

# MEMORANDUM



To: Lynn Tully AICP, Director of Community Development  
Carter Lucas, PE, Director of Public Works  
Mark Law, Arborist  
Matthew Marietta, Fire Marshal

From: Robyn MacDonald, Planner, Community Development

Date: July 20, 2010

Re: Preliminary Zoning Agenda **Community Zoning Information Meeting (CZIM)**  
**Wednesday, July 28, 2010 –**  
**7:00 PM at City Hall**

**Mayor and City Council**  
**August 16, 2010 – 6:00 PM at City Hall**

Please submit any comments you have regarding the following cases to Robyn MacDonald, 678-242-2540, by **July 28, 2010**.

## ZONING MODIFICATION

Agenda Item/Applicant	Description
<p><b>ZM10-02</b> JSB Triangle, Inc, Javad Oskoei</p>	<p><b>Hidden Forest S/D on Morris Road &amp; Bethany Bend Existing Zoning – TR (Townhouse Residential)</b> To modify 2002Z-105 and 2003ZM-067/2003VC-0247 to modify Condition 2.a. (2003ZM-067) by deleting the March 28, 2003 site plan currently referenced and substituting and placing in lieu thereof the site plan filed on June 30, 2010. To Modify condition 3.e. (2002Z-105) by reducing the minimum 50-foot perimeter principal building setback to 35 feet where the subject site adjoins property zoned AG-1 (Agricultural).</p>

JUN 30 2010

## LETTER OF INTENT

City of Milton  
Community Development

The subject property contains approximately 21.66 acres and is located on the northwesterly side of Morris Road slightly southwest from its intersection with Bethany Bend (the "Property"). The Property is zoned to the TR (Townhouse Residential) Classification pursuant to 20022-0105 NFC and 20032M-0067 NFC/2003VC-0247 NFC.

In refining the Site Plan for the development of the northeast portion of the Property consisting of numbered lots 108 through 118 (the "Subject Area"), the Applicant has determined a need to reduce the required 50-foot perimeter principal building setback to 35-feet where the Subject Area adjoins property zoned AG-1 (Agricultural). Accordingly, the Applicant requests that Condition 2.a. be modified to delete the currently referenced Site Plan dated March 28, 2003 and to substitute and place in lieu thereof the Site Plan filed simultaneously herewith. Further, the Applicant requests that Condition 3.e. be modified to provide that the perimeter principal building setback be 35-feet where the Subject Area or any portion of the Property adjoins property zoned AG-1. It is to be noted that the property adjoining the southerly side and a portion of the easterly side of the Subject Area was zoned AG-1 at the time that the original plat was filed for the development of the Subject Area and that the zoning on these adjoining properties is now TR and being the same TR Classification as to which the Property is zoned. Therefore, it is entirely appropriate along the southerly side and a portion of the easterly side of the Subject Area to reduce the perimeter principal building setback to 35-feet as requested. The request to reduce the referenced perimeter principal building setback from 50-feet to 35-feet along the adjoining AG-1 zoned Ronald L. Buice & Glória Sue Buice property (the "Buice Property") and Lanney J. Walls property (the "Walls Property") as shown on the Site Plan submitted herewith is also entirely appropriate for the following reasons. As to the Buice Property, the closest point of the residence located on the Buice Property to the requested 35-foot perimeter principal building setback on Lot 112 is approximately 200 feet and on Lot 113 90 feet. Additional within these respective 200 foot and 90 foot distances are 25 foot undisturbed buffer areas and on Lot 112 there is also an earthen berm to the southwest of the requested 35-foot perimeter principal perimeter building set-

back. Additionally, as to Lot 110, it is to be noted that the northeast corner and easterly side is burdened by a 20 foot sanitary sewer easement as shown on the submitted Site Plan resulting in the residence to be built on that Lot being at an even greater distance from the residence located on the Buice Property than the referenced 200 and 90 foot distances. Accordingly, for the reasons stated, the request for the reduction in the perimeter principal setback from 50-feet to 35-feet will not have any adverse effect on the Buice Property. As to the Walls Property, the residence located on the Walls Property is just off of the southwest right-of-way of Bethany Bend and greatly removed in distance from its closets point to the reduction to 35-feet of the perimeter principal setback along the northerly side of Lots 109 and 110 and the Common Area as shown on the Site Plan submitted herewith. Additionally, the northern most area of both Lot 109 and Lot 110 as well as the easterly side of the Common Area provide for a 25 foot undisturbed buffer. Accordingly, for the reasons stated, the request for a reduction in the perimeter principal setback from 50-feet to 35-feet will not have any adverse effect on the Walls Property. Resultingly, this Modification Application is entirely appropriate and the appropriateness of this Application and the constitutional assertions of the Applicant are more particularly stated and set forth on Exhibit "A" attached hereto and by reference thereto made a part hereof.

Now, therefore, the Applicant requests that this Modification Application be approved as submitted in order that the Applicant be able to proceed with the lawful use and development of the Property.

APPLICANT:

JSB Triangle, Inc.

