

Mayor and Council

700 Doug Davis Drive  
Hapeville, GA 30354

December 6, 2016  
7:00PM

AGENDA

1. Call To Order
2. Roll Call
  - Mayor Alan Hallman
  - Alderman at Large Ruth Barr
  - Councilman at Large Michael Randman
  - Councilman Ward I Joshua Powell
  - Councilman Ward II Diane Dimmick
3. Welcome
4. Pledge Of Allegiance
5. Invocation
6. Presentations
  - 6.I. Volunteer Recognition
7. Public Hearing
  - 7.I. Consideration And Action To Rezone Property Located At 3474 Elkins Street From RSF To UV.

**Background:**

Mr. Rajesh A. Patel, representing Venus Virginia Ave. LLC, is seeking to rezoning the property at 3474 Elkins Street from R-5, Single Family Attached and Detached to UV, Urban Village for the purpose of constructing a mixed-use development with retail and office use. The Planning Commission considered and approved this action at their meeting of November 8, 2016.

Staff recommends approval.

For additional information, please feel free to contact the City Manager's Office.

Documents:

[LEGAL AD- 12-6-2016 3477 RAINEY AND 3474 ELKINS STREET RAJ PATEL.PDF](#)  
[WEB - 3474 ELKINS STREET APPLICATION PACKET.PDF](#)

- 7.II. Consideration And Action To Rezone Property Located At 3477 Rainey Avenue From RSF To UV.
  - Background:**  
Mr. Rajesh A. Patel, representing Venus Virginia Ave. LLC, is seeking to

rezoning the property at 3477 Rainey Avenue from R-SF, Residential Single Family to UV, Urban Village for the purpose of constructing a mixed-use development with retail and office use. The Planning Commission considered and approved this item at their meeting of November 8, 2016.

Staff recommends approval.

For additional information, please contact the City Manager's Office.

Documents:

[WEB - 3477 RAINEY AVENUE APPLICATION PACKET.PDF](#)

### 7.III. Consideration And Action On Ordinance 2016-28 Bail Bonds/Probation Services

#### **Background:**

As you may recall on August 2, 2016 the City Council adopted a moratorium on expanding Bail Bond, check cashing and pawn shop type operations. That moratorium is set to expire on December 7, 2016 unless a new ordinance is adopted or the moratorium is extended. Staff has been working on a new proposed Ordinance. This ordinance was presented to the Planning Commission for review on Tuesday, November 8, 2016. The Planning Commission concurs with staff and recommends adoption of this Ordinance by the Council. Basically, the Bail Bond Office, Private Probation Office, Check Cashing Office and Pawn Shop Ordinance does the following:

Defines bail bond office, private probation offices, check cashing offices and pawn shop.

Allows these uses as permitted uses in an overlay identical to the adult entertainment overlay, which includes portions of the C-2, U-V and L-I Districts.

Resolves inconsistencies in other Districts that may have allowed these uses.

Limits certificates of occupancy for each of the uses at one time to one certificate per 10,000 residents.

This is the second and final reading of this proposed Ordinance.

For additional information, please contact the City Manager's Office.

Documents:

[BAIL BOND PAWN SHOP PROBATION OFFICE CHECK CASHING.PDF](#)  
[LEGAL AD - 12-6-2016, BAIL BOND AD.PDF](#)

### 8. Public Comments

At this time, the Mayor opens the floor to comments from the audience. Comments should relate to a specific agenda item, not listed on the agenda for a Public Hearing, or to a concern within the jurisdiction of the City. Mayor and Council meetings serve the purpose of conducting city business and are not a forum for the unlimited expression of opinion. The Mayor reserves the right to limit comments to matters germane to city business and may refer speakers to the City Manager or other staff for resolution.

9. Old Business

9.I. Ethics Committee Appointment

10. New Business

10.I. 1st Reading Ordinance 2016-36 Alcohol Distance Amendment

**Background:**

The Crest Package Store at 371 North Central Avenue filed for a transfer of their alcohol license due to a recent change of ownership. That transaction is scheduled to close before the end of 2016. The ownership (to our knowledge) had not changed since 1999 when this establishment opened. Each year their license has been renewed by the City routinely.

Apparently, sometime after the store opened the distance measurement techniques adopted in the City alcohol Ordinance changed and became more restrictive. If the current rules were applied to this case; staff would have to deny the application as it would not meet the distance requirements between the store and the school. Staff has been working on how to resolve this matter and allow this long-standing business to continue. The City Attorney advises that the best method of relief (should Council choose to do so) is to adopt a new rule that more closely mirrored State law. If the new standard were applied i.e., "travel by reasonable walking distance" the store application could be approved. Granting such relief is up to the City Council. Given that staff is aware that Council desires to give fair and equitable treatment to our business community it would seem reasonable to propose a rule that would grant relief. The City Planning consultant has tested the proposed measurement and the business would comply if the rule were changed. The staff recommendation would be to adopt the new rule and due to timing of the sale transaction and waive first reading. The new rule in the ordinance changing the method of how distance is measured would be in effect until March 31, 2017. By then Council would have had the opportunity to review all issues and decide if the new method should be adopted as regular part of the comprehensive Alcohol re-write.

For additional questions, please contact the City Manager's Office.

Documents:

[ALCOHOL MEASURING AMENDMENT COMPARISON CHART \(12.6.16 MEETING\).PDF](#)  
[ALCOHOL MEASURING ORDINANCE AMENDMENT \(12.6.16 MEETING\).PDF](#)

10.II. Consideration And Action On Ordinance 2016-36 Alcohol Distance Amendment

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11. Mayor And Council Comments

12. Adjourn

Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.

**NOTICE**  
**City of Hapeville**

The Mayor and Council of the City of Hapeville will hold a Public Hearing at 7:00 p.m. Tuesday, December 6, 2016 at the City of Hapeville Municipal Court Annex located at 700 Doug Davis Drive, Hapeville, Georgia 30354, to consider the following applications:

(1) Rezoning of 3477 Rainey Avenue from R-SF, Residential Single-Family to U-V, Urban-Village to allow a mixed-use development featuring retail, restaurant and office uses. Applicant: Rajesh A. Patel

(2) Rezoning of 3474 Elkins Street from R-5, Single Family Attached and Detached to U-V, Urban-Village to allow a mixed-use development featuring retail, restaurant and office uses.  
Applicant: Rajesh A. Patel

**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

Name of Applicant Rajesh A. Patel.

Mailing Address \_\_\_\_\_ Atlanta GA. 30354

Telephone \_\_\_\_\_ Mobile# \_\_\_\_\_

Email \_\_\_\_\_

Property Owner (s) Hargovind S. Desai

Mailing Address 371 N. Central Ave. Hapeville GA. 30354

Telephone \_\_\_\_\_ Mobile# (470)362-9300.

Address/Location of Property: 3474 Etchins Street, Hapeville, GA. 30354

Parcel ID #: 14 0217 000401203

Square Foot of Property \_\_\_\_\_ Acres \_\_\_\_\_

Present Zoning Classification \_\_\_\_\_ Proposed Zoning Classification \_\_\_\_\_

Present Land Use Single Family Home

Proposed Land Use Commercial

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered too. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

[Signature]  
Applicant's signature

Date: 10/03/2016.

Sworn to and subscribed before me

This 3 day of October, 2016.

[Signature]  
Notary Public



**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**LETTER OF INTENT**

In detail, provide a summary of the proposed project in the space provided below. Include the proposed use of each existing or proposed building, and the proposed land use.

*We are in process of purchasing property located at corner of Virginia Ave and Rainey Ave. to develop mixed use project with retail and offices.*

*Existing property will be torned down to create parking for new development.*

What are the reasons the property cannot be used in accordance with the existing regulations?

*Existing property is residential zoned.*

Will the proposed zoning change create an isolated zoning district that is unrelated to adjacent and nearby districts? Yes \_\_\_\_\_ No

If so, why should this property be placed in a different zoning district than all adjoining property?

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How would the proposed zoning change impact on public facilities and services?

*None.*

What environmental impacts would the proposed project have?

*None.*

Describe the effect the proposed zoning request will have on the adjacent properties and how it will impact the character of the neighborhood.

*It will improve the value of adjacent properties and will give neighborhood more choices of restaurants.*

Are there any proffered conditions you would like to apply to and be made part of this application for rezoning? Yes \_\_\_\_\_ No

Please list any written proffered conditions below.

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

Any development and site plans or other demonstrative materials presented as proffered conditions shall be referenced below and attached to this application as follows: (Please include a date or other identifiable information of each piece of material attached)

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

**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**AUTHORIZATION OF PROPERTY OWNER**

**I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:**

3474 EIKINS STREET, HAPEVILLE, GA. 30354

**City of Hapeville, County of Fulton, State of Georgia**

**WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF A REZONING FOR THE PROPERTY.**

Name of Applicant Venus Virginia Ave, LLC. / Rajesh A. Patel.

Address of Applicant Atlanta, GA. 30354.

Telephone of Applicant \_\_\_\_\_

*Rajesh A. Patel*  
Signature of Owner

HARSHVIND PATEL  
Print Name of Owner

Personally Appeared Before Me this 3 day of OCTOBER, 2016.

*[Signature]*  
Notary Public



**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS & GIFTS**

Application filed on Oct 3, 2016 for action by the City Council on the following requested rezoning:

Address to be rezoned: 3474 Elkins St. Hapeville, GA. 30354

All individuals, business entities or other organizations having a property or other interest in said property that is subject of this application are as follows:

The undersigned below, making application for Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on this form as provided.

Have you as applicant or anyone associated with this application or property, within the two (2) years immediately preceding the filing of this application, made campaign contributions aggregating \$250 or more to a member of the Hapeville City Council?  Yes  No

If YES, please complete the following section (attach additional sheets if necessary):

Name and Official Position of Government Official	Contributions (List all which aggregate to \$250 or more)	Date of Contribution (Within last 2 years)

I do hereby certify the information provided herein is both complete and accurate to the best of my knowledge.

[Signature]  
Signature of Applicant

Rajesh A. Patel / Manager  
Type or Print Name and Title

\_\_\_\_\_  
Signature of Applicant's Representative

\_\_\_\_\_  
Type or Print Name and Title

[Signature] 10-3-16  
Signature of Notary Public Date

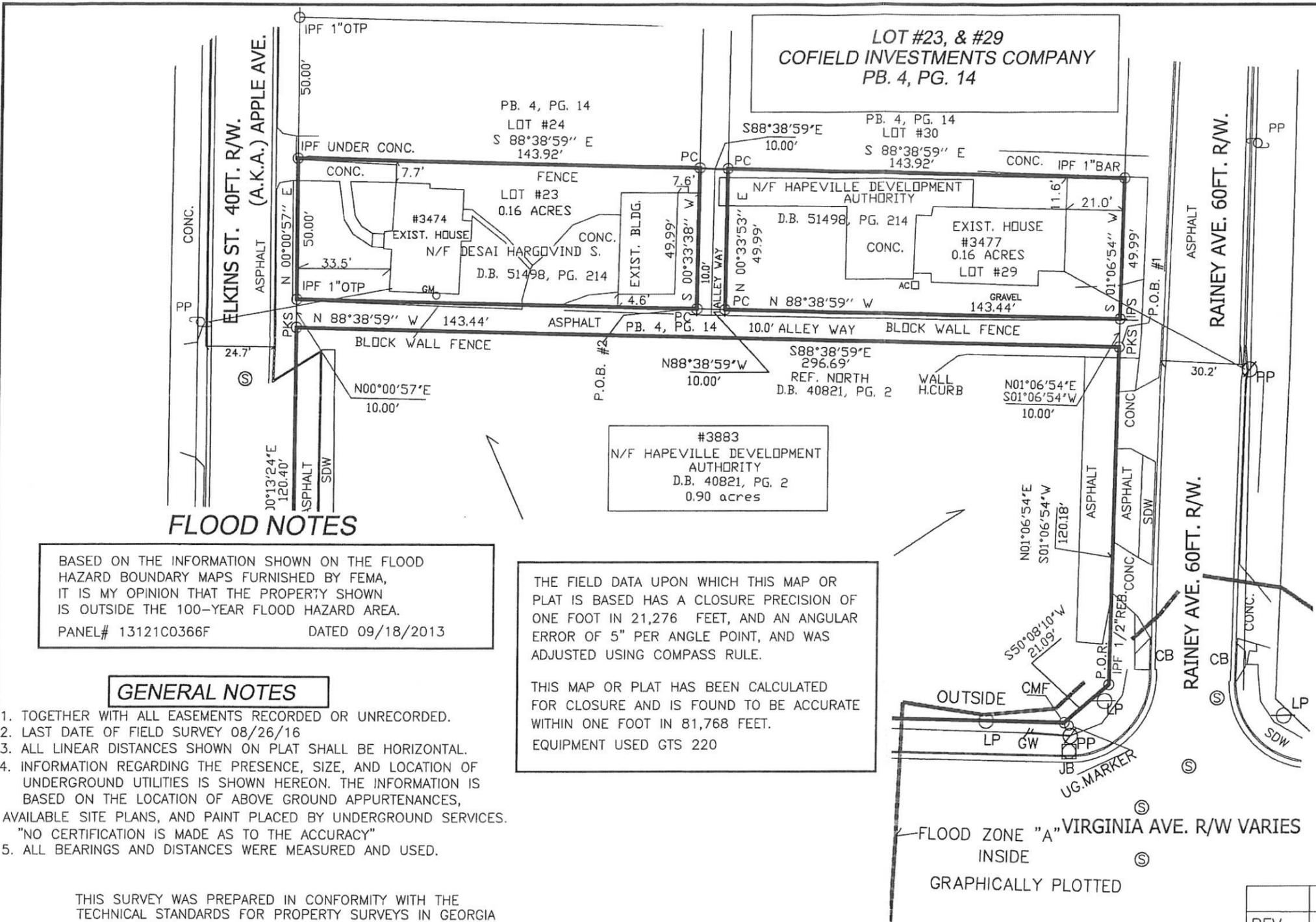
(Affix Raised Seal Here)



**LEGENDS OF SYMBOLS**

P.O.B.	POINT OF BEGINNING
P.O.R.	POINT OF REFERENCE
GM	GAS MARKER/GAS METER
OOTP	OPEN TOP PIPE
OIPF	IRON PIN FOUND
OIPS	IRON PIN SET 1/2" Ø REBAR W/ CAP
C/G	CURB AND GUTTER
P/L	PROPERTY LINE
R/W	RIGHT-OF-WAY
L.L.L.	LAND LOT LINE
CMF	CONCRETE MONUMENT FOUND
POL	POINT ON LINE
B.O.C.	BACK OF CURB
FNC	FENCE CORNER
EP	EDGE OF PAVEMENT
PC	PROPERTY CORNER
LP	LIGHT POLE
PP	POWER POLE
GW	GUY WIRE
JB	EXISTING JUNCTION BOX
WV	EXISTING WATER VALVE
FH	EXISTING FIRE HYDRANT
T.B.M.	TEMPORARY BENCH MARK
B.F.E.	BASE FLOOD ELEVATION
M.F.E.	MINIMUM FLOOR ELEVATION
HW	HEADWALL
SWCB	SINGLE WALL CATCH BASIN
DWCB	DOUBLE WALL CATCH BASIN
OS	OUTLET STRUCTURE (RISER)
DI	DROP INLET
W	WATER METER
W	WATERLINE
SS	SANITARY SEWER LINE
OVP	OVERHEAD POWERLINE
UFO	UNDERGROUND FIBER OPTICS
G	GASLINE
LS	LANDSCAPING
PKS (F)	PK NAIL SET (FOUND)
EX-MH	EXISTING SANITARY SEWER MANHOLE
SMH	SANITARY SEWER MANHOLE
S.S.E.	SANITARY EASEMENT
C/O	CLEAN-OUT
FDC	FIRE DEPARTMENT CONNECTOR
C.L.F.	CHAIN LINK FENCE
D.E.	DRAINAGE EASEMENT
R.R.E.	RAIL ROAD EASEMENT
H	HEIGHT
UE	UNDERGROUND ELECTRIC
AC	AIRCONDITION UNITS

D. B 40821, PG. 2  
SEE PLAT



**FLOOD NOTES**

BASED ON THE INFORMATION SHOWN ON THE FLOOD HAZARD BOUNDARY MAPS FURNISHED BY FEMA, IT IS MY OPINION THAT THE PROPERTY SHOWN IS OUTSIDE THE 100-YEAR FLOOD HAZARD AREA.  
PANEL# 13121C0366F DATED 09/18/2013

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 21,276 FEET, AND AN ANGULAR ERROR OF 5" PER ANGLE POINT, AND WAS ADJUSTED USING COMPASS RULE.  
  
THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 81,768 FEET.  
EQUIPMENT USED GTS 220

**GENERAL NOTES**

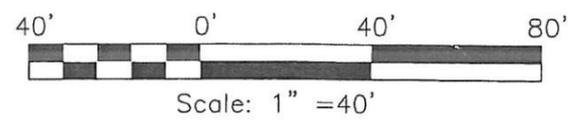
- TOGETHER WITH ALL EASEMENTS RECORDED OR UNRECORDED.
- LAST DATE OF FIELD SURVEY 08/26/16
- ALL LINEAR DISTANCES SHOWN ON PLAT SHALL BE HORIZONTAL.
- INFORMATION REGARDING THE PRESENCE, SIZE, AND LOCATION OF UNDERGROUND UTILITIES IS SHOWN HEREON. THE INFORMATION IS BASED ON THE LOCATION OF ABOVE GROUND APPURTENANCES, AVAILABLE SITE PLANS, AND PAINT PLACED BY UNDERGROUND SERVICES. "NO CERTIFICATION IS MADE AS TO THE ACCURACY"
- ALL BEARINGS AND DISTANCES WERE MEASURED AND USED.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

GEORGIA REGISTERED LAND SURVEYOR  
ANGEL M. MARRERO  
No. 2642  
08-29-2016

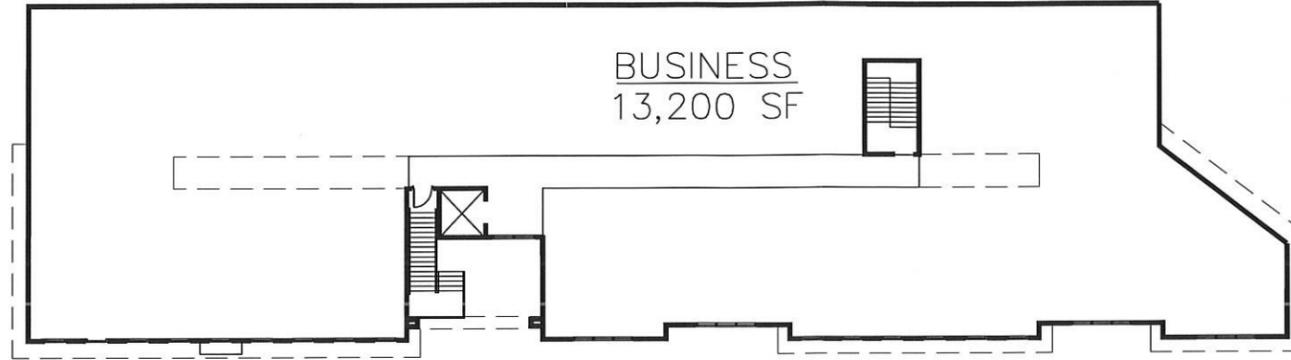
ANGEL M. MARRERO R.L.S. #2642  
Certified Design Professional # 4479

\*\* PURSUANT TO RULE 180-6.09 OF THE GEORGIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, THE TERM "CERTIFY" OR "CERTIFICATION" MEANS TO DECLARE A PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED.



REV.	DESCRIPTION	DATE
<b>SOUTHSIDE SURVEYING &amp; PLANNING</b> LSF000831		#18 ATLANTA ST. MCDONOUGH, GA 30253 Phone: (770) 320-8009 Fax: (770) 320-8098
BOUNDARY SURVEY FOR: <b>VENUS VIRGINIA AVE., LLC.</b>		
Land Lot 127 14TH Dist.		CITY OF HAPEVILLE FULTON County, GA
Drawn By: AMM		Scale: 1"=40'
Dwg No: 2-1607100A		Date: 08/29/2016

ALL DRAWINGS ARE THE INTELLECTUAL PROPERTY OF DANIEL L. LEMBERG



SECOND FLOOR PLAN



FRONT ELEVATION

PERMIT SUBMITTAL	08-18-14
REVISIONS	DATE

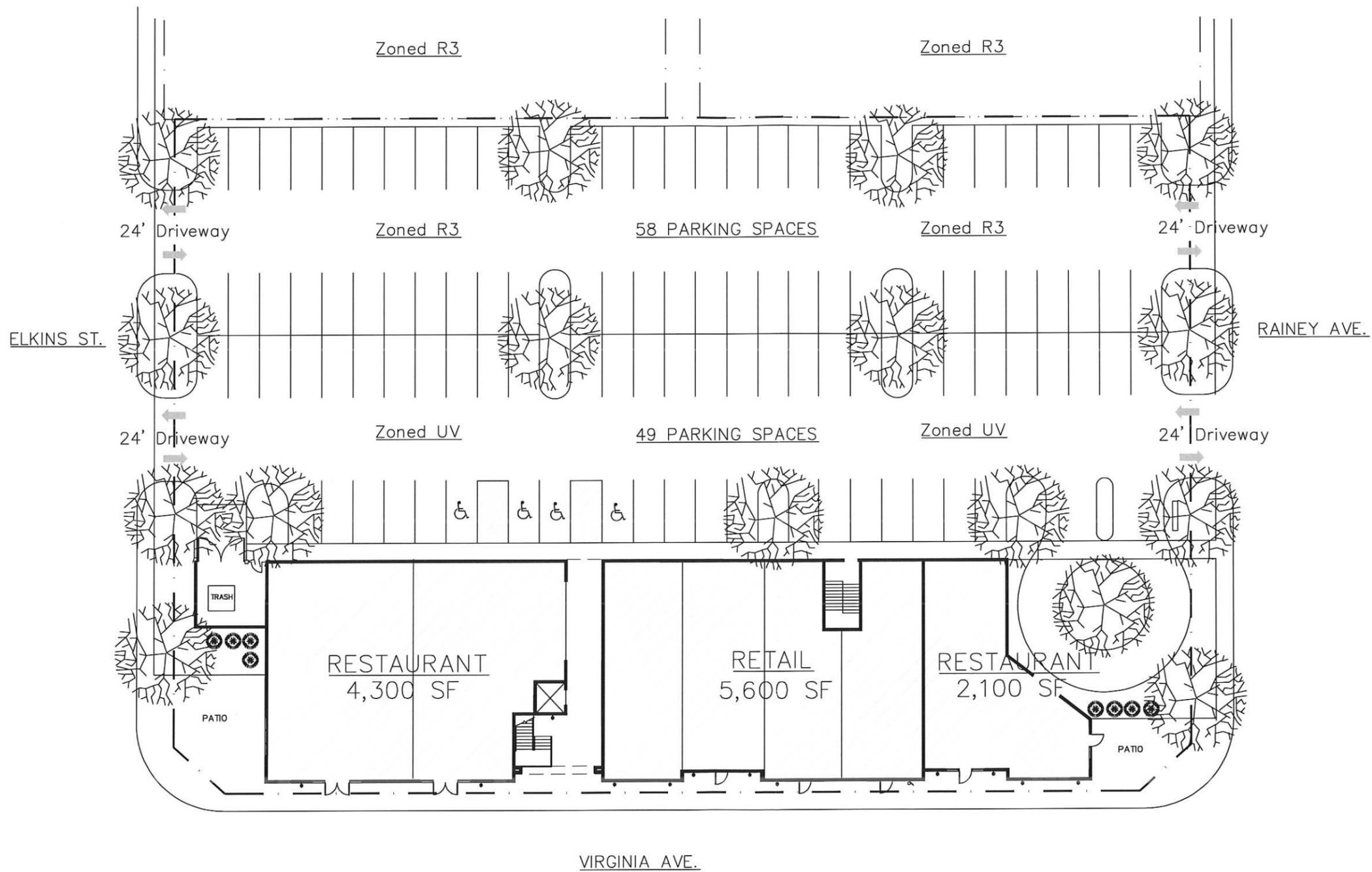
MIXED USE DEVELOPMENT  
HAPEVILLE  
GEORGIA, USA

DANIEL LEMBERG — ARCHITECT  
3445 CONCORD CORNER  
CONYERS, GA 30013  
PHONE: 770-922-8322

DRAWN  
D.L.  
DATE  
10-05-16  
JOB NO.  
2337

SHEET  
A-2

ALL DRAWINGS ARE THE INTELLECTUAL PROPERTY OF DANIEL L. LEMBERG



CONCEPT MIXED USE SITE PLAN

SCALE 1"=20'-0"  
OCT. 5, 2016

DEVELOPMENT DATA

First Floor Retail	=	12,000sf
Second Floor Business	=	13,200sf
Total Gross Area	=	27,200sf
Total Site Area	=	1.30 Ac

PERMIT SUBMITTAL REVISIONS	DATE

**MIXED USE DEVELOPMENT**  
HAPEVILLE  
GEORGIA, USA

DANIEL LEMBERG - ARCHITECT  
3445 CONCORD CORNER  
CONYERS, GA 30013  
PHONE: 770-922-8322



DRAWN	
DATE	10-05-16
JOB NO.	2337
SHEET	

**Written Description**  
**3477 Rainey Ave.**  
**Lot #29**  
**Cofield Investments Company S/D**  
**PB 4 Page 14**

All that tract or parcel of land lying and being in Land Lot 127 of the 14<sup>th</sup> District, City of Hapeville, Fulton County, Georgia and being more particularly described as follows:

Commencing at the existing intersection of Northerly R/W of Virginia Ave. (R/W varies) and the Westerly R/W of Rainey Ave. (60' R/W) (ROW miter), thence N 01°06'54" E a distance of 130.18' to an IPS; this point being the **Point of Beginning (P.O.B. #1)**.

**From the Point of Beginning (P.O.B. #1),**  
Thence N 88°38'59" W a distance of 143.44' to a point;  
Thence N 00°33'53" E a distance of 49.99' to a point;  
Thence S 88°38'59" E a distance of 143.92' to an IPF 1" bar; Thence S 01°06'54" W a distance of 49.99' to the **Point of Beginning (P.O.B. #1)**.

Containing 0.16 acres.

Also granted all easements recorded or unrecorded.

**Written Description**  
**3474 Elkins St. (aka Apple Ave.)**  
**Lot #23**  
**Cofield Investments Company S/D**  
**PB 4 Page 14**

All that tract or parcel of land lying and being in Land Lot 127 of the 14<sup>th</sup> District, City of Hapeville, Fulton County, Georgia and being more particularly described as follows:

Commencing at the existing intersection of Northerly R/W of Virginia Ave. (R/W varies) and the Westerly R/W of Rainey Ave. (60' R/W) (ROW Miter), thence N 01°06'54" E a distance of 130.18' to an IPS; thence N 88°38'59" W a distance of 153.44' to a point; this point being the **Point of Beginning (P.O.B. #2)**.

**From the Point of Beginning (P.O.B. #2)**,  
Thence N 88°38'59" W a distance of 143.44' to an IPF 1" OTP; Thence N 00°00'57" E a distance of 50.00' to an IPF under concrete; Thence S 88°38'59" E a distance of 143.92' to a point; Thence S 00°33'38" W a distance of 49.99' to the **Point of Beginning (P.O.B. #2)**.

Containing 0.16 acres.

Also granted all easements recorded or unrecorded.



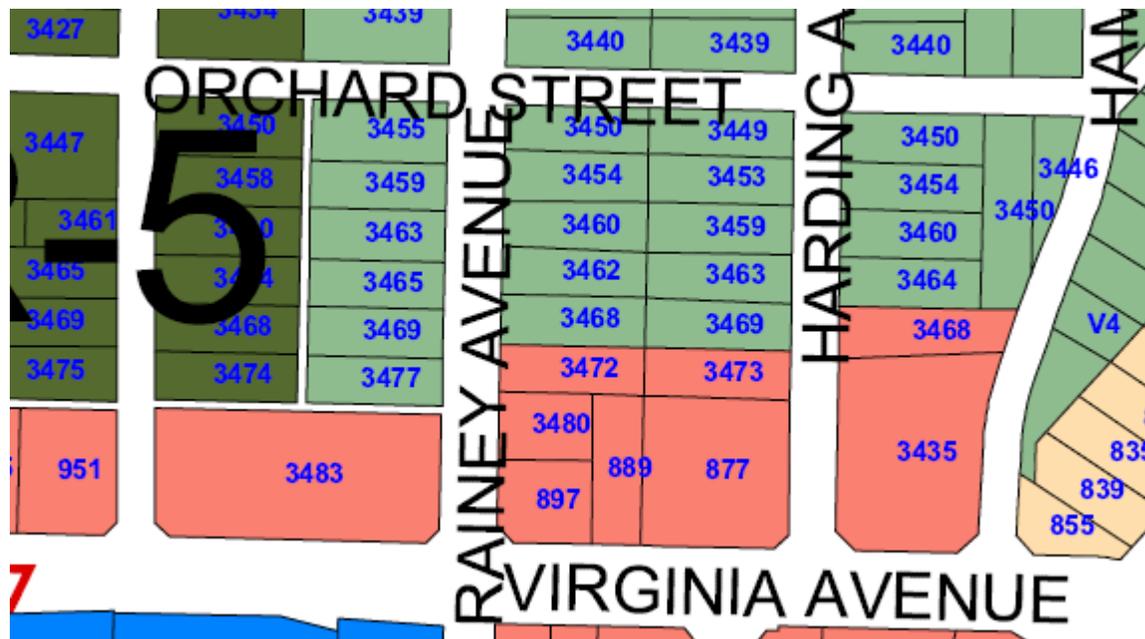
## Department of Planning & Zoning

### MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman  
 FROM: Bill Johnston, City Planner  
 SUBJECT: **Rezoning of 3474 Elkins Street (R-5) to U-V Zone**  
 DATE: Thursday, 3 November 2016

#### FINDINGS

Mr. Rajesh A. Patel has applied for the rezoning of 3474 Elkins Street, in conjunction with 3477 Rainey Avenue. This rezoning would represent encroachment into an established neighborhood, one that has witnessed significant residential re-investment in recent years. Hapeville has long fought such encroachment. However, a precedent for such minor encroachment has been set by the U-V zoning of 3472 Rainey and 3473 and 3468 Harding as seen below. The proposed zoning would encroach somewhat less than this established zoning pattern given the respective property lines.



