgia 30093  
 Phone: (770) 416-2511  
 Fax: (770) 416-6789  
 www.travispruitt.com  
 CONTACT: REBECCA JACOBSEN BLANKLEY, P.E.  
 e-mail: rjacob@travispruitt.com



**ZONING PLAT**  
**NORTH PRICE ROAD**  
 LAND LOT 274, 7TH DISTRICT, CITY OF SUGAR HILL, GWINNETT COUNTY, GEORGIA



For The Firm  
 Travis Pruitt & Associates, Inc.  
 DATE: 02-26-2021  
 SCALE: 1" = 100'  
 CN: 210070 ZP1  
 JN: 1-21-0070  
 FN: 167-D-100  
**SHEET NO: 1 OF 1**



THE JORDAN COMPANY

NORTH PRICE ROAD DEVELOPMENT  
SUGAR HILL, GEORGIA

JOB NUMBER: 2K36101 | DATE: 2021.06.21 | BY: HH / WB

DRAWING: ENTRANCE RENDERING



**PHILLIPS**  
ARCHITECTURE • CONSULTANTS

5901 PEACHTREE DUNWOODY RD • SUITE A450 • ATLANTA, GA 30328 • 770.394.1616





THE JORDAN COMPANY

NORTH PRICE ROAD DEVELOPMENT  
SUGAR HILL, GEORGIA

JOB NUMBER: 2K36101 | DATE: 2021.06.21 | BY: HH / WB  
DRAWING: GREENSPACE RENDERING



**PHILLIPS**  
ARCHITECTURE • CONSULTANTS

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**RZ-21-001  
AMENDED NARRATIVE  
May 18, 2021**

**Letter of Intent and Applicant's Response**

**City of Sugar Hill**

**Rezoning Application**

**Applicant:**

RSJIT Properties, LLC  
c/o Julie L. Sellers, and  
R. Baxter Russell

**Property:**

+/- 27.68 acres on Peachtree Industrial Boulevard  
at North Price Road

**Parcel ID No:**

7274-002A

**Submitted for Applicant by:**

Julie L. Sellers  
R. Baxter Russell  
DILLARD SELLERS  
1776 Peachtree Street NW, Suite 415-South  
Atlanta, Georgia, 30309  
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(404) 665-1224  
jsellers@dillardsellers.com  
brussell@dillardsellers.com

## I. INTRODUCTION

### Amendment Summary

On March 5, 2021, the Applicant, RSJT Properties, LLC (“Applicant”) submitted a rezoning application requesting to rezone approximately 27 acres located on Peachtree Industrial Boulevard at North Price Road in the City of Sugar Hill, Georgia (Gwinnett County Parcel No. 7274-002A, the “Property”). The application, RZ-21-001, requests a zoning change from General Business (BG) to R36 (Medium Density Mixed Residential) to develop a multifamily community on a vacant and undeveloped tract.

Following feedback and continued consideration for appropriate development of the Property, the Applicant now submits an application amendment packet, including a revised zoning site plan and amended narrative reflecting updates to proposed development. In submitting the revised site plan and development modifications, the Applicant maintains the request to rezone the Property to R36. As demonstrated by the site plan, the development layout, building designs, and internal street and parking configuration achieves the intent of the “big-house” community design regulations.

### Amendment Highlights

Approval of this application will result in a quality residential community needed in the City and reflective of intentional design and mixture of building forms. Consider the site plan amendments as described below.

- (i) The buildings were redesigned and oriented to create both an attractive and visually interesting mixture of building types and variety of building forms through the community. The development includes ten (10) residential buildings, in addition to one community clubhouse buildings, containing 252 units (10.5 units per acre). The residential buildings will be designed in accordance with the “big-house” design regulations, as described in Zoning Ordinance and the Appendix C design guidelines (Zoning Ordinance, approved October 2020). The apartment home mix includes 1-bedroom and 2-bedroom units, with limited 3-bedroom units (maximum 5%). The apartment homes vary in size between 600 square feet and 1,400 square feet, based on the subject design regulations.

