



Planning and Zoning Commission
Agenda

Tuesday, January 7, 2025
at 7:00 p.m.

Location: 56 SW Malone St Fairburn, GA 30213

A. Call to Order

B. Determination of a Quorum

C. Pledge of Allegiance

D. Approval of the Meeting Agenda

E. Approval of the Meeting Minutes

1. Approval of the December 2024 - Regular Meeting Minutes

F. Public Comments

G. Old Business

1. KBD - Rezoning & Concurrent Variances (REQUEST TO TABLE UNTIL THE FEBRUARY MEETING)

Applicant: c/o Steven L. Jones, Taylor English Duma LLP

Property Owner: KBD FAIRBURN, LLC

Property Location: 5650 Milam Road (Parcel ID # 09F020200130436)

The applicant is requesting approval to rezone the parcel from C-2 (General Commercial Zoning District) to PD (Planned Development Zoning District). The applicant has also submitted a request for a concurrent variance related to open space, use, and parking reduction.

H. Public Hearings

I. New Business

1. Poplar Common (Comprehensive Plan Land Use Amendment)

Applicant: Freedom Land Holdings, LLC

Property Owner: Jeff Lindsey Communities & Landmark Christian School

Property Location: 0 Milo Fisher St and Highway 92 / East Campbellton Street, Parcel No. 09F100900520167

Summary: The applicant has submitted a request to change the Comprehensive Plan Land Use Designation from Rural Residential to Town Center Mixed Use

Other Business

Adjournment



Planning and Zoning Commission
48-Hour Action Summary
City Hall: 56 Malone Street,
Fairburn, GA 30213
Tuesday, December 3, 2024
7:00 p.m.

LaVone Deavers, Chair
Jason Jones, Vice Chair
Lina Parker
Elizabeth Echols
Tony Smith

Planning Director: Denise Brookins
Planner: Chancellor Felton
City Attorney: Valerie Ross

-
- A. Call to Order:** The meeting was called to order by Chairwoman Deavers.
 - B. Determination of a Quorum:** A quorum was determined, and the meeting proceeded.
 - C. Pledge of Allegiance**
 - D. Approval of the Meeting Agenda:**
 - 1. Commissioner Echols made a motion to amend and approve the agenda. Commissioner Smith seconded.
THE MOTION CARRIED.
 - E. Approval of the Meeting Minutes:**
 - 1. Commissioner Parker made a motion to approve the November 5, 2024, minutes. Commissioner Echols seconded.
THE MOTION CARRIED.
 - F. Public Comments:**
 - 1. Chairwoman Deavers opened the floor to general, public comments.
 - 2. Chairwoman Deavers closed the floor to general, public comments.
 - G. Old Business:**
 - 1. **Rezoning & Concurrent Variance**
Applicant: KBD FAIRBURN, LLC c/o Steven L. Jones, Taylor English Durma LLP
Property Owner: KBD FAIRBURN, LLC
Location: 5650 Milam Road (Parcel ID # 09F020200130436)
Request: 1) To rezone the Subject Parcel from C-2 (General Commercial Zoning District) to PD (Planned Development Zoning District). 2) To reduce the Minimum Parking Spaces from 2 Parking Spaces per Dwelling Unit to 1.5 Parking Spaces per Dwelling Unit (Chapter 80 Zoning, Article IX Off-Street Parking, Loading, and Landscape Requirements, Section 337 Off-street parking requirements, b schedule, 1).
 - a. Chairwoman Deavers introduced the case. Chancellor Felton presented the case on behalf of Staff. Staff made a recommendation to table. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.

b. The applicant presented to the Commission.
 Commissioner Echols motioned to **TABLE**. Commissioner Parker seconded.
THE MOTION CARRIED.

H. **Public Hearings:** None.

I. **New Business:**

1. **Comprehensive Land Use Amendment (CLUP)**

Applicant	Property Owner	Address	Tax Parcel
Bohannon Road Venture, LLC	Richard L. Benton	8125 Bohannon Drive	09F010000110654
Bohannon Road Venture, LLC	Catherine Benton	8145 Bohannon Road	09F010000110662
Bohannon Road Venture, LLC	Catherine Benton	8145 Bohannon Road	09F010000110365
Bohannon Road Venture, LLC	Brian Dickson	8155 Bohannon Drive Rear Lot	09F010000114227
Bohannon Road Venture, LLC	Richard L. Benton	8155 Bohannon Drive	09F010000110100
Bohannon Road Venture, LLC	Jonathan William Glisson	8156 Bohannon Drive	09F010000110571
Bohannon Road Venture, LLC	Guy W. Lassiter & Phyllis M. Lassiter	8355 Bohannon Road	09F010000110266
Bohannon Road Venture, LLC	Aaron Mathew Shinstine	8365 Bohannon Road	09F010000110647
Bohannon Road Venture, LLC	Abigail Shinstine (Bottlerocket Enterprises, LLC)	9301 Bohannon Road	09F010000110563
Bohannon Road Venture, LLC	Edward Shinstone	8385 Bohannon Drive	09F010000110548

Request: To change the Comprehensive Plan Land Use Designation from Rural Residential and Greenspace to Office-Industrial.

- a. Chairwoman Deavers introduced the case. Denise Brookins presented the case on behalf of Staff. Staff made a recommendation for conditional approval. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.
- b. Vice Chairman Jones asked if this future land use designation change will open up this land to additional industrial uses other than data centers. Director Brookins said yes. Vice Chairman Jones asked what other light industrial uses are there. Director Brookins replied warehouses and light industrial factories.
- c. Commissioner Echols asked if this was the second data center off of Bohannon Road. Director Brookins said that the other data center is on Gullatt Road.
- d. Commissioner Smith asked if there is a buffer zone. Director Brookins said that there is a road separating the subject parcels from residential subdivisions.

CITY OF FAIRBURN

- e. The applicant presented to the Commission.
- f. Vice Chairman Jones asked who would operate the data center. The applicant said there would be a multitude of operators.
- g. Vice Chairman Jones asked if there was enough electricity to support the development. The applicant said that they are in talks with different service providers.
- h. Chairwoman Deavers asked why does the applicant want to do business in Fairburn. The applicant said that they have done business before in Fairburn, have an understanding of the community, and cares about Fairburn.
- i. Commissioner Smith asked if there was engagement with the neighboring HOA. The applicant said yes. Commissioner Smith asked how many people were in the engagement meetings. The applicant said 3-4 people.
- j. Commissioner Echols asked how could the applicant expect a good turnout at engagement meetings when notification by the applicant was given on a Friday and the meeting was on that upcoming Tuesday. The applicant said that the meeting in question was a last-minute meeting due to the new requirements of the City for the newly established process of changing a future land use designation. Commissioner Echols asked how many people were at the first meeting. The applicant said 3-4 people.
- k. Vice Chairman Jones asked for clarification on what the Commission was voting on. Director Brookins clarified.

Vice Chairman Jones motioned to recommend **CONDITIONAL APPROVAL**. Commissioner Smith seconded.

THE MOTION CARRIED.