By: Javad Oskoei  
Javad Oskoei  
Its: President

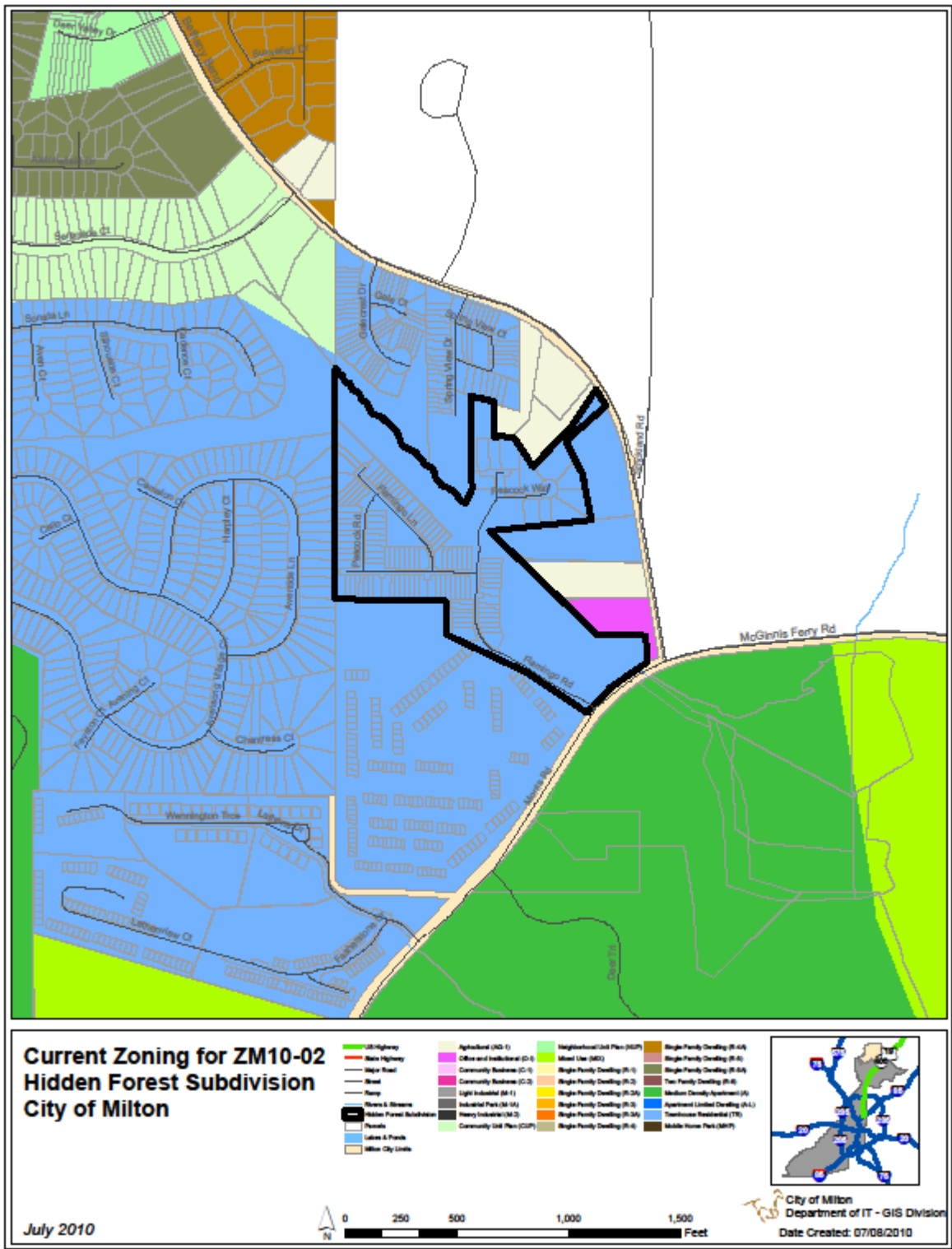
Nathan V. Hendricks III  
Nathan V. Hendricks III  
Attorney for the Applicant