Applicant’s plan revises the layout and design of the residential buildings to establish significantly modified and varied building forms. The revised plan clusters the smaller residential buildings throughout the community and reserves the slightly larger buildings at the rear. The smaller buildings are orientated perpendicular to the street frontage with shared rear parking pads. These modifications allow the development to work with the extensive site challenges caused by utility easements burdening the Property. Although these plan revisions increase construction costs for the development, Applicant is agreeable to the changes and believes the differing sizes and types of buildings create an attractive and unique community. Finally, the Applicant’s proposed unit count maintains a density below the maximum allowable 12 units per acre for R36-properties.

- (ii) With the proposed site plan revisions, the multifamily community continues its design as a private community with streets privately-owned and maintained by the property owner, community operator, or other ownership agreement. The Applicant’s significant redesign

of the community entrances and internal streets provides for a safer and more cohesive layout to benefit residents and surrounding traffic patterns. The revised plan moves the primary entrance to align with the church across Peachtree Industrial Boulevard. Additionally, the updated plan adds a secondary, rear entrance on North Price Road, aligned with West Brogdon Road to the rear. The community will be access-controlled with an access gate and other security features for both the front and rear entrances.

The Applicant also redesigned and updated the development's internal street network. The community now features one central drive extending from the primary entrance on Peachtree Industrial Boulevard to the second-level of residential buildings at the center of the community. With these plan revisions, the Applicant eliminated over one hundred individual parking spaces, additional parking lot areas, and reduced internal streets. The community features on-street parking on internal streets and shared rear parking pads behind select buildings. Enclosed garaged are available for units throughout the development.

- (iii) Finally, as demonstrated by the revised plan, the Applicant achieved additional greenspace, opportunity for significant landscaping, multiple pocket parks, outdoor meeting spaces, a dog park and walking trail. Amenities for community residents will also include clubhouse, exercise facility, business center, and swimming pool. The result of this enhanced plan is a quality community that aligns with the City's goals of attractive housing options for existing and new residents.

Because the development as proposed benefits and promotes the public health and general welfare by providing high-quality and affordable housing for current and future Sugar Hill residents seeking a for-rent option, the Application should be approved. Applicant's requested zoning and residential community is consistent with the vision for the City's future development as described in both the City's Comprehensive Plan 2019 and the 2021 Housing Study. This development will target "renters by choice" including young professionals, mature professionals, and downsizers. As detailed in the City's planning documents, Applicant's proposed rezoning and development will deliver new multifamily units to fulfill the need for higher-density housing along a regional corridor. Additionally, the multifamily development will comply with all zoning and development regulations for R36 properties—including density, parking, height, and design requirements. Finally, the rezoning will allow a large undeveloped property burdened by utility easements to overcome years of disinterest from commercial developers and be utilized for a beneficial purpose.

For all of these reasons and satisfaction of the rezoning standards below, Applicant respectfully requests that the rezoning of the Property to R36 (Medium Density Mixed Residential) be approved by the Sugar Hill City Council.

## **II. REZONING STANDARDS**

The Applicant satisfies all of the standards for rezoning as set forth in the Zoning Ordinance of the City of Sugar Hill, Georgia ("Zoning Ordinance"), Sections 1702. For this reason, the rezoning application seeking R36 (Medium Density Mixed Residential) should be granted as requested by the Applicant.

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

Yes—The proposed rezoning to R36 and the proposed multifamily use are compatible with the mixture of zoning districts and variety of uses on surrounding properties. Surrounding properties are zoned Heavy Manufacturing (HM1), Light Manufacturing (LM), and General Business (BG), and uses on the nearby properties include many industrial uses, a large church campus, vacant parcels, a wedding venue, and aging single-family residences. Both the wedding venue and residences exist on property zoned HM1. The proposed multifamily development will provide a much-needed housing option for the City, and the addition of attractive, high-quality residential development will enhance surrounding properties. The Property's location on Peachtree Industrial Boulevard make it ideally situated for the proposed "missing-middle" multifamily development.

**B. Whether the proposed Rezoning will adversely affect the existing use or usability of adjacent or nearby property:**

No—The proposed rezoning to R36 will have no adverse impact on the use or value of surrounding properties. On the contrary, the proposal for high-quality, multifamily residential use will complement and enhance the value of surrounding uses on nearby properties.