2. Rezoning and Use Permit

Applicant	Property Owner	Address	Tax Parcel
Bohannon Road Venture, LLC	Richard L. Benton	8125 Bohannon Drive	09F010000110654
Bohannon Road Venture, LLC	Catherine Benton	8145 Bohannon Road	09F010000110662
Bohannon Road Venture, LLC	Catherine Benton	8145 Bohannon Road	09F010000110365
Bohannon Road Venture, LLC	Brian Dickson	8155 Bohannon Drive Rear Lot	09F010000114227
Bohannon Road Venture, LLC	Richard L. Benton	8155 Bohannon Drive	09F010000110100
Bohannon Road Venture, LLC	Jonathan William Glisson	8156 Bohannon Drive	09F010000110571
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Bohannon Road Venture, LLC	Aaron Mathew Shinstine	8365 Bohannon Road	09F010000110647

Bohannon Road Venture, LLC	Abigail Shinstine (Bottlerocket Enterprises, LLC)	9301 Bohannon Road	09F010000110563
Bohannon Road Venture, LLC	Edward Shinstone	8385 Bohannon Drive	09F010000110548

Request: To rezone subject parcels from AG (Agricultural Zoning District) to M-1 (Light Industrial Zoning District). To approve the data center use permit.

- a. Chairwoman Deavers introduced the case. Denise Brookins presented the case on behalf of Staff. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.
- b. Commissioner Smith asked for clarification on the role of the Planning and Zoning Commission versus the Mayor and City Council and if Staff supports the request. Director Brookins clarified and stated that if Staff cannot support a request, conditions may be given, if the Commission chooses to approve.
- c. Vice Chairman Jones asked if a 100-foot buffer will be established. The applicant said yes.
- d. Commissioner Smith asked if the applicant will be willing to meet all recommended zoning conditions. The applicant said that they would try.

Commissioner Echols motioned to not recommend **APPROVAL**. Commissioner Smith seconded. Vice Chairman Jones went against the motion. Commissioner Parker went against the motion. Chairwoman Deavers motioned to not recommend **APPROVAL**.

THE MOTION CARRIED.

3. **Final Plat**

Applicant: DRB Group Georgia, LLC

Property Owner: DRB Group Georgia, LLC

Location: 294 Elder Street (09F171000670178), 296 Elder Street (09F171000670244), 0 Strickland (09F171000670137), 246 Strickland Street (09F171000670129), 260 Elder Street (09F171100670029), and 270 Elder Street (09F171100670011)

Request: To approve the final plat.

- a. Chairwoman Deavers introduced the case. Denise Brookins presented the case on behalf of Staff. Staff made a recommendation for approval. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.
- b. The applicant presented to the Commission.
- c. Vice Chairman Jones asked how many homes will be in the new subdivision. The applicant stated 73 homes.

Vice Chairman Jones motioned to recommend **APPROVAL**. Commissioner Echols seconded.

THE MOTION CARRIED.

4. **Final Plat and Dedication**

Applicant: Douglas A. Shumate

Property Owner: OCP FAIRBURN LLC

Location: Renaissance Parkway (consisting of approximately 2.741 acres)

Request: The applicant is requesting approval to dedicate without limitation all those described roads, utility easements,

water easements, sewer easements, gas easements, storm water easements and related infrastructure.

- a. Chairwoman Deavers introduced the case. Denise Brookins presented the case on behalf of Staff. Staff made a recommendation for approval. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.

Commissioner Parker motioned to recommend **APPROVAL**. Commissioner Echols seconded.

THE MOTION CARRIED.

5. **Concept Plan**

Applicant: Portman Residential, LLC

Property Owner: Portman Residential, LLC

Request: To approve the concept plan.

- a. Chairwoman Deavers introduced the case. Denise Brookins presented the case on behalf of Staff. Staff made a recommendation for approval. Chairwoman Deavers opened the floor for the Commission to ask Staff questions.
- b. Vice Chairman Jones asked if all conditions had been met. Director Brookins said so far, yes, but the concept plan has to be approved to finish meeting all of the conditions.

Vice Chairman Jones motioned to recommend **CONDITIONAL APPROVAL**. Commissioner Smith seconded.

THE MOTION CARRIED.

J. **Other Business:** None.

K. **Adjournment:**

1. Commissioner Smith motioned to adjourn the public meeting at 8:24 pm. Commissioner Parker seconded.

THE MOTION CARRIED.

STAFF REPORT

To: Planning and Zoning Commission
From: Denise Brookins
Date: January 7, 2025, Planning and Zoning Commission
Agenda Item: Request to change the Comprehensive Plan Land Use Designation from Rural Residential to Town Center Mixed Use

APPLICANT/PETITIONER INFORMATION

Property Owner	Petitioner
Jeff Lindsey Communities & Landmark Christian School	Freedom Land Holdings, LLC

PROPERTY INFORMATION

Address, Parcel Number	0 Milo Fisher St and Highway 92 / East Campbellton Street Parcel No. 09F100900520167
Frontage:	Milo Fisher St & East Campbellton St
Area of Property:	4.4 acres +/-
Existing Zoning and Use:	AG —Agricultural Zoning District
Overlay District:	N/A
Prior Zoning Cases/History:	Rezoning Request Under Review
Comprehensive Future Land Use Map Designation:	The Rural Residential - this residential character area is meant to Preserve a rural feel and transition to the very low-density uses in the rural areas surrounding the city in the City of South Fulton, Fayette, and Coweta counties.
Proposed Land Use Map:	The Town Center Mixed Use character area includes Downtown Fairburn and the surrounding core. Downtown is the historic node of the city, with traditional, commercial land uses and limited residential development.

INTENT












This applicant has submitted an additional request to change the Comprehensive Plan Land Use designation from Rural Residential to Town Center Mixed Use for tax parcel 09F100900520167.

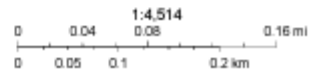
Zoning Map:

ArcGIS Web Map



8/2/2024, 9:13:38 AM

- Current Zoning
- | | |
|--|--|
|  R-2 |  R-3 |
|  AG |  R-4 |
|  C-2 |  R-CT |
|  DTMU |  RM-12 |
|  O&I |  Tax Parcels 2022 (Fulton County Assessors) |
|  R-1 | |