The proposed use of the 3483 Rainey Avenue property, which will form the development tract, is “commercial mixed use” with “retail and office.” Restaurants are also indicated on Sheet A-1. The specific use of the 3474 Elkins Street lot will be accessory parking. A 10-foot alley runs to the rear of 3483 Rainey from Rainey to Elkins; a second alley runs north between 3477 Rainey and 3474 Elkins. Presumably, these are owned by the City and would have to be rezoned. A re-subdivision of the three properties involved and the alleys would also be required.

### **Surrounding Uses**

Virginia Avenue is a low to medium intensity commercial corridor with properties in the vicinity of 3474 Elkins Street being low intensity. Offices, hotels, restaurants and service uses characterize the corridor, particularly west of the 3474 Elkins Street property. Behind and north of this property is a stable, neighborhood.

### **Plan Hapeville 2025 Guidance**

The Future Land Use Map designates the property as “Mixed Use.” Plan Hapeville 2025 describes this land use classification as follows: *“A new land use category, “Mixed Use,” will support a diverse range of residential and commercial uses, and responds to market demand for what is commonly known as “live-work” space.”*

The Plan contains the following goals, objectives and strategies relevant to the rezoning application:

#### **Sec. 7.4.1 Goals and Objectives**

“Goal: Adopt a future land use map and regulatory codes that will guide the community through market driven change, while preserving the small town character that is attracting new residents and businesses.

An associated Objective A supports this goal: “Facilitate achievement of mixed use development models in Virginia Park, College Square, the downtown and along the Dogwood Drive corridor through land use map designations and proactive property rezonings.”

### **Future Development Map**

Unlike the Future Land Use Map, the Future Development Map designates frontage properties along Virginia Avenue in this vicinity as “Mixed Use.” The designation is limited to lots having frontage on Virginia with the single exception of 3480 Rainey the northern boundary of which aligns with the rear lot line of the Virginia Avenue properties. In other words, the Mixed Use designation on the Future Development Map more strictly limits encroachment into the neighborhood when compared to the Future Land Use Map. The Future Development Map was adopted subsequent to the Future Land Use Map and therefore, is the controlling map.

As seen on the Zoning Map Snip below, property rezonings have occurred that are “deeper” into the neighborhood than the adopted Future Development Map anticipates. This is the case between Rainey, across Harding to Hamilton. The properties behind and north of the former apartments on Virginia Avenue, which are the subject of this proposed rezoning, are designated as “Residential” on both the Future Development Map and the Future Land Use Map.



Associated implementation strategies include the following:

Strategy A: Adopt a future land use map that focuses higher density residential and higher intensity commercial development in appropriate locations in Virginia Park and College Square, and respects the historic scale of the downtown and the Dogwood Drive corridor.

Strategy B: Revise the zoning ordinance to permit building heights, coverage ratios and densities characterizing urban settings in those zoning districts applicable to high value properties in Virginia Park and College Square.

The 3474 Elkins Street property is such a high value property located in an urban setting that the Plan anticipates as higher intensity commercial development. The mixed use development that will be permitted upon rezoning to U-V is consistent with these Plan strategies.

#### **Plan Hapeville 2025 Update**

Among other objectives, the 2025 Update introduced three tiers of mixed use as recommended in the LCI Study. One of these is “Low Intensity Mixed Use,” the land use designation assigned to the former apartment development that is proposed for redevelopment in conjunction with the 3477 Rainey Avenue and 3474 Elkins Street parcels. The Update describes Low Intensity Mixed Use as follows:

“The Dogwood corridor and Virginia Park may be characterized as stable, single family neighborhoods proximate to commercial development. These locations should be limited to a defined low intensity, mixed use pattern. This intensity anticipates two and three-story construction and mixed use in the same structure. The Commercial-Residential and the Urban-Village zoning classifications are well suited to allowing such mixed use flanking, abutting or near traditional neighborhoods.”

The 2025 Update reinforces a Mixed Use development pattern for Dogwood Drive and Virginia Park as indicated below:

“The areas designated on the July 2005 FLUM as “mixed use” are proposed as Low Intensity Mixed Use. These commercial properties abut low density single family neighborhoods and future development must be limited in scale. Transitional buffers adopted in the Village Zone, for example, can ensure compatibility with these neighborhoods while addressing retail, service and entertainment needs in a walkable setting.”

The Update also cites a Plan Hapeville 2025 Objective, reported as “Foster mixed use development at the periphery of Hapeville’s neighborhoods and along pedestrian scale commercial corridors. This would apply to Dogwood Drive and Virginia Park and supports a “low intensity mixed use” designation.”

**Zoning Ordinance Guidance**

According to Sec. 93-11.2-1 “Intent” of the Ordinance, the U-V Zone is established to accomplish the following objectives:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique shops, new apparel shops and banks; and
- (8) Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.”

These U-V Zone objectives are consistent with the Plan Hapeville 2025 Update and can be advanced by the proposed rezoning. One provision of the U-V Zone is particularly critical to Objective (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale. That is the minimum 15-foot landscaped buffer applicable when a U-V zoned development adjoins a residential zone as reflected in Sec. 93-11.2-6 below.

Sec. 93-11.2-6. *Area, placement, and buffering requirements*, subsection (8) Residential buffer of the U-V Zone provides that “Where this district adjoins a residential zone, new development shall provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:

- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line.
- b. A permanent opaque wall between six and eight feet in height.

While this is a rezoning application and not a site plan application, and compliance with all standards of the U-V Zone will ultimately be required, it is important to inform the applicant of this requirement since the project cannot be built as proposed.

Brian Wismer, Planning Commission Chairman

**Rezoning of 3474 Elkins Street (R-5) to U-V Zone**

6 of 9

A “Concept Mixed Use Site Plan” submitted with the application indicates 6,400 square feet of first floor restaurant floor area, 5,600 square feet of first floor retail and 13,200 square feet of second floor business uses. The parking requirement for these uses totals 91 spaces; 107 are provided. While this is a matter to be addressed at site plan review, Sec. 93-23-10. *Off-street parking requirements according to district and uses* provides that “The maximum number of off-street automobile parking spaces shall be 110 percent of the requirement for uses proposed at the time of development approval.” As proposed, the number of parking spaces would be 117 percent of the requirement.

Sec. 93-23-14. Size of off-street loading spaces establishes the following requirement for off-street loading spaces: “Each off-street loading space shall have minimum dimensions of 15 feet in height, 15 feet in width, and 60 feet in length.” Restriping of the parking lot to accommodate one loading space could bring the number of parking spaces down to the 110 percent requirement, or 100 parking spaces. The Site Plan features two driveways on Elkins and another two driveways on Rainey, introducing commercial traffic turning movements on what are otherwise residential streets. One alternative is to contain vehicle circulation within the parking lot that could achieve two objectives. One is to reduce the “parking overage” and the other to minimize commercial traffic on these two streets.

Sec. 93-22.1-1. *Chart of dimensional requirements* sets forth a requirement of one off-street loading space for every 10,000 square feet of, presumably, total floor area. Striping could identify “dual use” parking areas to accommodate demand for either motorists or deliveries.

**CONCLUSIONS**

Sec. 93-25-6 of the Ordinance provides 14 “Standards of review” to be applied when considering a property rezoning. The Ordinance further provides that *“In ruling on any matter in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as may be relevant to the application”* The relevant factors are reprinted below, along with an analysis of the impact of the rezoning application on these factors:

*The existing land use pattern.*

The land use pattern is one of low intensity commercial uses abutting low density residential uses. Significant encroachment has been avoided and the proposed rezoning would allow mixed uses to encroach no further than such encroachment as could occur on adjacent and nearby lots. This finding is based on the current U-V zoning of the 3472 Rainey and 3473 and 3468 Harding properties.

Brian Wismer, Planning Commission Chairman

**Rezoning of 3474 Elkins Street (R-5) to U-V Zone**

7 of 9

*The possible creation of an isolated district unrelated to adjacent and nearby districts.*

All of the properties fronting Virginia Avenue in the vicinity of the proposed development are zoned U-V. Exceptions to this are properties across Virginia Avenue that are zoned C-2, General Commercial. As acknowledged earlier, the proposed rezoning would encroach further into the neighborhood; however, no further than has already been established by prior zonings to the U-V Zone. Given the presence of U-V zoning on adjacent and nearby properties, an isolated district would not be created. The transitional buffer required in the U-V Zone anticipates this zoning district adjacent to low density residential development. That provision acknowledges the expectation that low intensity mixed use could be located adjacent to neighborhoods having an urban character.

*The population density pattern and possible increase or overtaking of the load on public facilities including, but not limited to, schools, utilities, and streets.*

Virginia Avenue, the street that will provide primary access to the proposed development, is a four-lane arterial. This four-lane delivers relatively easy access to I-75 and I-85. Virginia Avenue also connects to North and South Central Avenues via a nearby, two-lane segment of Virginia Avenue. Cut through traffic has long been a problem in the “Old Second Ward.” It is possible that traffic calming measures might become desirable as development along the Virginia Avenue corridor intensifies. However, the grid street network provides a number of routes to disperse traffic that may be generated by the rezoning of this property.

*Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.*

A critical aspect of development of properties zoned U-V when adjacent to a neighborhood is the 15-foot minimum buffer found in Sec. 93-11.2-6. *Area, placement, and buffering requirements.* The proposed zoning map amendment will not be a deterrent to the value of adjacent property provided the development of this property is accomplished in accordance with existing regulations.

*The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community.*

The proposed zoning map amendment serves to implement the Plan Hapeville 2025 and the Plan Hapeville 2025 Update. The size of the parcel to be developed in conjunction with 3477 Rainey Avenue and 3474 Elkins Street may not be sufficient to achieve an economic, mixed use development. Prior rezonings in the immediate vicinity allow encroachment that could adversely affect the neighborhood. The proposed rezoning will permit encroachment no greater than has already been granted on those adjacent properties.

Employment, shopping and dining opportunities that will be created by the proposed development are thought to have a positive impact on the neighborhood as residents of such intown neighborhoods expect to be able to access these destinations by walking. The proposed amendment will foster realization of this expectation and should improve the attractiveness of the neighborhood that will be served by the proposed development.

*The extent to which the proposed zoning map amendment is consistent with the land use plan.*

The proposed U-V zoning is not supported by the existing designations on the Future Development Map. However, such maps are intended to be general guides to land use and do not necessarily adhere to individual property boundaries. The construction of such maps though does tend to follow such boundaries. Financially feasible developments may require that additional property be designated, in this case, to Mixed Use. Given that the desire in Hapeville is to prevent commercial encroachment into a neighborhood and the broad stroke of a land use designation may not have accurately anticipated the amount of land necessary to achieve a feasible development project, the minor expansion of the "Mixed Use" designation, one that advances goals and objectives of City plans, may not be inconsistent with the land use plan.

*The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations.*

The proposed rezoning will accommodate a development that will advance virtually every objective of the U-V Zone. The purposes of the zoning regulations are reflected in Sec. 93-11.2-1. *Intent* of the U-V Zone. Rarely are all the purposes of a particular zone so impacted.

*Consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight*

The importance of preservation of neighborhoods is highlighted by the reservation of a 15-foot buffer when abutting a residential zone. A properly installed and maintained buffer can help protect the neighborhood. As mentioned concerning cut through traffic, close monitoring of traffic impacts and implementing of measures necessary to minimize such impacts can also help protect the neighborhood.

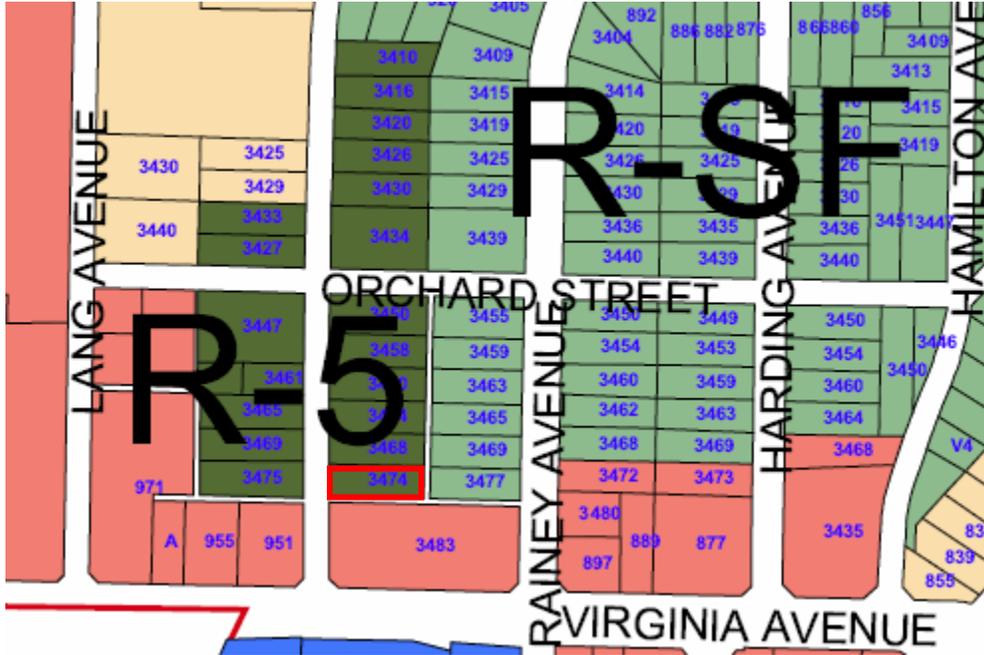
## **RECOMMENDATION**

Based on the above findings and conclusions, a recommendation of approval of the rezoning proposal is appropriate.

