



Greg Whitlock, Mayor  
Jamin Harkness, Post 1  
Marline Thomas, Post 2

Lamar Doss, Post 3  
Manfred Graeder, Post 4  
Shenée Holloway, Post 5

**AGENDA  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
3167 Main Street  
Duluth, GA 30096**

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**JANUARY 13, 2025**

**CITY HALL COUNCIL CHAMBERS**

**6:00 pm**

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***The leaders and staff of the City of Duluth are dedicated to ensuring that Duluth is:  
an Attractive Destination, a Quality Community, a World Class Government,  
and promotes a Sustainable Economic Environment.***

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**5:30 P.M. – AGENDA REVIEW**

Main St. Conference Room

**6:00 P.M. - CALL TO ORDER**

Mayor Whitlock or Mayor Pro tem Thomas

**INVOCATION OR MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**I. APPROVAL OF MEETING AGENDA**

**II. APPROVAL OF MINUTES**

**III. ANNOUNCEMENTS**

1. UPCOMING EVENTS – [www.duluthga.net/events](http://www.duluthga.net/events)

Check the City of Duluth website calendar for January/February meetings.  
Community events resume in the spring.

***PLEASE NOTE:*** This and other City meetings may be audio and/or videotaped for broadcast, transcription and/or archival purposes. As set forth in the Americans with Disabilities act (ADA) of 1990, the City of Duluth government does not discriminate on the basis of disability in the admission or access to or treatment of employment in its programs or activities and complies with the requirements contained in section 35.107 of the Department of Justice regulations. All agenda packets may be converted to WCAG 2.0 compatibility format by emailing [agenda@duluthga.net](mailto:agenda@duluthga.net). In addition, any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program, or activity of the City of Duluth government should be made seven days prior to the event. Direct inquiries to the ADA Coordinator in the City Clerk office, located at 3167 Main Street, Duluth, GA. 30096, or by telephone at 770.476.3434.

#### **IV. MATTERS FROM CITIZENS**

*Maximum of five (5) minutes per person. Sign-up sheet available.*

#### **V. CONSENT AGENDA**

##### **1. RESOLUTION – 2025 MEETING DATES & TIMES**

Approval of this item approves resolution R2025-01 to set and publicize regularly scheduled Mayor and Council meetings for 2025 in accordance with Georgia law.

##### **2. ORDINANCE SETTING 2025 MILEAGE REIMBURSEMENT RATES**

The IRS announced that the business standard mileage rate for transportation expenses paid or incurred beginning January 1, 2025, will be .70 cents per mile. In addition, the 2025 standard rate for miles driven for medical or moving purposes will also increase to .21 cents per mile. Approval of this item adopts ordinance O2025-01 setting the reimbursement rate at .70 per mile for business use of personal vehicles, and medical mileage for the flexible spending account reimbursement plan, shall be calculated at .21 cents per mile, effective January 1, 2025.

##### **3. RESOLUTION TO APPOINT LEGAL ORGAN**

Approval of this item approves resolution R2025-02 naming the “Gwinnett Daily Post” aka The Times Journal Inc., as the City’s Legal Organ for 2025. This resolution shall not be construed to prevent the City from utilizing a newspaper of general circulation within the City of Duluth or Gwinnett County when authorized to do so by state or local law.

##### **4. RESOLUTION – DEPOSITORIES & CHECK SIGNING**

Approval of this item approves resolution R2025-03 regarding check signing, investments and depositories as per the Financial Policy.

##### **5. DESIGNATION OF OPEN RECORDS OFFICERS**

Approval of this item as per Open Records Act O.C.G.A. 50-18-71(b) designates the Assistant City Manager/City Clerk or his/her designee as the Open Records Officers to receive written requests on behalf of the City, and approves resolution R2025-04 listing the 2025 designees.

##### **6. ORDINANCE SETTING QUALIFYING DATES AND FEES**

The State of Georgia requires that municipalities fix and publish qualifying fees pursuant to O.C.G.A. § 21-2-131 by February 1 of the year in which the relevant election is to be held. The 2025 election will be held on Tuesday, November 4, 2025.

Qualifying fees are 3% of the total gross salary of the preceding year (Georgia Election Code 21-2-131 (a) (1) (A). Approval of this item approves resolution O2025-07 setting the qualifying dates for 2025 and fees for Councilmember Posts 1, 2 and 3, at \$180.00.

#### 7. ORDINANCE APPOINTING MUNICIPAL COURT SOLICITOR

Pursuant to the Duluth City Code, Section 2- 208, the Mayor and Council are authorized to appoint a solicitor of the municipal court of the city. The solicitor shall be appointed by the Mayor and Council and shall serve at the pleasure of the Mayor and Council. Solicitor Armond has resigned as of December 19, 2024. Assistant Solicitor, Ms. Kelsey Wiley has accepted the offer as head Solicitor effective January 6, 2025. Ms. Wiley is thought very highly of and has honorably and efficiently served in our courts as an Assistant Solicitor since May 13, 2024.

If approved, this action will entail a raise in pay from \$145 per hour, to \$525 per court session. An analysis of and comparison of pay rates indicates that this could result in an estimated increase in pay of up to \$9,800 per year. Staff is recommending changing from an hourly rate to a flat fee per session, based on current practices and a survey of surrounding courts. The last change in pay for the Solicitor position was several years ago. The compensation of the solicitor shall be on an flat fee per court session basis and the rate shall be fixed by the Mayor and Council on an annual basis during the regular budget process. Approval of this item approves ordinance O2025-02 appointing Ms. Kelsey Wiley as presented.

#### 8. ORDINANCE TO AMEND BUDGET - \$80,000 – TRASH ENCLOSURES

In November, City Council and the Downtown Development Authority (DDA) approved an Intergovernmental Agreement for construction of additional trash enclosures in the downtown area. Subsequently, the City Council approved a contract with IP Construction, LLC in the amount of \$54,000 to construct the four new trash enclosures. Staff anticipates additional project costs for construction oversight, testing and change orders and is requesting \$80,000 to complete the project. Approval of this item authorizes ordinance BA-FY25-19 to amend the FY25 budget to add \$80,000 to Downtown Parking - Solid Waste Disposal - Machinery line item.

#### 9. APPROVAL OF CONTRACT FOR PUBLIC ART PIECE

Approval of this item authorizes the mayor to execute a contract with Metaldozer Machine Works, Inc. for purchase of a public art piece for placement in front of the Red Clay Theatre. The large microphone art piece titled "Let your voice be heard" will be installed once the theatre renovations are complete.

## VI. PUBLIC HEARINGS

### 1. ORDINANCE OF REZONING – CASE A2024-002

The Mayor and Council to conduct a public hearing on rezoning 2516 Main Street.

The City of Duluth is the applicant, requesting the annexation and rezoning of 2516 Main Street (Parcel ID R7204 577). The Planning Commission heard the case at the January 6, 2025 meeting and recommended approval.

The first public hearing will relate to the proposed rezoning of the property from Gwinnett County M-1 to City of Duluth M-1. No action on the rezoning will take place until after the annexation ordinance is considered and approved.

### 2. ORDINANCE OF ANNEXATION – CASE A2024-002

The Mayor and Council to conduct a public hearing on annexation of 2516 Main Street.

The City of Duluth is the applicant, requesting the annexation of 2516 Main Street (Parcel ID R7204 577). The Planning Commission heard the case at the January 6, 2025 meeting and recommended approval.

### 3. ORDINANCE OF REZONING – CASE Z2024-006

The Mayor and Council to consider an ordinance of rezoning for 2516 Main Street (Parcel ID R7204 577) from Gwinnett County M-1 to City of Duluth M-1.

### 4. RESOLUTION TO AMEND THE COMPREHENSIVE PLAN - TA2024-017

Should the Mayor and Council approve ordinance O2025-03 for the annexation and rezoning of 2516 Main Street (Parcel ID R7204 577), corresponding resolution R2025-05 is presented for consideration to update the Character Area Map and the Future Land Use Maps within the current Comprehensive Plan. Planning Commission heard Case TA2024-017 at the January 6, 2025 meeting and recommended approval. Staff also recommends approval as presented. *Ordinance attached for consideration.*

### 5. ORDINANCE OF SPECIAL USE – CASE SU2024-005- AUTISM CENTER

The Mayor and Council to consider a request from applicant Elliston LLC dba Elevation Autism Center, on behalf of Owner, FWR Partners Owner, LLC to grant a special use permit for 4375 River Green Parkway, Suite 150 (Parcel ID R6325 064) to allow for a pediatric behavioral therapy office. The Planning Commission heard the case at the December 2, 2024 meeting and recommended approval. Staff also recommends approval with conditions. *Ordinance and staff report are attached for consideration.*

## 6. ORDINANCE OF SPECIAL USE – CASE SU2024-006- SHORT TERM RENTAL

The Mayor and Council to consider a request from applicant Sarah Ward for a special use permit for her home at 2666 Peachtree Walk (Parcel ID R7201 167) to allow for a short-term rentals. The Planning Commission heard the case at the December 2, 2024 meeting and recommended denial. *Ordinance and staff report are attached for consideration.*

## **VII. NEW BUSINESS**

### 1. APPOINTMENT OF MAYOR PRO TEMPORE

The Charter of the City of Duluth states the Mayor Pro tempore will be selected by a majority vote at the first regular meeting of the Mayor and Council each year. The Council shall elect a council member to serve as the Mayor Pro tempore. The Mayor Pro tempore shall assume the duties and powers of the Mayor during the Mayor's disability or absence. Mayor Whitlock will provide his recommendation for the 2025 appointment.

## **VIII. MATTERS FROM DEPT HEADS/CITY ATTORNEY**

## **IX. MATTERS FROM MAYOR & COUNCIL**

## **X. MATTERS FROM CITY MANAGER**

## **XI. EXECUTIVE SESSION** (if necessary)

It may be necessary to hold an executive session on Real Estate, Pending/Potential Litigation, or Personnel, which is properly excluded from the Georgia Open and Public Meeting Law (O.C.G.A. 50-14).

## **XII. ADJOURNMENT**

*The next scheduled meeting of the Mayor and Council is a work session for January 27, 2025 at 5:30 p.m.*



**MINUTES NOTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
DECEMBER 7, 2024  
TOWN GREEN  
2-7 PM**

**PRESENT:** Mayor Whitlock, Council members Harkness, Thomas, Doss  
and Graeder

**ABSENT:** Councilmember Holloway

**1. COMMUNITY CHAT**

The Mayor and Council took part in a community chat with the public to address new and upcoming projects.

**11. ADJOURNMENT**

The community chat adjourned at 7:00pm.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

ATTEST:

\_\_\_\_\_  
Asst. City Mgr./City Clerk, Teresa Lynn



**DRAFT MINUTES OF THE  
MAYOR AND COUNCIL  
CITY OF DULUTH, GA  
DECEMBER 9, 2024**

**PRESENT:** Mayor Whitlock, Council members Harkness, Thomas, Doss, and Graeder, City Manager, Asst. City Managers, Department Directors, City Attorney

**ABSENT:** Councilmember Holloway

A work session was held prior to the regular scheduled meeting to allow the elected officials to discuss this evening's agenda items. No other items were discussed, and no action was taken.

**Mayor Whitlock called the meeting to order at 6:00 p.m.**

**MOMENT OF SILENCE**

**PLEDGE OF ALLEGIANCE**

**I. APPROVAL OF MEETING AGENDA**

**A motion was made by Councilmember Doss, seconded by Councilmember Graeder, to approve the December 9, 2024 Council Agenda as presented.**

**Voted For:** Council members Harkness, Thomas, Doss, and Graeder  
**Motion carried.**

**II. APPROVAL OF MINUTES**

**A motion was made by Councilmember Harkness, seconded by Councilmember Thomas, to approve the November 11th and 25th meeting minutes as presented.**

**Voted For:** Council members Harkness, Thomas, Doss, and Graeder  
**Motion carried.**

### III. ANNOUNCEMENTS

#### 1. UPCOMING EVENTS – [www.duluthga.net/events](http://www.duluthga.net/events)

December 14: Cookies & Cocoa with Santa: 10am-1pm: Duluth Festival Center

December 21: The Grinch Trivia and Movie Night: 5-9pm: Parsons Alley

December 21: Snow Globe Photo Booth: 5-9pm: Town Green

December 23: Night at Red Clay Movie: 2-4pm: Red Clay Theater

December 27: Mini Golf: 12-6pm: Activity Lawn

December 29: Axe Throwing and Ice Carving: Parsons Alley: 3-6pm

December 31: Noon Year's Eve: 11am-1pm: Parsons Alley

January 2: Dueling Pianos: 7-9pm: Red Clay Theater

January 3: Frosty Finale: 12-6: Town Green

January 3: Creativity Workshop (18+): 6-8pm: Duluth Festival Center

January 4: Frosty Finale: 12-6: Town Green

### IV. CEREMONIAL MATTERS

#### 1. PROCLAMATION – DULUTH FALL FESTIVAL {A}

The Mayor and Council presented a proclamation to members of the Duluth Fall Festival for 41 years of service to the City of Duluth.

#### 2. PROCLAMATION – RICK CASE “BIKES FOR KIDS” DAY {B}

The Mayor and Council presented a proclamation to recognize Rick Case “Bike for Kids” day in Duluth.

### V. MATTERS FROM CITIZENS

No matters brought forward.

## VI. CONSENT AGENDA

### 1. CITY MANAGER 2025 CONTRACT AGREEMENT {C}

Approval of this item authorizes Mayor Whitlock to execute the City Manager's 2025 Employment Agreement.

### 2. RESOLUTION – SUPPORT CITY OF MILTON'S PETITION FOR CERTIORARI {D}

At the November 25<sup>th</sup> council work session, the City Attorney updated council on a request received from the City of Milton, who is support from Georgia cities authorizing participation in an amicus brief relating to a case involving a claim of liability against Milton for personal injuries sustained on City-owned right of way. Approval of resolution R2024-13 supports the City of Milton Petition for Certiorari.

### 3. RESOLUTION – CIVILITY PLEDGE {E}

The Mayor and Council of the City embraces civility and wishes to affirm their commitment. Approval of this item adopts resolution R2024-14 to promote civility and abide by the Civility Pledge.

### 4. ORDINANCE TO AMEND BUDGET – STORMWATER {F}

At the November 25<sup>th</sup> council work session, staff updated the council on recent critical infrastructure repairs as well as new findings from recent inspections. Based on the staff report, the council approved the transfer of \$1,000,000 from the General Fund to the Stormwater Utility Fund to address some of the overall stormwater system repairs. Approval of this item authorizes ordinance BA-FY25-17 to amend the FY25 budget as presented.

### 5. ORDINANCE TO AMEND BUDGET – RED CLAY THEATRE {G}

At the November 25<sup>th</sup> council work session, staff updated the council on the renovation efforts at the Red Clay Theatre to include a redesign of the lobby area and front entrance. Staff also discussed acquiring an art piece from a local artist to display in front of the theatre. To move forward, staff is requesting \$46,000 to complete the design and develop construction documents and \$22,000 to purchase the art piece. Approval of this item authorizes ordinance BA-FY25-18 to add \$46,000 in unallocated 2023 SPLOST Cultural Facilities funds to (CA-10) Red Clay Theatre - Special Recreational Facilities - Professional Services line item and \$22,000 to Red Clay Theatre - Special Recreational Facilities - Site Improvements line item.

**A motion was made by Councilmember Graeder, seconded by Councilmember Thomas, to approve the Consent Agenda as presented.**

**Voted For: Council members Harkness, Thomas, Doss, and Graeder**  
**Motion carried.**

## **VII. ADJOURNMENT**

**A motion was made by Councilmember Doss, seconded by Councilmember Thomas, to adjourn at 6:15 pm.**

**Voting for: Council members Harkness, Thomas, Doss, and Graeder  
Motion carried.**

*The next scheduled meeting of the Mayor and Council is January 13, 2025 at 6:00 p.m.*

**RESOLUTION  
SETTING TIME AND PLACE OF  
REGULARLY SCHEDULED MEETINGS FOR YEAR 2025**

**WHEREAS** The Mayor and Council of the City of Duluth desires to establish the time and place of its regular meetings for the 2025 calendar year in accordance with the requirements of Georgia Law.

**NOW THEREFORE**, the Mayor and Council of the City of Duluth hereby resolves that its regularly scheduled Council meetings for the 2025 year will be held on the 2nd Monday of every month at 6:00 p.m. in the Duluth City Hall Council Chambers located at 3167 Main Street, Duluth, Georgia; and

**WHEREAS** Informal work sessions will be held prior to each scheduled Council Meeting at 5:30 p.m. in the Duluth City Hall Council Chambers or Main Street Conference Room located at 3167 Main Street, Duluth, Georgia, as well as additional work sessions after each regularly scheduled Council meeting when deemed necessary; and

**NOW THEREFORE**, Council Work Sessions will be held on the 4th Monday of every month at 5:30 p.m. in the Duluth City Hall Community Room with the exception of Monday, May 26<sup>th</sup> Memorial Day holiday.

Fifth Monday Work Sessions are scheduled for March 31st, June 30<sup>th</sup>, September 29th, and December 29th, with the exception of June 30<sup>th</sup>, the annual Georgia Municipal Association conference.

**IT IS FURTHER RESOLVED THAT**; other work sessions may be duly called as needed and properly noticed. All meetings are open to the public, and the Mayor and Council welcome and encourage attendance at these meetings.

**IT IS SO RESOLVED**, this 13th day of January 2025.

\_\_\_\_\_  
Greg Whitlock, Mayor

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

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ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager/City Clerk

**ORDINANCE  
TO AMEND THE PER DIEM, LODGING, TRAVEL,  
CREDIT CARD, AND OTHER EXPENSE MANAGEMENT**

**WHEREAS**, Section 2-47(2) of the City of Duluth Code of Ordinances authorizes travel reimbursement for employees or officers of the City to coincide with the Internal Revenue Service Guidelines for expenses incurred while attending training, meetings, or events for approved city business;

**NOW THEREFORE**, the City Council of the City of Duluth hereby ordains as follows:

Effective January 1, 2025, the reimbursement rates shall be 70 cents per mile for business use of personal vehicles, and further authorizes the reimbursement for medical or moving purposes to 21 cents per mile.

**IT IS SO ORDAINED THIS 13<sup>th</sup> DAY OF JANUARY 2025.**

Those councilmembers voting in favor:

\_\_\_\_\_  
Greg Whitlock, Mayor

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

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Marline Thomas, Post 2

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Kenneth Lamar Doss, Post 3

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Manfred Graeder, Post 4

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Shenée Johnson Holloway, Post 5

Those voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager/City Clerk

**RESOLUTION  
NAMING OF THE OFFICIAL NEWSPAPER**

The Council of the City of Duluth hereby resolves:

That the **Gwinnett Daily Post aka The Times Journal Inc.**, be named the Official Newspaper for 2025 in the City of Duluth for the publishing of all legal documents that are required by law to be published. This resolution shall not be construed to prevent the City from utilizing a newspaper of general circulation within the City of Duluth or Gwinnett County when authorized to do so by state or local law.

**IT IS SO RESOLVED** this 13<sup>th</sup> day of January, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

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\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager/City Clerk

**RESOLUTION  
REGARDING CHECK SIGNING/INVESTMENT AUTHORITY**

**BE IT RESOLVED** that Embassy National Bank, First Citizens Bank, Wells Fargo Bank, The Piedmont Bank, The Renasant Bank, Peoples Bank and Trust, State Bank and Trust, HomeTrust National Bank, Flagstar Bank, Fifth Third, Chase, US Bank, East West Bank, GA Commerce Bank, Touchmark Nat'l Bank, Truist Bank, Iberia Bank, Bank of Ozarks, and Bank of America are hereby designated as depositories of the City of Duluth, a municipal corporation existing under the laws of the State of Georgia; and

**BE IT RESOLVED** that on all checking accounts, saving accounts, deposit or collection of accounts, reserve accounts, and certificates of deposit, money markets and that all drafts, checks, etc., drawn against any such accounts shall be signed by the following:

**EITHER** Mayor Greg Whitlock or the Mayor Pro Tempore AND either Assistant City Manager/City Clerk Teresa S. Lynn or City Manager James Riker. The intent is to require the signature of both one elected and one appointed City official.

**BE IT FURTHER RESOLVED** that the renewal of any certificates of deposit or other deposit instruments must be accomplished by the same persons as identified herein above.

No person, either elected or appointed, shall have any authority to borrow in the name of the City of Duluth without an express written resolution authorizing each such loan transaction and granting specific authority to specific named elected and appointed officials to sign such notes on behalf of the City of Duluth.

**DULY ADOPTED** on this 13th day of January, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

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Kenneth Lamar Doss, Post 3

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Manfred Graeder, Post 4

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Shenée Johnson Holloway, Post 5

Those voting in opposition:

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\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager /City Clerk

**RESOLUTION**  
**DESIGNATE OPEN RECORDS OFFICERS FOR THE CITY OF DULUTH, GEORGIA**

**WHEREAS**, the City of Duluth is a Municipal Corporation of the State of Georgia; and

**WHEREAS**, the City of Duluth is an agency subject to the Open Records Act of the State of Georgia; and

**WHEREAS**, the City of Duluth is comprised of various departments, boards, authorities and commissions; and

**WHEREAS**, the Open Records Act of the State of Georgia permits an agency to designate Open Records Officers to receive requests for inspection or copying of records; and

**WHEREAS**, the Mayor and Council of the City of Duluth wish to update and clarify duties of the Assistant City Manager/City Clerk regarding records retention; and to designated Open Records Officers; and

**WHEREAS**, no record may be destroyed except those records as provided in the approved retention schedule provided by the Local Government Records Retention schedule governed by the Georgia Archives University System of Georgia, provided, however a written record may be destroyed if it is otherwise preserved by means of scanning or other reliable photographic or digital means.

**IT IS HEREBY RESOLVED** that the Mayor and Council of the City Duluth, in accordance with the provisions of the Open Records Act found in O.C.G.A. 50-18-71(b) designate the Assistant City Manager/City Clerk or his/her designee as the Open Records Officers to receive written requests on behalf of the City.