1:4,514
0 0.04 0.08 0.16 mi
0 0.05 0.1 0.2 km

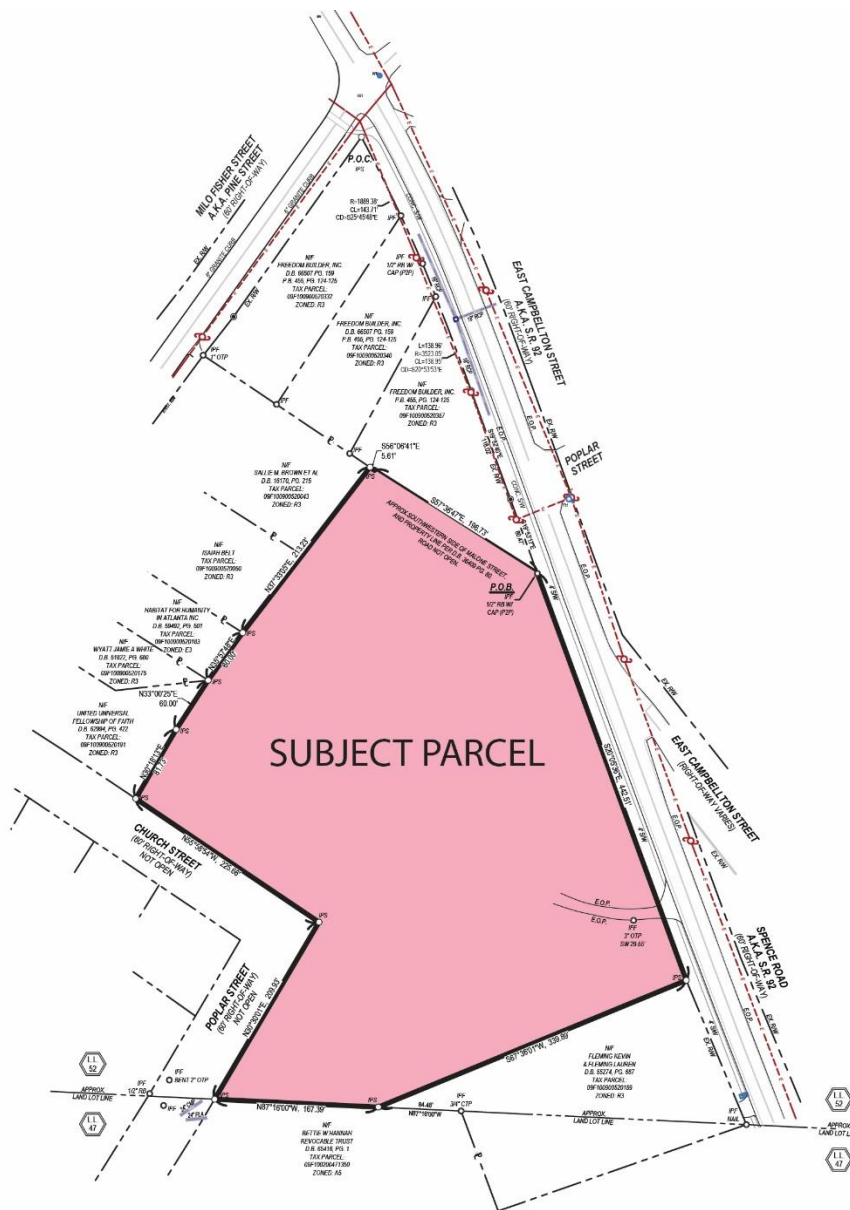
Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METU, NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

ArcGIS Web AppBuilder

BACKGROUND

The project area includes 6.3 acres of land. The properties have frontage on Milo Fisher Road and Highway 92 / East Campbellton Street. In August, the applicant sought to rezone the property from AG-1 and R-3 to R-CT (R-CT—Residential Condominium/Townhouse District) for the development of 31 single family detached and attached residences.

The applicant is now seeking to change the Comprehensive Plan Land Use designation of one of the subject parcels in the project area from Rural Residential to Town Center Mixed Use. The Rural Residential designation is meant to Preserve a rural feel and transition to the very low-density uses in the rural areas surrounding the city in the City of South Fulton, Fayette, and Coweta counties. The Town Center Mixed Use character area includes Downtown Fairburn and the surrounding core. Downtown is the historic node of the city, with traditional, commercial land uses and limited residential development.



Public Participation:

The applicant held two community meetings. Below is a summary of some of the general concerns:

1. Housing Density
2. Traffic Control and Congestion
3. Utility Capacity and Demand
4. Neighborhood Character/Elevations/Design
5. Property Values

STAFF COMMENTS

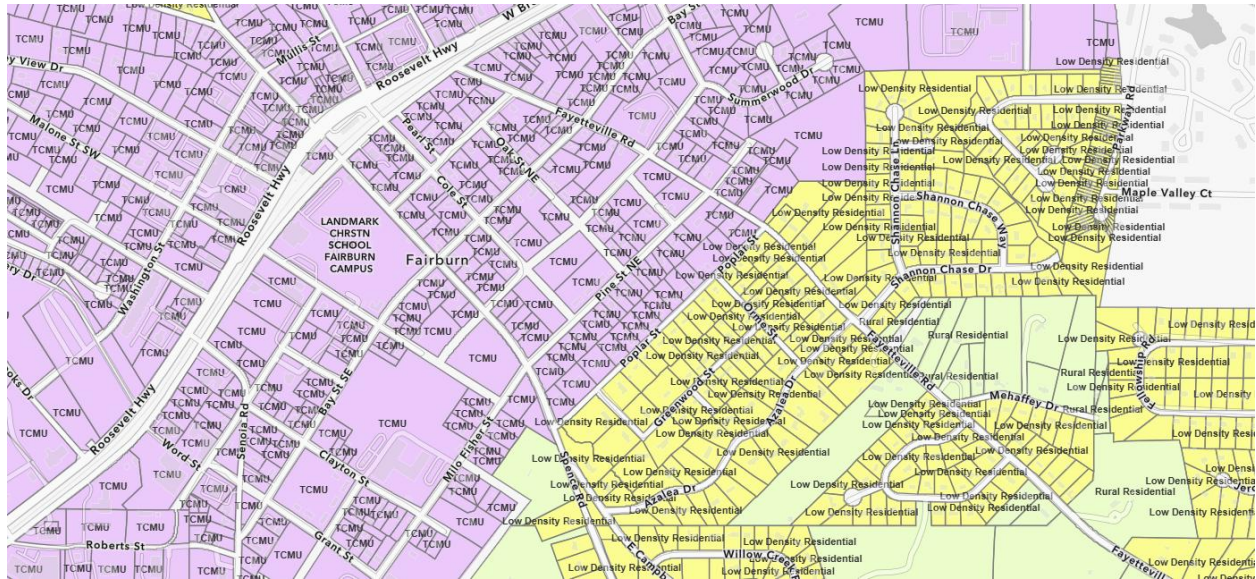
Standards for Comprehensive Plan Land Use Map Amendments

The adopted Comprehensive Plan is a framework within which development and rezoning proposals are measured and evaluated. The plan is intended to guide the orderly growth of the community. In order for the plans to remain viable and to keep pace with the changing marketplace, periodic adjustments to reflect changing conditions will be required.

Section 80-301 of the Zoning Ordinance lists the eight factors of analysis to be considered in a technical review of the request by the staff and Planning Commission. Each factor is listed below with the staff analysis.

1. The extent to which a change in the economy, land use or development opportunities of the area has occurred.

Growth was anticipated in the general area surrounding the subject parcel. The change in the designation could spur additional development and density in the downtown area.



2. The extent to which additional land area is needed to be developed for a specific type of use.

There are other parcels available in the area for the proposed type of development.

3. The extent to which the proposed designation is in compliance with the concerns, goals and policies of the Comprehensive Plan.

The relevant goals in the Comprehensive Plan are listed below:

1. Increase activity Downtown

- a. Recruit residential and mixed-use developers to Downtown to increase housing stock
 - i. Update Zoning Ordinance to allow loft apartments over stores and townhouses Down-town and within the Highway 74 corridor, and to not allow apartments elsewhere in the city
 - ii. Update Zoning Ordinance to accommodate single-family residential infill development Downtown
 - iii. Update Zoning Ordinance to allow transit-supportive density development Downtown

The Comprehensive Plan states Fairburn will develop with the following attributes:

- Have a diverse and growing population.
- Attract a mixed-income residential base that supports the community’s growth needs for housing for all stages in life.
- Attract, retain and grow both small and large businesses that offer good jobs.
- Have an attractive and vibrant downtown.
- Offer recreational opportunities that fit the community’s needs

The requested land use change from Rural to Town Center Mixed Use is in conformity with the goal of recruiting residential and encouraging mixed-use developers to Downtown to increase housing stock.

