



## PLANNING COMMISSION AGENDA

Tuesday August 26, 2008, 7:00 pm

Agenda Item	Description	Meeting Dates**	Staff Recommendation	PC Recommendation
I. INVOCATION				
II. CALL TO ORDER				
III. PLEDGE OF ALLEGIANCE				
IV. PUBLIC COMMENT				
A. Approval of Minutes	Minutes from the June 24, 2008 Planning Commission Meeting		Approval	
	Minutes from the July 31, 2008 Special Called Planning Commission Meeting		Approval	
V. REZONINGS/USE PERMITS New				
A. RZ08-08/ U03-04/ VC08-04	<p><b>3501, 3499 Bethany Bend Rd.</b> To rezone from AG-1 to TR (Townhouse Residential) and obtain a use permit for senior housing to develop 98 residential units at a density of 19.48 units per acre (Article 19.4.41(2)). The applicant is also requesting a 2 part concurrent variance:</p> <p><b>Part 1)</b> To reduce the setback from 100 feet to 10 feet for swimming pools, pool equipment, accessory structures and fencing (Article 19.3.12.3).</p> <p><b>Part 2)</b> To increase from 2 stories (30 feet) to 3 stories (40 feet) from average finished grade to bottom of roof eave (Article 12G.4.F.14).</p>	CZIM- 7/22/08 PC 8/26/08 MCC 9/15/08	<p style="text-align: center;"><b>RZ08-08 APPROVAL CONDITIONAL U03-04 APPROVAL CONDITIONAL</b></p> <p style="text-align: center;"><b>VC08-04 – PART 1 APPROVAL CONDITIONAL</b></p> <p style="text-align: center;"><b>VC08-04 - PART 2 DENIAL</b></p>	

\*\*Meeting Codes: CZIM-Community Zoning Information Meeting; DRB-Design Review Board; PC-Planning Commission; MCC-Mayor and City Council



**PROJECT NAME**  
**Bethany Summit**

<b>PROPERTY INFORMATION</b>	
<b>ADDRESS</b>	3501, 3499 Bethany Bend Rd.
<b>DISTRICT, LAND LOT</b>	2/1 971 & 972
<b>OVERLAY DISTRICT</b>	State Route 9 Overlay
<b>EXISTING ZONING</b>	AG-1 (Agricultural)
<b>PROPOSED ZONING</b>	TR (Townhouse Residential)
<b>ACRES</b>	4.94
<b>EXISTING USE</b>	Two single-family buildings and out buildings
<b>PROPOSED USE</b>	98 residential units

**OWNER** Various  
**ADDRESS** 3501, 3499 Bethany Bend Rd.

**PETITIONER/REPRESENTATIVE** Bajun American Properties / Korey Jones  
**ADDRESS** 125 Andover Dr.  
Alpharetta, GA 30004  
**PHONE** 678-525-4644

**INTENT**

To rezone from AG-1 to TR (Townhouse Residential) and obtain a use permit for senior housing to develop 98 residential units at a density of 19.48 units per acre (Article 19.4.41(2)). The applicant is also requesting a 2 part concurrent variance:

- 1) To reduce the setback from 100 feet to 10 feet for swimming pools, pool equipment, accessory structures and fencing (Article 19.3.12.3).
- 2) To increase from 2 stories (30 feet) to 3 stories (40 feet) from average finished grade to bottom of roof eave (Article 12G.4.F.14).

**COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION**

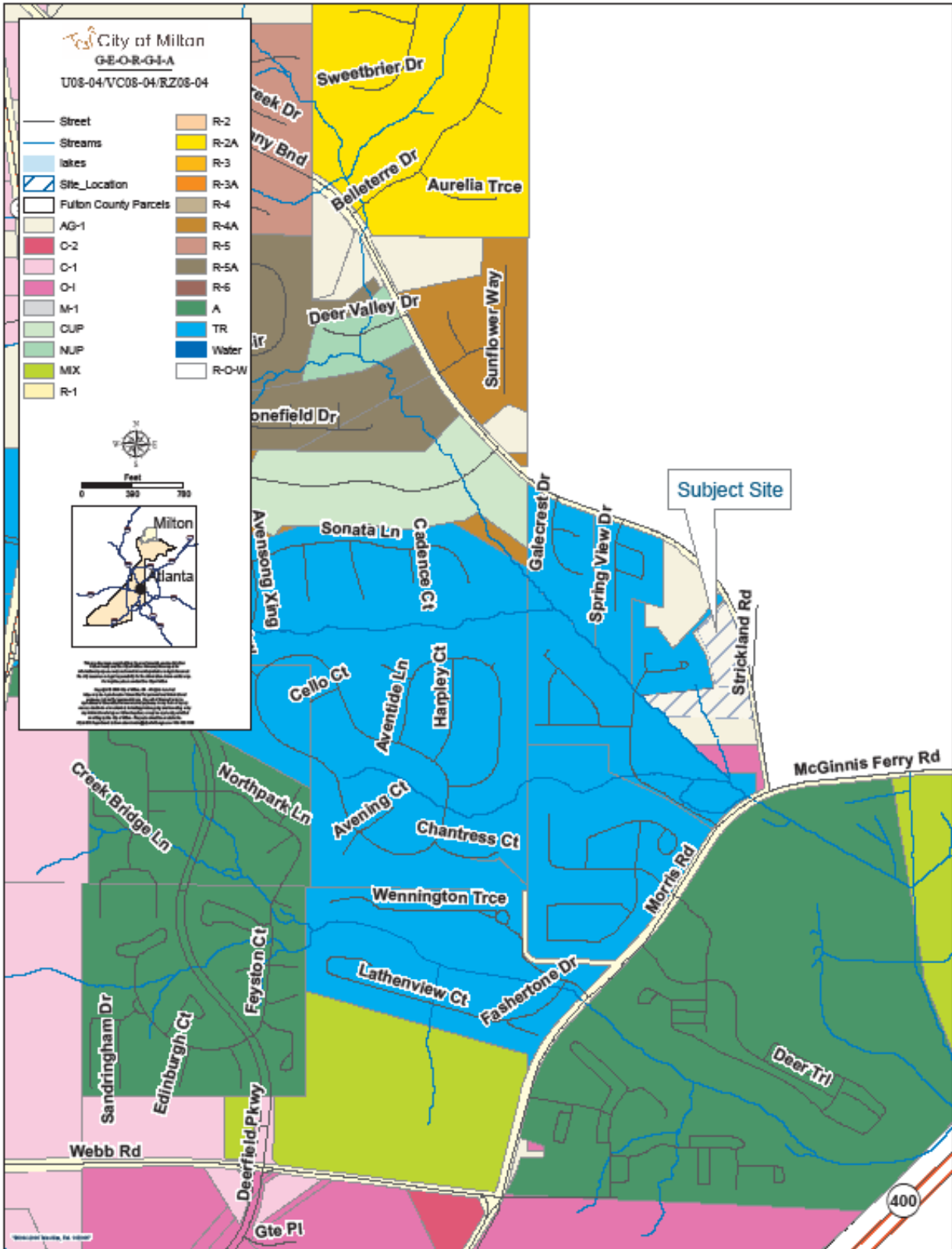
**APPROVAL CONDITIONAL – RZ08-08**  
**APPROVAL CONDITIONAL – U08-04**  
**APPROVAL CONDITIONAL – PART ONE OF VC08-04**  
**DENIAL – PART TWO OF VC08-04**

# LOCATION MAP



Prepared by the Community Development Department for the  
Planning Commission Meeting on August 26, 2008

# CURRENT ZONING MAP



Prepared by the Community Development Department for the  
Planning Commission Meeting on August 26, 2008





**Intersection of Bethany Bend Road and Strickland Road**



**View Across the Street from Subject Site**



**Western View of Subject Site**

## **SUBJECT SITE:**

The subject site contains 4.94 acres on the south side of Bethany Bend Road near the intersection of Bethany Bend and Strickland Roads. The property currently is developed with two buildings and out buildings which will be demolished prior to development of the two parcels. It is currently zoned AG-1 (Agricultural).

## STANDARDS OF REVIEW:

In accordance with (Article 28.4.1) Planning Staff shall, with respect to each zoning application, investigate and make a recommendation regarding factors A. through G., below, as well as any other factors it may find relevant.

**A. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby Property?**

Staff is of the opinion that the proposed senior housing in a TR (Townhouse Residential) district is suitable in view of the use and development of adjacent and nearby property.

**B. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?**

In Staff's opinion, the proposed senior housing in a TR (Townhouse Residential) district will not adversely affect the existing use or usability of adjacent or nearby properties if developed with the Recommended Conditions.

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

The subject site appears to have a reasonable use as currently zoned with the two (2) existing single family residences and out buildings within the AG-1 (Agricultural) district.

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

Staff does not anticipate a significant impact on public services and facilities.

**E. Whether the proposal is in conformity with the policies and intent of the land use plan?**

The proposed TR (Townhouse Residential) zoning is consistent with the policies and intent of the Focus Fulton 2025 Comprehensive Land Use Plan. The Milton City Council adopted the Focus Fulton 2025 Comprehensive Plan as the City's Comprehensive Plan on November 21, 2006. The proposed development is consistent with the following Plan Policies:

- Encourage development consistent with the surrounding scale, transition of densities and uses, and Comprehensive Plan policies, where appropriate.
- Encourage a variety of housing types throughout Fulton County and particularly in Live Work land uses, mixed use developments, activity nodes and corridors, and near public transportation.
- Encourage the development of a variety of housing options and ensure safe, sound, and equal housing opportunity for all residents of unincorporated Fulton County.
- Increase opportunities for seniors to live in their community and near services by encourage senior housing such as independent living, assisted living, cluster housing accessory housing units, and nursing care by making senior housing more available in more zoning districts.