1. Assistant City Manager/City Clerk (or his/her designee(s)) – Teresa Lynn
2. Deputy City Clerk – Kristin McGregor
3. Records Technology & Development Manager – Danielle Ruedt
4. Sr. Records Technology & Development Coordinator – John Gracia
5. Human Resources Manager – Jocelyn McGiboney
6. Police Records Supervisor – Jessica Beals
7. Clerk of Courts – Amanda Morrison
8. Deputy Clerk of Courts – Juana Lugo
9. Payroll and Benefits Specialist – Amanda Marks

**IT IS FURTHER RESOLVED** that the City requires that all written requests under the Open Records Act be made upon the Open Records Officers.

**IT IS FURTHER RESOLVED** that the Assistant City Manager/City Clerk shall notify the Gwinnett Daily Post, AKA The Times LLC, as the legal organ of the City and Gwinnett County that the City has so designated the Open Records Officers contained herein.

**IT IS FURTHER RESOLVED** that the Assistant City Manager/City Clerk shall ensure that the designated Open Records Officers and their contact information are prominently displayed on the City's website.

**DULY ADOPTED** this 13th day of January, 2025.

\_\_\_\_\_  
Greg Whitlock, Mayor

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

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Kenneth Lamar Doss, Post 3

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Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

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\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, Asst. City Manager/City Clerk

**AN ORDINANCE AND/OR RESOLUTION OF THE  
CITY COUNCIL OF THE CITY OF DULUTH  
TO PROVIDE FOR QUALIFICATION FEES FOR THE  
NOVEMBER 4, 2025 GENERAL MUNICIPAL ELECTION;  
AND OTHER PURPOSES**

**WHEREAS**, the City of Duluth will conduct a general municipal election on November 4, 2025 to fill the expired terms of three (3) Council posts;

**WHEREAS**, pursuant to O.C.G.A. 21-2-131(1)(A), the City desires to establish and fix the qualification fee for such offices;

**NOW, THEREFORE BE IT ORDAINED AND RESOLVED BY THE CITY OF DULUTH, A GEORGIA MUNICIPAL CORPORATION, AND BY THE AUTHORITY OF THE SAME, IT IS HEREBY ORDAINED AND RESOLVED AS FOLLOWS:**

Pursuant to O.C.G.A. 21-2-132(c)(3)(A), qualifying will be Monday – Wednesday, August 18-20, 2025. The qualification fee for the public offices set forth below is hereby established and fixed as follows for the November 4, 2025 General Municipal Election:

Councilmember (Post 1,2 and 3)    \$180.00

**APPROVED AND ADOPTED THIS 13<sup>th</sup> DAY OF JANUARY 2025.**

CITY OF DULUTH, A GEORGIA MUNICIPAL  
CORPORATION

BY: \_\_\_\_\_  
Greg Whitlock, Mayor

BY: \_\_\_\_\_  
Charles Jamin Harkness, Post 1

ATTESTED BY:

BY: \_\_\_\_\_  
Marline Thomas, Post 2, Mayor Pro Tem

\_\_\_\_\_  
Teresa S. Lynn  
Asst. City Manager/City Clerk

BY: \_\_\_\_\_  
Kenneth Lamar Doss, Post 3

BY: \_\_\_\_\_  
Manfred Graeder, Post 4

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Shenée Holloway, Post 5

\_\_\_\_\_  
Stephen Pereira, City Attorney  
PEREIRA, KIRBY, KINSINGER & NGUYEN, LLP

**NOTICE OF QUALIFYING FEES FOR  
CITY OF DULUTH  
NOVEMBER 4, 2025  
GENERAL MUNICIPAL ELECTION**

Please be advised that pursuant to O.C.G.A. 21-2-131, the City of Duluth hereby establishes the following qualifying fee(s) for its municipal offices to be filled in the upcoming November 4, 2025. Qualifying will be Monday – Wednesday, August 18 – 20, 2025.

Councilmember (Posts 1, 2, and 3) \$180.00

A copy of the ordinance and/or resolution authorizing the qualifying fee(s) is on file for inspection in the City Clerk's Office, 3167 Main Street, Duluth, Gwinnett County, Georgia, between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

Teresa S. Lynn  
Election Superintendent  
of the City of Duluth

**ORDINANCE  
CITY OF DULUTH  
MUNICIPAL COURT SOLICITOR**

The Council of the City of Duluth hereby ordains:

The following individual be appointed Court Solicitor of the Municipal Court of the City of Duluth and be authorized to serve in said position unless a majority vote of the Council removes such member or until a successor is appointed. Approval, further, authorizes the salary for the Court Solicitor to be set at \$525.00 per court session.

Ms. Kelsey Wiley

DULY ADOPTED this 13<sup>th</sup> day of January, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those council members voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

**ORDINANCE  
TO AMEND THE CITY OF DULUTH  
2025 FISCAL YEAR BUDGET**

AN ORDINANCE TO AMEND THE 2025 ANNUAL BUDGET FOR THE CITY OF DULUTH, GEORGIA, IN COMPLIANCE WITH THE LAWS OF THE STATE OF GEORGIA.

THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS, the City of Duluth, Georgia, has previously adopted a budget for the 2025 fiscal year as follows:

Total Revenues:	<u>100,429,129</u>
Operations Expenditures:	<u>42,879,348</u>
Capital Improvement Expenditures:	<u>57,549,781</u>
Total Expenditures:	<u>100,429,129</u>

For a balanced budget in compliance with the laws of the State of Georgia.

**WHEREAS** the City of Duluth approved an Intergovernmental Agreement with the Downtown Development Authority to construct additional trash enclosures in the downtown area; and

**WHEREAS** a contract was approved with IP Construction, LLC for \$54,000 to construct the enclosures and staff is requesting additional funds of \$26,000 for construction oversight, testing and change orders; and

**WHEREAS** it is requested \$80,000 in General Fund prior year reserves be added to Downtown Parking – Solid Waste Disposal – Machinery line item; and

**NOW THEREFORE**, the City of Duluth 2025 Fiscal Year Budget is amended as follows:

Total Revenues & Prior Yr Reserves	<u>100,509,129</u>
Operations Expenditures:	<u>42,879,348</u>
Capital Improvement Expenditures:	<u>57,629,781</u>
Total Expenditures:	<u>100,509,129</u>

**IT IS SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, **2025**.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa S. Lynn, City Clerk

**CONTRACT BETWEEN  
THE CITY OF DULUTH GEORGIA  
AND  
METALDOZER MACHINE WORKS, INC  
FOR PURCHASE OF PUBLIC ART**

This contract is initiated by and between THE CITY OF DULUTH GEORGIA ("THE CITY") and METALDOZER MACHINE WORKS, INC ("ARTIST"). This contract consists of the following documents:

- ***This Contract Document,***
- ***Exhibits:***
  - ***Exhibit A, Pricing,***
  - ***Exhibit B, Photographic reproduction of the art piece***
  - ***Exhibit C, Georgia Security and Immigration Compliance Forms***
  - ***Exhibit D, Georgia Public Benefit Affidavit***
  - ***Exhibit E, W-9 Form from ARTIST***
  - ***Exhibit F, Affidavit of Compliance with Applicable Laws***
  -

The parties hereby agree to the following terms and conditions:

- I. **Duties and Responsibilities of ARTIST.** ARTIST agrees to provide and THE CITY agrees to purchase the following:
  - A. One "LARGE MICROPHONE PUBLIC ART PIECE" (with dimensions 36" x 36" x 73") as shown in Exhibit "A" which is attached hereto and incorporated herein and which hereinafter shall be referred to as the "PUBLIC ART."
  - B. ARTIST shall be responsible for delivering the PUBLIC ART. ARTIST shall arrange for the transportation and delivery of the art work to 2450 Main Street, Duluth, Georgia 30096 (Duluth Public Works Facility). Installation is the responsibility of the city. PUBLIC ART shall be delivered no later than April 1, 2025.
  - C. Structural Drawings and Mounting Instructions; ARTIST shall provide THE CITY with any structural drawings detailing physical features of the construction of the Artwork and any necessary instruction regarding the installation of the PUBLIC ART. These drawings and supplementary documents shall indicate any issues involved in the construction, integration and maintenance of the Artwork. The ARTIST shall also provide to the CITY detailed mounting and maintenance instructions.

- D. ARTIST acknowledges that until delivery of the Artwork by ARTIST to the THE CITY, any injury to property or persons caused by the ARTIST 's Artwork or any damage to, theft of, vandalism to, complete destruction of, or acts of God or nature affecting the ARTIST 's Artwork are the sole responsibility of the ARTIST , including, but not limited to, any loss occurring during the creation, storage, transportation or delivery of the ARTIST 's Artwork regardless of where such loss occurs. The ARTIST and not THE CITY shall bear the risk of loss due to the foregoing.

**II. Duties and Responsibilities of THE CITY**

- A. THE CITY will pay ARTIST an all-inclusive fixed fee of \$20,000. The City will also pay the \$2,000 art display fee to the City of Suwanee. A 50% deposit is due upon execution of the agreement with remaining 50% final payment upon delivery to 2450 Main Street, Duluth, Georgia 30096 (Duluth Public Works Facility).
- B. THE CITY will communicate final acceptance upon delivery of the PUBLIC ART to the ARTIST upon receiving the PUBLIC ART in satisfactory condition.

**III. Maintenance: Repairs and Restoration**

- A. The Artwork must be durable, taking into consideration that the Site is an unsecured public space that may be exposed to elements such as weather, temperature variation, and considerable movement of people and equipment. ARTIST must ensure that the Artwork's maintenance requirements will be reasonable in terms of time and expense.
- B. THE CITY and not ARTIST will provide for the maintenance of the Artwork. ARTIST understands that THE CITY's maintenance of the Artwork will be limited and determined in significant part by funding decisions of the THE CITY Council and other officials and departments.
- C. The ARTIST warrants that foreseeable exposure to the elements and general wear and tear will not cause the Artwork to fall below an acceptable standard of public display.
- D. Prior to receipt of final payment, ARTIST shall provide a maintenance sheet with a description of all materials, products and fabrication methods used in the Artwork and the required care and upkeep involved, including: (i) product data sheets for any material or finish used; (ii) the names and contact information of relevant manufacturers or producers; and, (iii) to the extent the Artwork incorporates products covered by a manufacturer's warranty, ARTIST shall provide copies of such warranties. The ARTIST warrants that reasonable maintenance of the Artwork will not require procedures

substantially in excess of those described in the recommended maintenance manual.

- E. Repairs and restoration of the Artwork, if any, are to be distinguished from maintenance of the Artwork, as addressed above. THE CITY shall determine when and how repairs and restoration to the Artwork will be made. However, at no cost to THE CITY whatsoever, and to the extent practicable, the ARTIST will have the opportunity to comment on or participate in all repairs and restoration that are made during the ARTIST'S lifetime. ARTIST understands that THE CITY's repairs and restoration of the Artwork will be limited and determined in significant part by funding decisions of the Duluth City Council and other officials and departments.
- F. The provisions of this Section III shall survive the termination of this Agreement.

#### **IV. ARTIST's Representations and Warranties**

- A. The ARTIST represents and warrants that:
  - 1. The Artwork is solely the result of the artistic effort of the ARTIST, and the ARTIST is the sole creator of the Artwork;
  - 2. The Artwork is a unique and original creation of the ARTIST.
  - 3. The Artwork, or duplicate thereof, has not been accepted for sale elsewhere;
  - 4. The ARTIST has not sold, assigned, transferred, licensed, granted, encumbered or utilized the Artwork or any element thereof or any copyright related thereto which may affect or impair the rights granted by this Agreement;
  - 5. The Artwork is free and clear of any liens from any source whatsoever;
  - 6. The ARTIST has the full power and authority, free of any rights of any nature by any other person, to enter into and perform this Agreement and to make the grants of rights contained in this Agreement;
  - 7. All Artwork created or performed by the ARTIST under this Agreement, whether created by the ARTIST alone or in collaboration with others, shall be wholly original with the ARTIST and shall not infringe upon or violate the rights of any third party;
  - 8. The Artwork is not in the public domain;
  - 9. The Artwork does not and will not infringe upon any person's or entity's copyright or any proprietary right at common law; and
  - 10. ARTIST will not enter into any agreement(s) with any other person or entity in conflict with the terms of this Agreement.
- B. Warranties of Quality and Condition
  - 1. The ARTIST represents and warrants that all work is in accordance with professional workmanlike standards and free from defective or inferior materials and workmanship, including any defects consisting of inherent vice, or qualities that cause or accelerate deterioration of the Artwork.

2. The ARTIST represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.
3. If within one year after acceptance of the Artwork THE CITY observes any breach of warranty that is curable by the ARTIST, the ARTIST shall, at the request of THE CITY, cure the breach promptly, satisfactorily and consistent with professional conservation standards, at no expense to THE CITY. THE CITY shall give notice to the ARTIST of such breach with reasonable promptness.
4. If within one year after acceptance of the Artwork THE CITY observes a breach of warranty described in this section that is either not curable by the ARTIST or not timely cured by the ARTIST, the ARTIST is responsible for reimbursing THE CITY for all damages, expenses and loss incurred by THE CITY as a result of the breach.

**V. Copyright, Trademark, Service Mark, or Patent Infringement.**

ARTIST shall, at his own expense, be entitled to and shall have the duty to defend any suit which may be brought against THE CITY to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. ARTIST shall further indemnify and hold harmless THE CITY against any award of damages and costs made against THE CITY by a final judgment of a court of last resort in any such suit. THE CITY shall provide ARTIST immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable ARTIST to do so. No costs or expenses shall be incurred for the account of ARTIST without its written consent. THE CITY reserves the right to participate in the defense of any such action. ARTIST shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon THE CITY unless approved by the Duluth Mayor and Council.

**VI. Intellectual Property: Rights and Waivers**

**A. Rights to Artwork; Copyright**

- i) **Ownership.** The Artwork created under this Agreement shall be the property of THE CITY. Ownership of the Work shall be transferred from the ARTIST to THE CITY upon THE CITY's issuance of the notice of final acceptance. THE CITY shall retain copies of all written documentation regarding the Work. Upon final acceptance, THE CITY shall have the right to a copy of all plans, drawings, sketches, designs, and other work of

ARTIST pertaining to the Artwork for maintenance, repair, and historical documentation purposes only, unless otherwise specified below.

- ii) Copyright. ARTIST shall retain all copyrights not otherwise granted to THE CITY herein. ARTIST is responsible for registering the Artwork in his name with the U.S. Register of Copyrights, at no additional cost to THE CITY.
- iii) Reproductions.
  - a) ARTIST grants THE CITY the right to publicly display and reproduce images of the Work by photographic, electronic, digital, mechanical, or any other method that may become available following the installation of the Work, for educational, procurement, public relations, arts promotional, tourism, and other non-commercial purposes. On any such reproductions, THE CITY will acknowledge the ARTIST's authorship and provide copyright notification substantially in the following form: ARTIST's name and date of publication. In the event THE CITY wishes to use the Artwork for commercial purposes, THE CITY shall contact ARTIST to negotiate a separate agreement.
- iv) Publicity. THE CITY shall have the right to use ARTIST's name, likeness, and biographical information, in connection with the display or reproduction and distribution of the Artwork.
- v) Naming rights. THE CITY shall have the right to select a name for the Artwork with input and suggestions by the ARTIST.
- vi) Notice of Claims. ARTIST hereby agrees that the ARTIST shall give THE CITY written notice prior to asserting any claim pertaining to the Artwork which may arise relating to 17 U.S.C. §§ 101, et seq. THE CITY shall have at least 90 days from the date of receipt of such notice in which to evaluate and, if so decided by THE CITY, to cure such claim.
- vii) Third Party Infringement. THE CITY is not responsible for any third party infringement of ARTIST's copyrights, and is not responsible for protecting the intellectual property rights of ARTIST.

**B. *Filming of Artwork.*** ARTIST understands and acknowledges that THE CITY, pursuant to applicable local laws, regulations, and policies, often issues film permits to persons and entities wishing to film in Duluth, Georgia whether still, motion picture, or otherwise. Notwithstanding any other provision of this Agreement, ARTIST recognizes and permits THE CITY to issue such permits to persons and entities, to include the Artwork and surrounding site, and ARTIST holds THE CITY harmless therefore. ARTIST will not hold or seek to hold THE CITY liable in any way for the acts of any person or entity utilizing such a film permit, or for their filming or use of the Work.

**C. *Public Records.*** ARTIST understands and acknowledges that THE CITY must comply with applicable public records laws, and that any and all communications, documents, and materials provided to or obtained by THE

CITY pursuant to this Agreement are likely to be public records, potentially open to inspection, duplication, and publicity by third parties, and ARTIST holds THE CITY harmless therefore. ARTIST will not hold or seek to hold THE CITY liable in any way for the acts of any such person or entity inspecting, duplicating, or using such communications, documents, and materials.

**D. The provisions of this Section shall survive the termination of this Agreement.**

**VII. Termination**

- a. *Breach.* Should ARTIST fail to fulfill in a timely and proper manner its obligations under this contract or if it should violate any of the terms of this contract, THE CITY shall have the right to immediately terminate the contract and collect from the ARTIST all costs paid under this Agreement. Such termination shall not relieve ARTIST of any liability to THE CITY for damages sustained by virtue of any breach by ARTIST.
- b. *Notice by THE CITY.* THE CITY may terminate this contract at any time upon seven (7) days written notice to ARTIST and a reasonable reconciliation of costs incurred to date.

**VIII. Modification of Contract.** This contract may be modified only by written amendment executed by all parties and their signatories hereto.

**IX. Partnership/Joint Venture.** Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

**X. Waiver.** No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

**XI. Compliance with Laws.** ARTIST shall be responsible for complying with

the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09). In accord with these provisions the Contractor shall complete attached Exhibits C, C(1), C(2) and D.

A. The Contractor affirms and agrees that it is currently registered and participates in the federal work authorization program to verify information of all new employees pursuant to O.C.G.A. § 13-10-91(b).

B. The Contractor affirms and agrees that any and all subcontractors that it will use on the above-described project are registered and participate in the federal work authorization program to verify information of all new employees.

C. Pursuant to O.C.G.A. § 50-36-1, Proposer shall provide information regarding citizenship status and shall complete and file with the City the Citizenship Status Affidavit, which is attached hereto as Exhibit D

D. The failure to abide by the provisions and agreements set forth in this section shall constitute a breach and default of this contract.

**XII. Contingent Fees.** ARTIST hereby represents that ARTIST has not been retained or retained any persons to solicit or secure a THE CITY contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

**XIII. Nondiscrimination.** It is the policy of THE CITY not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, ARTIST certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in THE CITY's contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or Georgia State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with THE CITY or in the employment practices of THE CITY's ARTIST s. Accordingly, all Proposers entering into contracts with THE CITY shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination. **Exhibit J.**

**XIV. Ethical Standards.** It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or

procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime ARTIST or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under THE CITY contracts.

**XV. Indemnification and Hold Harmless.** ARTIST will indemnify and hold harmless THE CITY, its officers, agents and employees from:

- a. Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of ARTIST, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,
- b. Any claims, damages, penalties, costs and attorney fees arising from any failure of ARTIST, its officers, employees and/or agents, including its sub or independent ARTISTs, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- c. THE CITY will not indemnify, defend or hold harmless in any fashion the ARTIST from any claims arising from any failure, regardless of any language in any attachment or other document that the ARTIST may provide.
- d. ARTIST shall pay THE CITY any expenses incurred as a result of ARTIST's failure to fulfill any obligation in a professional and timely manner under this Contract.

**XVI. Attorney Fees.** ARTIST agrees that in the event either party takes legal action to enforce any provision of the contract or to obtain a remedy for any breach of this contract, and in the event THE CITY prevails in such action, ARTIST shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for THE CITY.

**XVII. Assignment-Consent Required.** The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Neither this contract nor any of the rights and obligations of ARTIST hereunder shall be assigned or transferred in whole or in part without the prior written consent of THE CITY. Any such assignment or transfer shall not release ARTIST from its obligations hereunder.

**XVIII. Entire Contract.** This contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

**XIX. Force Majeure.** No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

**XX. Governing Law.** The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Georgia. Georgia law shall govern regardless of any language in any attachment or other document that the ARTIST may provide.

**XXI. Venue.** Any action between the parties arising from this agreement shall be maintained in the courts of Gwinnett County, Georgia.

**XXII. Severability.** Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

**XXIV. Notices and Designation of Agent for Service of Process.**

A. All notices to THE CITY shall be mailed or hand delivered to:

**Department:** City of Duluth, Georgia  
**Att'n:** Mayor Greg Whitlock  
**Addr:** 3167 Main Street  
Duluth, Georgia 30096  
**E-mail** gwhitlock@Duluthga.net

B. Notices to ARTIST shall be mailed or hand delivered to:

**ARTIST :** Jay Dozier (Metaldozer Machine Works Inc.)

**Addr:** 1329 Hidden Circle  
Sugar Hill, Georgia 30518  
**Phone:** 404 401-6380

**E-mail:** metaldozer@hotmail.com



Exhibit A  
**Pricing**

*The pricing model for this contract is as follows:*

THE CITY shall pay the ARTIST an all-inclusive fixed fee of \$22,000 which shall constitute full compensation for all services, materials, travel, delivery, insurance, licenses, and taxes to be furnished under the terms of this Agreement.