4. The extent to which the proposed designation would impact public health, safety or welfare.

The increase density will impact traffic in the area and could impact public safety given the surrounding developments.

5. The extent to which additional land area needs to be made available or developed for a specific type of use.

The City of Fairburn has steadily grown since 2010. Based on 2029 census-based estimates, the strongest growth will occur from 2024 -2029 with an 8.1% population increase, or just over 1.63% per year. That growth will primarily come from increases in the population aged 21 -24 and 55 -85+. This points to a growing number of young singles and professionals as well as empty nesters and retirees -many of whom will require greater variety in housing products.

The recently completed housing study projected a demand of an additional 350 small cottage style/small lot detached villa homes through 2028.



Small Lot - Detached Villa		1.5-Story SFD	26'	Attached rear-loaded	1,900	2,400	2,150	\$300,000	\$350,000	\$325,000	\$151	Varies from move-downs (master down) to young couples	Up to 70/year for a total of 350 through 2028
Small Lot - Cottage		2-Story Cottage Product	40' x 150'	Attached rear-loaded	2,200	3,000	2,600	\$325,000	\$400,000	\$362,500	\$139	More working couples and families	

Figure 1, Exhibit 2, Page 4

6. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby properties

Yes, the proposed land use change could affect the development patterns in the area, especially the nearby residential properties.

7. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome uses of existing streets, transportation facilities, utilities, public services or schools, or any infrastructure.

Yes, the proposed designation, without adequate upgrades and traffic improvement, could have excessive and potentially burdensome uses.

8. Describe how the resultant changes impact or benefit the City of Fairburn relative to all of the items listed below:

Community Design;	N/A
<i>Cultural Resources;</i>	N/A
<i>Economic Development;</i>	Yes, the development could positively impact economic development initiatives.
<i>Environment;</i>	The industrial designation could have a negative environmental impact.
<i>Fire and Rescue; Housing (residential developments only);</i>	No Comments or concerns from the Fire Department
<i>Land Use;</i>	The designation could expand higher density residential development in the area
<i>Libraries (residential developments only);</i>	N/A
<i>Open Space;</i>	N/A
<i>Parks;</i>	N/A
<i>Police;</i>	N/A
<i>Potable Water;</i>	The development will impact water consumption.
<i>Schools (residential developments only);</i>	N/A
<i>Sewer;</i>	The development will impact sewer consumption.
<i>Transportation;</i>	Yes, the potential development options will impact transportation in the area.
<i>— Sector Plan/Small Area Plan (if applicable)</i>	N/A

Staff Recommendation:

Staff has reviewed this application, along with the existing zoning on this property and the adjacent properties, the current use of the property, level of development occurring in the area, current infrastructure and the natural resources. The proposed development does align with the land use goals in the Comprehensive Plan. If approved, the applicant or city staff should conduct additional analysis related to traffic and infrastructure upgrades to support the future demand.

CITY OF FAIRBURN
CLUP COMPREHENSIVE PLAN | AMENDMENT APPLICATION

PROJECT INFORMATION	
Project Name	Poplar Commons
Project Address	0 Milo Fisher Street
Project Parcel Numbers	09F100900520167
PROPERTY OWNER INFORMATION (Attached additional forms for other owners)	
Name	Landmark Christian School, Inc.
Mailing Address	50 E. Broad Street, Fairburn, Georgia 30213
Telephone	678-466-2004
Email	mmayfield@landmark-cs.org
<p><u><i>Molly S Mayfield</i></u> (sign name) I affirm that I am the owner of the tract or parcels of land identified above under the project information section and I will serve as the primary contact for this application.</p> <p style="text-align: center;">OR</p> <p>I hereby designate <u>Freedom Land Holdings, LLC</u> (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.</p>	
REPRESENTATIVE CONTACT INFORMATION	
Name	Freedom Land Holdings, LLC c/o Steven L. Jones, Taylor English Duma LLP
Mailing Address	1600 Parkwood Circle, Suite 200, Atlanta, Georgia 30339
Telephone	404-218-2756
Email	sjones@tayorenglish.com
Company	Freedom Land Holdings, LLC

CITY OF FAIRBURN
CLUP COMPREHENSIVE PLAN | AMENDMENT APPLICATION

SITE INFORMATION			
Project Name	Poplar Commons	Project Address	0 Milo Fisher Street
Parcel ID	09F100900520167	Property Size	4.47
Location/ Date/Time for the Neighborhood Meeting	Zoom / Wednesday, November 13, 2024 / 7:00 PM		
REQUEST OVERVIEW			
Future Land Use Amendment Request (If Applicable)			
Impact Form			
Existing Land Use	RR (Rural Residential)	Proposed Land Use	TCMU (Town Center Mixed Use)
OTHER INFORMATION			
Are there Existing Deed Restrictions or Easements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Are utilities available on site:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Utility Provider	Water	City of Fairburn	
	Sewer	City of Fairburn	
	Power	City of Fairburn	
Existing Land Use: check all that apply	Vacant/Undeveloped		
Proposed Land Use: check all that apply	Residential		

CITY OF FAIRBURN
CLUP COMPREHENSIVE PLAN | AMENDMENT APPLICATION

PART 2: IMPACT ANALYSIS REVIEW

IMPACT FORM

Analyze the impact of the proposed amendments to the comprehensive plan and/or future land use map and answer the following questions:

1. The extent to which a change in the economy, land use or development opportunities of the area has occurred.

See attached cover letter/impact analysis letter.

2. The extent to which additional land area is needed to be developed for a specific type of use.

See attached cover letter/impact analysis letter.

3. The extent to which the proposed designation is in compliance with the concerns, goals and policies of the Comprehensive Plan.

See attached cover letter/impact analysis letter.

4. The extent to which the proposed designation would impact public health, safety or welfare.

See attached cover letter/impact analysis letter.

5. The extent to which additional land area needs to be made available or developed for a specific type of use.

See attached cover letter/impact analysis letter.

6. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby properties

See attached cover letter/impact analysis letter.

7. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome uses of existing streets, transportation facilities, utilities, public services or schools, or any infrastructure.

See attached cover letter/impact analysis letter.

8. Describe how the resultant changes impact or benefit the City of Fairburn relative to all of the items listed below:

- Community Design;
- Cultural Resources;
- Economic Development;
- Environment;
- Fire and Rescue; Housing (residential developments only);
- Land Use;
- Libraries (residential developments only);
- Police;
- Potable Water;
- Schools (residential developments only);
- Sewer;
- Transportation;
- Sector Plan/Small Area Plan (if applicable);

See attached cover letter/impact analysis letter.