- c: Commissioner Travis Horsley, Vice Chair
- Commissioner Lucy Dolan
- Commissioner Mark Farah
- Commissioner Jeanne Rast
- Commissioner Charlotte Rentz
- Adrienne Senter, Planning Commission Secretary

Attachment:      Location Map  
                            Google Image

Location Map



Google Image





## Keck & Wood, Inc.

3090 Premiere Parkway  
Suite 200  
Duluth, Georgia 30097  
(678) 417-4000  
Fax (678) 417-4055  
www.keckwood.com

# MEMO

REZONING - 3474 Elkins Street - Page 1

**To:** Hapeville Planning Commission, Hapeville City Council

**From:** Mike Moffitt, P.E.   
**Office:** City Engineer

**Date:** October 28, 2016

**Subject:** Rezoning for 3474 Elkins Street

**Existing Zoning:** R-5 Single Family Attached and Detached Residential District

**Proposed Zoning:** UV Urban Village

**Applicant:** Venus Virginia Ave, LLC/ Rajesh A. Patel

**Owner:** Hargovind Desai

**Location & Size:** 3474 Elkins Street, Hapeville, GA 30354  
Distr 14, Land Lot 127, Parcel 0217000401203, approximately 0.16 acre

**Request:** The applicant is requesting a change in zoning to UV to allow use of the property as parking for a mixed use development with retail and office space as retail and office and related parking is not a permitted use within R-5 Zoning Districts.

**Existing Land Use:** The existing land use is single family residential with one principal building structure. The residential property structures remain in place as far back as 1993 according to Google Earth images.

**Comprehensive Plan – Land Use:** The 2025 Comprehensive Plan and Future Land Use Map indicate this area as residential and bordering a Low Intensity Mixed Use area.

### Analysis:

The Rezoning request is to allow a parking space area to be located within property in a R-5 Zoning District. The application indicates the parking area provides needed parking for mixed use retail and office building on the adjacent parcel that fronts Virginia Avenue. The analysis of this application is made with respect to the “Standards of Review” as set forth in Article 25, Section 93-25-6 of the *Zoning Ordinance*.

**(1) The existing land use pattern;**

The proposed rezoning use for a parking area does not complement the existing residential use of the property. The adjacent property to the north is residential and the west side of the property is Elkins Street. Adjacent property to the east is residential, but a rezoning application has been filed to change zoning to the same rezoning as this property, UV. The property to the south contains a 10 foot wide alley way and vacant UV zoned property on the other side of the alley. UV zoned property can be developed as residential or light commercial use. The subject property has predominantly been residential since its initial construction. The proposed rezoning to UV may complement the commercial use and development of adjacent and nearby property to the south. The application does not state the operating hours of the potential mixed use; however the times of operation in the evenings may conflict with the residential property use to the north.

**(2) The possible creation of an isolated district unrelated to adjacent and nearby districts;**

Since the adjacent property across the alley to the south is already zoned UV, the rezoning does not seem to create an isolated district.

**(3) The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets;**

The population density is not expected to increase since the property use does not have an increase in permanent occupants. The proposed property use should not overtax nearby schools and public utilities such as water, sewer, and solid waste. Some increase in traffic volume on Elkins Street can be expected due to the access of the proposed parking area being from Elkins Street.

**(4) The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety;**

It is not anticipated that the proposed rezoning use will cause a significant cost increase for governmental entities in handling public utilities, schools, streets, or public safety. The developer is expected to pay for all improvements and facilities to connect to utilities, streets and public safety. Such improvements and facilities could include grease traps, fire hydrants, meters, water and sewer lines, solid waste dumpsters, sidewalks, pavement markings and pedestrian access. Schools are not expected to be impacted.

**(5) The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity;**

Impacts to the environment are expected to be minimal so long as site improvements comply with all City Code requirements. The City Code requirements address concerns for drainage, soil erosion and sedimentation, flooding, and water quality among others and City development permits will not be issued until compliance with code requirements is confirmed by submitted documentation.

**(6) Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;**

The rezoning is expected to improve the value and development of the adjacent UV property to the south because it would allow greater public access to the retail and office mixed uses proposed. However, the adjacent residential zoned property to the north may have deterred

values due to that property being directly adjacent to mixed use zoned property. A residential buffer stated in Section 93-11.2-6 of the zoning ordinance can be required adjacent to the residential to minimize the deterred value of the remaining adjacent residential property.

**(7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;**

Since the existing property use of residential meets the existing regulations, there are no apparent reasons why the property cannot be used in accordance with existing regulations.

**(8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area;**

The surrounding area to the south indicates an existing and growing commercial use area. Residential use and growth to the north appears stagnant and shows limited signs of growth. Therefore, the aesthetic effect of the rezoning seems to improve the overall neighborhood appearance.

**(9) The extent to which the proposed zoning map amendment is consistent with the land use plan;**

The Hapeville 2025 Comprehensive Plan and Future Land Use Map depict this area as residential. The proposed rezoning to UV and parking area use is not consistent with the anticipated residential character within the “Residential” land use category of the Future Land Use Map.

**(10) The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community;**

The majority of existing development at the intersection of Elkins Street and Virginia Avenue is consistent with the Future Land Use Plan. Rezoning to the UV zone for the parking area will increase the UV zoned property and reduce the residential use property in the area. The rezoning will allow development of current vacant UV property and improve the retail and office space available for the neighborhood. The light commercial development may improve the overall neighborhood and encourage nearby residential property improvements.

**(11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations;**

The zoning change increases the UV zoned areas in the neighborhood and would encourage development of a currently vacant adjacent UV zoned property. The change reduces the residential zoned properties in the immediate vicinity. However, having a nearby mixed use retail and office property development may encourage residential growth in the remaining residential properties.

**(12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;**

A specific site plan has been submitted with this application. Therefore, this factor does not apply.

**(13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;**

The rezoning will decrease the size of the existing residential neighborhood. However, residential growth in the immediate area appears stagnant and existing residential structures appear to be several decades old. Development of the adjacent UV property with this rezoning will likely improve the neighborhood appearance and could encourage future residential growth in the neighborhood.

- (14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight**

This property does not front on a major thoroughfare. Therefore, this factor does not apply.

**Recommendation:**

The proposed Rezoning to UV is recommended to be granted.



**DAVID BLOODWORTH  
FIRE CHIEF**

**FIRE DEPARTMENT**

**To: Adrienne Senter**

**From: Brian Eskew, Fire Marshal**

**Re: 3474 Elkins Street**

**Date: November 1, 2016**

**This project should not create a problem for the Fire Department. If you should need any more information, please let me know. Thanks.**

**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

Name of Applicant Rajesh A. Patel / Venus Virginia Ave. LLC.

Mailing Address \_\_\_\_\_ Atlanta GA. 30354

Telephone \_\_\_\_\_ Mobile# \_\_\_\_\_

Email \_\_\_\_\_

Property Owner (s) Hapeville Development Authority

Mailing Address 3468 North Fulton Ave. Hapeville GA. 30354

Telephone \_\_\_\_\_ Mobile# \_\_\_\_\_

Address/Location of Property: 3477 Rainey Ave. Hapeville G.A.

Parcel ID #: 14 0127000040187

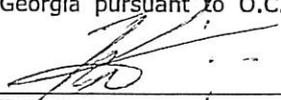
Square Foot of Property \_\_\_\_\_ Acres \_\_\_\_\_

Present Zoning Classification ~~Residential~~ RSJF Proposed Zoning Classification ~~Commercial~~ C-4V

Present Land Use Single Family Home

Proposed Land Use Mixed Use Commercial

I hereby make application to the City of Hapeville, Georgia for the above referenced property. I do hereby swear or affirm that the information provided here and above is true, complete and accurate, and I understand that any inaccuracies may be considered just cause for invalidation of this application and any action taken on this application. I understand that the City of Hapeville, Georgia, reserves the right to enforce any and all ordinances regardless of any action or approval on this application. I further understand that it is my/our responsibility to conform with all of City of Hapeville's Ordinances in full. I hereby acknowledge that all requirements of the City of Hapeville shall be adhered to. I can read and write the English language and/or this document has been read and explained to me and I have full and voluntarily completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville, Georgia pursuant to O.C.G.A. 16-10-20 and I may be prosecuted for a violation thereof.

  
\_\_\_\_\_  
Applicant's signature  
Date: 10/03/2016

Sworn to and subscribed before me  
This 3 day of October, 2016.

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



**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**LETTER OF INTENT**

In detail, provide a summary of the proposed project in the space provided below. Include the proposed use of each existing or proposed building, and the proposed land use.

*We are in process of purchasing this property and property located at corner of Rainey Ave & Virginia Ave to develop mixed use project with retail and office.*

What are the reasons the property cannot be used in accordance with the existing regulations?

*Existing property is residential zoned.*

Will the proposed zoning change create an isolated zoning district that is unrelated to adjacent and nearby districts? Yes \_\_\_\_\_ No

If so, why should this property be placed in a different zoning district than all adjoining property?

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

How would the proposed zoning change impact on public facilities and services?

NONE

What environmental impacts would the proposed project have?

NONE

Describe the effect the proposed zoning request will have on the adjacent properties and how it will impact the character of the neighborhood.

Are there any proffered conditions you would like to apply to and be made part of this application for rezoning? Yes \_\_\_\_\_ No

Please list any written proffered conditions below.

Any development and site plans or other demonstrative materials presented as proffered conditions shall be referenced below and attached to this application as follows: (Please include a date or other identifiable information of each piece of material attached)

**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**AUTHORIZATION OF PROPERTY OWNER**

**I CERTIFY THAT I AM THE OWNER OF THE PROPERTY LOCATED AT:**

3477 Rainey Ave. Hapeville, GA. 30354

**City of Hapeville, County of Fulton, State of Georgia**

**WHICH IS THE SUBJECT MATTER OF THIS APPLICATION. I AUTHORIZE THE APPLICANT NAMED BELOW TO ACT AS THE APPLICANT IN THE PURSUIT OF A REZONING FOR THE PROPERTY.**

Name of Applicant Rajesh A. Patel / Venus Virginia Ave. LLC.

Address of Applicant Atlanta, GA. 30354.

Telephone of Applicant \_\_\_\_\_



Katherine Bradburn, Chairman  
Signature of Owner

Kathrina T. Bradburn, Chairman  
Print Name of Owner  
Hapeville Development Authority

Personally Appeared Before Me this 1<sup>TH</sup> day of OCTOBER, 2014.

Rosalie Rosenthal  
Notary Public

**CITY OF HAPEVILLE  
COMMUNITY SERVICE DEPARTMENT  
REZONING APPLICATION**

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS & GIFTS**

Application filed on October 3, 2016 for action by the City Council on the following requested rezoning:

Address to be rezoned: 3477 Rainey Ave. Hapeville GA. 30354

All individuals, business entities or other organizations having a property or other interest in said property that is subject of this application are as follows:

The undersigned below, making application for Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. Seq., Conflict of Interest in Zoning Actions, and has submitted or attached the required information on this form as provided.

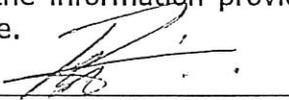
Have you as applicant or anyone associated with this application or property, within the two (2) years immediately preceding the filing of this application, made campaign contributions aggregating \$250 or more to a member of the Hapeville City Council?  Yes  No

If YES, please complete the following section (attach additional sheets if necessary):

Name and Official Position of Government Official	Contributions (List all which aggregate to \$250 or more)	Date of Contribution (Within last 2 years)

I do hereby certify the information provided herein is both complete and accurate to the best of my knowledge.

Signature of Applicant



Type or Print Name and Title

Rajesh A. Patel, Manager

Signature of Applicant's Representative

Type or Print Name and Title

Signature of Notary Public



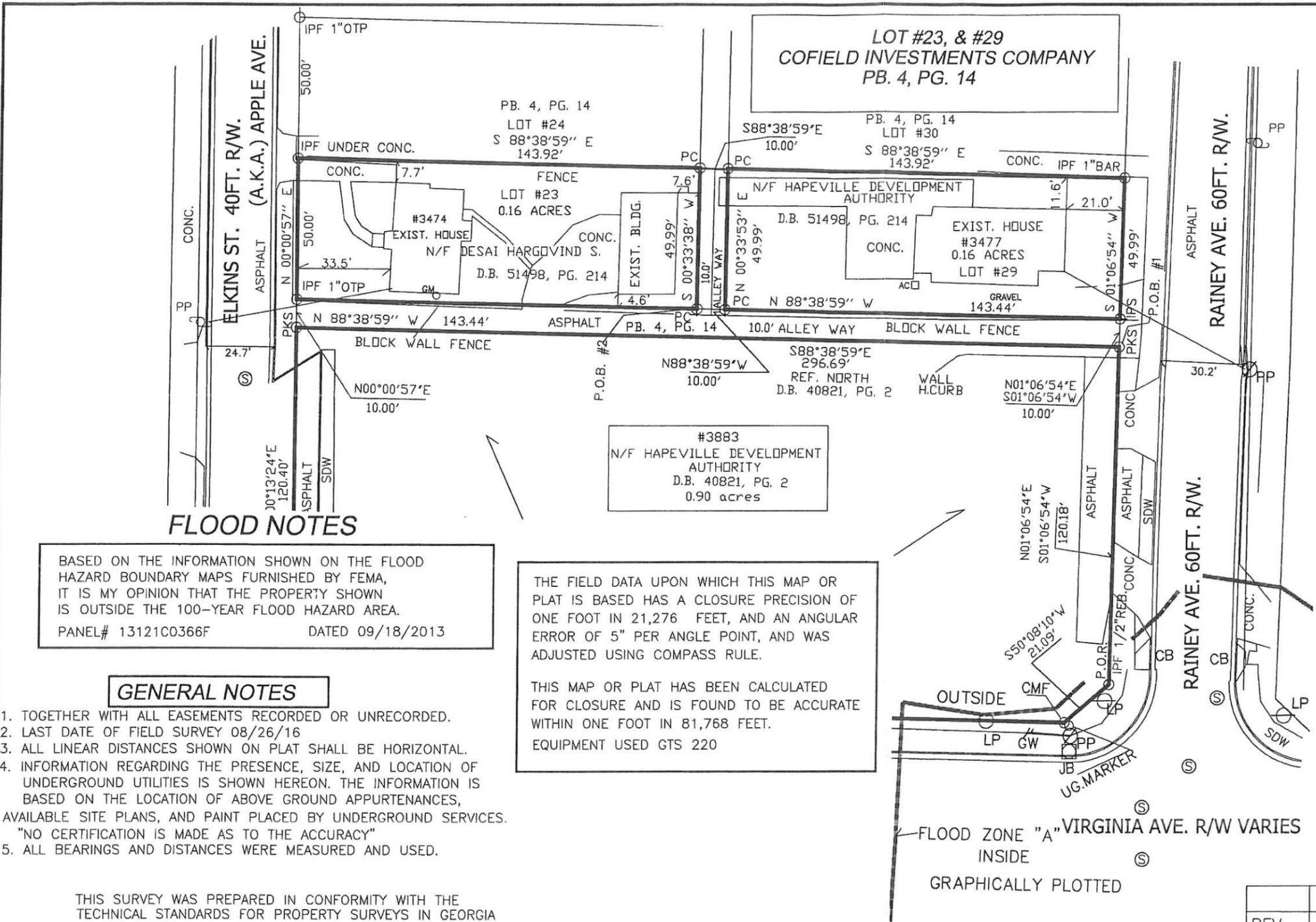
(Affix Raised Seal Here)