**C. Whether the property to be affected by a proposed Rezoning has a reasonable economic use as currently zoned:**

No—The Property has no reasonable economic use as currently zoned, as evidenced by the continued lack of development and depressed interest in large-tract commercial use on the Property. The current commercial zoning on the Property is no longer consistent with development patterns for similar properties.

**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—The requested rezoning will have a nominal impact upon the population, traffic, and schools in the area. Applicant's proposed multifamily development will be primarily focused on providing a high-quality housing option to "renters by choice" including young professionals, mature professionals, and downsizers. The proposed apartments will not significantly increase the City's population or burden area schools. Any increase in population as a result of the apartments is consistent with residential development in the surrounding area.

The City's current infrastructure is equipped to provide adequate access and handle any traffic associated with the proposed apartment development. Public services and public facilities, including water and sewer, are currently available for the Property and are sufficient to accommodate the proposed development. The Applicant will work with the City if infrastructure or public service upgrades are determined to be necessary.

**E. Whether the proposed Rezoning is in conformity with the policy and interest of the Land Use Plan:**

Yes—the proposed rezoning and multifamily community development are consistent with the policies, vision, and interest described in the City’s Comprehensive Plan 2019 and the 2021 Housing Study. The proposed development will provide a high-quality “missing-middle” housing option targeting “renters by choice” including young professionals, mature professionals, and downsizers. As detailed in the City’s future planning documents, Applicant’s proposed rezoning and development will deliver new multifamily units to fulfill the need for higher-density housing along a regional corridor. Applicant’s proposal will also help fulfill the City’s self-described need to diversify the City’s housing stock, to provide more housing options for City residents, and to foster high-quality rental development.

**F. Whether there are other existing or changing conditions regarding the use and development of the property which give supporting grounds for either approval or disapproval of the amendment request:**

As described in the City’s future planning documents including the Comprehensive Plan 2019 and the 2021 Housing Study, the City must address its growing need to provide high-quality, for-rent housing options for current and future residents. The Applicant’s proposed rezoning and multifamily development will help address these concerns by creating an attractive, walkable residential community for the burgeoning demographic of “renters by choice” and establishing a Class-A, residential community on Peachtree Industrial Boulevard.

**III. CONCLUSION**

For the foregoing reasons, the Applicant respectfully requests that the Sugar Hill City Council approve this rezoning. If there are any questions about this application, you may contact me at 404-665-1224 or [brussell@dillardsellers.com](mailto:brussell@dillardsellers.com).

Sincerely,

DILLARD SELLERS, LLC

/s/ R. Baxter Russell

Julie L. Sellers

R. Baxter Russell

*Attorneys for the Property Owner/Applicant*

**Exhibit A**  
**REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE**

Georgia law and the procedures of the City of Sugar Hill require us to raise Federal and State constitutional objections during the application process. While the Applicant anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Zoning Ordinance of the City of Sugar Hill, Georgia (“Zoning Ordinance”), facially and as applied to the Property, which restrict the Property to any uses, conditions, land use designations, development standards, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant’s property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

A denial of the Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the Sugar Hill City Council (including its members in both their official and individual capacity) to grant the Application as requested would constitute a taking of the Applicant’s property. Because of this unconstitutional taking, the City of Sugar Hill would be required to pay just compensation to the Applicant.

A denial of the Application would constitute an arbitrary and capricious act by the Sugar Hill City Council (including its members in both their official and individual capacity) without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the requested rezoning would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by the Sugar Hill City Council (including its members in both their official and individual capacity) to grant the rezoning request for the Property in accordance with the criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicants and applicants or owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the Application subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious, and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A denial of this application would be unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the City an opportunity to approve the rezoning as requested by the Applicant. If action is not taken by the City to approve the rezoning application within a reasonable time, a claim will be filed in the Superior Court of Gwinnett County demanding just and adequate compensation under Georgia law for the taking of the Property, inverse condemnation, diminution of value of the Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.