November 8, 2024

VIA EMAIL: sbrookins@fairburn.com

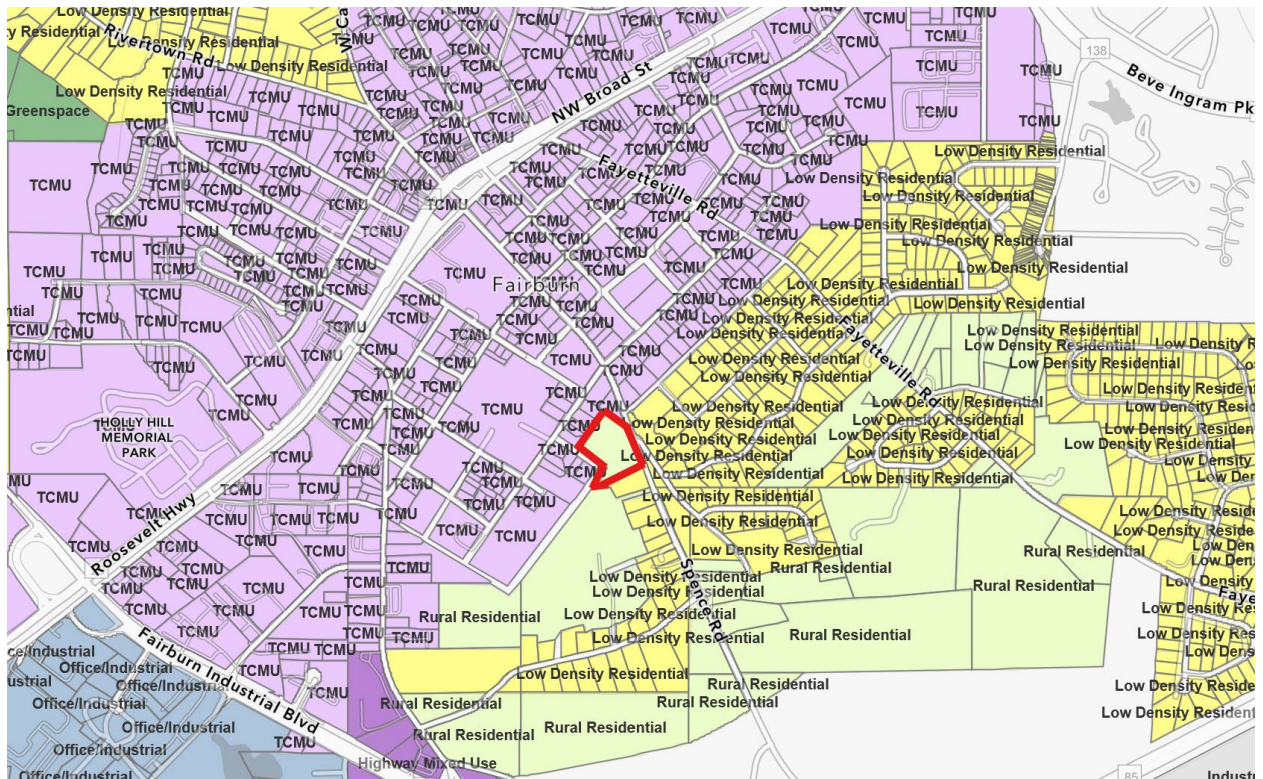
Ms. Denise Brookins
Director of Planning and Zoning
City of Fairburn, Georgia
Fairburn Administration Building
314 NW Broad Street
Fairburn, GA 30213

**RE: Fulton County Tax Parcel Identification Numbers 09F100900520167
(the “Property”);
CLUP Comprehensive Plan | Amendment Application for the
Property (the “Application”).**

Dear Ms. Brookins:

This letter serves to file with your department the Application of Freedom Land Holdings, LLC (the “Applicant”) and as an analysis of the Standards for a CLUP amendment (the “Application Standards”) under Section 80-301 of the Zoning Ordinance of the City of Fairburn, Georgia (the “Zoning Ordinance”), codified as Chapter 80 of The Code of Ordinances of Fairburn, Georgia.

The Application is a companion application to Rezoning Application and Variance Application (collectively, the “Zoning Application”) of the Applicant regarding the Property and Fulton County Tax Parcel Identification Numbers (“TPN(s)”) 09F100900520316 and 09F100900520035. Collectively, these applications seek approval for a development with single-family detached residences, as shown on the concept plan and renderings submitted with the Zoning Applications. The proposed development is consistent with the TCMU (Town Center Mixed Use Designation) character area assigned by the City of Fairburn Comprehensive Plan 2020-2024 (the “Comprehensive Plan” or the “Comp. Plan”) to 09F100900520316 and 09F100900520035, as shown on the excerpt of the City’s Future Land Use Map below, where the Property is shown with a red border and the aforementioned TPNs are to the northeast of the Property. (Comp. Plan, pp. 36-38). The Application seeks to extend the TCMU designation to the Property.



The TCMU designation and the Comprehensive Plan contemplate a development like that proposed by the Application and the Zoning Applications. Specifically, the Comprehensive Plan notes that “[t]he Town Center Mixed Use character area includes Downtown Fairburn and the surrounding core [as shown on the excerpt of the future land use map above]” (Comp. Plan p. 35). Additionally, the Comprehensive Plan notes that “[l]ots in Downtown Fairburn [and the TCMU character area] are typically small, with zero-lot line buildings, and shallow or no setbacks from the street right-of-way.” (*Id.*). And, within this character area, the City’s development strategies include “[e]ncourag[ing] transit-supportive residential development [and] . . . development of various housing types.” (Comp. Plan, p. 37, p. 38 (noting that appropriate uses in the TCMU character area all types of residential development)). “The goal [of the Comprehensive Plan] is for the Downtown/Town Center Mixed Use Character Area to become the center of daily life in the city.” (Comp. Plan, p. 38).

The Application and the Zoning Applications seek to fulfill the vision and goals of the Comprehensive Plan for the TCMU character area. This character area should be extended to the Property, for the reasons set forth below. Above all, the Property is similarly situated to those properties to the North and West of the Property, which properties are already within the TCMU character area and front on or have access to the same downtown street network as those properties.

Below the Application Standards are restated in bold with the Applicant's analysis of each such standard.

1. The extent to which a change in the economy, land use or development opportunities of the area has occurred

The Property is bordered to the North and West by properties within the TCMU character area, to the east by Hwy. 92/East Campbellton Street, and to the south by a single, acreage property within the low density residential character area. The Property has remained undeveloped for decades. During that time, the housing market has shifted to desire lower-maintenance lots with common amenities. The Property is also part of an assemblage with those adjacent properties to the Northeast which are already within the TCMU character area. This assemblage provides a development opportunity for a single-family residential neighborhood adjacent to Landmark Christian School, which will provide attainable housing to the current and future residents of the City, including, but in no way limited to, student families and faculty of the Landmark Christian School. Therefore, the change in the economy and development opportunities in the area have occurred.

2. The extent to which additional land area is needed to be developed for a specific type of use

As noted, the Property is part of an assemblage of properties most of which are already designated TCMU. The Property has no viable access to Hwy. 92/Spence Road/East Campbellton Street and its only other frontage is on an unimproved portion of Church Street. The other properties in the assemblage are of sizes which, alone or without the Property, are not suitable for an innovative, marketed-driven development, like that proposed by the Zoning Applications. Thus, the additional land area of the Property is needed for the development proposed by the Zoning Applications and the Application and that (as noted herein) is consistent with the TCMU character area and the goals and policies of the Comprehensive Plan.