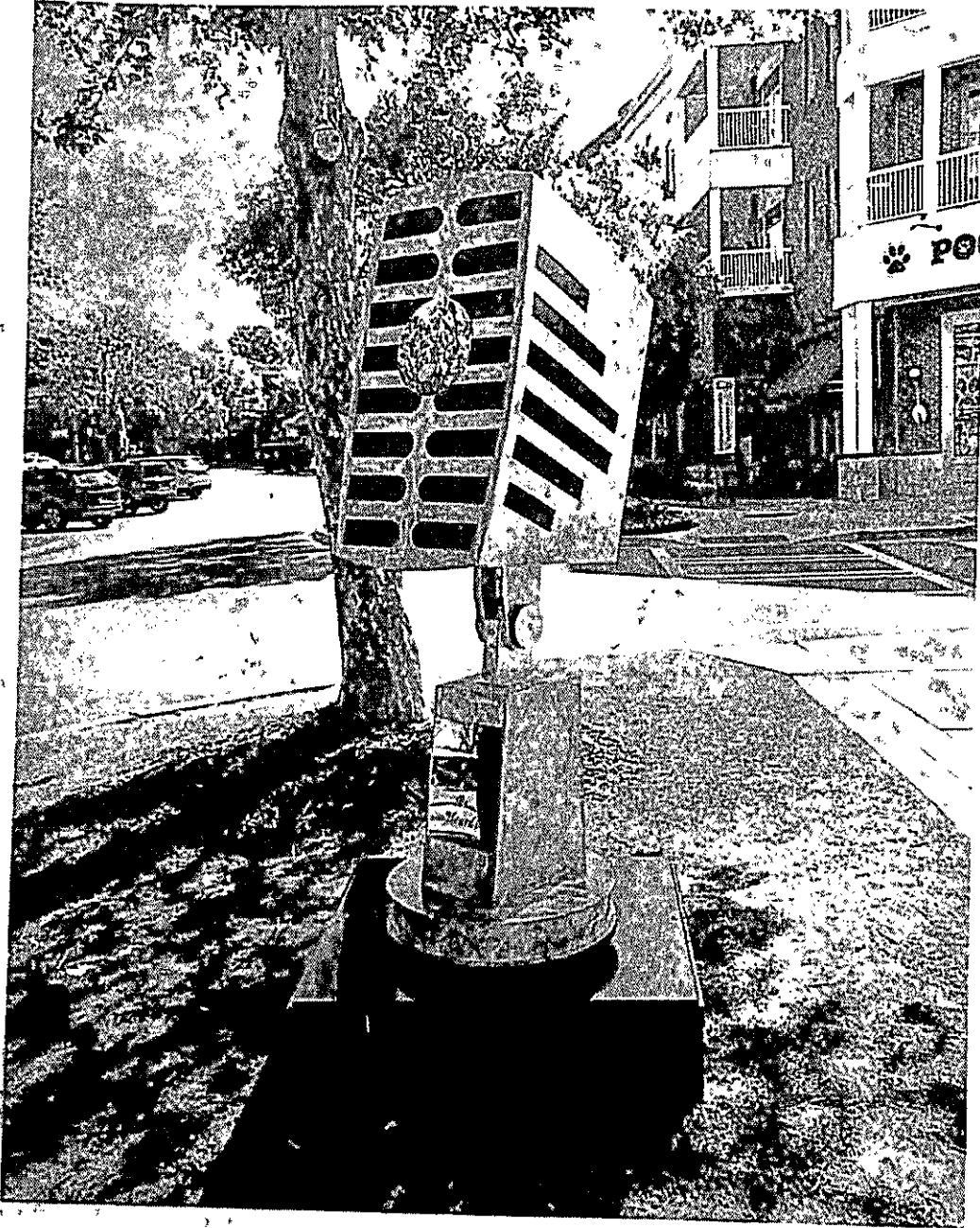
Such fee shall be paid in installments as follows:

- |                                   |  |
|-----------------------------------|--|
| 1 <sup>st</sup> payment: \$10,000 | To be paid upon execution of this contract by all parties.   |
| 2 <sup>nd</sup> payment: \$10,000 | To be paid after receipt of delivery and physical inspection of PUBLIC ART by authorized representatives of THE CITY |

City will also pay \$2,000 art display fee to the City of Suwanee on behalf of the artist

Exhibit B

Photographic representation of PUBLIC ART



### Exhibit C


#### Georgia Security and Immigration Compliance Act.

Contractor shall comply with the provisions of the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09). Contractor's obligations under this section shall include, but not be limited to the following:

1. **Contractor must initial one of the sections below:**

\_\_\_\_\_ Contractor has 500 or more employees and has complied with the provisions of the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09).

\_\_\_\_\_ Contractor has 100 to 499 employees and Contractor warrants that no later than July 1, 2008, Contractor will comply with the provisions of the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09).

 Contractor has 99 or fewer employees and Contractor warrants that no later than July 1, 2009, Contractor will comply with the provisions of the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09).

2. **Contractor agrees to execute and comply with the Contractor Affidavit and Agreement attached as Exhibit C1.**

3. **Contractor agrees that in the event any subcontractor is retained to perform any services under this contract the Contractor will insure that the subcontractor will comply with the requirements of the Georgia Security and Immigration Compliance Act of 2006 (O.C.G.A. §§ 13-10-90 & 13-10-91) and the Rules of the Georgia Department of Labor implementing the Georgia Security and Immigration Compliance Act of 2006 (Rules 300-10-1-.01 through 300-10-1-.09). Contractor further agrees to require all subcontractors performing work under this Contract to execute the Subcontractor Affidavit attached as Exhibit C2. Contractor further agrees to maintain records of the Subcontractor Affidavit(s) and to make such Subcontractor Affidavit(s) available for inspection by Duluth of Duluth at any time.**

Exhibit C (1)

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with THE CITY of Duluth has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with THE CITY of Duluth, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to THE CITY of Duluth at the time the subcontractor(s) is retained to perform such service.

Employment Eligibility Verification  
User Identification Number

JASON DOZER

By:

OWNER

Date

1-8-25

Title:

Date

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE 2025  
8<sup>th</sup> DAY OF January, 2024.

[Signature]  
Notary Public

My Commission Expires:

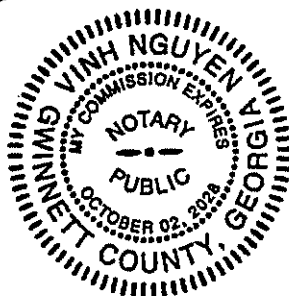


Exhibit C(2)  
**SUBCONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with Contractor on behalf of THE CITY of Duluth has registered with and is participating in a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

Employment Eligibility Verification  
User Identification Number

JASON DOZER  
By: Authorized Officer or Agent  
(Subcontractor Name)

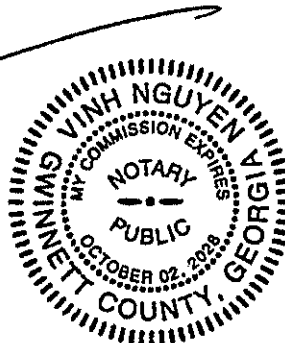
1-8-25  
Date

OWNER  
Title of Authorized Officer or Agent of Subcontractor

JASON DOZER  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
8<sup>th</sup> DAY OF January, 2024.

[Signature]  
Notary Public  
My Commission Expires:  
October 2<sup>nd</sup>, 2028



**EXHIBIT D**  
**Affidavit Verifying Status for City Public Benefit**

Instructions: As required by Georgia Security and Immigration Compliance Act of 2006 (Senate Bill 529 - GSICA), every agency administering or providing Public Benefits is responsible for determining U.S. citizenship or lawful alien status of applicants for said benefits. (Ga. Code 50-36-1), any natural person who applies for a state or local public benefit must execute an affidavit concerning the applicant's legal presence in the United States. Any applicant who is the sole owner of a business or the sole member of an LLC and who is either a qualified alien or nonimmigrant lawfully present in the United States is required to execute this Affidavit under oath before a notary public.

By executing this affidavit under oath, as an applicant for: (check one) \_\_\_\_\_  
Business License/Occupational Tax Cert \_\_\_\_\_ Alcohol License \_\_\_\_\_ Taxi  
Permit \_\_\_\_\_ Contract ☒ Other public benefit (as referenced in O.C.G.A.  
Section 50-36-1) from **THE CITY of Duluth, Georgia**, I am stating the following:

I, JASON DOZER (representative for)

METAL DOZER MACHINE  
(NAME of individual and natural person)

(name of

BUSINESS, corporation, partnership, etc.)

☒ I am a United States Citizen

\_\_\_\_\_ I am a legal permanent resident 18 years of age or older or I am an  
otherwise qualified alien or non-immigrant  
under the Federal Immigration and Nationality Act 18 years of age or older and  
lawfully present in the U.S.

Alien Registration number for non-citizens: \_\_\_\_\_

Verification of your Affidavit will be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the United States Department of Homeland Security. Therefore, a front and back copy of one of the following documents must be attached to the Affidavit:

Valid, unexpired Foreign Passport with I-94; Temporary Resident Alien Card (I-688); Employment Authorization Card (I-76 or I-688A); Employment Authorization Document (I-688B); or Refugee Travel Document (I-571).

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia. Please note that identification can take up to two (2) weeks in some cases.

Signature of Applicant: 

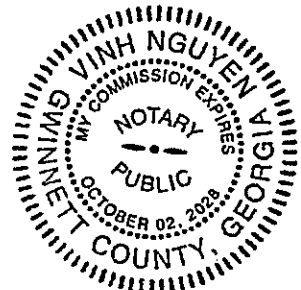
Date:

Printed Name: JASON DOZER

SUBSCRIBED AND SWORN BEFORE ME ON THIS 8<sup>th</sup> DAY OF,  
January 2025

Signature of Notary Public: 

My Commission Expires: October 2<sup>nd</sup>, 2028



Note: O.C.G.A. 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien," legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien re

**Exhibit E**

W-9 Form

**ARTIST must provide a current IRS W-9 form**

Exhibit F  
**Affidavits**

State of GA County of Gwinnett

As used herein, "Offeror" will include bidders and proposers.

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the OWNER (Title) of METALDOZER MACHINE WORKS (Offeror), and that Offeror is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Offeror has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Offeror is current on its payment of all applicable gross receipt taxes and personal property taxes.

**Nondiscrimination:** ARTIST, after being first duly sworn, affirms that by its employment policy, standards and practices it does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, religion, color, national origin, age or sex and that it is not in violation of and will not violate any applicable laws concerning the employment of individuals with handicaps and/or disabilities. It is the policy of THE CITY of Duluth not to discriminate on the basis of age, race, sex, color, religion, national origin or handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, ARTIST certifies and warrants it will comply with this policy.

**And Further Affiant Sayeth Not:**

By: JASON DOZER

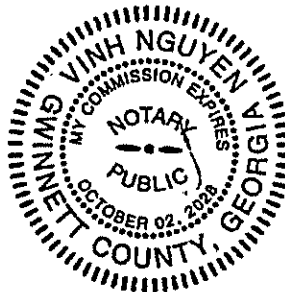
Title: OWNER

Address: 1329 HIDDEN CIRCLE  
SUGAR HILL, GA 30518

Sworn to and subscribed before me on this 8<sup>th</sup> day of January, 2025.

[Signature]  
Notary Public

My commission expires: October 2<sup>nd</sup>, 2028



# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
See Specific instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

MetalDozer Machine Works Inc

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

- ☐ Individual/sole proprietor or single-member LLC
- ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► \_\_\_\_\_
- Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.
- ☐ Other (see instructions) ► \_\_\_\_\_
- ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

1329 Hidden Circle

6 City, state, and ZIP code

Sugar Hill GA 30518

7 List account number(s) here (optional)

Requester's name and address (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

or

Employer identification number

20 - 4175839

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign  
Here

Signature of  
U.S. person ► Jason Dozer

Date ► 05/09/2024

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

**ORDINANCE NO. 02025-03**

**AN ORDINANCE FOR THE ANNEXATION OF ± 4.17 ACRES OF PROPERTY IN LAND LOT 204, 7<sup>TH</sup> DISTRICT, GWINNETT COUNTY CONSISTING OF TAX PARCEL R7204 577. THE ORDINANCE PROVIDES FOR FINDINGS, PROVIDES FOR SEVERABILITY, REPEALS CONFLICTING ORDINANCES, ESTABLISHES AN EFFECTIVE DATE, AND IS FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, the applicant, The City of Duluth has filed a complete application (A2024-002) with the City of Duluth seeking annexation of +/- 4.17 acres from Gwinnett County to the City of Duluth;

**WHEREAS**, per Article 11 of the Duluth Unified Development Code, an annexation must be approved by the Governing Body; and

**WHEREAS**, the City of Duluth Planning Commission held a public hearing at the meeting of January 6, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding the application. At that meeting, the Planning Commission recommended approval of the annexation as is set forth in the minutes of said meeting; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 13, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. FINDINGS.**

Pursuant to Article 11 of the Duluth Unified Development Code, the City Council finds that it is appropriate to annex the property from Gwinnett County to the City of Duluth for the following reasons:

- A. The annexation is suitable given the use and development of adjacent and nearby properties.
- B. The proposed annexation is not anticipated to adversely affect the existing use or usability of adjoining or nearby properties.
- C. The proposed annexation is not anticipated to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

**SECTION 2. LEGAL DESCRIPTION.**

The property that is subject to this ordinance consists of ± 4.17 acres.

**SECTION 3. SEVERABILITY.**

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified above be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**Ordinance No. O2025-03**

**SECTION 5. EFFECTIVE DATE.**

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

**SECTION 6. REPEALER.**

All conflicting ordinances and conditions are hereby repealed and replaced with the conditions of approval set forth in this Ordinance, No. O2025-03

**ATTACHMENTS:**

Exhibit "A": Map

Exhibit "B": Public Hearing Advertisement/Public Notice

{Signatures on the Following Page}

IT IS SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Those councilmembers voting in favor:

\_\_\_\_\_  
Mayor Greg Whitlock

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

Exhibit "A"  
Map



Exhibit "B"  
Public Notice

Public Notice Printed in Gwinnett Daily Post 12/18/2024

**GDP9607  
9pn16  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Duluth Mayor and Council to consider a request from City of Duluth to annex approximately 4.17 acres of property in Land Lot 204, 7th District, Gwinnett County, located at 2516 Main Street consisting of tax parcel 7204-577. The public is invited to attend this hearing before the Mayor and Council on the proposed annexation. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 - 6:00 p.m.

**WHERE:**  
City Hall Council Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the proposed annexation, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [planning@duluth-ga.net](mailto:planning@duluth-ga.net)

For more information, contact Planning & Development, at (770) 476-1790.

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:22,2024



**CITY OF DULUTH**  
**Mayor and Council**  
Staff Report  
January 13, 2025

<b>CASE NUMBER:</b>	A2024-002
<b>LOCATION:</b>	2516 Main Street
<b>PARCEL(S):</b>	R7204 577
<b>CURRENT ZONING:</b>	Gwinnett County M-1 (Light-Industrial District)
<b>PROPOSED ZONING:</b>	City of Duluth M-1 (Light-Industrial District)
<b>ACREAGE:</b>	+/- 4.17 Acres
<b>REQUEST:</b>	Approval of an Annexation of +/- 4.17 acre property from Gwinnett County to the City of Duluth.
<b>OWNER/APPLICANT:</b>	City of Duluth 3167 Main Street Duluth, GA 30096  City of Duluth 3167 Main Street Duluth, GA 30096

<b>STAFF RECOMMENDATION A2024-002:</b>	<b>Approval</b>
<b>PLANNING COMMISSION RECOMMENDATION:</b>	<b>Approval</b>

## **I. PURPOSE AND DESCRIPTION OF THE REQUEST**

The purpose of this request is to annex the subject property from Gwinnett County to the City of Duluth and zone it accordingly.

A map detailing the location of the subject property are attached hereto as Exhibit "A".

## **II. EXISTING CONDITIONS**

The subject property totals +/- 4.17 acres. The subject property is bound to the north by a single-family detached PUD (Planned Unit Development). To the east is C-2 (General Business District). To the west and south are both zoned M-1 (Light-Industrial District). The property is relatively undeveloped (there is a cell tower on the property) and has been used as a landscape supply company.

## **III. REVIEW OF THE REQUEST**

### **1. Literal Interpretation of the Unified Development Code (UDC)**

- A. Section 1306.01 Zoning Classification of Land upon Annexation states that a). Any land subsequently annexed in to the City shall be classified by the City Council as to the zoning district or districts at the time of annexation provided that before the zoning decision and annexation are approved, a public hearing is held concerning the zoning decision.
- B. The City Council, in determining the zoning classification, may take into account the use restrictions on the land prior to annexation and the Land Use Plan and Comprehensive Plan.

### **2. Standards Governing the Exercise of Zoning Power**

Section 1104.02 of the UDC establishes the standards governing the exercise of zoning power. The following standards are relevant in balancing the interest and promoting the public health, safety, morality, and general welfare against the right to the unrestricted use of property:

- A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
- C. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- D. Whether the zoning proposal is consistent with the Land Use Policy Plan, Comprehensive Plan, transportation plans, or other plans adopted for guiding

development within the City of Duluth.

- E. Whether there are other existing or changing conditions affecting the use and development of property that give supporting grounds for either approval or disapproval of the zoning or special use proposal.

### **3. Literal Interpretation of FORWARDuluth, Plan 2040 (Comprehensive Plan)**

The subject property will be located on the western edge of the Sugarloaf Activity District. FORWARDuluth envisions this Character Area to be connected, yet self-sufficient, activity center consisting of retail, office and a variety of residential types serving as the northern gateway into the City. The Future Land Use Map (FLUM) envisions this parcel as commercial/retail/office.

## **IV. RECOMMENDATION**

Planning staff recommends **Approval** of case A2024-002. Planning Commission at their January 6, 2025 meeting recommended Approval.

## **ATTACHMENTS:**

Exhibit "A": Map

Exhibit "B": Public Hearing Advertisement/Public Notice

**Exhibit "A"**  
**Maps**

Location Map



Exhibit “B”  
Public Notice

## Public Notice Printed in Gwinnett Daily Post 12/18/2024

GDP9607  
gpn16  
**CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before the City of Duluth Mayor and Council to consider a request from City of Duluth to annex approximately 4.17 acres of property in Land Lot 204, 7th District, Gwinnett County, located at 2516 Main Street consisting of tax parcel 7204-577. The public is invited to attend this hearing before the Mayor and Council on the proposed annexation. The meeting date, place and time regarding this matter are as follows:

WHEN:  
January 13, 2025 - 6:00 p.m.

WHERE:  
City Hall Council Chambers  
3167 Main Street  
Duluth, GA 30096

PERSONS INTERESTED IN THIS MATTER are invited to review the proposed annexation, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [planning@duluth-ga.net](mailto:planning@duluth-ga.net)

For more information, contact Planning & Development, at (770) 476-1790.

\*\*\*\*\*  
\*\*\*\*\*  
\*\*\*\*\*

In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:22, 2024



**ORDINANCE NO. 02025-04**

**AN ORDINANCE FOR THE REZONING OF ± 4.17 ACRES OF PROPERTY IN LAND LOT 204, 7<sup>TH</sup> DISTRICT, GWINNETT COUNTY CONSISTING OF TAX PARCEL R7204 577. THE ORDINANCE PROVIDES FOR FINDINGS, PROVIDES FOR SEVERABILITY, REPEALS CONFLICTING ORDINANCES, ESTABLISHES AN EFFECTIVE DATE, AND IS FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, the applicant, The City of Duluth has filed a complete application (Z2024-006) with the City of Duluth seeking annexation of +/- 4.17 acres from Gwinnett County to the City of Duluth;

**WHEREAS**, per Article 11 of the Duluth Unified Development Code, a rezoning must be approved by the Governing Body; and

**WHEREAS**, the City of Duluth Planning Commission held a public hearing at the meeting of January 6, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding the application. At that meeting, the Planning Commission recommended approval of the rezoning as is set forth in the minutes of said meeting; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 13, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DULUTH HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1. FINDINGS.**

Pursuant to Article 11 of the Duluth Unified Development Code, the City Council finds that it is appropriate to rezone the property from M-1 (Light-Industrial District; Gwinnett County) to M-1 (Light-Industrial District; City of Duluth), for the following reasons:

- A. The rezoning is suitable given the use and development of adjacent and nearby properties.
- B. The proposed rezoning is not anticipated to adversely affect the existing use or usability of adjoining or nearby properties.
- C. The proposed rezoning is not anticipated to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

**SECTION 2. LEGAL DESCRIPTION.**

The property that is subject to this ordinance consists of ± 4.17 acres.

**SECTION 3. SEVERABILITY.**

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified above be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

**SECTION 5. EFFECTIVE DATE.**

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

**SECTION 6. REPEALER.**

All conflicting ordinances and conditions are hereby repealed and replaced with the conditions of approval set forth in this Ordinance, No. O2025-04.

**ATTACHMENTS:**

Exhibit "A": Maps

Exhibit "B": Public Hearing Advertisement/Public Notice

{Signatures on the Following Page}

IT IS SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

Exhibit “C”  
Maps





Exhibit "E"  
Public Notice  
Public Notice Printed in Gwinnett Daily Post 12/18/2024

**GDP#608  
99116  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a rezoning request from the City of Duluth, on approximately 4.17 acres of property in Land Lot 204, 7th District, Gwinnett County, located at 2516 Main Street, consisting of tax parcels 7204-577, case number Z2024-006. The request is to rezone the above property currently zoned M-1 in Gwinnett County zoning District to M-1 zoning district within City of Duluth. The public is invited to attend this hearing before the Mayor and Council on the proposed rezoning. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 - 6:00  
a.m.  
**WHERE:**  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

PERSONS INTERESTED IN THIS MATTER are invited to review the proposed rezoning, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770)478-1790.

\*\*\*\*\*  
\*\*\*\*\*

In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Torosa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.  
12:12, 2024



**CITY OF DULUTH**  
**Mayor and Council**  
 Staff Report  
 January 13, 2025

<b>CASE NUMBER:</b>	Z2024-006
<b>LOCATION:</b>	2516 Main Street
<b>PARCEL(S):</b>	R7204 577
<b>CURRENT ZONING:</b>	Gwinnett County M-1 (Light-Industrial District)
<b>PROPOSED ZONING:</b>	City of Duluth M-1 (Light-Industrial District)
<b>ACREAGE:</b>	+/- 4.17 Acres
<b>REQUEST:</b>	Approval of a rezone of +/- 4.17 acre property from M-1 (Light-Industrial District; Gwinnett County) to M-1 (Light-Industrial District; City of Duluth).
<b>OWNER/APPLICANT:</b>	City of Duluth 3167 Main Street Duluth, GA 30096  City of Duluth 3167 Main Street Duluth, GA 30096

<b>STAFF RECOMMENDATION A2024-002:</b>	<b>Approval</b>
<b>PLANNING COMMISSION RECOMMENDATION:</b>	<b>Approval</b>

## **I. PURPOSE AND DESCRIPTION OF THE REQUEST**

The purpose of request is to rezone the subject property from M-1 (Light-Industrial District; Gwinnett County) to M-1 (Light-Industrial District; City of Duluth). Maps detailing the location and zoning district of the subject property are attached hereto as Exhibit “A”.