**LEGENDS OF SYMBOLS**

P.O.B.	POINT OF BEGINNING
P.O.R.	POINT OF REFERENCE
GM	GAS MARKER/GAS METER
OOTP	OPEN TOP PIPE
OIPF	IRON PIN FOUND
OIPS	IRON PIN SET 1/2" Ø REBAR W/ CAP
C/G	CURB AND GUTTER
P/L	PROPERTY LINE
R/W	RIGHT-OF-WAY
L.L.L.	LAND LOT LINE
CMF	CONCRETE MONUMENT FOUND
POL	POINT ON LINE
B.O.C.	BACK OF CURB
FNC	FENCE CORNER
EP	EDGE OF PAVEMENT
PC	PROPERTY CORNER
LP	LIGHT POLE
PP	POWER POLE
GW	GUY WIRE
JB	EXISTING JUNCTION BOX
WV	EXISTING WATER VALVE
FH	EXISTING FIRE HYDRANT
T.B.M.	TEMPORARY BENCH MARK
B.F.E.	BASE FLOOD ELEVATION
M.F.E.	MINIMUM FLOOR ELEVATION
HW	HEADWALL
SWCB	SINGLE WALL CATCH BASIN
DWCB	DOUBLE WALL CATCH BASIN
OS	OUTLET STRUCTURE (RISER)
DI	DROP INLET
W	WATER METER
W	WATERLINE
SS	SANITARY SEWER LINE
OVP	OVERHEAD POWERLINE
UFO	UNDERGROUND FIBER OPTICS
G	GASLINE
LS	LANDSCAPING
PKS (F)	PK NAIL SET (FOUND)
EX-MH	EXISTING SANITARY SEWER MANHOLE
SMH	SANITARY SEWER MANHOLE
S.S.E.	SANITARY EASEMENT
C/O	CLEAN-OUT
FDC	FIRE DEPARTMENT CONNECTOR
C.L.F.	CHAIN LINK FENCE
D.E.	DRAINAGE EASEMENT
R.R.E.	RAIL ROAD EASEMENT
H	HEIGHT
UE	UNDERGROUND ELECTRIC
AC	AIRCONDITION UNITS

D. B 40821, PG. 2  
SEE PLAT



**FLOOD NOTES**

BASED ON THE INFORMATION SHOWN ON THE FLOOD HAZARD BOUNDARY MAPS FURNISHED BY FEMA, IT IS MY OPINION THAT THE PROPERTY SHOWN IS OUTSIDE THE 100-YEAR FLOOD HAZARD AREA.  
PANEL# 13121C0366F DATED 09/18/2013

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 21,276 FEET, AND AN ANGULAR ERROR OF 5" PER ANGLE POINT, AND WAS ADJUSTED USING COMPASS RULE.  
  
THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 81,768 FEET.  
EQUIPMENT USED GTS 220

**GENERAL NOTES**

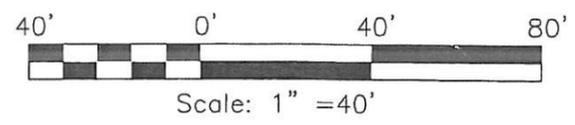
- TOGETHER WITH ALL EASEMENTS RECORDED OR UNRECORDED.
- LAST DATE OF FIELD SURVEY 08/26/16
- ALL LINEAR DISTANCES SHOWN ON PLAT SHALL BE HORIZONTAL.
- INFORMATION REGARDING THE PRESENCE, SIZE, AND LOCATION OF UNDERGROUND UTILITIES IS SHOWN HEREON. THE INFORMATION IS BASED ON THE LOCATION OF ABOVE GROUND APPURTENANCES, AVAILABLE SITE PLANS, AND PAINT PLACED BY UNDERGROUND SERVICES. "NO CERTIFICATION IS MADE AS TO THE ACCURACY"
- ALL BEARINGS AND DISTANCES WERE MEASURED AND USED.

THIS SURVEY WAS PREPARED IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT ACT O.C.G.A. 15-6-67.

GEORGIA REGISTERED LAND SURVEYOR  
ANGEL M. MARRERO  
No. 2642  
08-29-2016

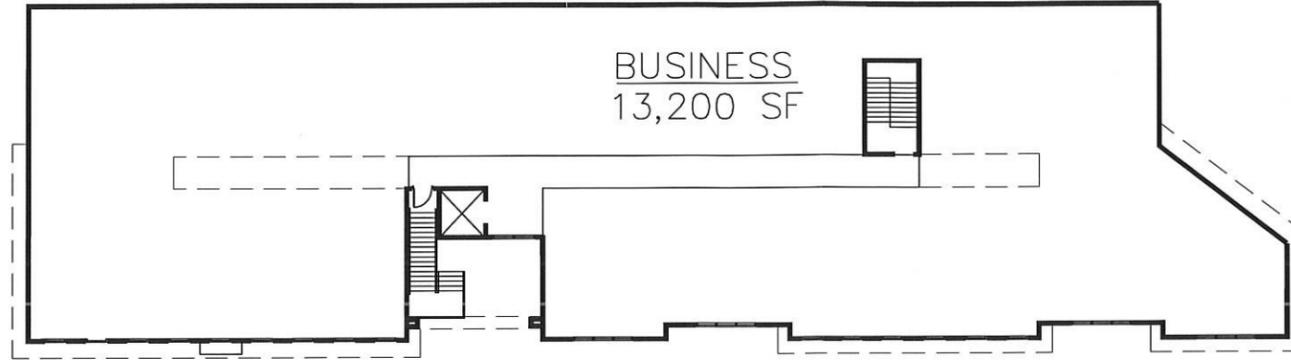
ANGEL M. MARRERO R.L.S. #2642  
Certified Design Professional # 4479

\*\* PURSUANT TO RULE 180-6.09 OF THE GEORGIA STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS, THE TERM "CERTIFY" OR "CERTIFICATION" MEANS TO DECLARE A PROFESSIONAL OPINION REGARDING THOSE FACTS OR FINDINGS AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED.



REV.	DESCRIPTION	DATE
<b>SOUTHSIDE SURVEYING &amp; PLANNING</b> LSF000831		#18 ATLANTA ST. MCDONOUGH, GA 30253 Phone: (770) 320-8009 Fax: (770) 320-8098
BOUNDARY SURVEY FOR: <b>VENUS VIRGINIA AVE., LLC.</b>		
Land Lot 127 14TH Dist.		CITY OF HAPEVILLE FULTON County, GA
Drawn By: AMM		Scale: 1"=40'
Dwg No: 2-1607100A		Date: 08/29/2016

ALL DRAWINGS ARE THE INTELLECTUAL PROPERTY OF DANIEL L. LEMBERG



SECOND FLOOR PLAN



FRONT ELEVATION

PERMIT SUBMITTAL	08-18-14
REVISIONS	DATE

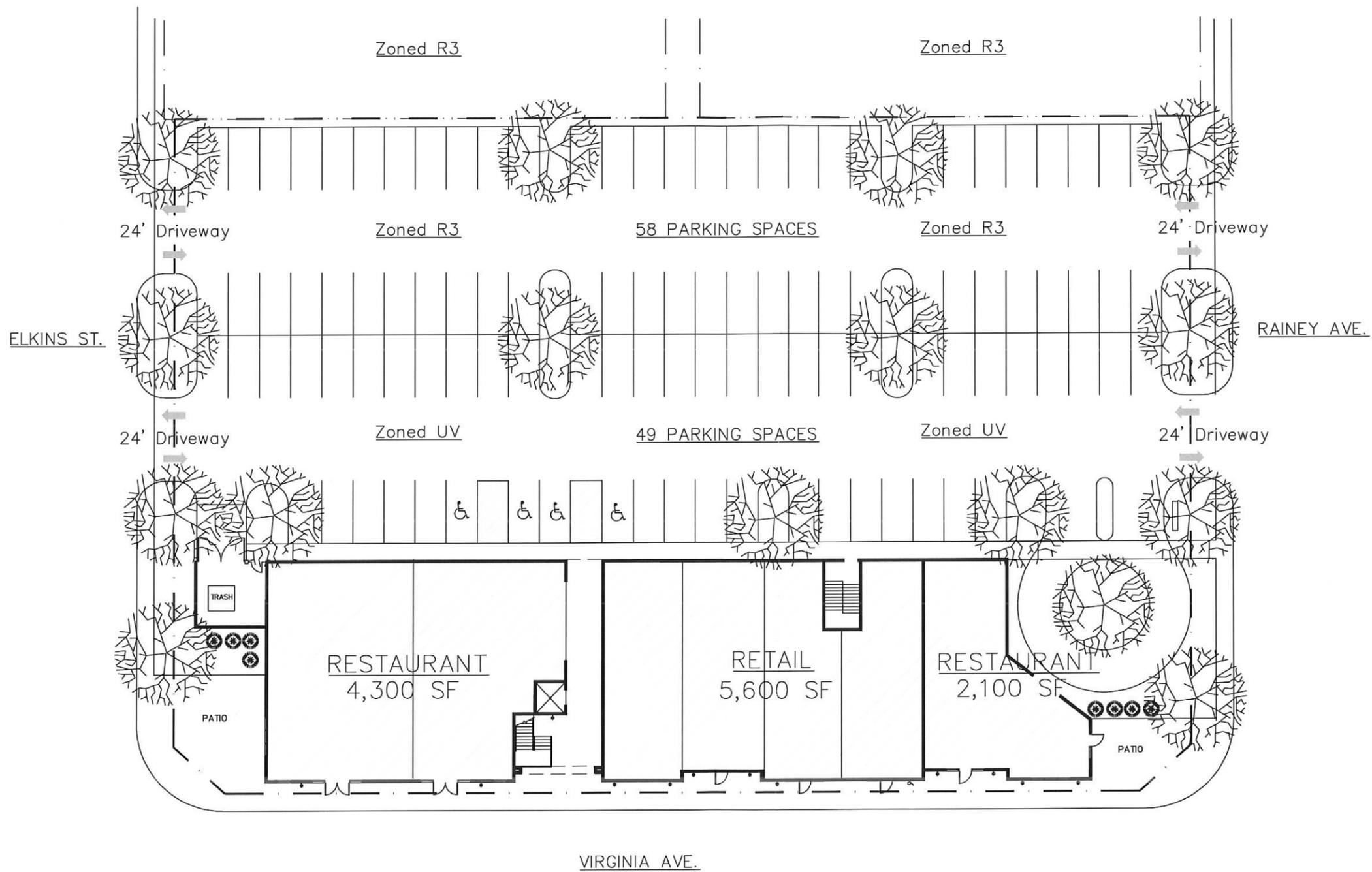
MIXED USE DEVELOPMENT  
HAPEVILLE  
GEORGIA, USA

DANIEL LEMBERG — ARCHITECT  
3445 CONCORD CORNER  
CONYERS, GA 30013  
PHONE: 770-922-8322

DRAWN  
D.L.  
DATE  
10-05-16  
JOB NO.  
2337

SHEET  
A-2

ALL DRAWINGS ARE THE INTELLECTUAL PROPERTY OF DANIEL L. LEMBERG



CONCEPT MIXED USE SITE PLAN

SCALE 1"=20'-0"  
OCT. 5, 2016

DEVELOPMENT DATA

First Floor Retail	=	12,000sf
Second Floor Business	=	13,200sf
Total Gross Area	=	27,200sf
Total Site Area	=	1.30 Ac

PERMIT SUBMITTAL REVISIONS	DATE

**MIXED USE DEVELOPMENT**  
HAPEVILLE  
GEORGIA, USA

DANIEL LEMBERG - ARCHITECT  
3445 CONCORD CORNER  
CONYERS, GA 30013  
PHONE: 770-922-8322



DRAWN	
DATE	10-05-16
JOB NO.	2337
SHEET	

**Written Description**  
**3477 Rainey Ave.**  
**Lot #29**  
**Cofield Investments Company S/D**  
**PB 4 Page 14**

All that tract or parcel of land lying and being in Land Lot 127 of the 14<sup>th</sup> District, City of Hapeville, Fulton County, Georgia and being more particularly described as follows:

Commencing at the existing intersection of Northerly R/W of Virginia Ave. (R/W varies) and the Westerly R/W of Rainey Ave. (60' R/W) (ROW miter), thence N 01°06'54" E a distance of 130.18' to an IPS; this point being the **Point of Beginning (P.O.B. #1)**.

**From the Point of Beginning (P.O.B. #1),**  
Thence N 88°38'59" W a distance of 143.44' to a point;  
Thence N 00°33'53" E a distance of 49.99' to a point;  
Thence S 88°38'59" E a distance of 143.92' to an IPF 1" bar; Thence S 01°06'54" W a distance of 49.99' to the **Point of Beginning (P.O.B. #1)**.

Containing 0.16 acres.

Also granted all easements recorded or unrecorded.

**Written Description**  
**3474 Elkins St. (aka Apple Ave.)**  
**Lot #23**  
**Cofield Investments Company S/D**  
**PB 4 Page 14**

All that tract or parcel of land lying and being in Land Lot 127 of the 14<sup>th</sup> District, City of Hapeville, Fulton County, Georgia and being more particularly described as follows:

Commencing at the existing intersection of Northerly R/W of Virginia Ave. (R/W varies) and the Westerly R/W of Rainey Ave. (60' R/W) (ROW Miter), thence N 01°06'54" E a distance of 130.18' to an IPS; thence N 88°38'59" W a distance of 153.44' to a point; this point being the **Point of Beginning (P.O.B. #2)**.

**From the Point of Beginning (P.O.B. #2)**,  
Thence N 88°38'59" W a distance of 143.44' to an IPF 1" OTP; Thence N 00°00'57" E a distance of 50.00' to an IPF under concrete; Thence S 88°38'59" E a distance of 143.92' to a point; Thence S 00°33'38" W a distance of 49.99' to the **Point of Beginning (P.O.B. #2)**.