3. The extent to which the proposed designation is in compliance with the concerns, goals and policies of the Comprehensive Plan

The Comprehensive Plan's inclusion of the properties adjacent to and that are similarly situated to the Property within the TCMU character area shows that the proposed designation of the Property as within the TCMU character area is in compliance with the concerns, goals, and policies of the Comprehensive Plan. Specifically, the TCMU character area calls for a variety of housing types that nurture thriving commercial activity and are reflective of historical context building mass, scale, and setbacks. (Comp. Plan p. 37). To that end, all residential types are appropriate in that character area. (Comp. Plan p. 38). Accordingly, the proposed

designation is in compliance with the concerns, goals, and polices of the Comprehensive Plan.

4. The extent to which the proposed designation would impact public health, safety or welfare.

The proposed designation would postively impact the public health, safety, or welfare. The City Council has announced, via the existing Comprehensive Plan and Future Land Use Map, that the TCMU character area is appropriate for the area in which the Property is located and for all other properties fronting on Milo Fisher Street and Church Street. The Application merely seeks to have a future land use map designation applied to the Property that is consistent with the designation assigned to all other properties fronting on Milo Fisher and Church Street, including the properties which the Applicant has assembled with the Property for a development consistent with the TCMU designation, and which properties are similarly situated to the Property.

5. The extent to which additional land area needs to be made available or developed for a specific type of use

Additional land area, such as the Property, is needed for a residential development contemplated by the TCMU. The TCMU character area contemplates housing densities like those proposed by the Zoning Applications, as noted above.

6. Whether the proposed land use change will adversely affect the existing use or usability of adjacent or nearby properties

The proposed land use is consistent with the TCMU character area assigned to adjacent and nearby properties. Therefore, the proposed land use will not adversely affect the existing use or usability of adjacent and nearby properties.

7. Whether the proposed land use change will result in uses which will or could cause excessive or burdensome uses of existing streets, transportation facilities, utilities, public services or schools, or any infrastructure

The proposed land use change is in keeping with the TCMU character area assigned to adjacent properties, including those that are the subject of the Zoning Applications. The designation of those properties in the Comprehensive Plan as being within the TCMU character area is an indication that their development will not cause an excessive or burdensome use of existing streets, transportation facilities, utilities, public services or schools, or any infrastructure. The proposed land use change will afford the Property a future land use designation that is consistent with

those adjacent to it and similarly situated to the Property. Without such a land use change, the Property and its owner, Landmark Christian School will be denied rights and opportunities that adjacent and similarly situated properties are afforded.

8. Describe how the resultant changes impact or benefit the City of Fairburn relative to all of the items listed below: community design, cultural resources, economic development, environment, fire and rescues, housing, land use, libraries, police, potable water, schools, sewer, transportation, sector plan/small area plan

The resultant changes from approval of the Application will positively impact and benefit the City of Fairburn because the TCMU character area is assigned to all adjacent properties, which are similarly situated to the Property. Additionally, the community design will be furthered by permitting development consistent with the TCMU character area and its goals and policies. The housing in the City will also be positively impacted and benefit, as desired by the Comprehensive Plan. The Comprehensive Plan notes that the City's land use goals include "[r]ecruit[ing] residential . . . developers to Downtown to increase housing stock" [and] "mak[ing] Downtown more appealing and more walkable" with streetscape improvements and new sidewalks." (Comp. Plan, p. 21). Moreover, the Comprehensive Plan's housing goals include "[e]nsur[ing] housing options for all ages" to "[a]ttract people of all ages to move to Fairburn." (Comp. Plan, p. 27). Likewise, the development that will result from approval of the Application and the Zoning Applications will increase the City's population and, therefore, visitors to the City's libraries.

Additionally, the Application and the resulting development will not have a negative impact on the City's police, potable water, schools, sewer system, or transportation system because the proposed development is a small, infill development and will therefore create minor additions to the City's population and the resultant demand on City services and infrastructure will be minimal. Finally, as noted above, approval of the Application and the Zoning Applications is consistent with the Comprehensive Plan.

The Applicant respectfully requests that the Council approve the Application as presented with only the conditions consented to by the Applicant.

Should you have any questions or concerns regarding this letter or its attachments/enclosures, please do not hesitate to contact me.

Ms. Denise Brooks
November 8, 2024
Page 6 of 6

Sincerely,

A handwritten signature in black ink, appearing to read "Steven L. Jones", written in a cursive style.

Steven L. Jones

Enclosures

cc: Applicant
Moore Bass Consulting
Valerie A. Ross, City Zoning Attorney (via email: vross@lawtrg.com)

EXHIBIT "A"

As applied to the real property of Landmark Christian School Inc., a Georgia nonprofit corporation, (the "Owner") which is identified as TPN 09F100900520167 (the "Subject Property") and which Subject Property is the subject of the previously filed CLUP Comprehensive Plan | Amendment Application (the "Application"), if the Application is not approved or is approved with condition(s) not consented to by the Applicant, the Code of Ordinances of Fairburn, Georgia (the "Code"), Part II, Chapter 80 (the "Zoning Ordinance") and the City of Fairburn Comprehensive Plan 2020-2024 (the "Comprehensive Plan" or the "Comp. Plan") will be unconstitutional in that the Applicant's (and/or the Owner's) property rights in and to the Subject Property will be destroyed without first receiving fair, adequate, and just compensation for such property rights. As applied to the Subject Property, in such case, such action on the Application, the Comp. Plan, and the Zoning Ordinance will deprive the Applicant (and/or the Owner) of constitutionally protected rights in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States of America.

If the Application is not approved or is approved with condition(s) not consented to by the Applicant, such action on the Application and application of the Zoning Ordinance and the Comp. Plan to the Subject Property will be unconstitutional, illegal, arbitrary, capricious, null, and void, constitute a taking of

EXHIBIT “A”

the Subject Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States of America thereby denying the Applicant (and/or the Owner) an economically viable use of the Subject Property while not substantially advancing legitimate state interests.

Inasmuch as it is impossible for the Applicant (and/or the Owner) to use the Subject Property and simultaneously comply with the Comp. Plan and the Zoning Ordinance and in the event the Application is not approved or is approved with condition(s) not consented to by the Applicant, such action on the Application and application of the Zoning Ordinance to the Subject Property will constitute arbitrary, capricious, and unreasonable acts by the City of Fairburn, Georgia (the “City”), by and through the Mayor and City Council of the City, without any rational basis therefor and constitute abuses of discretion in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States of America; Article I, Section I, Paragraphs I-II of the Constitution of the State of Georgia of 1983; Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States of America.

If the Application is not approved or is approved with condition(s) not

EXHIBIT "A"

consented to by the Applicant, such action on the Application and application of the Zoning Ordinance and the Comp. Plan to the Subject Property will be unconstitutional and discriminate against the Applicant (and/or the Owner) in an arbitrary, capricious, and unreasonable manner between the Applicant (and/or the Owner) and others similarly situated in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States of America.

WHEREFORE, the Applicant requests that the City (by and through the Council of the City) approve the Application, as specified and designated therein, without conditions or with only condition(s) consented to by the Applicant.