## **II. EXISTING CONDITIONS**

The subject property totals +/- 4.17 acres. The subject property is bound to the north by a single-family detached PUD (Planned Unit Development). To the east is C-2 (General Business District). To the west and south are both zoned M-1 (Light-Industrial District). The property is relatively undeveloped (there is a cell tower on the property) and has been used as a landscape supply company.

## **III. REVIEW OF THE REQUEST**

### **1. Literal Interpretation of the Unified Development Code (UDC)**

- A. Section 1306.01 Zoning Classification of Land upon Annexation states that a). Any land subsequently annexed in to the City shall be classified by the City Council as to the zoning district or districts at the time of annexation provided that before the zoning decision and annexation are approved, a public hearing is held concerning the zoning decision.
- B. The City Council, in determining the zoning classification, may take into account the use restrictions on the land prior to annexation and the Land Use Plan and Comprehensive Plan.

### **2. Standards Governing the Exercise of Zoning Power**

Section 1104.02 of the UDC establishes the standards governing the exercise of zoning power. The following standards are relevant in balancing the interest and promoting the public health, safety, morality, and general welfare against the right to the unrestricted use of property:

- A. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- B. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
- C. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- D. Whether the zoning proposal is consistent with the Land Use Policy Plan, Comprehensive Plan, transportation plans, or other plans adopted for guiding development within the City of Duluth.

- E. Whether there are other existing or changing conditions affecting the use and development of property that give supporting grounds for either approval or disapproval of the zoning or special use proposal.

**3. Literal Interpretation of FORWARDuluth, Plan 2040 (Comprehensive Plan)**

The subject property will be located on the western edge of the Sugarloaf Activity District. FORWARDuluth envisions this Character Area to be connected, yet self-sufficient, activity center consisting of retail, office and a variety of residential types serving as the northern gateway into the City. The Future Land Use Map (FLUM) envisions this parcel as commercial/retail/office.

**IV. RECOMMENDATION**

Planning staff recommends **Approval** of case Z2024-006. Planning Commission staff at their January 6, 2025 meeting recommended Approval.

**ATTACHMENTS:**

Exhibit "A": Maps

Exhibit "B": Public Hearing Advertisement/Public Notice

Exhibit "A"  
Maps

Location Map



## Zoning Map



## Exhibit "B"

### Public Notice

**Public Notice Printed in Gwinnett Daily Post 12/18/2024**

GDP1668  
gent6

#### CITY OF DULUTH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a rezoning request from the City of Duluth, an approximately 4.17 acres of property in Land Lot 204, 7th District, Gwinnett County, located at 2516 Main Street, consisting of tax parcels 7204-577, case number Z2024-006. The request is to rezone the above property currently zoned M-1 in Gwinnett County zoning District to M-1 zoning district within City of Duluth. The public is invited to attend this hearing before the Mayor and Council on the proposed rezoning. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 - 6:00  
p.m.  
**WHERE:**  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the proposed rezoning, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770) 476-1790.

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In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:22,2024



**RESOLUTION R2025-05  
CITY OF DULUTH  
FORWARDuluth – 2045 COMPREHENSIVE PLAN**

**A RESOLUTION AMENDING FORWARDuluth (2045 COMPREHENSIVE PLAN) AND ALL CORRESPONDING DOCUMENTS (AS SHOWN ON THE ATTACHED EXHIBIT “A”) AS REQUIRED BY THE STATE OF GEORGIA LOCAL PLANNING REQUIREMENTS CHAPTER 110-12-1-.02.**

**WHEREAS,** The Georgia Department of Community Affairs has established Minimum Standards and Procedures for Local Comprehensive Planning; and

**WHEREAS,** the purpose of the Minimum Standards and Procedures is to provide a framework for the development, management and implementation of local comprehensive plans at the local, regional and state government level; and

**WHEREAS,** they reflect an important state interest: healthy and economically vibrant cities and counties are vital to the state’s economic prosperity; and

**WHEREAS,** regular updates to the plan are necessary to ensure it meets the needs of the community; and

**WHEREAS,** the City of Duluth, Georgia, has prepared an update to FORWARDuluth; and

**WHEREAS,** on January 6, 2025, the City of Duluth Planning Commission held a public hearing duly noticed and voted to recommend approval of the updated plan as set forth in the minutes of said meeting; and

**WHEREAS,** the Duluth City Council held a public meeting on January 13, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post regarding the update as set forth in the minutes of said meeting.

**NOW THEREFORE, be it Resolved by the City Council of the City of Duluth, Georgia to adopt the amended FORWARDuluth (2045 Comprehensive Plan) and all corresponding documents as shown on the attached Exhibit “A”.**

**ATTACHMENTS:**

Exhibit “A”: Maps

Exhibit “B”: Public Hearing Advertisement/Public Notice

{Signatures on the Following Page}

IT IS SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Mayor Greg Whitlock

Those councilmembers voting in favor:

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

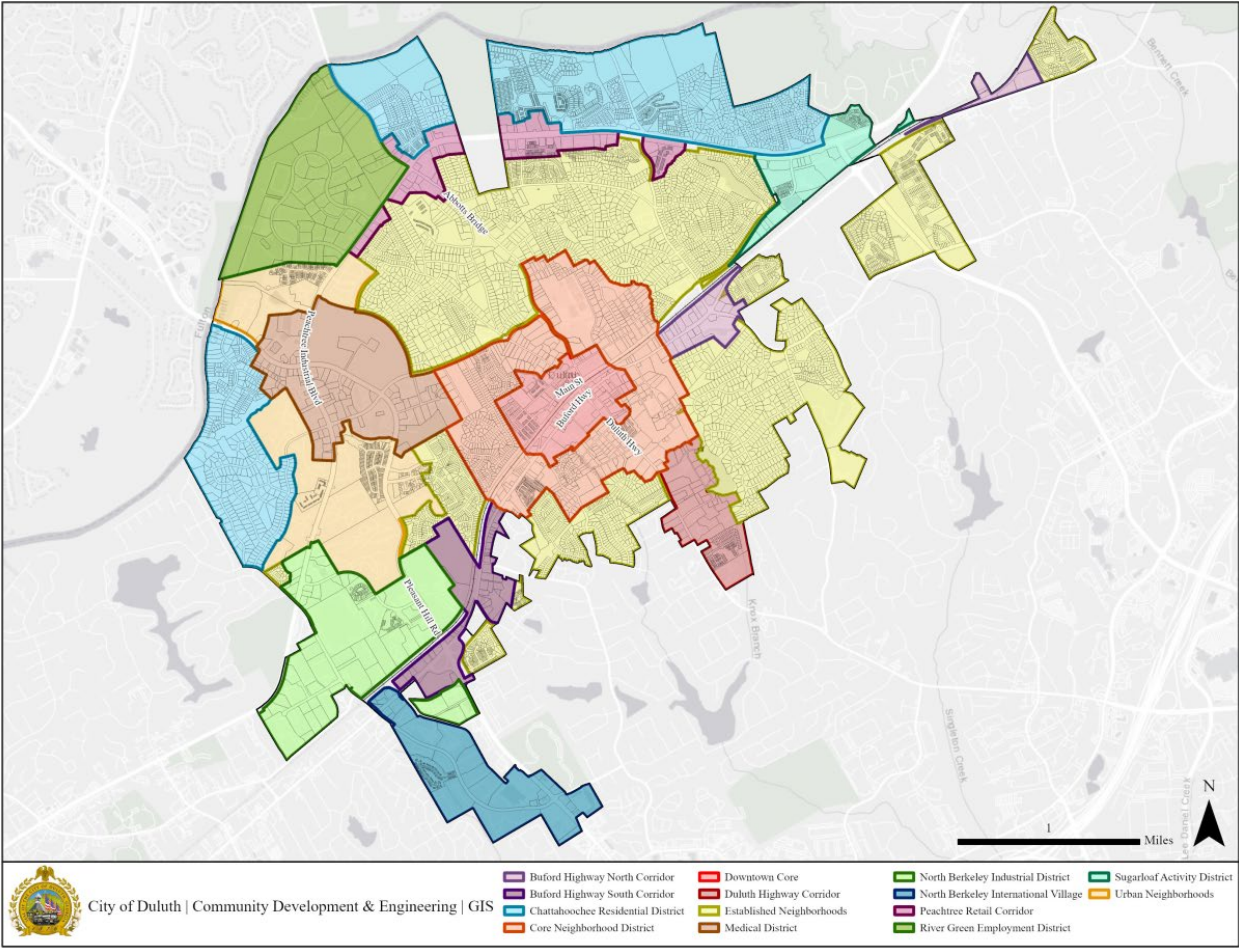
\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

Exhibit "A"  
Maps



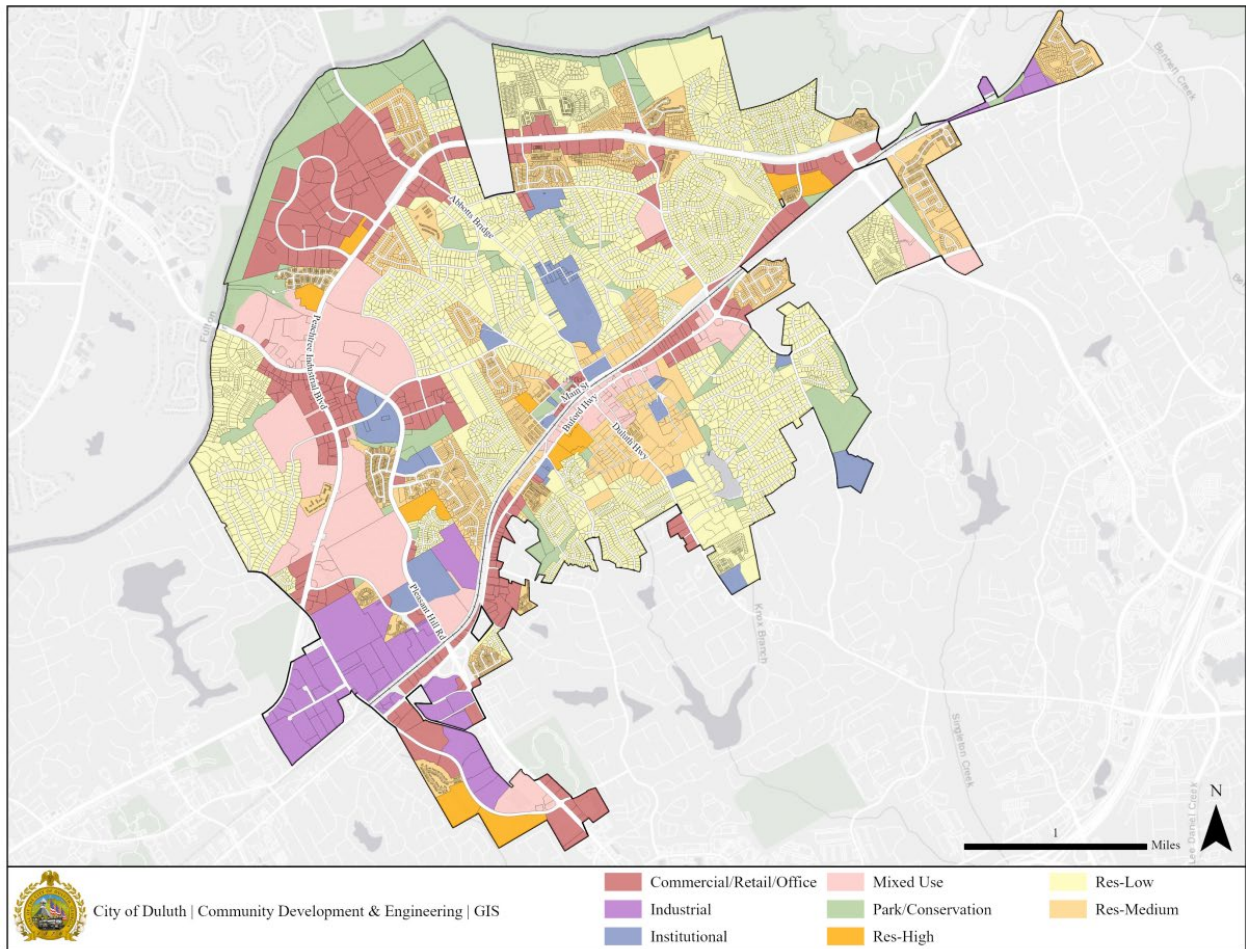


Exhibit "B"  
Public Notice

Public Notice Printed in Gwinnett Daily Post 12/18/2024

**NOTICE IS HEREBY GIVEN** that a public hearing will be held before Mayor and Council to amend the City of Duluth Comprehensive Plan.

The public is invited to attend this hearing before Mayor and Council. The meeting date, place and time regarding this matter are as follows:

WHEN: January 13<sup>th</sup>, 2025 - 6:00 p.m.  
WHERE: City Hall Council Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the City's Comprehensive Plan, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:

City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluthga.net](mailto:Planning@duluthga.net)

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# CITY OF DULUTH PUBLIC NOTICE

## A2024-002

### REQUEST TO

Annexation of Property into the City limits of Duluth

PARCEL: 7204-677

ADDRESS: 25 1/2 Main Street

CURRENT ZONING: M1

PROPOSED ZONING: M1

Planning Comm. DATE: 01-09-2025 @ 6 p.m.

Mayor / Council DATE: 01-13-2025 @ 6 p.m.

All interested members of the public are invited to  
attend the hearings at:



CITY HALL COUNCIL CHAMBERS  
3167 MAIN STREET, DULUTH, GA 30096  
770.476.1790



on the dates and times provided above.

**ORDINANCE OF REZONING  
02025-05  
CITY OF DULUTH**

**AN ORDINANCE GRANTING SPECIAL USE APPROVAL TO OPERATE A PRIVATE SCHOOL/BEHAVIORAL CENTER IN THE M-1 (LIGHT-INDUSTRIAL DISTRICT) LOCATED ON A ± 5.98 ACRE PROPERTY IN LAND LOT 325 OF THE 6TH DISTRICT, GWINNETT COUNTY CONSISTING OF TAX PARCEL R6325 064 ADDRESSED AS 4375 RIVER GREEN PARKWAY, DULUTH, GEORGIA 30096. THE PROPERTY, GENERALLY KNOWN AS “4375 RIVER GREEN PARKWAY”, IS LEGALLY DESCRIBED ON THE ATTACHED EXHIBIT “B”. THE ORDINANCE PROVIDES FOR FINDINGS, ESTABLISHES CONDITIONS OF APPROVAL AS SHOWN ON ATTACHED EXHIBIT “C”, PROVIDES FOR SEVERABILITY, REPEALS CONFLICTING ORDINANCES, ESTABLISHES AN EFFECTIVE DATE, AND IS FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, the applicant, Elliston LLC dba Elevation Autism Center has filed a complete application (SU2024-005) with the City of Duluth seeking Special Use approval to operate a Private School/Behavioral Center in M-1 (Light-Industrial District); and

**WHEREAS**, per Article 11 of the Duluth Unified Development Code, a Special Use must be approved by the Governing Body; and

**WHEREAS**, the City of Duluth Planning Commission held a public hearing at the meeting of December 2, 2024, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding the application. At the December 2, 2024 meeting, the Planning Commission recommended approval with conditions as is set forth in the minutes of said meeting; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 13, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting.

**NOW THEREFORE**, the City Council of the City of Duluth hereby ordains that the City of Duluth Unified Development Code is hereby amended as follows:

**SECTION 1. FINDINGS.**

Pursuant to Article 11 of the Duluth Unified Development Code, the City Council finds that it is appropriate to grant special use approval to the property, for the following reasons:

- A. The special use is suitable given the use and development of adjacent and nearby properties.
- B. The proposed special use is not anticipated to adversely affect the existing use or usability of adjoining or nearby properties.
- C. The proposed special use is not anticipated to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

D. The Future Land-Use and Development section and supporting Character Area Map of FORWARDuluth (also known as the Comprehensive Plan, 2045) identifies the Character Area of this property as the River Green Employment District. Special Use approval to operate a private school/behavioral center in M-1 (Light-Industrial District) is consistent with the spirit and intent of the Comprehensive Plan.

## **SECTION 2. LEGAL DESCRIPTION.**

The property that is subject to this ordinance consists of  $\pm$  5.98 acres and is legally described on Exhibit "A", attached hereto. Said Exhibit is incorporated by reference as if fully set forth herein.

## **SECTION 3. SEVERABILITY.**

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified above be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

## **SECTION 4. EFFECTIVE DATE.**

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

## **SECTION 5. REPEALER.**

All conflicting ordinances and conditions are hereby repealed and replaced with the conditions of approval set forth in this Ordinance 02025-05.

**ATTACHMENTS:**

Exhibit “A”: Maps

Exhibit “B”: Legal Description

Exhibit “C”: Conditions of Approval

Exhibit “D”: Site Plan

Exhibit “E”: Applicant’s Responses to the Standards Governing Special Use Consideration

Exhibit “F”: Public Notice

{Signatures on the following page}

IT IS SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

Those councilmembers voting in favor:

\_\_\_\_\_  
Mayor Greg Whitlock

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

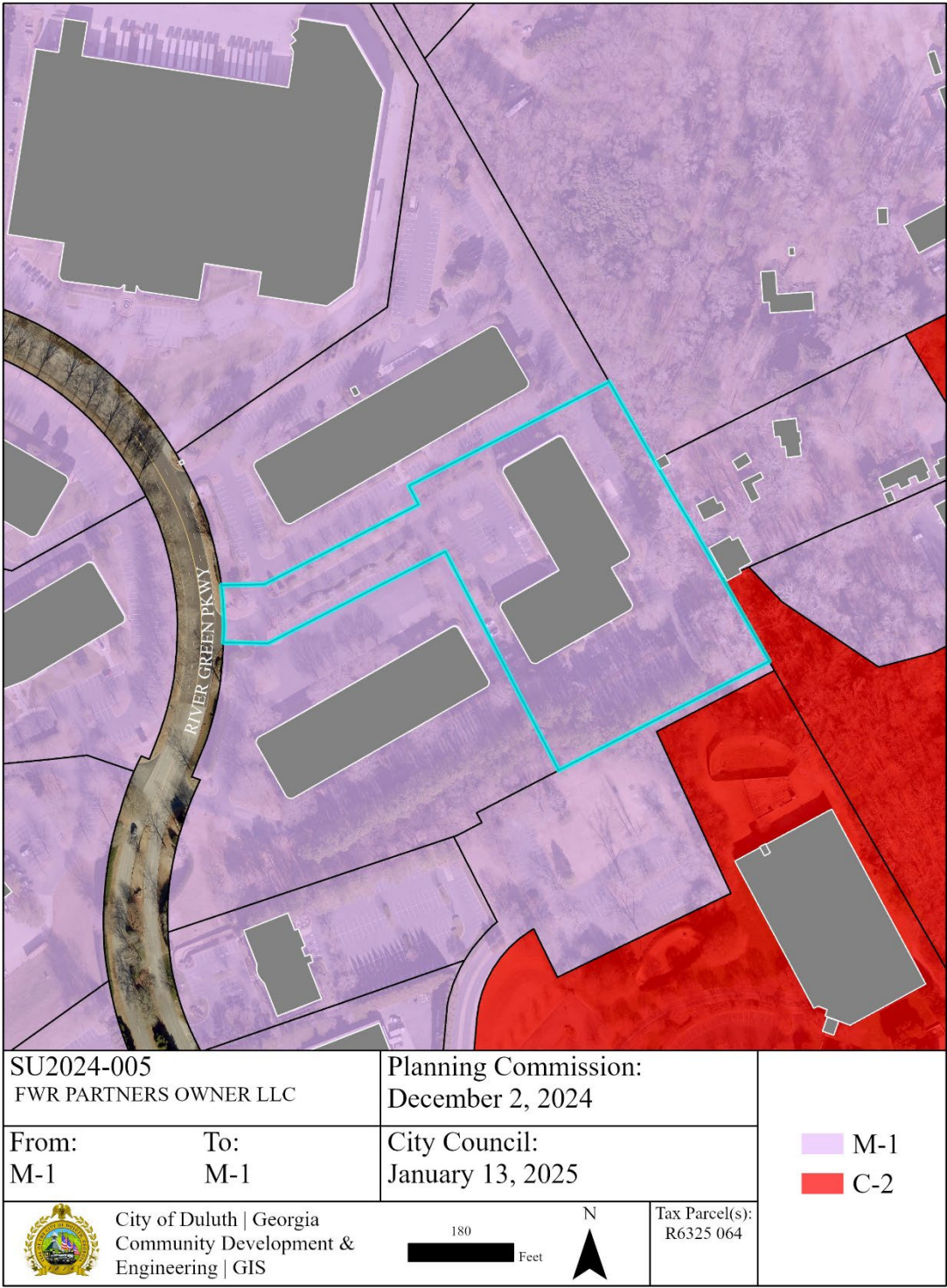
ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