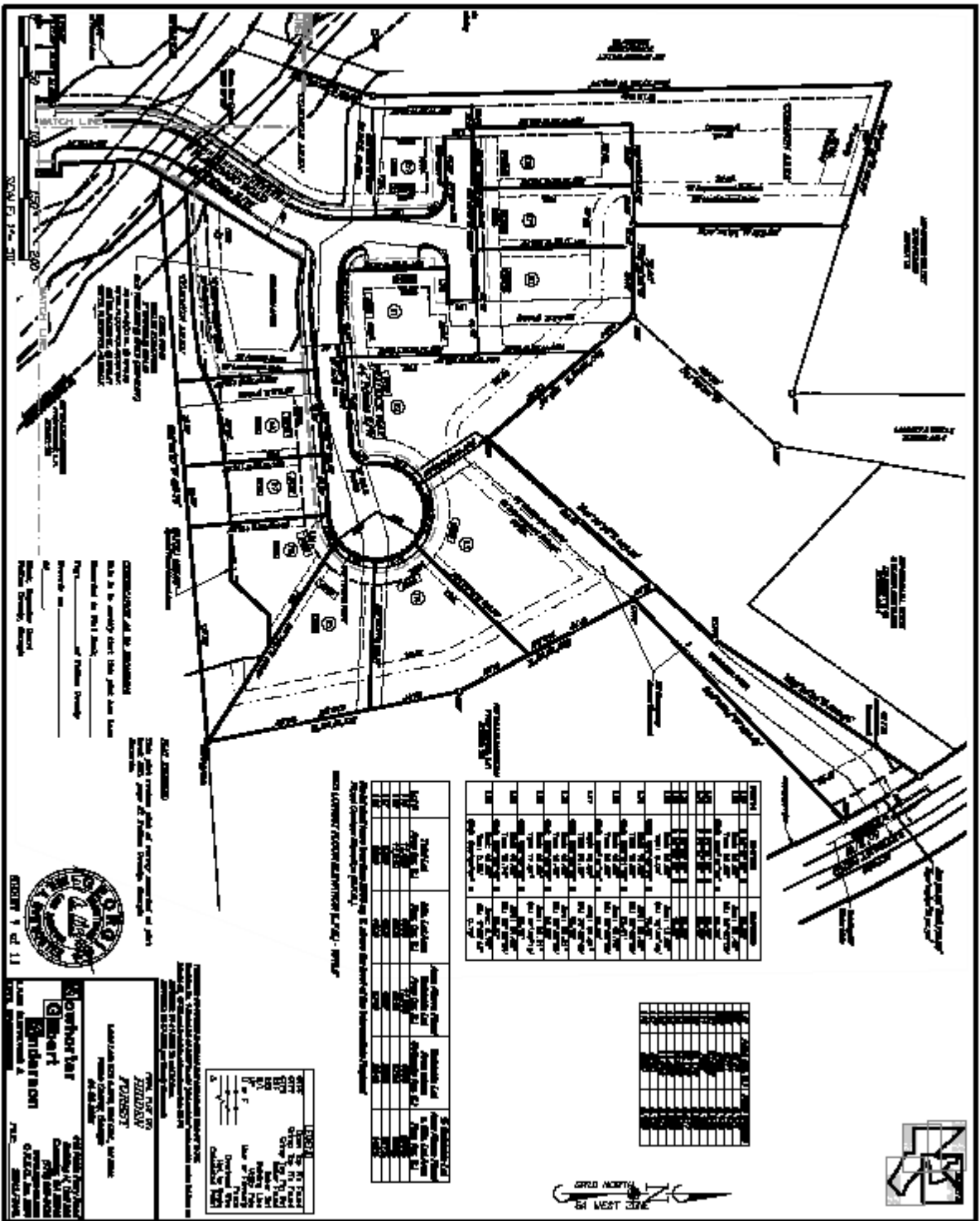
6085 Lake Forrest Drive  
Suite 200  
Atlanta, Georgia 30328  
(404) 255-5161

EXHIBIT "A"  
APPROPRIATENESS OF APPLICATION  
AND  
CONSTITUTIONAL ASSERTIONS

The refusal to approve the Modification requested will result in a taking of the Applicant's valuable property rights in violation of the just compensation clause of the Constitution of Georgia 1983, Article 1, Section 3, Paragraph 1 and the just compensation clause of the Fifth Amendment to the United States Constitution. Further, such refusal to approve the requested Modification discriminates in an arbitrary, unreasonable, capricious and unconstitutional manner between the Applicant and owners of similarly situated property in violation of Article 1, Section 1, Paragraph 2 of the Constitution of the State of Georgia and in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Additionally, such refusal to approve the requested Modification would constitute a gross abuse of discretion and would constitute a violation of the Applicant's rights to substantive and procedural due process as guaranteed by the Constitution of the State of Georgia 1983, Article 1, Section 1, Paragraph 1 as well as the Fifth and Fourteenth Amendments to the United States Constitution.

Any approval of this Modification request subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the subject property would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove. The refusal to approve this requested Modification would result in a real, substantial and significantly detrimental hardship to be borne by the Applicant without any corresponding public benefit or legitimate connection to public health, safety, morals and general welfare. The community at large will not be affected by the approval of the requested Modification.





CONSTRUCTION OF THE DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE CITY OF WEST GARDEN, CALIFORNIA, LAND DEVELOPMENT CODE, CHAPTER 17.00, AND THE CITY OF WEST GARDEN, CALIFORNIA, ZONING ORDINANCE, CHAPTER 17.00.



**UNIVERSITY LAND ASSOCIATES**  
 11000 WEST GARDEN AVENUE  
 SUITE 100  
 WEST GARDEN, CALIFORNIA 92382  
 (714) 771-1111

NO.	DESCRIPTION	AMOUNT
1	LANDSCAPING	10000
2	CONCRETE	5000
3	PAVING	2000
4	UTILITIES	1500
5	STRUCTURE	1000
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