Respectfully submitted this 8th day of November 2024.

TAYLOR ENGLISH DUMA LLP
Counsel for the Applicant

/s/ Steven L. Jones

Steven L. Jones

Georgia State Bar No.: 639038

1600 Parkwood Circle
Suite 200
Atlanta, Georgia
30339
(678) 336-7282
sjones@taylorenghish.com

EXHIBIT “B”

OBJECTION TO AND FOR ZONING HEARINGS BASED ON YORK V. ATHENS COLLEGE OF MINISTRY, INC.

As applied to the real property of Landmark Christian School Inc., a Georgia nonprofit corporation, (the “Owner”) which is identified as TPN 09F100900520167 (the “Subject Property”) and which Subject Property is the subject of the previously filed CLUP Comprehensive Plan | Amendment Application (the “Application”) and the Applicant, the public hearing regarding and any action of the City of Fairburn, Georgia (the “City”), by and through the Mayor and City Council (the “City Council”) of the City, on the same are objected to by the Applicant based on, but not limited to, the reasons set forth herein (collectively, the “York Objection” and each an “Objection”), in accordance with *York v. Athens College of Ministry, Inc.*, 348 Ga. App. 58, 821 S.E.2d 120 (Ga. Ct. App. 2018):

Contemporaneous with the filing of this *York* Objection, the Applicant is filing a Constitutional Objection to any action by the City Council that does not approve the Application or approves the Application with condition(s) not consented to by the Applicant, and all Objections set forth therein are incorporated herein by reference as if fully restated.

The Applicant objects to the hearings before the City’s Planning and Zoning Commission (the “P&Z Commission”) and the City Council on the Application because the time limitation, if any, imposed on the presentation of evidence and testimony in support of the Application deprives the Applicant a meaningful opportunity to be heard and preserve issues, in violation of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States and Article I, Section I,

EXHIBIT “B”

Paragraphs I, II, XI, and XII of the Constitution of Georgia of 1983. Likewise, the Applicant objects to any and all members of the public (and/or other persons) who appear (or otherwise give testimony or opinion) at any hearings, if any, before the P&Z Commission and/or the City Council to the extent that (but not limited to) said individuals (a) do not satisfy the substantial interest-aggrieved citizen test; (b) are not under oath; (c) are not subject to cross-examination; (d) present evidence on and/or make statements that qualify as (or must or should be assessed with the aid of) expert opinion without any or all individuals being qualified as expert witnesses; (e) present evidence on and/or make statements that are not germane to the purview of the P&Z Commission and/or the City Council with respect to the Rezoning Application as set out in The Code of Ordinances of Fairburn, Georgia (the “Code”), Part II, Chapter 80 (the “Zoning Ordinance”); and/or (f) present evidence and/or make statements that are founded, wholly or in part, upon inadmissible, hearsay, not relevant, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence.

Additionally, the Applicant objects to any City Council action that does not approve the Application or approves the Application with condition(s) not consented to by the Applicant to the extent that (but not limited to) such action is: (a) in violation of Section 50-13-19(h) of the Official Code of Georgia Annotated or otherwise: (1) in violation of any constitutional, statutory, and/or ordinance provisions; (2) in excess of the constitutional, statutory, and/or ordinance authority of the City Council; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in

EXHIBIT “B”

view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; (b) founded, wholly or in part, upon inadmissible, unreliable, nonprobative, insubstantial, and/or lay, nonexpert opinion evidence; (c) contrary to or outside of the purview of the City Council, and/or procedure, for the Application set out in the Zoning Ordinance; (d) based, in whole or part, on evidence or other information received outside of the hearing(s) on the Application and/or in any manner which does not afford the Applicant an opportunity to review or respond to the same; and/or (e) not made pursuant and in conformance with the Zoning Ordinance; the Code; the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*, and/or any other law of the state of Georgia or the United States of America.

By and through this *York* Objection, the Applicant hereby preserves all the above and incorporated Objections, and any and all evidence, arguments, and objections made and/or tendered by the Applicant at or prior to the City Council hearing on the Application, and asserts them on and within the record before, and for consideration and resolution (prior to any formal decision) by, the City Council.

WHEREFORE, the Applicant requests that the City (by and through the Council of the City) approve the Application, as specified and designated therein, without conditions or with only condition(s) consented to by the Applicant. Respectfully submitted this 8th day of November 2024.

TAYLOR ENGLISH DUMA LLP
Counsel for Applicant

EXHIBIT "B"