Exhibit “A”  
Maps

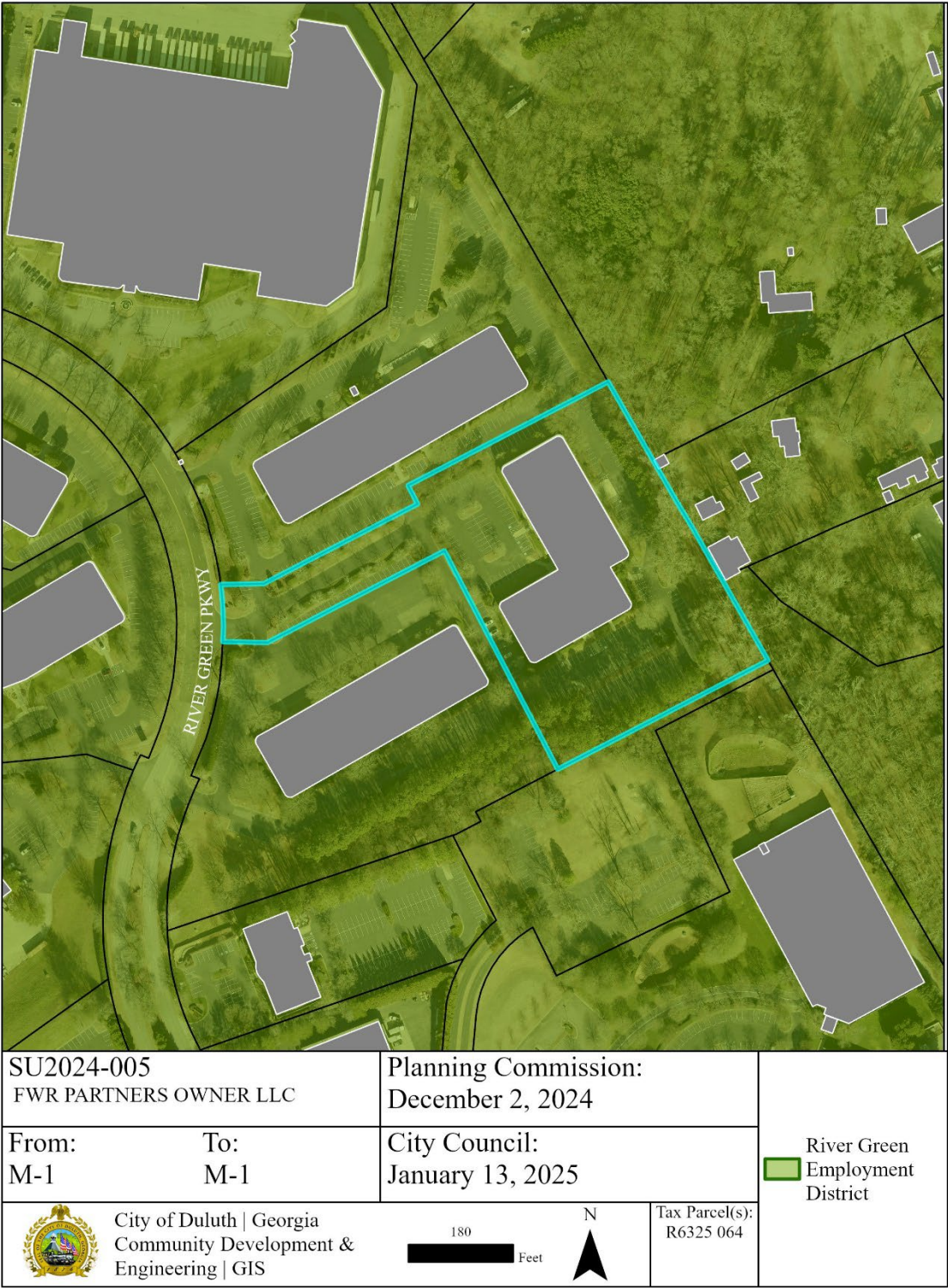
Location Map



Zoning Map



Character Area Map



**Exhibit "B"**  
**Legal Description**

**4375 River Green Parkway**  
**PARCEL 4**

All that tract or parcel of land lying and being in Land Lot 325 of the 6<sup>th</sup> District of Gwinnett County, City of Duluth, Georgia, and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at a concrete monument found at the intersection of the Northwestern Right-of-Way line of Peachtree Industrial Boulevard (having a 150 foot Right-of-Way) and the land lot line common to Land Lots 324 and 325; thence departing the said Right-of-Way line of Peachtree Industrial Boulevard and running along the land lot line common to Land Lots 324 and 325, North 27 degrees 28 minutes 42 seconds West, a distance of 988.92 feet to a point marked by an iron pin found (1/2 inch rebar), which point is the POINT OF BEGINNING, from the point of beginning, as established, thence leaving the aforesaid land lot line common to Land Lots 324 and 325, South 65 degrees 18 minutes 06 seconds West, a distance of 407.04 feet to a point marked by an iron pin set; thence North 27 degrees 24 minutes 20 seconds West, a distance of 420.71 feet to a point; thence South 62 degrees 35 minutes 18 seconds West, a distance of 342.06 feet to a point marked by an iron pin set; thence South 88 degrees 49 minutes 15 seconds West, a distance of 72.13 feet to a point marked by an iron pin set on the Eastern margin of the Right-of-Way of River Green Parkway (having an 80 foot Right-of-Way); thence along the aforesaid margin of the Right-of-Way of River Green Parkway and following the curvature thereof along the arc of curve, an arc distance of 100.32 feet to a point marked by an iron pin set (said arc being subtended by a chord lying to the West of the arc having a chord bearing of North 02 degrees 25 minutes 56 seconds East and a chord distance of 100.20 feet), said arc having radius of 590.00 feet; thence leaving the aforesaid Right-of-Way of River Green Parkway, North 88 degrees 49 minutes 15 seconds East, a distance of 66.27 feet to a point marked by an iron pin set; thence North 62 degrees 35 minutes 18 seconds East, a distance of 297.46 feet to a point marked by an iron pin set; thence North 27 degrees 24 minutes 20 seconds West, 35.73 feet to a point marked by an iron pin set; thence North 62 degrees 35 minutes 18 seconds East, a distance of 406.52 feet to a point marked by an iron pin set; thence South 27 degrees 24 minutes 42 seconds East, a distance of 565.21 feet to a point, which point is the POINT OF BEGINNING.

Being Lot Two per Boundary Survey dated January 29, 1999, last revised February 23, 1999, for National Build to Suit Chattahoochee 4365, 4375 and 4385, NationsBank, N.A., and Chicago Title Insurance Company, containing 5.988 acres of 261,264 square feet according to said Plat.

## Exhibit “C”

### Conditions of Approval

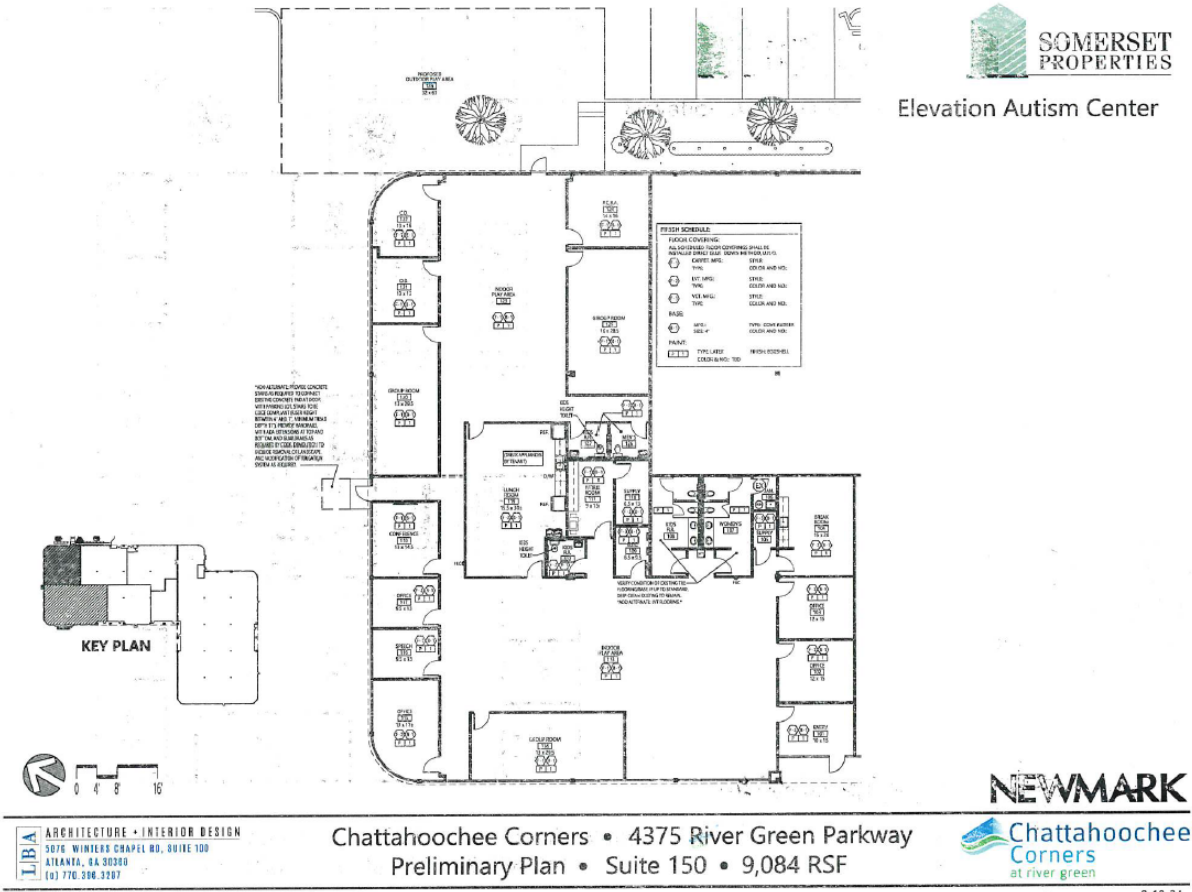
#### General

1. The Special Use (SU2024-005) is hereby approved for Elliston LLC dba Elevation Autism Center and their successors, for the operation of a private school/behavioral center. Notwithstanding, all Special Use applications shall be for firm proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. Therefore, an occupational tax certificate shall be obtained within three (3) months from the date of Special Use approval. The Special Use shall be revoked if no occupational tax certificate is obtained.

Once established:

- A. If the use changes, the Special Use is hereby terminated.
  - B. If the use is discontinued or abandoned for a period of ninety (90) days, regardless of the intent of the owner or occupier to resume the use, the Special Use is hereby terminated.
  - C. If the use is extended in any way, either on the same or adjoining property, the Special Use is terminated.
2. The approval of the special use allows Elliston LLC dba Elevation Autism Center and their successors to operate a private school/behavioral center. The approval does not, however, permit the deviation from the UDC as it relates to signage or lighting. Signage must follow Article 6, and includes but is not limited to Section 604. Any proposed lighting must be submitted for a lighting plan review to the Department of Community Development and Engineering.
  3. The property shall be maintained in a state of good repair at all times, free from any violations of the Property Maintenance Code; Unified Development Code; License and Business Regulations; Nuisance Codes, and any other codes adopted by the City of Duluth. Failure to maintain the property at or above the minimum standards adopted in the City of Duluth codes and ordinance shall be cause for revocation of the Special Use.
  4. The applicant shall submit a drop-off/pick-up circulation plan. Drop-off/pick-up lines shall not result in queuing or vehicular stacking in the right-of-way, on public streets or on any adjacent property. An updated circulation plan showing vehicular stacking contained wholly on site and off River Green Parkway shall be submitted to the Director of Community Development and Engineering prior to building occupancy.
  5. The school shall not create overflow parking that results in parents, visitors, or staff parking in the right-of-way, on public streets or on any adjacent property without a shared parking agreement with the adjacent property owner and/or landlord.
  6. The privilege of a Special Use is subject to all conditions that have been attached to it.

Exhibit "D"  
Site Plan





**Exhibit “E”****Applicant’s Response to the Standards Governing Special Use Consideration****A. How the proposed special use will allow a use that is suitable in view of the use and development of adjacent and nearby property.**

The proposed use as a private preschool specializing in services for children with autism is consistent with the developmental and educational character of the surrounding area. The property is currently zoned for light industrial use, and our program integrates seamlessly into this environment by providing specialized therapy in a structured preschool setting. The school’s operations resemble other educational or professional office settings, with controlled hours, predictable routines, and minimal disruption to adjacent tenants. Additionally, the requested small outdoor play area will be enclosed, closely supervised, and situated to minimize any impact on neighboring properties. Similar outdoor areas at our other locations in Alpharetta and Peachtree Corners have not presented any issues with adjacent tenants or community members.

**B. How the proposed special use will adversely affect the existing use or usability of adjacent or nearby property.**

The proposed use is designed to have minimal impact on adjacent properties. Traffic flow is carefully managed with staggered drop-off (8:30 and 9:00 am) and pick-up times (3:30 and 4:00 pm), which limits the number of cars on-site at any given time. The peak of our drop-off and pick-up schedules falls outside typical school hours for surrounding institutions, avoiding traffic congestion.

The small outdoor play area will be used exclusively during school hours, with children closely supervised to maintain a calm and orderly environment. Measures such as noise-dampening fencing and dedicated access points ensure minimal disturbance to adjacent tenants. Our business model prioritizes a structured, therapeutic setting, further reducing any potential disruption.

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

The property is zoned for light industrial use, which is compatible with our school’s operations. While traditional tenants could also occupy this space, our specialized pediatric preschool provides a unique community benefit by addressing a critical need for autism services. This specialized use offers a comparable economic return while fulfilling an unmet demand for therapeutic and developmental programs in the area.

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

The proposed use will not burden existing infrastructure. Daily operations involve a maximum of 40 car drop-offs and pick-ups, with staggered schedules that avoid peak traffic hours. This ensures a smooth flow of vehicles without congesting nearby streets or intersections.

The school does not rely on public utilities or school resources beyond standard usage, as all services and programs are self-contained within the property. Given the manageable scale of our operations and proactive traffic management, we anticipate no excessive or burdensome impacts on the city's transportation, utility, or school systems.

**E. Whether the proposed special use is in conformity with the policy and interest of the Comprehensive Plan; Land Use Plan; transportation plans and other plans adopted for guiding development within the City of Duluth.**

Our proposed use aligns with the City of Duluth's Comprehensive Plan by fostering diversity in educational options for the special needs population. By providing essential early intervention services for children with autism, we contribute to the city's commitment to inclusive community development.

The school's operations reflect the city's goals of responsible land use and managed growth. With minimal traffic and environmental impact, the preschool supports the strategic objectives of the Land Use Plan while addressing a critical social and medical need for specialized services.

**F. Whether there is other existing or changing conditions affecting the use and give grounds for either approval or disapproval of the special use.**

The increasing demand for specialized autism services represents a changing condition that supports approval of this special use. Duluth and the surrounding areas have seen a rise in the diagnosis of autism spectrum disorder, highlighting the need for early intervention programs that prioritize developmental milestones in a structured setting.

Approval of this special use permits the property to serve as a vital community resource, meeting these evolving needs while maintaining compatibility with the surrounding environment. The precedent set by similar operations in neighboring communities, where outdoor play areas and staggered schedules have operated seamlessly, reinforces the suitability of our proposal.

By approving this special use permit, the City of Duluth can enable a highly specialized program that addresses a pressing community need while ensuring harmony with adjacent properties and the broader policy goals of the city. Thank you for your thoughtful consideration of our application.

## Exhibit "F"

### Public Notice

**Public Notice Printed in Gwinnett Daily Post 12/10/2024**

GDP#9357  
9pm16  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a special use request from Elliston LLC, on approximately 5.98 acres of property in Land Lot 325, 4th District, Gwinnett County, located at 4375 River Green Parkway, consisting of tax parcel 6325-064, case number SU2024-005. The special use request is to operate a Pediatric Behavioral Therapy Office in the M-1 zoning district. The public is invited to attend this hearing before the Mayor and Council on the proposed special use. The meeting date, place and time regarding this matter are as follows:

WHEN:  
January 13, 2025 -  
6:30p.m.

WHERE:  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

PERSONS INTERESTED IN THIS MATTER are invited to review the proposed special use, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770) 476-1790.

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12:15, 2024



**CITY OF DULUTH**  
**Mayor and Council**  
Staff Report  
January 13, 2024

<b>CASE NUMBER:</b>	SU2024-005
<b>LOCATION:</b>	4375 River Green Parkway, Suite 150
<b>PARCEL(S):</b>	R6325 064
<b>CURRENT ZONING:</b>	M-1 (Light-Industrial District)
<b>PROPOSED ZONING:</b>	M-1 (Light-Industrial District) with Special Use
<b>ACREAGE:</b>	+/- 5.98 acres (Suite 150 – 9,084 sq ft).
<b>REQUEST:</b>	Approval of Special Use to allow a private school/behavioral center in M-1 (Light Industrial District) zoning.
<b>OWNER/APPLICANT:</b>	<i>Owner:</i> FWR Partners Owner, LLC 275 Commerce Drive, Suite 300 Ft. Washington, PA 19034  <i>Applicant:</i> Elliston LLC dba Elevation Autism Center 4279 Roswell Rd NE, Ste. 208-365 Atlanta, GA 30342

<b>STAFF RECOMMENDATION SU2024-005:</b>	<b>APPROVAL WITH CONDITIONS</b>
<b>PLANNING COMMISSION</b>	<b>APPROVAL WITH CONDITIONS</b>

## **I. PURPOSE AND DESCRIPTION OF THE REQUEST**

The purpose of this Special Use request (SU2024-005) is to allow a private school/behavioral center in M-1 (Light Industrial District).

Maps detailing the location, zoning district and character area of the subject property are attached hereto as Exhibit "A". The legal description of the subject property is attached hereto as Exhibit "B". Recommended conditions of approval are detailed in Exhibit "C".

## **II. EXISTING CONDITIONS**

The subject property totals +/- 5.98 acres. Suite 150 is 9,084 sq. ft. The subject property is surrounded by M-1 (Light Industrial District) zoning except for a little sliver of C-2 (General Business District) at the southeast corner.

## **III. REVIEW OF THE REQUEST**

### **1. Literal Interpretation of the Unified Development Code (UDC)**

- A. Table 2-C of the UDC allows "Private Schools" in M-1 (Light-Industrial District) with Special Use approval.
- B. Section 1101.02 of the UDC states if a proposed use is not allowed by right under the existing zoning on a property, a request for an amendment to the Official Zoning Map (often called a "rezoning") must be approved prior to development, construction, or occupancy.
- C. Section 1105 of the UDC establishes the Special Use Considerations.

The Special Use is designed to apply under any one of the following circumstances:

- 1. A Special Use listed under the zoning district is desired for development and a more intensive zoning district containing that use, as a use by right would not be appropriate for the property; or
- 2. A Special Use listed under the zoning district is desired for development and no zoning district contains that use as a use by right; or
- 3. A unique use not addressed in any zoning district is desired for development and is not likely to be duplicated within the City of Duluth; or
- 4. The density of development may be affected by the height of a building; or
- 5. The neighboring properties may be affected by the height of any structure; or
- 6. The Special Use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood and would not be in conflict with the overall objective of the Comprehensive Plan.

In order to accommodate these particular uses, Special Use approval allows the City Council to approve such a use on a particular parcel without changing the general zoning district.

Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility of the Special Use with the surrounding properties. All Special Use applications shall be for firm development proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. A Special Use application shall be considered only if the application is made by the owner of the property or by his/her authorized agent. The minimum requirements for a Special Use approval are:

1. Any uses allowed under Special Use approval shall also conform to the requirements of this Development Code for all uses as found in the zoning district.
2. The application and review process for a Special Use shall be the same as for the zoning district under which the Special Use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the Director in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood.
3. In the approval process for a Special Use approval application, the City Council shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic, storm drainage, land values and compatibility of land use activities.
4. If an application is approved and a Special Use approval is granted, all conditions that may have been attached to the approval are binding to the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions.
5. Changes to a Special Use or development of a site for the Special Use, shall be treated as an amendment to the Special Use Permit and shall be subject to the same application and review process as a new application.
6. An application for Special Use approval in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
  - a. The Special Use shall operate within the dwelling on the property or, if approved by the City Council, in an accessory structure.
  - b. The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of a Special Use to the neighborhood, except for any accessory structure approved by the City Council.
7. The owner of the property approved for a Special Use may voluntarily request termination of the Special Use by notifying the Director in writing. The Director

shall notify the City Council through the Planning Commission of the voluntary termination. The approval of a Special Use for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the City Council to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the Special Use by the property owner.

8. The Community Development and Engineering Department shall have the right to periodically examine the operation of the specific use to determine compliance with the requirements and any conditions. If the Director determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten days to come into compliance. If after ten days the violations continue to exist, the Director shall forward a report to the City Council through the Planning Commission who may recommend that action be taken to remove the Special Use from the property.
9. Upon approval by the City Council, a Special Use shall be identified on the official zoning maps.
10. Upon approval by the City Council of a Special Use, the owner of the property shall be issued a notice from the Director that states the specific use permitted, the requirements of this Section and any conditions attached to the approval.
11. The Community Development and Engineering Department shall not issue a Certificate of Occupancy for the specific use unless all requirements and conditions of the Special Use approval have been fulfilled by the owner of the property.

## **2. Standards Governing the Exercise of Zoning Power**

Section 1104.02 of the UDC establishes the standards governing the exercise of zoning power. The following standards are relevant in balancing the interest and promoting the public health, safety, morality, and general welfare against the right to the unrestricted use of property:

- A. How the proposed Special Use will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- B. How the proposed Special Use will adversely affect the existing use or usability of adjacent or nearby property.
- C. Whether the property to be affected by a proposed Special Use has a reasonable economic use as currently zoned.
- D. Whether the proposed Special Use will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- E. Whether the proposed Special Use is in conformity with the policy and interest of the Comprehensive Plan; Land Use Plan; transportation plans and other plans

adopted for guiding development within the City of Duluth.

- F. Whether there are other existing or changing conditions affecting the use and give grounds for either approval or disapproval of the Special Use.

The Applicant has provided written responses to the above Special Use standards as part of the application. That document is attached hereto as Exhibit “D”.

### **3. Literal Interpretation of FORWARDuluth, Plan 2045 (Comprehensive Plan)**

The subject property is located in the River Green Employment District.

FORWARDuluth envisions this Character Area to serve as the economic engine for the city, serving as a major regional distribution and office hub. The Future Land Use Map (FLUM) envisions the uses to be commercial/retail/office.

## **IV. PLANNING STAFF REVIEW**

Elevation Autism Center operates out of Alpharetta, and Norcross. Currently, they are proposing locations in Kennesaw and now Duluth. While Elevation Autism Center does operate one-on-one therapy, they also have an early learners’ program from 8:30 am – 3:30 pm everyday. They have a maximum of 40 students. They also utilize 1-to-1 supervision and teaching for the children that are enrolled, meaning there could be up to 80-85 people on site at one time.

Rivergreen Business Park, though zoned M-1 (Light Industrial District), has continued to evolve through the Special Use process. Last year (2023), Mayor and Council approved YHale (a private Charter School), New Life (Gwinnett County Charter School) and an Event Facility. In total, there are currently 8 (eight) conditional uses or special uses. In addition, there is a consulate and Scott Hudgens Park.

Staff finds that this particular use would not be a detriment to the light-industrial nature of Rivergreen. There is a concern about traffic flow within Rivergreen Parkway, however, the applicant has proposed having a staggered drop-off (8:30 am and 9:30 am) and pick-up (3:30 and 4:00 pm). The drop-off time for YHale begins at 8:00 am and students must arrive no later than 8:25 am. New Life begins carpool at 7:30 am and school begins at 8:00 am. Afternoon carpool ends at 3:30. While there is a little overlap in times, staff finds that this staggering approach will help alleviate any potential increase in traffic.