Containing 0.16 acres.

Also granted all easements recorded or unrecorded.



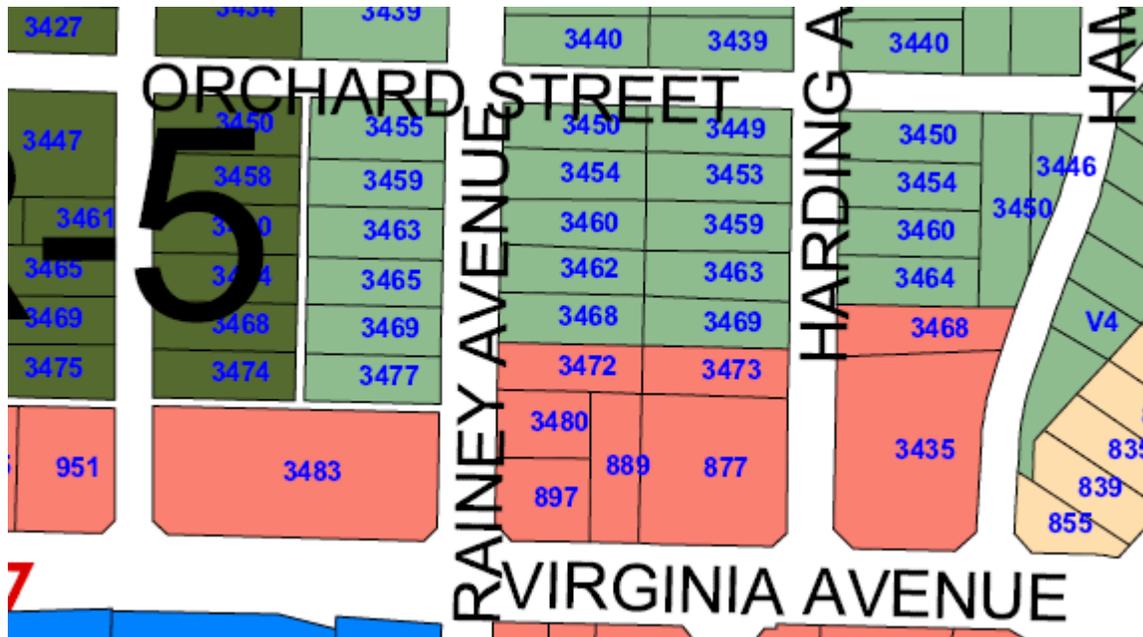
## Department of Planning & Zoning

### MEMORANDUM

TO: Brian Wismer, Planning Commission Chairman  
 FROM: Bill Johnston, City Planner  
 SUBJECT: **Rezoning of 3477 Rainey Avenue (R-SF) to U-V Zone**  
 DATE: Thursday, 3 November 2016

#### FINDINGS

Mr. Rajesh A. Patel, representing Venus Virginia Ave. LLC, has applied for the rezoning of 3477 Rainey Avenue, in conjunction with 3474 Elkins Street. This rezoning would represent encroachment into an established neighborhood, one that has witnessed significant residential re-investment in recent years. Hapeville has long fought such encroachment. However, a precedent for such minor encroachment has been set by the U-V zoning of 3472 Rainey and 3473 and 3468 Harding as seen below. The proposed zoning would encroach somewhat less than this established zoning pattern given the respective property lines.



The proposed use of the 3483 Rainey Avenue property, which will form the development tract, is “commercial mixed use” with “retail and office.” Restaurants are also indicated on Sheet A-1. The specific use of the 3477 Rainey Avenue lot will be accessory parking. A 10-foot alley runs to the rear of 3483 Rainey from Rainey to Elkins; a second alley runs north between 3477 Rainey and 3474 Elkins. Presumably, these are owned by the City and would have to be rezoned. A re-subdivision of the three properties involved and the alleys would also be required.

Brian Wismer, Planning Commission Chairman

## **Rezoning of 3477 Rainey Avenue (R-SF) to U-V Zone**

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### **Surrounding Uses**

Virginia Avenue is a low to medium intensity commercial corridor with properties in the vicinity of 3477 Rainey Avenue being low intensity. Offices, hotels, restaurants and service uses characterize the corridor, particularly west of the 3477 Rainey Avenue property. Behind and north of this property is a stable, neighborhood.

### **Plan Hapeville 2025 Guidance**

The Future Land Use Map designates the property as “Mixed Use.” Plan Hapeville 2025 describes this land use classification as follows: *“A new land use category, “Mixed Use,” will support a diverse range of residential and commercial uses, and responds to market demand for what is commonly known as “live-work” space.”*

The Plan contains the following goals, objectives and strategies relevant to the rezoning application:

#### **Sec. 7.4.1 Goals and Objectives**

“Goal: Adopt a future land use map and regulatory codes that will guide the community through market driven change, while preserving the small town character that is attracting new residents and businesses.

An associated Objective A supports this goal: “Facilitate achievement of mixed use development models in Virginia Park, College Square, the downtown and along the Dogwood Drive corridor through land use map designations and proactive property rezonings.”

### **Future Development Map**

Unlike the Future Land Use Map, the Future Development Map designates frontage properties along Virginia Avenue in this vicinity as “Mixed Use.” The designation is limited to lots having frontage on Virginia with the single exception of 3480 Rainey the northern boundary of which aligns with the rear lot line of the Virginia Avenue properties. In other words, the Mixed Use designation on the Future Development Map more strictly limits encroachment into the neighborhood when compared to the Future Land Use Map. The Future Development Map was adopted subsequent to the Future Land Use Map and therefore, is the controlling map.

As seen on the Zoning Map Snip below, property rezonings have occurred that are “deeper” into the neighborhood than the adopted Future Development Map anticipates. This is the case between Rainey, across Harding to Hamilton. The properties behind and north of the former apartments on Virginia Avenue, which are the subject of this proposed rezoning, are designated as “Residential” on both the Future Development Map and the Future Land Use Map.



Brian Wismer, Planning Commission Chairman

## **Rezoning of 3477 Rainey Avenue (R-SF) to U-V Zone**

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Associated implementation strategies include the following:

Strategy A: Adopt a future land use map that focuses higher density residential and higher intensity commercial development in appropriate locations in Virginia Park and College Square, and respects the historic scale of the downtown and the Dogwood Drive corridor.

Strategy B: Revise the zoning ordinance to permit building heights, coverage ratios and densities characterizing urban settings in those zoning districts applicable to high value properties in Virginia Park and College Square.

The 3477 Rainey Avenue property is such a high value property located in an urban setting that the Plan anticipates as higher intensity commercial development. The mixed use development that will be permitted upon rezoning to U-V is consistent with these Plan strategies.

### **Plan Hapeville 2025 Update**

Among other objectives, the 2025 Update introduced three tiers of mixed use as recommended in the LCI Study. One of these is “Low Intensity Mixed Use,” the land use designation assigned to the former apartment development that is proposed for redevelopment in conjunction with the 3477 Rainey Avenue and 3474 Elkins Street parcels. The Update describes Low Intensity Mixed Use as follows:

“The Dogwood corridor and Virginia Park may be characterized as stable, single family neighborhoods proximate to commercial development. These locations should be limited to a defined low intensity, mixed use pattern. This intensity anticipates two and three-story construction and mixed use in the same structure. The Commercial-Residential and the Urban-Village zoning classifications are well suited to allowing such mixed use flanking, abutting or near traditional neighborhoods.”

The 2025 Update reinforces a Mixed Use development pattern for Dogwood Drive and Virginia Park as indicated below:

“The areas designated on the July 2005 FLUM as “mixed use” are proposed as Low Intensity Mixed Use. These commercial properties abut low density single family neighborhoods and future development must be limited in scale. Transitional buffers adopted in the Village Zone, for example, can ensure compatibility with these neighborhoods while addressing retail, service and entertainment needs in a walkable setting.”

The Update also cites a Plan Hapeville 2025 Objective, reported as “Foster mixed use development at the periphery of Hapeville’s neighborhoods and along pedestrian scale commercial corridors. This would apply to Dogwood Drive and Virginia Park and supports a “low intensity mixed use” designation.”

Brian Wismer, Planning Commission Chairman

**Rezoning of 3477 Rainey Avenue (R-SF) to U-V Zone**

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**Zoning Ordinance Guidance**

According to Sec. 93-11.2-1 “Intent” of the Ordinance, the U-V Zone is established to accomplish the following objectives:

- (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale;
- (2) Accommodate residents in the district with pedestrian access to services and employment typical of a live/work community;
- (3) Promote neighborhoods established near shopping and employment centers;
- (4) Encourage pedestrian and neighborhood uses in the commercial area;
- (5) Discourage land uses that are automobile or transportation related;
- (6) Exclude industrial uses such as manufacturing, processing and warehousing;
- (7) Promote retail and related commercial uses such as business offices, florists, card shops, antique shops, new apparel shops and banks; and
- (8) Encourage intensified mixed-use with commercial uses on the ground floor and dwellings above.”

These U-V Zone objectives are consistent with the Plan Hapeville 2025 Update and can be advanced by the proposed rezoning. One provision of the U-V Zone is particularly critical to Objective (1) Accommodate a mixed-use, urban fabric that preserves neighborhood scale. That is the minimum 15-foot landscaped buffer applicable when a U-V zoned development adjoins a residential zone as reflected in Sec. 93-11.2-6 below.

Sec. 93-11.2-6. *Area, placement, and buffering requirements*, subsection (8) Residential buffer of the U-V Zone provides that “Where this district adjoins a residential zone, new development shall provide an attractive physical barrier between different zones as necessary to minimize disruptive light, noise, odor, dust, unsightly appearances and intrusive activity relative to the residential zone. A smooth transition to adjacent residential zones shall be ensured by the provision of:

- a. A minimum 15-foot landscaped buffer located within the U-V zone along the district line.
- b. A permanent opaque wall between six and eight feet in height.

While this is a rezoning application and not a site plan application, and compliance with all standards of the U-V Zone will ultimately be required, it is important to inform the applicant of this requirement since the project cannot be built as proposed.

Brian Wismer, Planning Commission Chairman

**Rezoning of 3477 Rainey Avenue (R-SF) to U-V Zone**

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A “Concept Mixed Use Site Plan” submitted with the application indicates 6,400 square feet of first floor restaurant floor area, 5,600 square feet of first floor retail and 13,200 square feet of second floor business uses. The parking requirement for these uses totals 91 spaces; 107 are provided. While this is a matter to be addressed at site plan review, Sec. 93-23-10. *Off-street parking requirements according to district and uses* provides that “The maximum number of off-street automobile parking spaces shall be 110 percent of the requirement for uses proposed at the time of development approval.” As proposed, the number of parking spaces would be 117 percent of the requirement.

Sec. 93-23-14. Size of off-street loading spaces establishes the following requirement for off-street loading spaces: “Each off-street loading space shall have minimum dimensions of 15 feet in height, 15 feet in width, and 60 feet in length.” Restriping of the parking lot to accommodate one loading space could bring the number of parking spaces down to the 110 percent requirement, or 100 parking spaces. The Site Plan features two driveways on Elkins and another two driveways on Rainey, introducing commercial traffic turning movements on what are otherwise residential streets. One alternative is to contain vehicle circulation within the parking lot that could achieve two objectives. One is to reduce the “parking overage” and the other to minimize commercial traffic on these two streets.

Sec. 93-22.1-1. *Chart of dimensional requirements* sets forth a requirement of one off-street loading space for every 10,000 square feet of, presumably, total floor area. Striping could identify “dual use” parking areas to accommodate demand for either motorists or deliveries.

**CONCLUSIONS**

Sec. 93-25-6 of the Ordinance provides 14 “Standards of review” to be applied when considering a property rezoning. The Ordinance further provides that *“In ruling on any matter in which the exercise of discretion is required, or in ruling upon any application for zoning map amendment, the administrative official or legislative body shall act in the best interest of the health, safety, morals, and general welfare of the city. In doing so, they will consider one or more of the following factors as may be relevant to the application”* The relevant factors are reprinted below, along with an analysis of the impact of the rezoning application on these factors:

*The existing land use pattern.*

The land use pattern is one of low intensity commercial uses abutting low density residential uses. Significant encroachment has been avoided and the proposed rezoning would allow mixed uses to encroach no further than such encroachment as could occur on adjacent and nearby lots. This finding is based on the current U-V zoning of the 3472 Rainey and 3473 and 3468 Harding properties.

Brian Wismer, Planning Commission Chairman

**Rezoning of 3477 Rainey Avenue(R-SF) to U-V Zone**

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*The possible creation of an isolated district unrelated to adjacent and nearby districts.*

All of the properties fronting Virginia Avenue in the vicinity of the proposed development are zoned U-V. Exceptions to this are properties across Virginia Avenue that are zoned C-2, General Commercial. As acknowledged earlier, the proposed rezoning would encroach further into the neighborhood; however, no further than has already been established by prior zonings to the U-V Zone. Given the presence of U-V zoning on adjacent and nearby properties, an isolated district would not be created. The transitional buffer required in the U-V Zone anticipates this zoning district adjacent to low density residential development. That provision acknowledges the expectation that low intensity mixed use could be located adjacent to neighborhoods having an urban character.

*The population density pattern and possible increase or overtaking of the load on public facilities including, but not limited to, schools, utilities, and streets.*

Virginia Avenue, the street that will provide primary access to the proposed development, is a four-lane arterial. This four-lane delivers relatively easy access to I-75 and I-85. Virginia Avenue also connects to North and South Central Avenues via a nearby, two-lane segment of Virginia Avenue. Cut through traffic has long been a problem in the “Old Second Ward.” It is possible that traffic calming measures might become desirable as development along the Virginia Avenue corridor intensifies. However, the grid street network provides a number of routes to disperse traffic that may be generated by the rezoning of this property.

*Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.*

A critical aspect of development of properties zoned U-V when adjacent to a neighborhood is the 15-foot minimum buffer found in Sec. 93-11.2-6. *Area, placement, and buffering requirements.* The proposed zoning map amendment will not be a deterrent to the value of adjacent property provided the development of this property is accomplished in accordance with existing regulations.

*The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community.*

The proposed zoning map amendment serves to implement the Plan Hapeville 2025 and the Plan Hapeville 2025 Update. The size of the parcel to be developed in conjunction with 3477 Rainey Avenue and 3474 Elkins Street may not be sufficient to achieve an economic, mixed use development. Prior rezonings in the immediate vicinity allow encroachment that could adversely affect the neighborhood. The proposed rezoning will permit encroachment no greater than has already been granted on those adjacent properties.