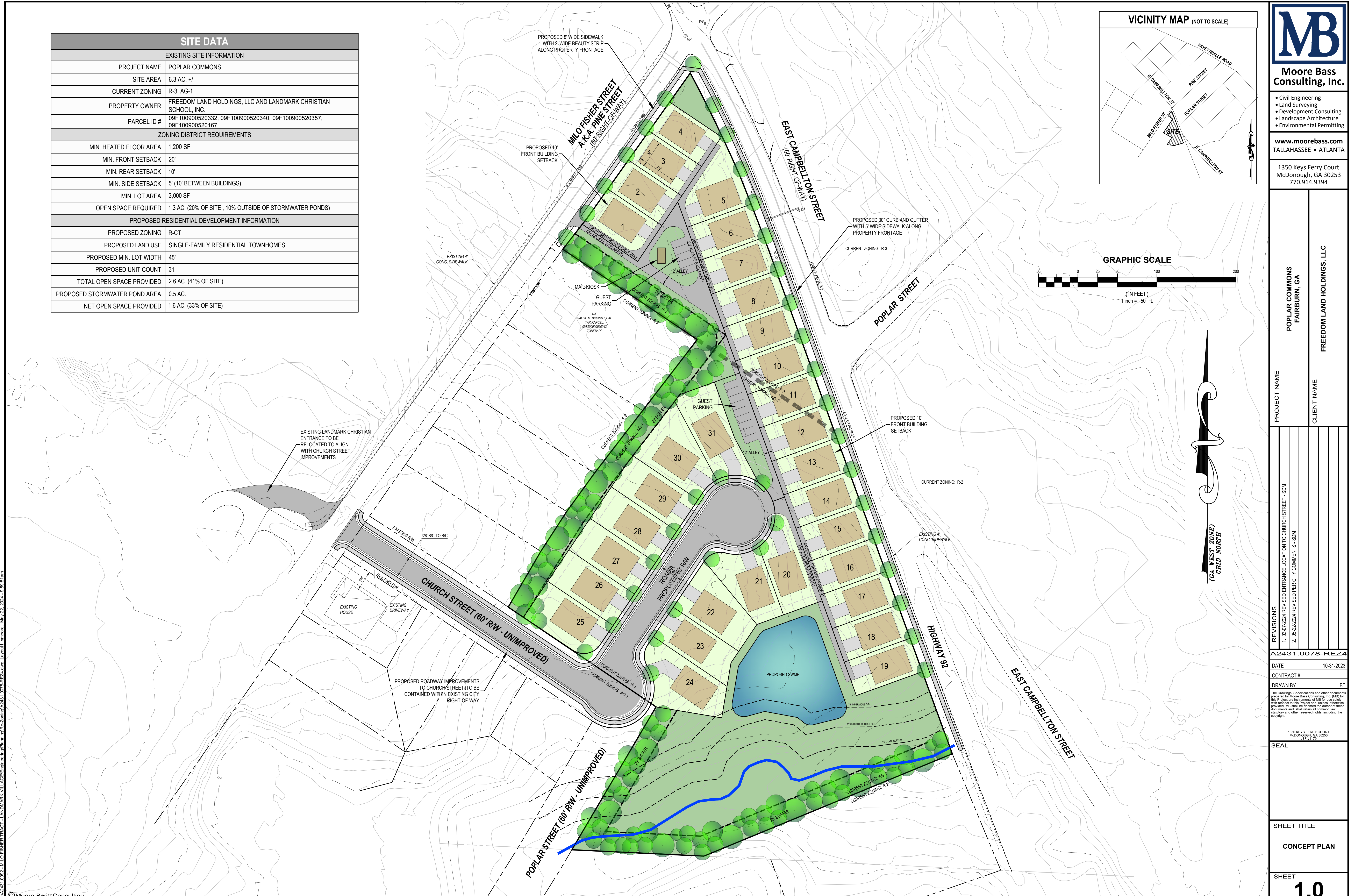
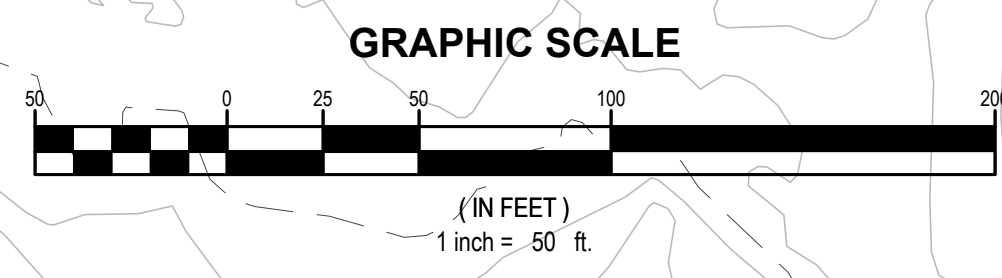
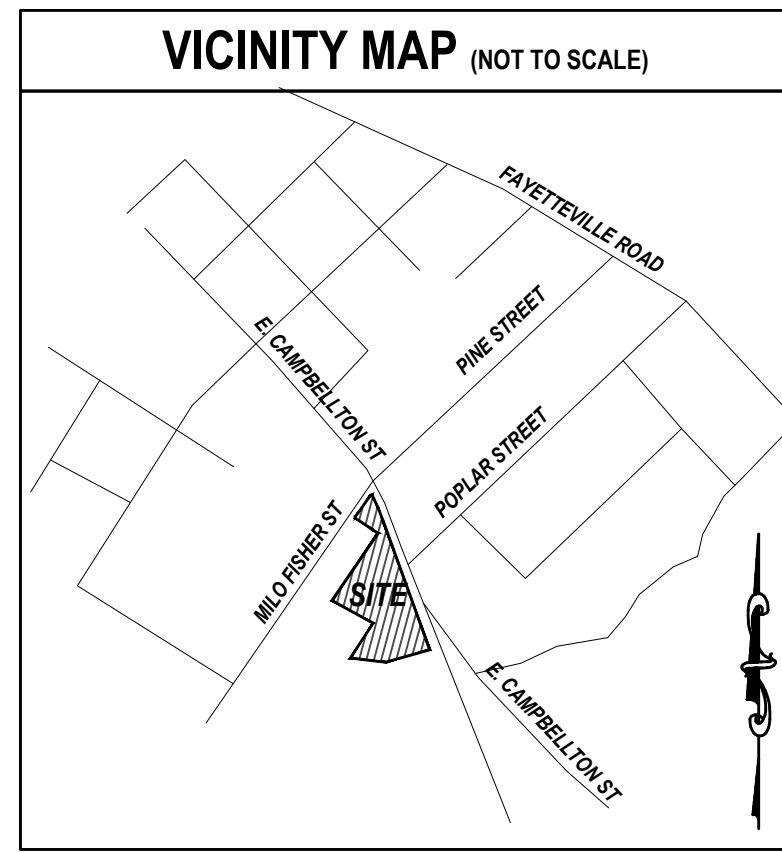
/s/ Steven L. Jones

Steven L. Jones

Georgia State Bar No.: 639038

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sjones@taylorenghish.com

SITE DATA	
EXISTING SITE INFORMATION	
PROJECT NAME	POPLAR COMMONS
SITE AREA	6.3 AC. +/-
CURRENT ZONING	R-3, AG-1
PROPERTY OWNER	FREEDOM LAND HOLDINGS, LLC AND LANDMARK CHRISTIAN SCHOOL, INC.
PARCEL ID #	09F100900520332, 09F100900520340, 09F100900520357, 09F100900520167
ZONING DISTRICT REQUIREMENTS	
MIN. HEATED FLOOR AREA	1,200 SF
MIN. FRONT SETBACK	20'
MIN. REAR SETBACK	10'
MIN. SIDE SETBACK	5' (10' BETWEEN BUILDINGS)
MIN. LOT AREA	3,000 SF
OPEN SPACE REQUIRED	1.3 AC. (20% OF SITE, 10% OUTSIDE OF STORMWATER PONDS)
PROPOSED RESIDENTIAL DEVELOPMENT INFORMATION	
PROPOSED ZONING	R-CT
PROPOSED LAND USE	SINGLE-FAMILY RESIDENTIAL TOWNHOMES
PROPOSED MIN. LOT WIDTH	45'
PROPOSED UNIT COUNT	31
TOTAL OPEN SPACE PROVIDED	2.6 AC. (41% OF SITE)
PROPOSED STORMWATER POND AREA	0.5 AC.
NET OPEN SPACE PROVIDED	1.6 AC. (33% OF SITE)



Moore Bass Consulting, Inc.

- Civil Engineering
- Land Surveying
- Development Consulting
- Landscape Architecture
- Environmental Permitting

www.moorebass.com
TALLAHASSEE • ATLANTA

1350 Keys Ferry Court
McDonough, GA 30253
770.914.9394

PROJECT NAME
**POPLAR COMMONS
FAIRBURN, GA**

CLIENT NAME
FREEDOM LAND HOLDINGS, LLC

REVISIONS	DATE	BY
1. 03-07-2024	ENTRANCE LOCATION TO CHURCH STREET - SDM	
2. 05-22-2024	REVISED PER CITY COMMENTS - SDM	

A2431.0078-RE24

DATE 10-31-2023

CONTRACT #

DRAWN BY BT

The Drawings, Specifications and other documents prepared by Moore Bass Consulting, Inc. (MBC) for this Project are instruments of MB for use solely with respect to this Project and, unless otherwise provided, shall not be deemed the basis of these documents and shall retain all common law, statutory and other reserved rights, including the copyright.

1350 KEYS FERRY COURT
MCDONOUGH, GA 30253
LSF #1179

SEAL

SHEET TITLE
CONCEPT PLAN

SHEET
1.0

04/23/2023 09:29 AM - MILO FISHER TRACT - LANDMARK VILLAGE Engineering/Planning/Re-Zoning/A2431.0078-RE24.dwg - L:\work\l_moores\moores_may_23_2024_9:59:51am