## **V. RECOMMENDATION**

Staff recommends **Approval with Conditions** of case SU2024-005. Planning Commission recommends Approval with Conditions. The Conditions of Approval are attached hereto as Exhibit “C”.

**ATTACHMENTS:**

Exhibit "A": Maps

Exhibit "B": Legal Description

Exhibit "C": Conditions of Approval

Exhibit "D": Applicant's Responses to the Standards Governing Special Use Consideration

Exhibit "E": Site Plan

Exhibit "F": Public Hearing Advertisement/Public Notice

Exhibit “A”  
Maps

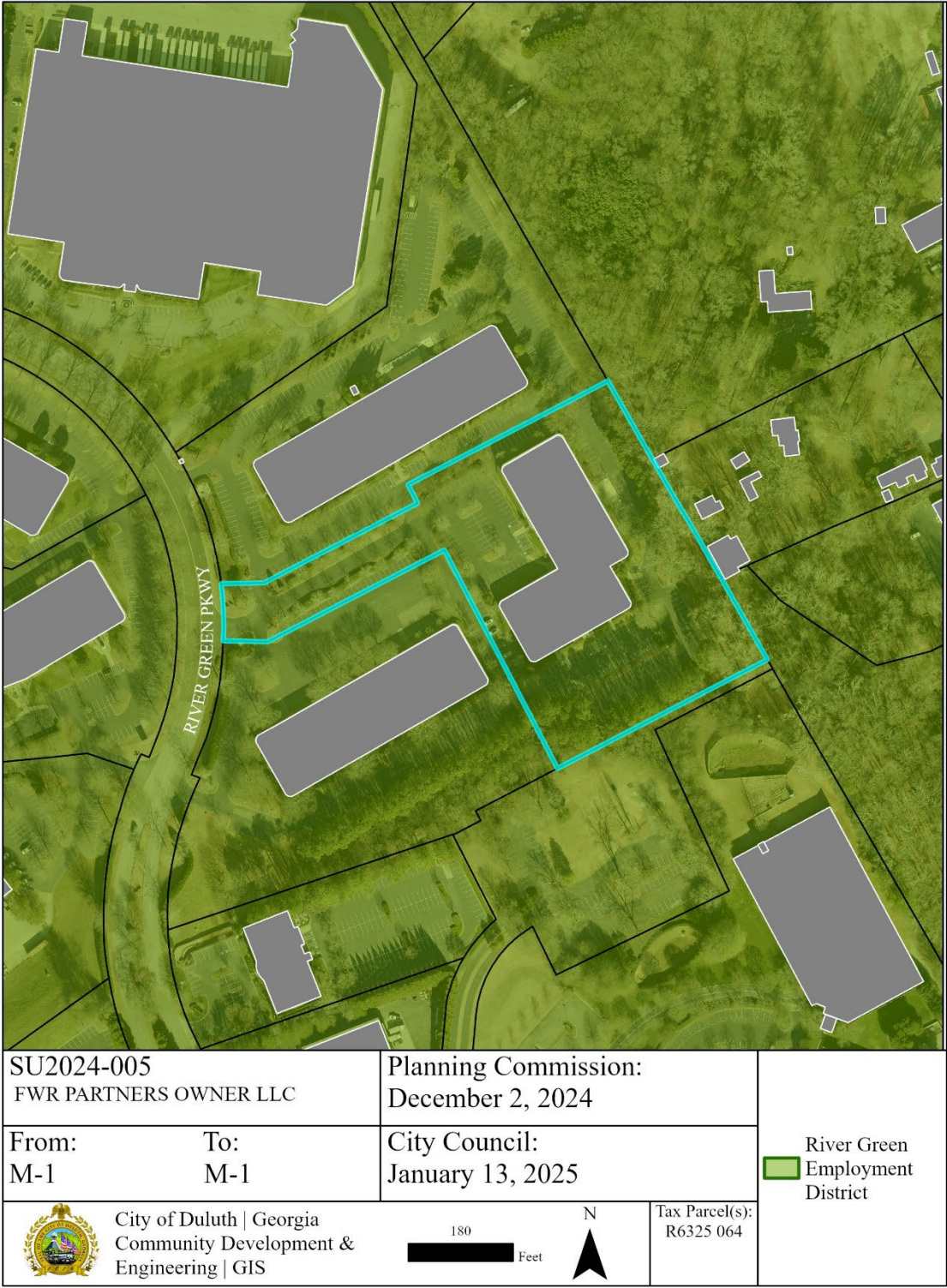
Location Map



Zoning Map



Character Map



**Exhibit "B"**  
**Legal Description**

4375 River Green Parkway  
PARCEL 4

All that tract or parcel of land lying and being in Land Lot 325 of the 6<sup>th</sup> District of Gwinnett County, City of Duluth, Georgia, and being more particularly described as follows:

To find the POINT OF BEGINNING, commence at a concrete monument found at the intersection of the Northwesternly Right-of-Way line of Peachtree Industrial Boulevard (having a 150 foot Right-of-Way) and the land lot line common to Land Lots 324 and 325; thence departing the said Right-of-Way line of Peachtree Industrial Boulevard and running along the land lot line common to Land Lots 324 and 325, North 27 degrees 28 minutes 42 seconds West, a distance of 988.92 feet to a point marked by an iron pin found (1/2 inch rebar), which point is the POINT OF BEGINNING, from the point of beginning, as established, thence leaving the aforesaid land lot line common to Land Lots 324 and 325, South 65 degrees 18 minutes 06 seconds West, a distance of 407.04 feet to a point marked by an iron pin set; thence North 27 degrees 24 minutes 20 seconds West, a distance of 420.71 feet to a point; thence South 62 degrees 35 minutes 18 seconds West, a distance of 342.06 feet to a point marked by an iron pin set; thence South 88 degrees 49 minutes 15 seconds West, a distance of 72.13 feet to a point marked by an iron pin set on the Eastern margin of the Right-of-Way of River Green Parkway (having an 80 foot Right-of-Way); thence along the aforesaid margin of the Right-of-Way of River Green Parkway and following the curvature thereof along the arc of curve, an arc distance of 100.32 feet to a point marked by an iron pin set (said arc being subtended by a chord lying to the West of the arc having a chord bearing of North 02 degrees 25 minutes 56 seconds East and a chord distance of 100.20 feet), said arc having radius of 590.00 feet; thence leaving the aforesaid Right-of-Way of River Green Parkway, North 88 degrees 49 minutes 15 seconds East, a distance of 66.27 feet to a point marked by an iron pin set; thence North 62 degrees 35 minutes 18 seconds East, a distance of 297.46 feet to a point marked by an iron pin set; thence North 27 degrees 24 minutes 20 seconds West, 35.73 feet to a point marked by an iron pin set; thence North 62 degrees 35 minutes 18 seconds East, a distance of 406.52 feet to a point marked by an iron pin set; thence South 27 degrees 24 minutes 42 seconds East, a distance of 565.21 feet to a point, which point is the POINT OF BEGINNING.

Being Lot Two per Boundary Survey dated January 29, 1999, last revised February 23, 1999, for National Build to Suit Chattahoochee 4365, 4375 and 4385, NationsBank, N.A., and Chicago Title Insurance Company, containing 5.988 acres of 261,264 square feet according to said Plat.

**Exhibit "C"**  
**Conditions of Approval**

**General**

1. The Special Use (SU2024-005) is hereby approved for Elliston LLC dba Elevation Autism Center and their successors, for the operation of a private school/behavioral center. Notwithstanding, all Special Use applications shall be for firm proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. Therefore, an occupational tax certificate shall be obtained within three (3) months from the date of Special Use approval. The Special Use shall be revoked if no occupational tax certificate is obtained.

Once established:

- A. If the use changes, the Special Use is hereby terminated.
  - B. If the use is discontinued or abandoned for a period of ninety (90) days, regardless of the intent of the owner or occupier to resume the use, the Special Use is hereby terminated.
  - C. If the use is extended in any way, either on the same or adjoining property, the Special Use is terminated.
2. The approval of the special use allows Elliston LLC dba Elevation Autism Center and their successors to operate a private school/behavioral center. The approval does not, however, permit the deviation from the UDC as it relates to signage or lighting. Signage must follow Article 6, and includes but is not limited to Section 604. Any proposed lighting must be submitted for a lighting plan review to the Department of Community Development and Engineering.
  3. The property shall be maintained in a state of good repair at all times, free from any violations of the Property Maintenance Code; Unified Development Code; License and Business Regulations; Nuisance Codes, and any other codes adopted by the City of Duluth. Failure to maintain the property at or above the minimum standards adopted in the City of Duluth codes and ordinance shall be cause for revocation of the Special Use.
  4. The applicant shall submit a drop-off/pick-up circulation plan. Drop-off/pick-up lines shall not result in queuing or vehicular stacking in the right-of-way, on public streets or on any adjacent property. An updated circulation plan showing vehicular stacking contained wholly on site and off River Green Parkway shall be submitted to the Director of Community Development and Engineering prior to building occupancy.
  5. The school shall not create overflow parking that results in parents, visitors, or staff parking in the right-of-way, on public streets or on any adjacent property without a shared parking agreement with the adjacent property owner and/or landlord.
  6. The privilege of a Special Use is subject to all conditions that have been attached to it.

**Exhibit “D”**  
**Applicant’s Response to the Standards Governing Special Use Consideration**

**A. How the proposed special use will allow a use that is suitable in view of the use and development of adjacent and nearby property.**

The proposed use as a private preschool specializing in services for children with autism is consistent with the developmental and educational character of the surrounding area. The property is currently zoned for light industrial use, and our program integrates seamlessly into this environment by providing specialized therapy in a structured preschool setting. The school’s operations resemble other educational or professional office settings, with controlled hours, predictable routines, and minimal disruption to adjacent tenants. Additionally, the requested small outdoor play area will be enclosed, closely supervised, and situated to minimize any impact on neighboring properties. Similar outdoor areas at our other locations in Alpharetta and Peachtree Corners have not presented any issues with adjacent tenants or community members.

**B. How the proposed special use will adversely affect the existing use or usability of adjacent or nearby property.**

The proposed use is designed to have minimal impact on adjacent properties. Traffic flow is carefully managed with staggered drop-off (8:30 and 9:00 am) and pick-up times (3:30 and 4:00 pm), which limits the number of cars on-site at any given time. The peak of our drop-off and pick-up schedules falls outside typical school hours for surrounding institutions, avoiding traffic congestion.

The small outdoor play area will be used exclusively during school hours, with children closely supervised to maintain a calm and orderly environment. Measures such as noise-dampening fencing and dedicated access points ensure minimal disturbance to adjacent tenants. Our business model prioritizes a structured, therapeutic setting, further reducing any potential disruption.

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

The property is zoned for light industrial use, which is compatible with our school’s operations. While traditional tenants could also occupy this space, our specialized pediatric preschool provides a unique community benefit by addressing a critical need for autism services. This specialized use offers a comparable economic return while fulfilling an unmet demand for therapeutic and developmental programs in the area.

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

The proposed use will not burden existing infrastructure. Daily operations involve a maximum of 40 car drop-offs and pick-ups, with staggered schedules that avoid peak traffic hours. This ensures a smooth flow of vehicles without congesting nearby streets or intersections.

The school does not rely on public utilities or school resources beyond standard usage, as all services and programs are self-contained within the property. Given the manageable scale of our operations and proactive traffic management, we anticipate no excessive or burdensome impacts on the city’s transportation, utility, or school systems.

**E. Whether the proposed special use is in conformity with the policy and interest of the Comprehensive Plan; Land Use Plan; transportation plans and other plans adopted for guiding development within the City of Duluth.**

Our proposed use aligns with the City of Duluth's Comprehensive Plan by fostering diversity in educational options for the special needs population. By providing essential early intervention services for children with autism, we contribute to the city's commitment to inclusive community development.

The school's operations reflect the city's goals of responsible land use and managed growth. With minimal traffic and environmental impact, the preschool supports the strategic objectives of the Land Use Plan while addressing a critical social and medical need for specialized services.

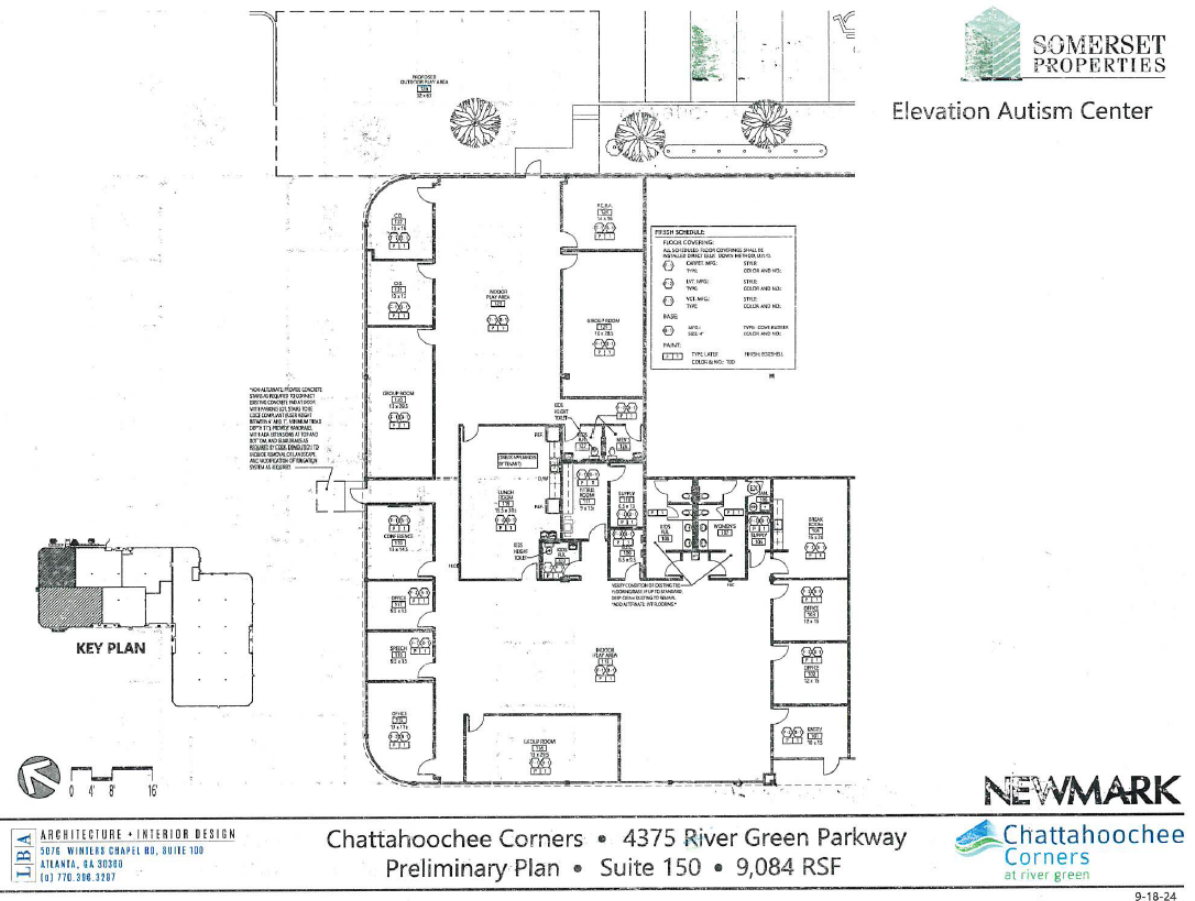
**F. Whether there is other existing or changing conditions affecting the use and give grounds for either approval or disapproval of the special use.**

The increasing demand for specialized autism services represents a changing condition that supports approval of this special use. Duluth and the surrounding areas have seen a rise in the diagnosis of autism spectrum disorder, highlighting the need for early intervention programs that prioritize developmental milestones in a structured setting.

Approval of this special use permits the property to serve as a vital community resource, meeting these evolving needs while maintaining compatibility with the surrounding environment. The precedent set by similar operations in neighboring communities, where outdoor play areas and staggered schedules have operated seamlessly, reinforces the suitability of our proposal.

By approving this special use permit, the City of Duluth can enable a highly specialized program that addresses a pressing community need while ensuring harmony with adjacent properties and the broader policy goals of the city. Thank you for your thoughtful consideration of our application.

## Exhibit “E” Site Plan





## Exhibit "F"

### Public Notice

**Public Notice Printed in Gwinnett Daily Post 12/10/2024**

**GDP#357  
gpn16  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a special use request from Elliston LLC, on approximately 5.98 acres of property in Land Lot 325, 6th District, Gwinnett County, located at 4375 River Green Parkway, consisting of tax parcel 6325-066, case number SU2024-005. The special use request is to operate a Pediatric Behavioral Therapy Office in the M-1 zoning district. The public is invited to attend this hearing before the Mayor and Council on the proposed special use. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 -  
6:00p.m.

**WHERE:**  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the proposed special use, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time, and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770)476-1790.

\*\*\*\*\*

In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:15,2024



**ORDINANCE OF REZONING  
02025-06  
CITY OF DULUTH**

**AN ORDINANCE GRANTING SPECIAL USE APPROVAL TO OPERATE A SHORT-TERM RENTAL IN R-100 (SINGLE-FAMILY RESIDENTIAL DISTRICT) LOCATED ON A ± .73 ACRE PROPERTY IN LAND LOT 201 OF THE 7TH DISTRICT, GWINNETT COUNTY CONSISTING OF TAX PARCEL R7201 167 ADDRESSED AS 2666 PEACHTREE WALK, DULUTH, GEORGIA 30096. THE PROPERTY, GENERALLY KNOWN AS “2666 PEACHTREE WALK”, IS LEGALLY DESCRIBED ON THE ATTACHED EXHIBIT “B”. THE ORDINANCE PROVIDES FOR FINDINGS, ESTABLISHES CONDITIONS OF APPROVAL AS SHOWN ON ATTACHED EXHIBIT “C”, PROVIDES FOR SEVERABILITY, REPEALS CONFLICTING ORDINANCES, ESTABLISHES AN EFFECTIVE DATE, AND IS FOR ALL OTHER LAWFUL PURPOSES.**

**WHEREAS**, the applicant, The Real Camillionaire/Sarah Ward has filed a complete application (SU2024-006) with the City of Duluth seeking Special Use approval to operate a Short-Term Rental in R-100 (Single-Family Residential District); and

**WHEREAS**, per Article 11 of the Duluth Unified Development Code, a Special Use must be approved by the Governing Body; and

**WHEREAS**, the City of Duluth Planning Commission held a public hearing at the meeting of December 2, 2024, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding the application. At the December 2, 2024 meeting, the Planning Commission recommended denial with a 4-1 vote as is set forth in the minutes of said meeting; and

**WHEREAS**, the City Council held a public hearing at the meeting of January 13, 2025, duly noticed as prescribed by law and published in the Gwinnett Daily Post, regarding said application, as shall be set forth in the minutes of said meeting.

**NOW THEREFORE**, the City Council of the City of Duluth hereby ordains that the City of Duluth Unified Development Code is hereby amended as follows:

**SECTION 1. FINDINGS.**

Pursuant to Article 11 of the Duluth Unified Development Code, the City Council finds that it is appropriate to grant special use approval to the property, for the following reasons:

- A. The special use is suitable given the use and development of adjacent and nearby properties.
- B. The proposed special use is not anticipated to adversely affect the existing use or usability of adjoining or nearby properties.
- C. The proposed special use is not anticipated to cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- D. The Future Land-Use and Development section and supporting Character Area Map of

FORWARDuluth (also known as the Comprehensive Plan, 2045) identifies the Character Area of this property as the Established Neighborhood Character Area. Special Use approval to operate a Short-Term Rental in R-100 (Single-Family Residential District) is consistent with the spirit and intent of the Comprehensive Plan.

## **SECTION 2. LEGAL DESCRIPTION.**

The property that is subject to this ordinance consists of  $\pm 0.73$  acres and is legally described on Exhibit “B”, attached hereto. Said Exhibit is incorporated by reference as if fully set forth herein.

## **SECTION 3. SEVERABILITY.**

Should any section or provision of this Ordinance or any Ordinance pertaining to the companion applications as identified above be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

## **SECTION 4. EFFECTIVE DATE.**

The effective date of this Ordinance shall be upon approval by the City Council of the City of Duluth, Georgia.

## **SECTION 5. REPEALER.**

All conflicting ordinances and conditions are hereby repealed and replaced with the conditions of approval set forth in this Ordinance 02025-06.