Employment, shopping and dining opportunities that will be created by the proposed development are thought to have a positive impact on the neighborhood as residents of such intown neighborhoods expect to be able to access these destinations by walking. The proposed amendment will foster realization of this expectation and should improve the attractiveness of the neighborhood that will be served by the proposed development.

*The extent to which the proposed zoning map amendment is consistent with the land use plan.*

The proposed U-V zoning is not supported by the exacting designations on the Future Development Map. However, such maps are intended to be general guides to land use and do not necessarily adhere to individual property boundaries. The construction of such maps though does tend to follow such boundaries. Financially feasible developments may require that additional property be designated, in this case, to Mixed Use. Given that the desire in Hapeville is to prevent commercial encroachment into a neighborhood and the broad stroke of a land use designation may not have accurately anticipated the amount of land necessary to achieve a feasible development project, the minor expansion of the "Mixed Use" designation, one that advances goals and objectives of City plans, may not be inconsistent with the land use plan.

*The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations.*

The proposed rezoning will accommodate a development that will advance virtually every objective of the U-V Zone. The purposes of the zoning regulations are reflected in Sec. 93-11.2-1. *Intent* of the U-V Zone. Rarely are all the purposes of a particular zone so impacted.

*Consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight*

The importance of preservation of neighborhoods is highlighted by the reservation of a 15-foot buffer when abutting a residential zone. A properly installed and maintained buffer can help protect the neighborhood. As mentioned concerning cut through traffic, close monitoring of traffic impacts and implementing of measures necessary to minimize such impacts can also help protect the neighborhood.

## **RECOMMENDATION**

Based on the above findings and conclusions, a recommendation of approval of the rezoning proposal is appropriate.

- c: Commissioner Travis Horsley, Vice Chair
- Commissioner Lucy Dolan
- Commissioner Mark Farah
- Commissioner Jeanne Rast
- Commissioner Charlotte Rentz
- Adrienne Senter, Planning Commission Secretary

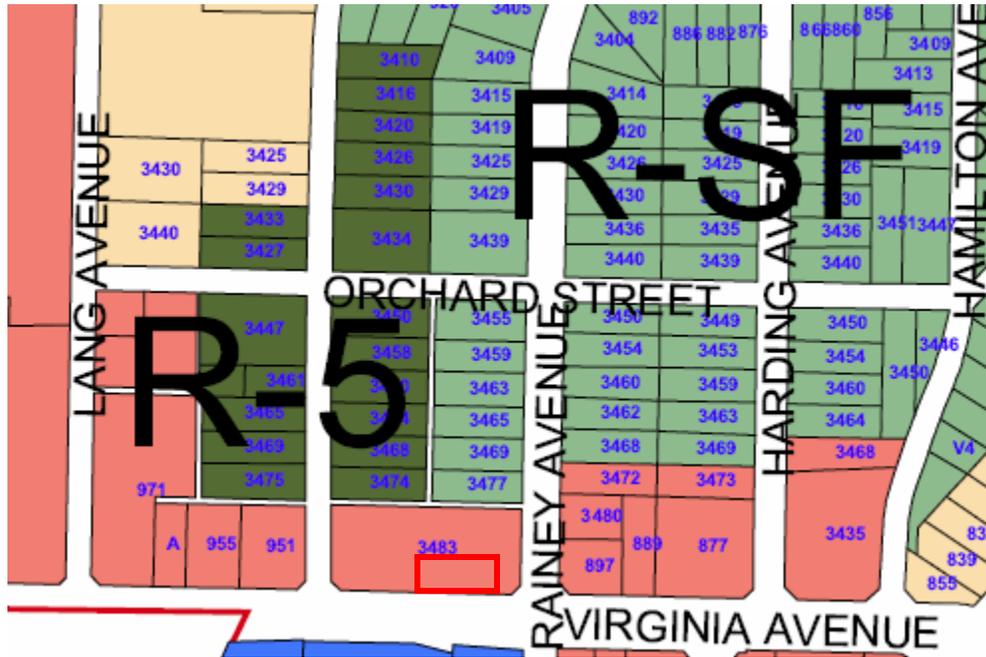
Attachment:      Location Map  
                            Google Image

Brian Wismer, Planning Commission Chairman

**Rezoning of 3477 Rainey Avenue(R-SF) to U-V Zone**

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**Location Map**



**Google Image**





## Keck & Wood, Inc.

3090 Premiere Parkway  
Suite 200  
Duluth, Georgia 30097  
(678) 417-4000  
Fax (678) 417-4055  
www.keckwood.com

# MEMO

REZONING - 3477 Rainey Avenue -

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**To:** Hapeville Planning Commission, Hapeville City Council

**From:** Mike Moffitt, P.E.   
**Office:** City Engineer

**Date:** October 28, 2016

**Subject:** Rezoning for 3477 Rainey Avenue

**Existing Zoning:** R-SF Residential Single Family District

**Proposed Zoning:** UV Urban Village

**Applicant:** Venus Virginia Ave, LLC/ Rajesh A. Patel

**Owner:** Hapeville Development Authority

**Location & Size:** 3477 Rainey Avenue, Hapeville, GA 30354  
Distr 14, Land Lot 127, Parcel 0127000040187, approximately 0.16 acre

**Request:** The applicant is requesting a change in zoning to UV to allow use of the property as parking for a mixed use development with retail and office space as retail and office and related parking is not a permitted use within R-SF Zoning Districts.

**Existing Land Use:** The existing land use is single family residential with one principal building structure. The residential property structures remain in place as far back as 1993 according to Google Earth images.

**Comprehensive Plan – Land Use:** The 2025 Comprehensive Plan and Future Land Use Map indicate this area as residential and bordering a Low Intensity Mixed Use area.

## Analysis:

The Rezoning request is to allow a parking space area to be located within property in a R-SF Zoning District. The application indicates the parking area provides needed parking for mixed use retail and office building on the adjacent parcel that fronts Virginia Avenue. The analysis of this application is made with respect to the “Standards of Review” as set forth in Article 25, Section 93-25-6 of the *Zoning Ordinance*.

**(1) The existing land use pattern;**

The proposed rezoning use for a parking area does not complement the existing residential use of the property. The adjacent property to the north and west is residential and the east side of the property is Rainey Avenue. Adjacent property across Rainey Avenue to the east is UV zoned property. However, a rezoning application for the west side property has been filed to change zoning to the same rezoning as this property, UV. The property to the south contains a 10 foot wide alley way and vacant UV zoned property on the other side of the alley. UV zoned property can be developed as residential or light commercial use. The subject property has predominantly been residential since its initial construction. The proposed rezoning to UV may complement the commercial use and development of adjacent and nearby property to the south. The application does not state the operating hours of the potential mixed use; however the times of operation in the evenings may conflict with the residential property use to the north.

**(2) The possible creation of an isolated district unrelated to adjacent and nearby districts;**

Since the adjacent property across the alley to the south and across Rainey Avenue is already zoned UV, the rezoning does not seem to create an isolated district.

**(3) The population density pattern and possible increase or overtaxing of the load on public facilities including, but not limited to, schools, utilities, and streets;**

The population density is not expected to increase since the property use does not have an increase in permanent occupants. The proposed property use should not overtax nearby schools and public utilities such as water, sewer, and solid waste. Some increase in traffic volume on Rainey Avenue can be expected due to the access of the proposed parking area being from Rainey Avenue.

**(4) The cost of the city and other governmental entities in providing, improving, increasing or maintaining public utilities, schools, streets and other public safety;**

It is not anticipated that the proposed rezoning use will cause a significant cost increase for governmental entities in handling public utilities, schools, streets, or public safety. The developer is expected to pay for all improvements and facilities to connect to utilities, streets and public safety. Such improvements and facilities could include grease traps, fire hydrants, meters, water and sewer lines, solid waste dumpsters, sidewalks, pavement markings and pedestrian access. Schools are not expected to be impacted.

**(5) The possible impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quantity;**

Impacts to the environment are expected to be minimal so long as site improvements comply with all City Code requirements. The City Code requirements address concerns for drainage, soil erosion and sedimentation, flooding, and water quality among others and City development permits will not be issued until compliance with code requirements is confirmed by submitted documentation.

**(6) Whether the proposed zoning map amendment will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations;**

The rezoning is expected to improve the value and development of the adjacent UV property to the south because it would allow greater public access to the retail and office mixed uses proposed. However, the adjacent residential zoned property to the north may have deterred

values due to that property being directly adjacent to UV zoned property. A residential buffer stated in Section 93-11.2-6 of the zoning ordinance can be required adjacent to the residential property to minimize the deterred value of the remaining adjacent residential property.

**(7) Whether there are substantial reasons why the property cannot be used in accordance with existing regulations;**

Since the existing property use of residential meets the existing regulations, there are no apparent reasons why the property cannot be used in accordance with existing regulations.

**(8) The aesthetic effect of existing and future use of the property as it relates to the surrounding area;**

The surrounding area to the south indicates an existing and growing commercial use area. Residential use and growth to the north appears stagnant and shows limited signs of growth. Therefore, the aesthetic effect of the rezoning seems to improve the overall neighborhood appearance.

**(9) The extent to which the proposed zoning map amendment is consistent with the land use plan;**

The Hapeville 2025 Comprehensive Plan and Future Land Use Map depict this area as residential. The proposed rezoning to UV and parking area use is not consistent with the anticipated residential character within the “Residential” land use category of the Future Land Use Map.

**(10) The possible effects of the proposed zoning map amendment on the character of a zoning district, a particular piece of property, neighborhood, a particular area, or the community;**

The majority of existing development at the intersection of Rainey Avenue and Virginia Avenue is consistent with the Future Land Use Plan. Rezoning to the UV zone for the parking area will increase the UV zoned property and reduce the residential use property in the area. The rezoning will allow development of current vacant UV property and improve the retail and office space available for the neighborhood. The light commercial development may improve the overall neighborhood and encourage nearby residential property improvements.

**(11) The relation that the proposed zoning map amendment bears to the purpose of the overall zoning scheme, with due consideration given to whether or not the proposed change will help carry out the purposes of these zoning regulations;**

The zoning change increases the UV zoned areas in the neighborhood and would encourage development of a currently vacant adjacent UV zoned property. The change reduces the residential zoned properties in the immediate vicinity. However, having a nearby mixed use retail and office property development may encourage residential growth in the remaining residential properties.

**(12) Applications for a zoning map amendment which do not contain specific site plans carry a rebuttable presumption that such rezoning shall adversely affect the zoning scheme;**

A specific site plan has been submitted with this application. Therefore, this factor does not apply.

**(13) The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight;**

The rezoning will decrease the size of the existing residential neighborhood. However, residential growth in the immediate area appears stagnant and existing residential structures appear to be several decades old. Development of the adjacent UV property with this rezoning will likely improve the neighborhood appearance and could encourage future residential growth in the neighborhood.

- (14) In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight**

This property does not front on a major thoroughfare. Therefore, this factor does not apply.

**Recommendation:**

The proposed Rezoning to UV is recommended to be granted.



**DAVID BLOODWORTH  
FIRE CHIEF**

**To: Adrienne Senter**

**From: Brian Eskew, Fire Marshal**

**Re: 3477 Rainey Avenue**

**Date: November 1, 2016**

**This project should not create a problem for the Fire Department. If you should need any more information, please let me know. Thanks.**

STATE OF GEORGIA

CITY OF HAPEVILLE

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND CHAPTER 93, ZONING, OF THE CODE OF ORDINANCES OF THE CITY OF HAPEVILLE, GEORGIA; TO AMEND THE PERMITTED USES IN THE C-2 (“GENERAL COMMERCIAL”), U-V (“URBAN VILLAGE”), AND I-1 (“LIGHT INDUSTRIAL”) ZONES; TO CREATE DEFINITIONS FOR AND ESTABLISH LIMITS ON THE ISSUANCE OF CERTIFICATES OF OCCUPANCY FOR BAIL BOND OFFICES, PRIVATE PROBATION OFFICES, CHECK CASHING BUSINESSES AND PAWNSHOPS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**WHEREAS**, the duly elected governing authority of the City of Hapeville, Georgia (the “City”) is the Mayor and Council thereof; and

**WHEREAS**, the Mayor and Council have, as a part of planning, zoning and growth management, been in review of the City's zoning ordinances and have been studying the City's best estimates and projections of the type of development which could be anticipated within the City; and

**WHEREAS**, the Mayor and Council therefore consider it paramount that land use regulation continue in the most orderly and predictable fashion with the least amount of disturbance to landowners and to the citizens of the City. The Mayor and Council have always had a strong interest in growth management so as to promote the traditional police power goals

of health, safety, morals, aesthetics and the general welfare of the community; and in particular the lessening of congestion on City streets, security of the public from crime and other dangers, promotion of health and general welfare of its citizens, protection of the aesthetic qualities of the City including access to air and light, and facilitation of the adequate provision of transportation and other public requirements; and

**WHEREAS**, it is the belief of the Mayor and Council that the concept of “public welfare” is broad and inclusive; that the values it represents are spiritual as well as physical, aesthetic as well as monetary; and that it is within the power of the City “to determine that a community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled.” Kelo v. City of New London, 545 U.S. 469 (2005); Berman v. Parker, 348 U.S. 26 (1954). It is also the opinion of the City that “general welfare” includes the valid public objectives of aesthetics, conservation of the value of existing lands and buildings within the City, making the most appropriate use of resources, preserving neighborhood characteristics, enhancing and protecting the economic well-being of the community, facilitating adequate provision of public services, and the preservation of the resources of the City; and

**WHEREAS**, the Mayor and Council are, and have been interested in, developing a cohesive and coherent policy regarding certain uses in the City, and have intended to promote community development through stability, predictability and balanced growth which will further the prosperity of the City as a whole; and

**WHEREAS**, the City desires to define, regulate the location, and regulate the number of certificates of occupancy that may be issued by the City for the following uses: Bail Bond Offices; Private Probation Offices; Check Cashing Businesses; and Pawnshops; and

**WHEREAS**, the Mayor and Council find it desirable and in the interest of the health, safety, and welfare of the citizens of the City to amend certain provisions of the City's Zoning Ordinance to accomplish its desires as indicated above.

**BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

**Section 1.** That the City's Code of Ordinances is hereby amended by inserting a definition of "Bail Bond Office" after the paragraph establishing the definition of "Antique Shop" and before the paragraph establishing the definition of "Basement" in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*"Bail Bond Office.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business that acts as a surety for a person accused of a crime and pledges money or property as bail to insure the appearance of such person in a court proceeding concerning such accusations."