**ATTACHMENTS:**

Exhibit “A”: Maps

Exhibit “B”: Legal Description

Exhibit “C”: Conditions of Approval

Exhibit “D”: Applicant’s Responses to the Standards Governing Special Use Consideration

Exhibit “E”: Public Notice

{Signatures on the following page}

IT IS SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

Those councilmembers voting in favor:

\_\_\_\_\_  
Mayor Greg Whitlock

\_\_\_\_\_  
Charles Jamin Harkness, Post 1

\_\_\_\_\_  
Marline Thomas, Post 2

\_\_\_\_\_  
Kenneth Lamar Doss, Post 3

\_\_\_\_\_  
Manfred Graeder, Post 4

\_\_\_\_\_  
Shenée Johnson Holloway, Post 5

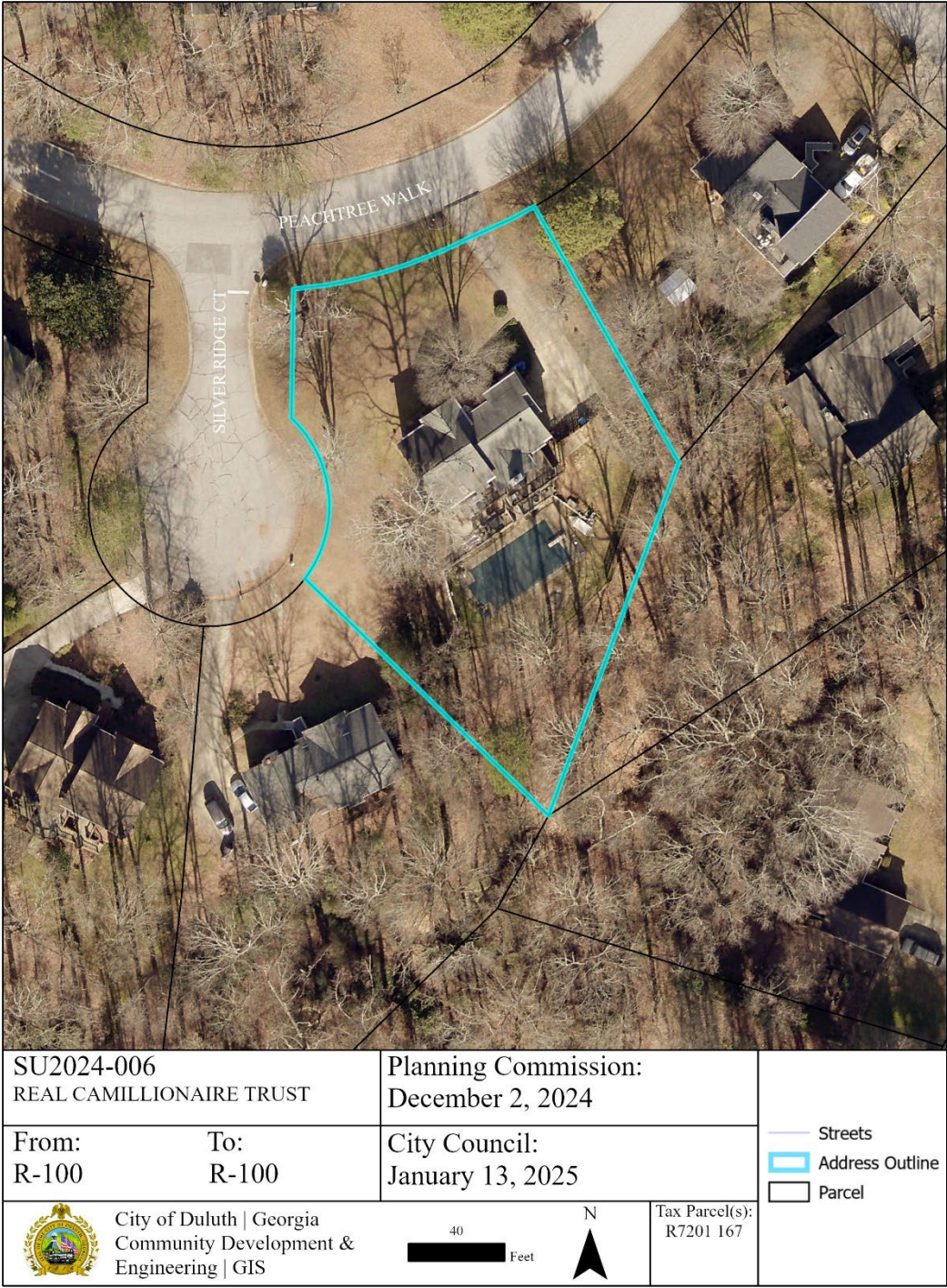
Those councilmembers voting in opposition:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

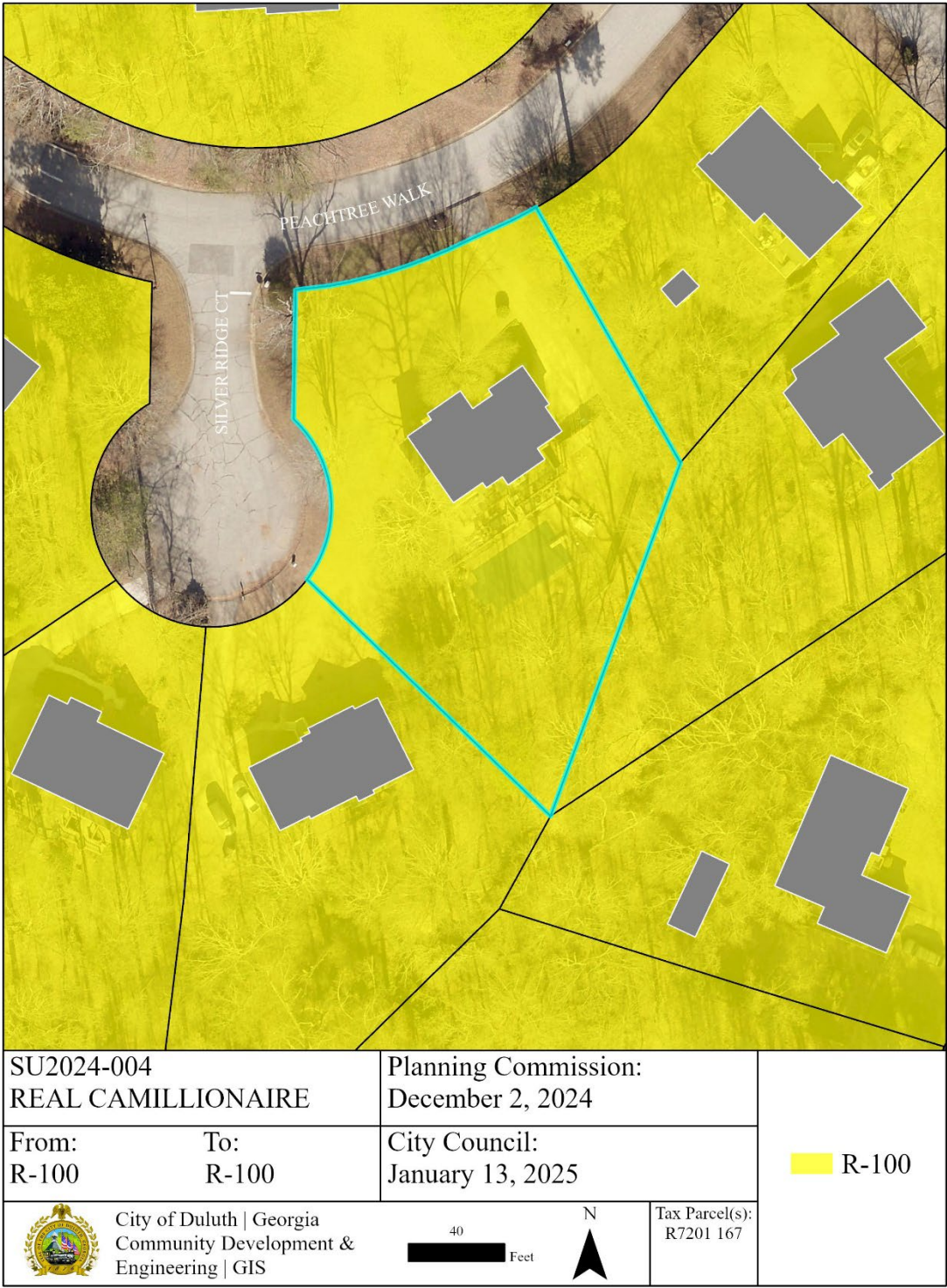
ATTEST: \_\_\_\_\_  
Teresa Lynn, Asst. City Mgr/City Clerk

**Exhibit “A”  
Maps**

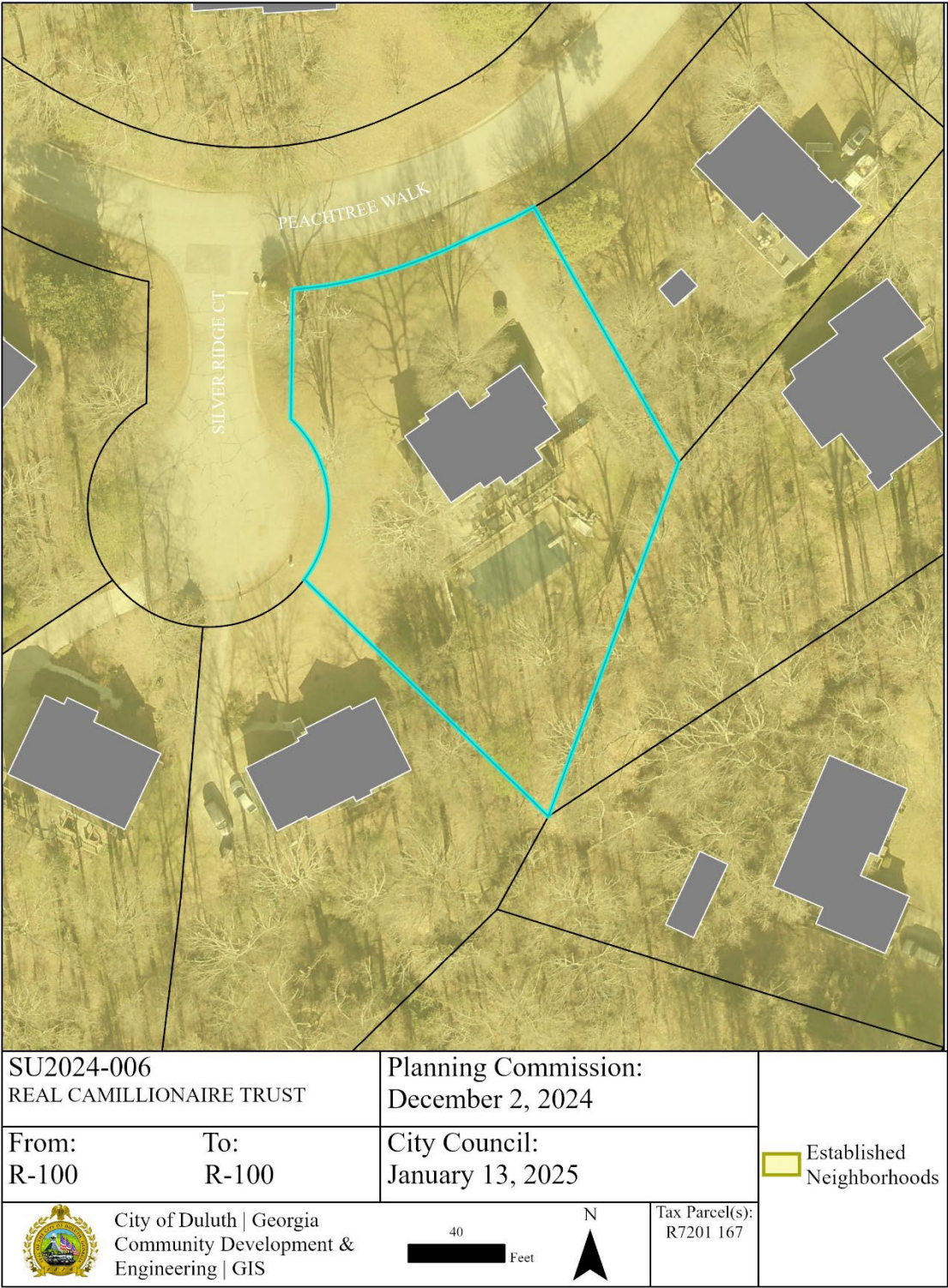
**Location Map**



Zoning Map



Character Area Map



**Exhibit "B"**  
**Legal Description**

**ALL THAT TRACT** or parcel of land lying and being in Land Lot 201 of the 7<sup>th</sup> District, Gwinnett County, Georgia and being Lot 14, Block C, Unit 1 of Peachtree Walk Subdivision, as pwer plat recorded in Plat Book 25, Page 124, Gwinnett County, Georgia Records, which plat is incorporated herein and made a part hereof by reference.

**Exhibit “C”****Conditions of Approval****General**

1. The Special Use (SU2024-006) is hereby approved for Sarah Ward, and their successors, for the operation of a Short-Term Rental. Notwithstanding, all Special Use applications shall be for firm proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. Therefore, an occupational tax certificate shall be obtained within three (3) months from the date of Special Use approval. The Special Use shall be revoked if no occupational tax certificate is obtained.

Once established:

- A. If the use changes, the Special Use is hereby terminated.
  - B. If the use is discontinued or abandoned for a period of ninety (90) days, regardless of the intent of the owner or occupier to resume the use, the Special Use is hereby terminated.
  - C. If the use is extended in any way, either on the same or adjoining property, the Special Use is terminated.
2. The approval of the special use allows Sarah Ward and their successors to operate a Short-Term Rental. The approval does not, however, permit the deviation from the UDC. Section 344. Short Term Rental.
  3. The property shall be maintained in a state of good repair at all times, free from any violations of the Property Maintenance Code; Unified Development Code; License and Business Regulations; Nuisance Codes, and any other codes adopted by the City of Duluth. Failure to maintain the property at or above the minimum standards adopted in the City of Duluth codes and ordinance shall be cause for revocation of the Special Use.
  4. The privilege of a Special Use is subject to all conditions that have been attached to it. It is within the City's rights to take legal action if it is proven that the conditions of the Special Use have been violated.

## Exhibit “E”

### Applicant’s Response to the Standards Governing Special Use Consideration

To whom it does concern,

I begin by thanking you for taking the time to review this special use permit request and application. I would also like to assure you that my values and interests as a homeowner in the county of Gwinnett and the city of Duluth are fully in line with the interests of keeping our community a beautiful place to live, without encumbrances on the public health, safety, morality or general welfare of the people here in.

I currently reside full-time at the subject property, 2666 Peachtree Walk, Duluth, GA 30096. I’m a single mother and my 3 year old son is with me in residence 75% of the time. I am employed full time as a real estate recruiter with Century 21 Connect Realty, and hold an active real estate license as well. To assist in the financial burdens of being a single mom, I often rent out the lowest portion of my home to traveling nurses, who have contracts with local hospitals, sign legally binding leases, and stay 60 to 90 days on average. This area is connected to my home but is separated by a stairway and a door with locks, and has a separate entrance as well. It is considered a guest suite, as it has a living room, bathroom, bedroom with closet and two windows, as well as a separate deck off the back. It is an ideal set up for traveling nurses, and is often rented. However, during the times when it is not rented, I would like the opportunity to allow short term renters to utilize the space. It is ideal for one to two guests, and during the short time it was listed on Airbnb, I received only 5 star reviews. See attached. The nature of the Airbnb community focuses on both guest and host having a good experience and holding both sides to a standard of acceptable conduct. The guest rates the host, but the hosts also rate the guests, and because of the rating system, the guests are encouraged to abide by the house rules, be clean, orderly and respectful, and hopefully receive a recommendation to be accepted as a guest in the future.

In answer to the first standard - Given the fact that I restrict the number of guests to two, require specific approval from me of their request to stay, as well as implement house rules regarding parking, noise, quiet times, check in and out times, and more, I believe this special use is fully suitable in view of the use and development of nearby and adjacent properties.

In answer to the second standard - Citing the above information, and adding that parking is only allowed in my driveway and/ or garage, as well as that the property is inhabited by myself full time, and therefore must remain a livable space for myself and my son; an occasional addition of one to two people would essentially equate to the same experience as having an overnight guest, and should in no way adversely impact the existing use or usability of adjacent or nearby properties.

In answer to the third standard – I do believe the current zoning does not restrict my ability to have traveling nurses stay as tenants in the described space, as long as the lease is in excess of 28 days and therefore does exhibit a reasonable economic use for myself.

In answer to the fourth standard – I cannot imagine an instance where having one to two (paying) guests for a few nights at a time, in my personal residence, would contribute to an excessive or burdensome use of the existing streets, transportation facilities, utilities, or schools.

In answer to the fifth standard – I believe I have done an excellent job in explaining all of the reasons why my intention for implementation of the special use permit is fully in line with the policies and interests of the comprehensive plan; land use plan; transportation plans; and all

other plans adopted for the guiding development within the city of Duluth. My intention is in no way to disrupt the flow of our community or the peaceful enjoyment of my neighbors. In addition, I have sought approval specifically from all adjoining properties in addition to notifying them through the US Postal Service. I have had personal conversations with each of them and have been assured that my desired use of my home in no way disturbs or disrupts their right to quiet enjoyment.

In answer to the sixth standard – I have no knowledge of any existing or changing conditions that would affect the use as requested in any way either positive or negative. Based on all of the information I have provided, I am requesting an approval of the special use permit.

Thank you for your time and consideration.

Sarah Camille Ward

## Exhibit "F"

### Public Notice

**Public Notice Printed in Gwinnett Daily Post 12/10/2024**

**GDP9358  
gpn16  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a special use request from Sarah Ward, on approximately 0.73 acres of property in Land Lot 201, 7th District, Gwinnett County, located at 2666 Peachtree Walk, consisting of tax parcel 7201-167, case number SU2024-006. The special use request is to operate a Short-Term Rental in the R-100 zoning District. The public is invited to attend this hearing before the Mayor and Council on the proposed special use. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 -  
6:00p.m.

**WHERE:**  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the proposed special use, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning  
Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770)476-1790.

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In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:15,2024



**CITY OF DULUTH**  
**Mayor and Council**  
Staff Report  
January 13, 2025

<b>CASE NUMBER:</b>	SU2024-006
<b>LOCATION:</b>	2666 Peachtree Walk
<b>PARCEL(S):</b>	R7201 167
<b>CURRENT ZONING:</b>	R-100 (Single-Family Residential District)
<b>PROPOSED ZONING:</b>	R-100 (Single-Family Residential District) with Special Use
<b>ACREAGE:</b>	+/- 0.73 acres
<b>REQUEST:</b>	Approval of Special Use to allow a Short-Term Rental as a Special Use in R-100 (Single-Family Residential District).
<b>OWNER/APPLICANT:</b>	<i>Owner:</i> The Real Camillionaire Trust/Sarah Ward 2666 Peachtree Walk Duluth, GA 30096  <i>Applicant:</i> The Real Camillionaire Trust/Sarah Ward 2666 Peachtree Walk Duluth, GA 30096

<b>STAFF RECOMMENDATION SU2024-006:</b>	<b>APPROVAL WITH CONDITIONS</b>
<b>PLANNING COMMISSION RECOMMENDATION:</b>	<b>DENIAL (4-1)</b>

## **I. PURPOSE AND DESCRIPTION OF THE REQUEST**

The purpose of this Special Use request (SU2024-006) is to allow a Short-Term rental as a Special Use in R-100 (Single-Family Residential District).

Maps detailing the location, zoning district and character area of the subject property are attached hereto as Exhibit "A". The legal description of the subject property is attached hereto as Exhibit "B". Recommended conditions of approval are detailed in Exhibit "C".

## **II. EXISTING CONDITIONS**

The subject property totals +/- 0.73 acres. The applicant is proposing to rent out one of the rooms of the single-family detached house for a short-term rental. The subject property is fully surrounded by R-100 (Single-Family Residential District) zoning.

## **III. REVIEW OF THE REQUEST**

### **1. Literal Interpretation of the Unified Development Code (UDC)**

- A. Table 2-C of the UDC allows "other transient lodging", which includes short-term rentals in R-100 zoning district as a special use.
- B. Section 1101.02 of the UDC states if a proposed use is not allowed by right under the existing zoning on a property, a request for an amendment to the Official Zoning Map (often called a "rezoning") must be approved prior to development, construction, or occupancy.
- C. Section 1105 of the UDC establishes the Special Use Considerations.

The Special Use is designed to apply under any one of the following circumstances:

- 1. A Special Use listed under the zoning district is desired for development and a more intensive zoning district containing that use, as a use by right would not be appropriate for the property; or
- 2. A Special Use listed under the zoning district is desired for development and no zoning district contains that use as a use by right; or
- 3. A unique use not addressed in any zoning district is desired for development and is not likely to be duplicated within the City of Duluth; or
- 4. The density of development may be affected by the height of a building; or
- 5. The neighboring properties may be affected by the height of any structure; or
- 6. The Special Use would be consistent with the needs of the neighborhood or the community as a whole, be compatible with the neighborhood and would not be in conflict with the overall objective of the Comprehensive Plan.

In order to accommodate these particular uses, Special Use approval allows the City Council to approve such a use on a particular parcel without changing the general zoning district.

Such approval shall be subject to the requirements set forth below and any additional conditions deemed necessary to ensure the compatibility of the Special Use with the surrounding properties. All Special Use applications shall be for firm development proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. A Special Use application shall be considered only if the application is made by the owner of the property or by his/her authorized agent. The minimum requirements for a Special Use approval are:

1. Any uses allowed under Special Use approval shall also conform to the requirements of this Development Code for all uses as found in the zoning district.
2. The application and review process for a Special Use shall be the same as for the zoning district under which the Special Use is found. In addition to the information and/or site plans which are required to be submitted for the proposed development, additional information deemed necessary by the Director in order to evaluate a proposed use and its relationship to the surrounding area shall be submitted. In the review process, particular emphasis shall be given to the evaluation of the characteristics of the proposed use in relationship to its immediate neighborhood and the compatibility of the proposed use with its neighborhood.
3. In the approval process for a Special Use approval application, the City Council shall consider the policies and objectives of the Comprehensive Plan, particularly in relationship to the proposed site and surrounding area and shall consider the potential adverse impacts on the surrounding area, especially in regards but not limited to traffic, storm drainage, land values and compatibility of land use activities.
4. If an application is approved and a Special Use approval is granted, all conditions that may have been attached to the approval are binding to the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions.
5. Changes to a Special Use or development of a site for the Special Use, shall be treated as an amendment to the Special Use Permit and shall be subject to the same application and review process as a new application.
6. An application for Special Use approval in a residential district and which use is proposed to operate in a dwelling or as an accessory use to a dwelling is subject to the following additional requirements:
  - a. The Special Use shall operate within the dwelling on the property or, if approved by the City Council, in an accessory structure.
  - b. The exterior character of the dwelling shall be preserved in its residential state and there shall be no outside evidence of the operation of a Special Use to the neighborhood, except for any accessory structure approved by the City Council.
7. The owner of the property approved for a Special Use may voluntarily request termination of the Special Use by notifying the Director in writing. The Director

shall notify the City Council through the Planning Commission of the voluntary termination. The approval of a Special Use for a specific use which may be operated by a lessee under a private agreement with a lessor in any non-residential district shall not obligate the City Council to be responsible for or be required to resolve any disputes which may arise out of the voluntary termination of the Special Use by the property owner.