**Section 2.** That the City's Code of Ordinances is hereby amended by inserting the definition of "Check Cashing Business" after the paragraph establishing the definition of "Cellar" and before the paragraph establishing the definition of "City Council" in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*"Check Cashing Business.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business

that cashes payroll, personal and other checks for the general public for a fee. The term does not include a bank, savings and loan association or credit union that is incorporated or organized under the law of the United States or any state thereof. Nor does this term include an office, building or other facility whose primary business would be retail sales or services and that would cash checks only as an incidental, accessory convenience service to its customers.”

**Section 3.** That the City’s Code of Ordinances is hereby amended by inserting the definition of “Pawnshop” after the paragraph establishing the definition of “Patio Houses” and before the paragraph establishing the definition of “Planned Unit Development (PUD)” in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“*Pawnshop.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership or any other entity operates a business that loans money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or purchases tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or purchases tangible personal property from persons or sources other than manufacturers or licensed dealers.”

**Section 4.** That the City’s Code of Ordinances is hereby amended by inserting the definition of “Private Probation Office” after the paragraph establishing the definition of “Planned Unit Development (PUD)” and before the paragraph establishing the definition of “Residential Infill” in Section 93-1-2, Definitions, of Article 1, Title, definitions and application of regulations, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

*“Private Probation Office.* Any office, building or other facility from which any person, company, corporation, partnership, limited partnership, enterprise, agency or any other entity pursuant to a written contract with a court of a county or a municipality, operates a business that provides probation supervision, counseling and collection services for all monies to be paid by a defendant according to the terms of a sentence imposed on such defendant as well any monies which by operation of law are to be paid by such defendant in consequence of a sentence, and other probation services for defendants convicted in such court and placed on probation.”

**Section 5.** That the City’s Code of Ordinances is hereby amended by inserting new Subsections (42), (43), (44) and (45) to Section 93-14-3, Permitted uses, of Article 14, C-2 Zone (General Commercial), of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“(42) Bail Bond Offices, subject to sec. 93-2-23.  
 (43) Check Cashing Businesses, subject to sec. 93-2-23.  
 (44) Pawnshops, subject to sec. 93-2-23.  
 (45) Private Probation Offices, subject to sec. 93-2-23.”

**Section 6.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of subsection (19) of Section 93-11.2-3, Permitted uses, of Article 11.2, U-V Zone (Urban Village), of Chapter 93, Zoning, and inserting new Subsections (19), (20), (21), (22), and (23) in lieu thereof, to read and to be codified as follows:

“(19) Bail Bond Offices, subject to sec. 93-2-23.  
 (20) Check Cashing Businesses, subject to sec. 93-2-23.  
 (21) Pawnshops, subject to sec. 93-2-23.  
 (22) Private Probation Offices, subject to sec. 93-2-23.  
 (23) Residential density limitations shall be as follows:  
 a. The maximum permitted residential density of a master planned development shall be 40 units per acre as calculated based on the sum of all residential uses and the total acreage of the project, including multiple parcels or city blocks, but not rail lines, public streets, or other areas not owned by the applicant;

- b. The built residential density of individual parcels or blocks within a master planned development may be greater or less than 40 units per acre, provided the project's combined average maximum permitted residential density is not exceeded; and
- c. Any changes to an approved site plan shall require approval of the city planning commission and shall be reviewed based on the geographic extent of the original approved site plan, shall not exceed maximum density requirements of the original application, and shall indicate all built or planned improvements.”

**Section 7.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of subsection (1) of Section 93-11.2-4, Nonpermitted uses, of Article 11.2, U-V Zone (Urban Village), of Chapter 93, Zoning, and inserting the following text, in lieu thereof, to read and to be codified as follows:

“(1) Reserved;”

**Section 8.** That the City’s Code of Ordinances is hereby amended by striking through the existing text of Section 93-15-3, Permitted uses, of Article 15, I-1 Zone (Light Industrial), of Chapter 93, Zoning, and inserting the following text, in lieu thereof, to read and to be codified as follows:

“The following uses are permitted within any I-1 zone:

- (1) Automobile laundries.
- (2) Automobile servicing and repairing.
- (3) Bail Bond Offices, subject to sec. 93-2-23.
- (4) Building materials sales yards and contractors' equipment yards, provided these yards are completely enclosed by a solid wall at least six feet high. These walls shall comply with all setback requirements for this zone.
- (5) Check Cashing Businesses subject to sec. 93-2-23.
- (6) Customary accessory buildings and uses.
- (7) Electronic manufacturing and assembly.
- (8) Electrical repair shops.
- (9) Establishments manufacturing prepared food and miscellaneous food products, such as bakeries, bottling plants, ice plants, etc.
- (10) Fabricating shops such as sheet metal works, woodworking shops, cabinet shops and upholstery shops.
- (11) Film developing.

- (12) Gasoline service stations.
- (13) Instruments manufacturing for professional, scientific, photography, optical and similar uses.
- (14) Laboratories for industrial testing and research.
- (15) Laundry and dry cleaning establishments.
- (16) Leather products manufacturing.
- (17) Nurseries, greenhouses and truck gardens.
- (18) Parking facilities.
- (19) Pawnshops, subject to sec. 93-2-23.
- (20) Printing shops.
- (21) Private Probation Offices, subject to sec. 93-2-23.
- (22) Sign manufacturing and construction.
- (23) Small items manufacturing, such as toys, clocks, jewelry, fountain pens, pencils, and plastic products.
- (24) Textile cutting, assembly and processing plants, not including spinning, knitting, weaving, dyeing, combing, scouring and similar activities.
- (25) Veterinarians, animal hospitals and kennels.
- (26) Warehouses and other storage facilities.
- (27) Welding shops, provided all glare is shielded from outside view.”

**Section 9.** That the City’s Code of Ordinances is hereby amended by inserting a new Section 93-2-23, to be entitled “Provisions concerning Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices”, within Article 2, General Provisions, of Chapter 93, Zoning, and inserting the following text to read and to be codified as follows:

“Sec. 93-2-23. – Provisions concerning Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices.

- (a) Permitted locations. Bail Bond Offices, Check Cashing Businesses, Pawnshops and Private Probation Offices shall be allowed only in those areas designated as “Permitted Locations for Private Probation Offices, Bail Bond Offices, Check Cashing Businesses, and Pawnshops” as indicated on those certain maps prepared by the Ecological Planning Group, dated \_\_\_\_\_, 2016, which maps are kept on file with the City Clerk. Any person, entity, or individual may review said map upon request to the City Clerk.
- (b) Limitation on Certificates of Occupancy. For every 10,000 persons living in the city according to the most recent decennial census of the United States as published by the United States Bureau of the Census, no more than one certificate of occupancy shall be

allowed, at one time, for the operation of each of the following businesses: Bail Bond Office, Check Cashing Business, Pawnshop or Private Probation Offices. Where the number of persons living in the city according to said census is less than 10,000, one such certificate of occupancy shall be allowed.”

**Section 10.** The maps entitled “Permitted Locations for Private Probation Offices, Bail Bond Offices, Check Cashing Businesses, and Pawnshops,” adopted \_\_\_\_\_ \_\_\_\_, 2016 and referenced in Section 9 of this Ordinance (and to be referenced in Section 93-2-23 of the Code of Ordinances), are attached hereto and incorporated herein by reference. A true and correct copy of such maps are displayed in Exhibit “A.” A copy of such maps, as are displayed in Exhibit A, are available for inspection during normal business hours in the office of the City Clerk

**Section 11.** The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 12.**

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 13.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 14.** Penalties in effect for violations of the Zoning Ordinance of the City of Hapeville at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

**Section 15.** The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

**ORDAINED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

[SIGNATURES CONTINUED TO NEXT PAGE]

**CITY OF HAPEVILLE, GEORGIA**

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**ALAN HALLMAN**, Mayor

**ATTEST:**

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**JENNIFER ELKINS**, City Clerk

**APPROVED AS TO FORM:**

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**STEVE FINCHER**, City Attorney

EXHIBIT A

## **Notice**

The City of Hapeville, Georgia will be considering amendments to the Code of Ordinances, City of Hapeville, Georgia, Chapter 93, Zoning, regarding regulation of Bail Bond Offices, Check Cashing Businesses, Pawnshops, and Private Probation Offices. A public hearing shall be held on December 6, 2016 at 7:00 p.m. in the Municipal Court Complex at 700 Doug Davis Drive, Hapeville, Georgia 30354.

## ALCOHOL ORDINANCE MEASURING AMENDMENT (12/6/16 MEETING)

<u>Issue/Provision</u>	<u>Current Hapeville Code</u>	<u>Revised Proposed Ordinance</u>
<p><b>Chapter 5, Alcoholic Beverages, Article 3, Definitions Applicable To All Classes, Sec. 5-3-1, Definitions.</b></p>	<p><i>Measured</i> means measured by way of a straight line from the nearest property line of a premises to the nearest property line of an involved institution.</p>	<p><i>Method of measuring.</i> Unless otherwise provided by the Georgia Alcoholic Beverage Code, all measurements to determine distances required for the issuance of alcoholic beverage licenses shall be measured in the following manner:</p> <ol style="list-style-type: none"> <li>(1) From the primary entrance of the structure from which the alcoholic beverage is sold or offered for sale;</li> <li>(2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;</li> <li>(3) Along such public sidewalk, walkway, street, road or highway by the nearest reasonable travel route;</li> <li>(4) To a point on the property line which is in a straight line from the primary entrance of the structure to the nearest public sidewalk, walkway, street, road or highway; or to the nearest property line of school grounds.</li> </ol> <p>Effective as of December 6, 2016, all surveyor’s certificates required under this Chapter shall be submitted consistent with the above method of measuring, in lieu of as specified otherwise throughout this Chapter, to show that an applicant meets requisite distance requirements. The above method of measuring shall remain in effect until March 31, 2017 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>



22           **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**  
23 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

24           **Section 1.**   **That the City Code, Chapter 5, Alcoholic Beverages, Article 3,**  
25 **Definitions Applicable To All Classes, Sec. 5-3-1, Definitions, is hereby amended by**  
26 **deleting the definition for the term “Measured” and replacing the same with the following:**

27           *Method of measuring.* Unless otherwise provided by the Georgia Alcoholic Beverage Code,  
28 all measurements to determine distances required for the issuance of alcoholic beverage licenses  
29 shall be measured in the following manner:

- 30           (1) From the primary entrance of the structure from which the alcoholic beverage is sold or  
31           offered for sale;
- 32           (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;
- 33           (3) Along such public sidewalk, walkway, street, road or highway by the nearest reasonable  
34           travel route;
- 35           (4) To a point on the property line which is in a straight line from the primary entrance of the  
36           structure to the nearest public sidewalk, walkway, street, road or highway; or to the  
37           nearest property line of school grounds.

38 Effective as of December 6, 2016, all surveyor’s certificates required under this Chapter shall be  
39 submitted consistent with the above method of measuring, in lieu of as specified otherwise  
40 throughout this Chapter, to show that an applicant meets requisite distance requirements. The  
41 above method of measuring shall remain in effect until March 31, 2017 or until the effective date of  
42 the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code,  
43 whichever occurs sooner.

44           **Section 2.** (a) It is hereby declared to be the intention of the Mayor and Council that all  
45 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their  
46 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

47           (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest  
48 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this  
49 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this  
50 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the  
51 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this  
52 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase  
53 of this Ordinance.

54           (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
55 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
56 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the  
57 express intent of the Mayor and Council that such invalidity, unconstitutionality or  
58 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional  
59 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or  
60 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,  
61 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,  
62 enforceable, and of full force and effect.

63           **Section 3.** All ordinances and parts of ordinances in conflict herewith are hereby  
64 expressly repealed.



## ALCOHOL ORDINANCE MEASURING AMENDMENT (12/6/16 MEETING)

<u>Issue/Provision</u>	<u>Current Hapeville Code</u>	<u>Revised Proposed Ordinance</u>
<p><b>Chapter 5, Alcoholic Beverages, Article 3, Definitions Applicable To All Classes, Sec. 5-3-1, Definitions.</b></p>	<p><i>Measured</i> means measured by way of a straight line from the nearest property line of a premises to the nearest property line of an involved institution.</p>	<p><i>Method of measuring.</i> Unless otherwise provided by the Georgia Alcoholic Beverage Code, all measurements to determine distances required for the issuance of alcoholic beverage licenses shall be measured in the following manner:</p> <ol style="list-style-type: none"> <li>(1) From the primary entrance of the structure from which the alcoholic beverage is sold or offered for sale;</li> <li>(2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;</li> <li>(3) Along such public sidewalk, walkway, street, road or highway by the nearest reasonable travel route;</li> <li>(4) To a point on the property line which is in a straight line from the primary entrance of the structure to the nearest public sidewalk, walkway, street, road or highway; or to the nearest property line of school grounds.</li> </ol> <p>Effective as of December 6, 2016, all surveyor’s certificates required under this Chapter shall be submitted consistent with the above method of measuring, in lieu of as specified otherwise throughout this Chapter, to show that an applicant meets requisite distance requirements. The above method of measuring shall remain in effect until March 31, 2017 or until the effective date of the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code, whichever occurs sooner.</p>



22           **BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF**  
23 **THE CITY OF HAPEVILLE, GEORGIA**, and by the authority thereof:

24           **Section 1.**     **That the City Code, Chapter 5, Alcoholic Beverages, Article 3,**  
25 **Definitions Applicable To All Classes, Sec. 5-3-1, Definitions, is hereby amended by**  
26 **deleting the definition for the term “Measured” and replacing the same with the following:**

27           *Method of measuring.* Unless otherwise provided by the Georgia Alcoholic Beverage Code,  
28 all measurements to determine distances required for the issuance of alcoholic beverage licenses  
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36           structure to the nearest public sidewalk, walkway, street, road or highway; or to the  
37           nearest property line of school grounds.

38 Effective as of December 6, 2016, all surveyor’s certificates required under this Chapter shall be  
39 submitted consistent with the above method of measuring, in lieu of as specified otherwise  
40 throughout this Chapter, to show that an applicant meets requisite distance requirements. The  
41 above method of measuring shall remain in effect until March 31, 2017 or until the effective date of  
42 the City’s pending comprehensive update of Chapter 5 of the City’s Alcohol Beverages Code,  
43 whichever occurs sooner.

44           **Section 2.** (a) It is hereby declared to be the intention of the Mayor and Council that all  
45 sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their  
46 enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

47           (b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest  
48 extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this  
49 Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this  
50 Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the  
51 greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this  
52 Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase  
53 of this Ordinance.

54           (c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance  
55 shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise  
56 unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the  
57 express intent of the Mayor and Council that such invalidity, unconstitutionality or  
58 unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional  
59 or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or  
60 sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases,  
61 clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional,  
62 enforceable, and of full force and effect.

63           **Section 3.** All ordinances and parts of ordinances in conflict herewith are hereby  
64 expressly repealed.