8. The Community Development and Engineering Department shall have the right to periodically examine the operation of the specific use to determine compliance with the requirements and any conditions. If the Director determines that the requirements and conditions are being violated, a written notice shall be issued to the owner of the property outlining the nature of the violation and giving the owner of the property a maximum of ten days to come into compliance. If after ten days the violations continue to exist, the Director shall forward a report to the City Council through the Planning Commission who may recommend that action be taken to remove the Special Use from the property.
9. Upon approval by the City Council, a Special Use shall be identified on the official zoning maps.
10. Upon approval by the City Council of a Special Use, the owner of the property shall be issued a notice from the Director that states the specific use permitted, the requirements of this Section and any conditions attached to the approval.
11. The Community Development and Engineering Department shall not issue a Certificate of Occupancy for the specific use unless all requirements and conditions of the Special Use approval have been fulfilled by the owner of the property.

## **2. Standards Governing the Exercise of Zoning Power**

Section 1104.02 of the UDC establishes the standards governing the exercise of zoning power. The following standards are relevant in balancing the interest and promoting the public health, safety, morality, and general welfare against the right to the unrestricted use of property:

- A. How the proposed Special Use will permit a use that is suitable in view of the use and development of adjacent and nearby property.
- B. How the proposed Special Use will adversely affect the existing use or usability of adjacent or nearby property.
- C. Whether the property to be affected by a proposed Special Use has a reasonable economic use as currently zoned.
- D. Whether the proposed Special Use will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
- E. Whether the proposed Special Use is in conformity with the policy and interest of the Comprehensive Plan; Land Use Plan; transportation plans and other plans

adopted for guiding development within the City of Duluth.

- F. Whether there are other existing or changing conditions affecting the use and give grounds for either approval or disapproval of the Special Use.

The Applicant has provided written responses to the above Special Use standards as part of the application. That document is attached hereto as Exhibit “D”.

### 3. **Literal Interpretation of FORWARDuluth, Plan 2045 (Comprehensive Plan)**

The subject property is located in the Established Neighborhoods Character Area. FORWARDuluth envisions this Character Area to serve as the “backbone” of Duluth’s residential community. The Future Land Use Map (FLUM) envisions the uses to be Low Density Residential.

## IV. **PLANNING STAFF REVIEW**

In Section 4 of the Special Use application, the applicant lays out her reasonings as to why she should be allowed to operate a short-term rental out of her home (see Exhibit “D”: Applicant’s Responses to the Standards Governing Special Use Consideration). She states that she “currently reside[s] full-time at the subject property, 2666 Peachtree Walk...” One of the key indicators that staff looks for when evaluating the appropriateness of a short-term rental is whether the short-term rental would cause a nuisance to the surrounding neighbors. When a home is owner-occupied, rules laid out by the homeowner are more likely to be followed. Noise, traffic frequency, on-street parking, etc. do not tend to be issues with owner-occupied short-term rentals.

Code enforcement staff has been directed to seek out illegal short-term rentals. On September 25, 2024 a Code Enforcement officer discovered a listing on Airbnb.com for a portion of the residence. On September 26, 2024 a notice of violation was sent to Ms. Ward via USPS certified and regular mail (as is protocol with notice of violations). Ms. Ward called on October 2, 2024 to say that she received the Notice of Violation. At that point, Ms. Ward asked about the Special Use Application process and provided that she rents a space in her home to traveling nurses for periods of 60-90 days (which constitutes long-term rental, a practice that is not enforceable by law in Georgia); however, she uses the short-term rental as a way to occupy the space in her house when she does not have any long-term renters.

Staff has determined that because the applicant lives in the home full-time and uses the short-term rental as a supplement to longer-term rentals she should be approved for the special use.

## V. **RECOMMENDATION**

Staff recommends **Approval with Conditions** of case SU2024-006. Planning Commission at their December 2, 2024 meeting recommended Denial with a 4-1 vote. The Conditions of Approval are attached hereto as Exhibit “C”.

**ATTACHMENTS:**

Exhibit "A": Maps

Exhibit "B": Legal Description

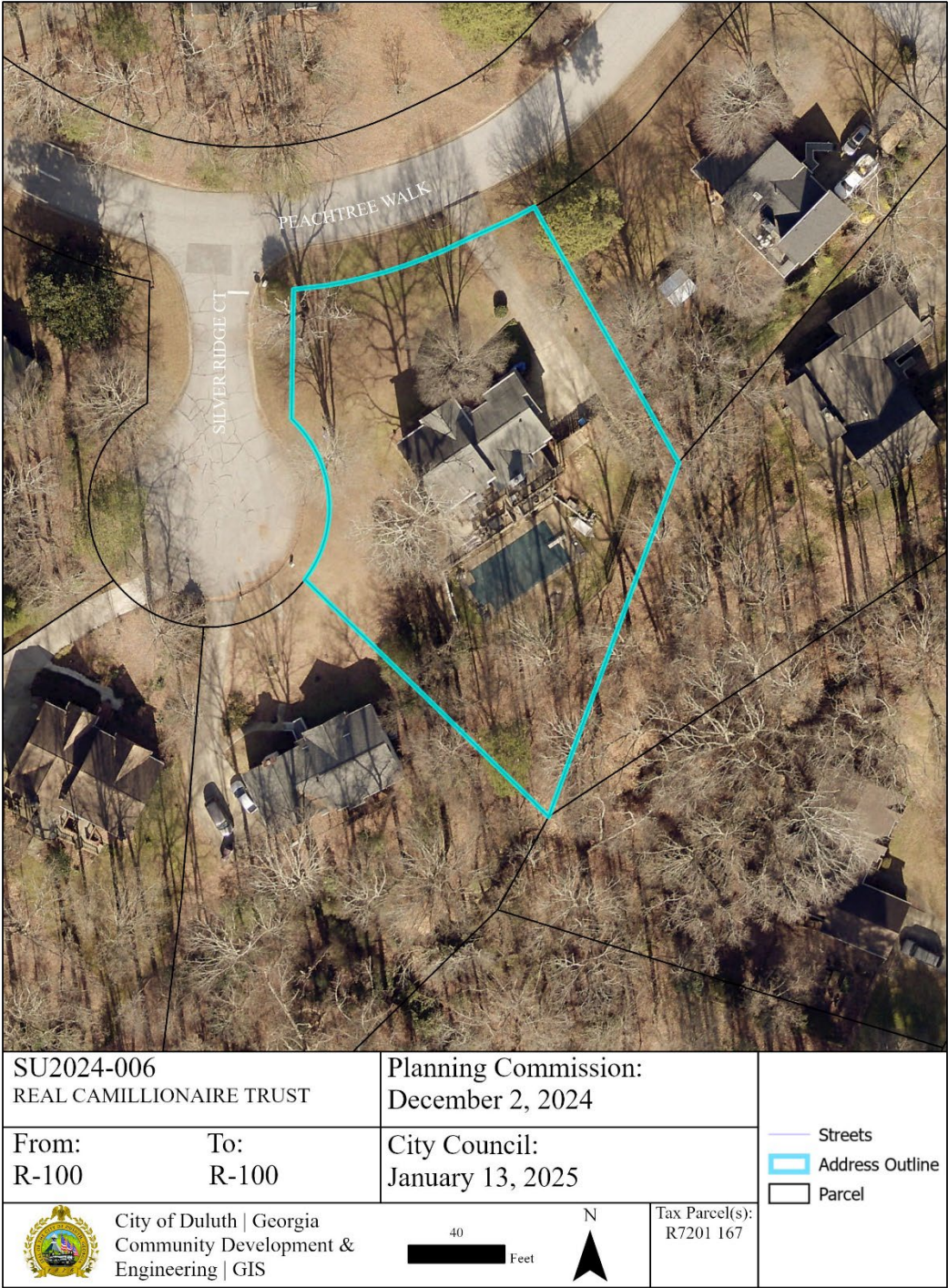
Exhibit "C": Conditions of Approval

Exhibit "D": Applicant's Responses to the Standards Governing Special Use Consideration

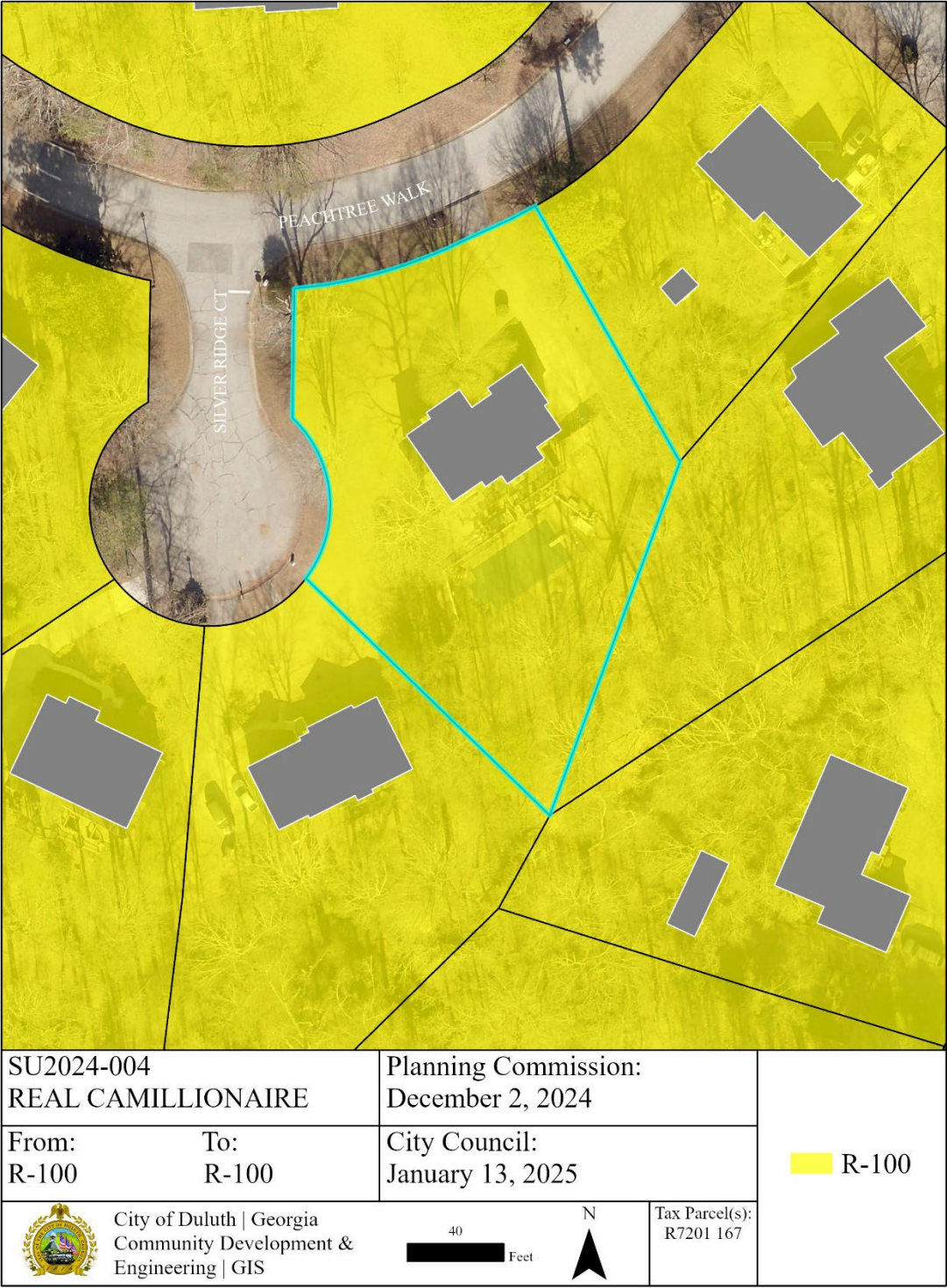
Exhibit "E": Public Hearing Advertisement/Public Notice

Exhibit “A”  
Maps

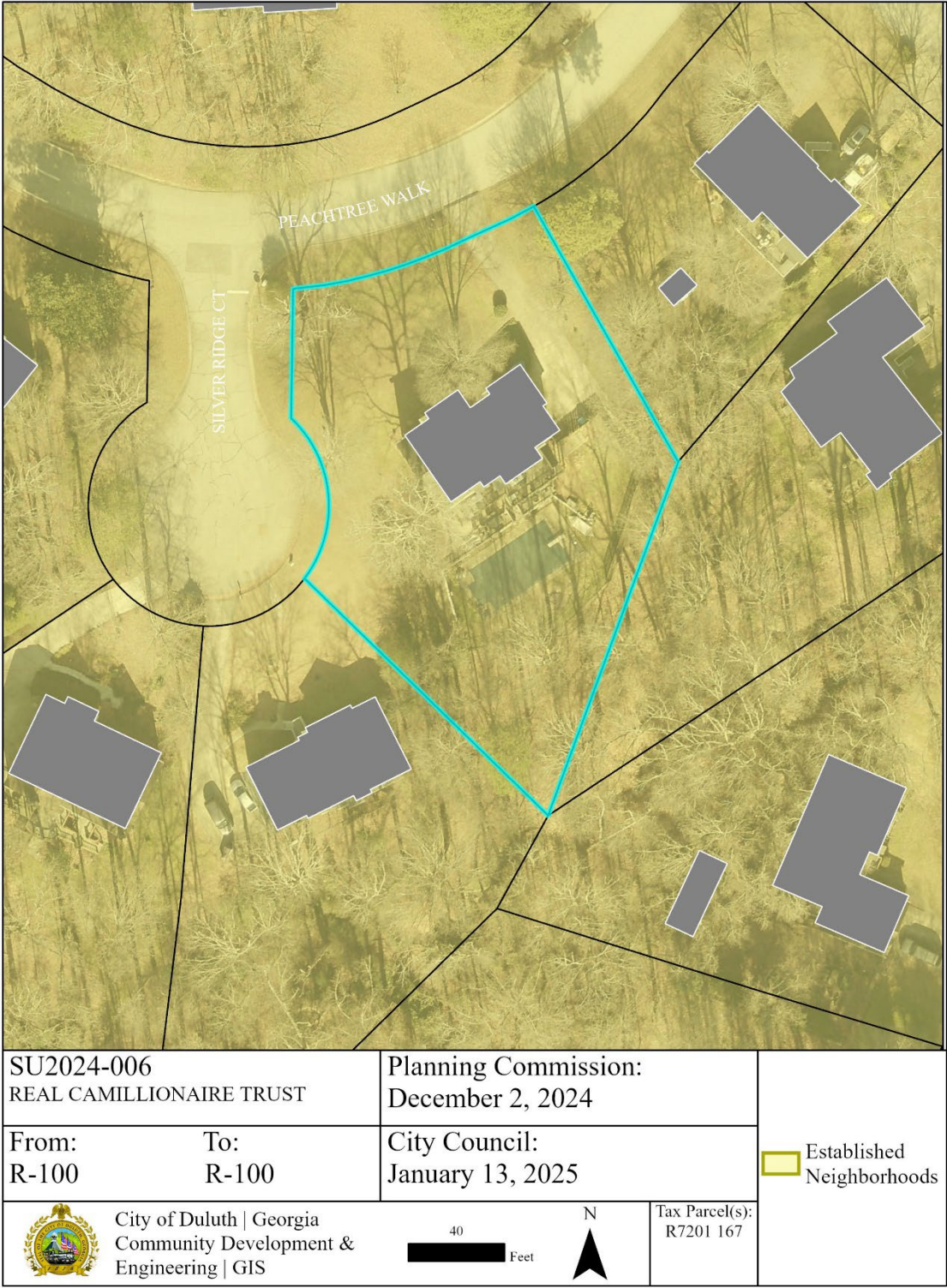
Location Map



Zoning Map



Character Map



**Exhibit "B"**  
**Legal Description**

**ALL THAT TRACT** or parcel of land lying and being in Land Lot 201 of the 7<sup>th</sup> District, Gwinnett County, Georgia and being Lot 14, Block C, Unit 1 of Peachtree Walk Subdivision, as pwer plat recorded in Plat Book 25, Page 124, Gwinnett County, Georgia Records, which plat is incorporated herein and made a part hereof by reference.

**Exhibit "C"**  
**Conditions of Approval**

**General**

1. The Special Use (SU2024-006) is hereby approved for Sarah Ward, and their successors, for the operation of a Short-Term Rental. Notwithstanding, all Special Use applications shall be for firm proposals only. The Special Use shall not be used for securing early zoning for conceptual proposals that may not be undertaken for some time. Therefore, an occupational tax certificate shall be obtained within three (3) months from the date of Special Use approval. The Special Use shall be revoked if no occupational tax certificate is obtained.

Once established:

- A. If the use changes, the Special Use is hereby terminated.
  - B. If the use is discontinued or abandoned for a period of ninety (90) days, regardless of the intent of the owner or occupier to resume the use, the Special Use is hereby terminated.
  - C. If the use is extended in any way, either on the same or adjoining property, the Special Use is terminated.
2. The approval of the special use allows Sarah Ward and their successors to operate a Short-Term Rental. The approval does not, however, permit the deviation from the UDC. Section 344. Short Term Rental.
  3. The property shall be maintained in a state of good repair at all times, free from any violations of the Property Maintenance Code; Unified Development Code; License and Business Regulations; Nuisance Codes, and any other codes adopted by the City of Duluth. Failure to maintain the property at or above the minimum standards adopted in the City of Duluth codes and ordinance shall be cause for revocation of the Special Use.
  4. The privilege of a Special Use is subject to all conditions that have been attached to it. It is within the City's rights to take legal action if it is proven that the conditions of the Special Use have been violated.

## Exhibit "D"

### Applicant's Response to the Standards Governing Special Use Consideration

To whom it does concern,

I begin by thanking you for taking the time to review this special use permit request and application. I would also like to assure you that my values and interests as a homeowner in the county of Gwinnett and the city of Duluth are fully in line with the interests of keeping our community a beautiful place to live, without encumbrances on the public health, safety, morality or general welfare of the people here in.

I currently reside full-time at the subject property, 2666 Peachtree Walk, Duluth, GA 30096. I'm a single mother and my 3 year old son is with me in residence 75% of the time. I am employed full time as a real estate recruiter with Century 21 Connect Realty, and hold an active real estate license as well. To assist in the financial burdens of being a single mom, I often rent out the lowest portion of my home to traveling nurses, who have contracts with local hospitals, sign legally binding leases, and stay 60 to 90 days on average. This area is connected to my home but is separated by a stairway and a door with locks, and has a separate entrance as well. It is considered a guest suite, as it has a living room, bathroom, bedroom with closet and two windows, as well as a separate deck off the back. It is an ideal set up for traveling nurses, and is often rented. However, during the times when it is not rented, I would like the opportunity to allow short term renters to utilize the space. It is ideal for one to two guests, and during the short time it was listed on Airbnb, I received only 5 star reviews. See attached. The nature of the Airbnb community focuses on both guest and host having a good experience and holding both sides to a standard of acceptable conduct. The guest rates the host, but the hosts also rate the guests, and because of the rating system, the guests are encouraged to abide by the house rules, be clean, orderly and respectful, and hopefully receive a recommendation to be accepted as a guest in the future.

In answer to the first standard - Given the fact that I restrict the number of guests to two, require specific approval from me of their request to stay, as well as implement house rules regarding parking, noise, quiet times, check in and out times, and more, I believe this special use is fully suitable in view of the use and development of nearby and adjacent properties.

In answer to the second standard - Citing the above information, and adding that parking is only allowed in my driveway and/ or garage, as well as that the property is inhabited by myself full time, and therefore must remain a livable space for myself and my son; an occasional addition of one to two people would essentially equate to the same experience as having an overnight guest, and should in no way adversely impact the existing use or usability of adjacent or nearby properties.

In answer to the third standard - I do believe the current zoning does not restrict my ability to have traveling nurses stay as tenants in the described space, as long as the lease is in excess of 28 days and therefore does exhibit a reasonable economic use for myself.

In answer to the fourth standard - I cannot imagine an instance where having one to two (paying) guests for a few nights at a time, in my personal residence, would contribute to an excessive or burdensome use of the existing streets, transportation facilities, utilities, or schools.

In answer to the fifth standard - I believe I have done an excellent job in explaining all of the reasons why my intention for implementation of the special use permit is fully in line with the policies and interests of the comprehensive plan; land use plan; transportation plans; and all

other plans adopted for the guiding development within the city of Duluth. My intention is in no way to disrupt the flow of our community or the peaceful enjoyment of my neighbors. In addition, I have sought approval specifically from all adjoining properties in addition to notifying them through the US Postal Service. I have had personal conversations with each of them and have been assured that my desired use of my home in no way disturbs or disrupts their right to quiet enjoyment.

In answer to the sixth standard – I have no knowledge of any existing or changing conditions that would affect the use as requested in any way either positive or negative. Based on all of the information I have provided, I am requesting an approval of the special use permit.

Thank you for your time and consideration.

Sarah Camille Ward

## Exhibit "F"

### Public Notice

**Public Notice Printed in Gwinnett Daily Post 12/10/2024**

**GDP9358  
gpn16  
CITY OF DULUTH  
NOTICE OF PUBLIC  
HEARING**

NOTICE IS HEREBY GIVEN that a public hearing will be held before Mayor and Council to consider a special use request from Sarah Ward, on approximately 0.73 acres of property in Land Lot 201, 7th District, Gwinnett County, located at 2666 Peachtree Walk, consisting of tax parcel 7201-167, case number SU2024-006. The special use request is to operate a Short-Term Rental in the R-100 zoning District. The public is invited to attend this hearing before the Mayor and Council on the proposed special use. The meeting date, place and time regarding this matter are as follows:

**WHEN:**  
January 13, 2025 -  
6:00p.m.  
**WHERE:**  
City Hall Council  
Chambers  
3167 Main Street  
Duluth, GA 30096

**PERSONS INTERESTED IN THIS MATTER** are invited to review the proposed special use, which is on file with the Department of Planning & Development of the City of Duluth and to attend the public hearing at the date, time and place provided in this notice, to express their opinion on this matter. Written comments may also be received in lieu of testimony during the public hearing. Written comments may be sent to the following address:  
City of Duluth  
ATTN: Planning  
Department  
3167 Main Street  
Duluth, GA 30096  
OR  
Email: [Planning@duluth-ga.net](mailto:Planning@duluth-ga.net)

For more information, contact Planning & Development, at (770)476-1790.

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In compliance with the Americans with Disabilities Act of 1990, the City of Duluth is committed to providing reasonable accommodations for a person with a disability. Please contact Teresa Lynn at (770) 476-3434 if special program accommodations are necessary and/or if program information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

12:15,2024