Staff further notes that there are TR (Townhouse Residential) zonings abutting the subject site to the north and west. Based on the above, Staff recommends **APPROVAL CONDITIONAL of RZ08-04.**

**F. Whether there are other existing or changed conditions affecting the use and development of the property which gives supporting grounds for either approval or disapproval of the proposal?**

Staff is of the opinion that there are no existing or changing conditions affecting the use and development of the property, which give supporting grounds for approval or denial of the applicant's proposal.

**G. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of the City of Milton?**

Staff notes that the proposed rezoning will have a minimal impact on the environment and natural resources. The applicant is required to comply with all of the City's environmental regulations at the time of application for Land Disturbance or Building Permit.

## USE PERMIT CONSIDERATIONS:

In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use that requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following as outlined in Article 19.2.4 of the Zoning Ordinance; Use Permit Considerations. Staff has reviewed said items pertaining to the subject use, and, offers the following comments:

**A. Whether the proposed use is consistent with the land use or economic development plans adopted by the Mayor and City Council:**

Provided the applicant complies with the Recommended Conditions of this petition and the Use Permit requirements of Article 19.4.41(2) of the Zoning Ordinance, the proposed development may be consistent with the intent and following policies of the Comprehensive Plan:

- Encourage development consistent with the surrounding scale, transition of densities and uses, and Comprehensive Plan policies, where appropriate.
- Encourage a variety of housing types throughout Fulton County and particularly in Live Work land uses, mixed use developments, activity nodes and corridors, and near public transportation.
- Encourage the development of a variety of housing options and ensure safe, sound, and equal housing opportunity for all residents of unincorporated Fulton County.
- Increase opportunities for seniors to live in their community and near services by encourage senior housing such as independent living, assisted living, cluster housing accessory housing units, and nursing care by making senior housing more available in more zoning districts.

Furthermore, the preliminary assessment for the City of Milton Comprehensive Plan discusses the need for senior housing. Staff notes the following excerpt from Section 4.6 of the Housing Section:

“As Milton’s population ages, it is important to provide housing and mobility options to allow the elderly to access housing and other resources within the community. As an area which has a relatively high level of income, it can be expected that the City of Milton will attract accomplished business people, many of whom are likely to have been in the workforce for many years. This, plus the aging of heads of households which have been living in Milton for longer periods of time, will mean increased demand for senior-friendly housing in the future. These residents

often prefer more compact housing in close proximity to amenities such as healthcare, food and other goods, and community activities, by offering housing options for this population which will allow them to get around in spite of decreased mobility (often resultant from being less able to drive, among other reasons)."

Staff has consulted with City Attorney about interpretation the City of Milton Zoning Ordinance with respect to the proposed density of 19.84 units per acre of senior housing. It is the opinion of the City Attorney that the proposed density of 19.84 units per acre is allowable for senior housing on the subject site.

Based on the above, Staff recommends **APPROVAL CONDITIONAL** of **U08-04**.

**B. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

If developed in accordance with Staff's Recommended Conditions and the provisions of the Zoning Ordinance, the proposed senior housing will be compatible with other land uses in the surrounding area. The proposed density, 19.48 units/acre, is higher than what is proposed on the 2025 Land Use Plan Map as Residential 5-8 units/acre. However, Article 19.4.41(2) B.2. states, "Dwelling units for seniors shall be exempted from any part of this ordinance which restricts density." Furthermore, Staff notes that the proposed senior housing use would be consistent with the proposed senior housing development across the street in Forsyth County.

**C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

The proposed use does not violate any known local, state and/or federal statutes, ordinances or regulations governing land development.

**D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

It is Staff's opinion that the proposed use will generate a minimal increase in traffic.

**E. The location and number of off-street parking spaces;**

Staff notes that the applicant has proposed underground as well as surface parking for the proposed senior housing. Staff notes that the applicant has proposed 120 parking spaces.

**F. The amount and location of open space;**

Staff is of the opinion that the proposed development will provide adequate open space for the proposed development.

**G. Protective screening;**

If developed in accordance with the requirements of the Zoning Ordinance and the State Route 9 Overlay District, the buffer and landscape strip requirements should provide adequate screening for the proposed development.

**H. Hours and manner of operation;**

Staff notes that the proposed use is senior housing and will be utilized in the same manner as a single family residential subdivision.

**I. Outdoor lighting;**

At the time of Land Disturbance Permit the site shall be in compliance with Article 12G.4.of the State Route 9 Overlay District regarding outdoor lighting. Staff notes that the applicant does not have any plans for lighting.

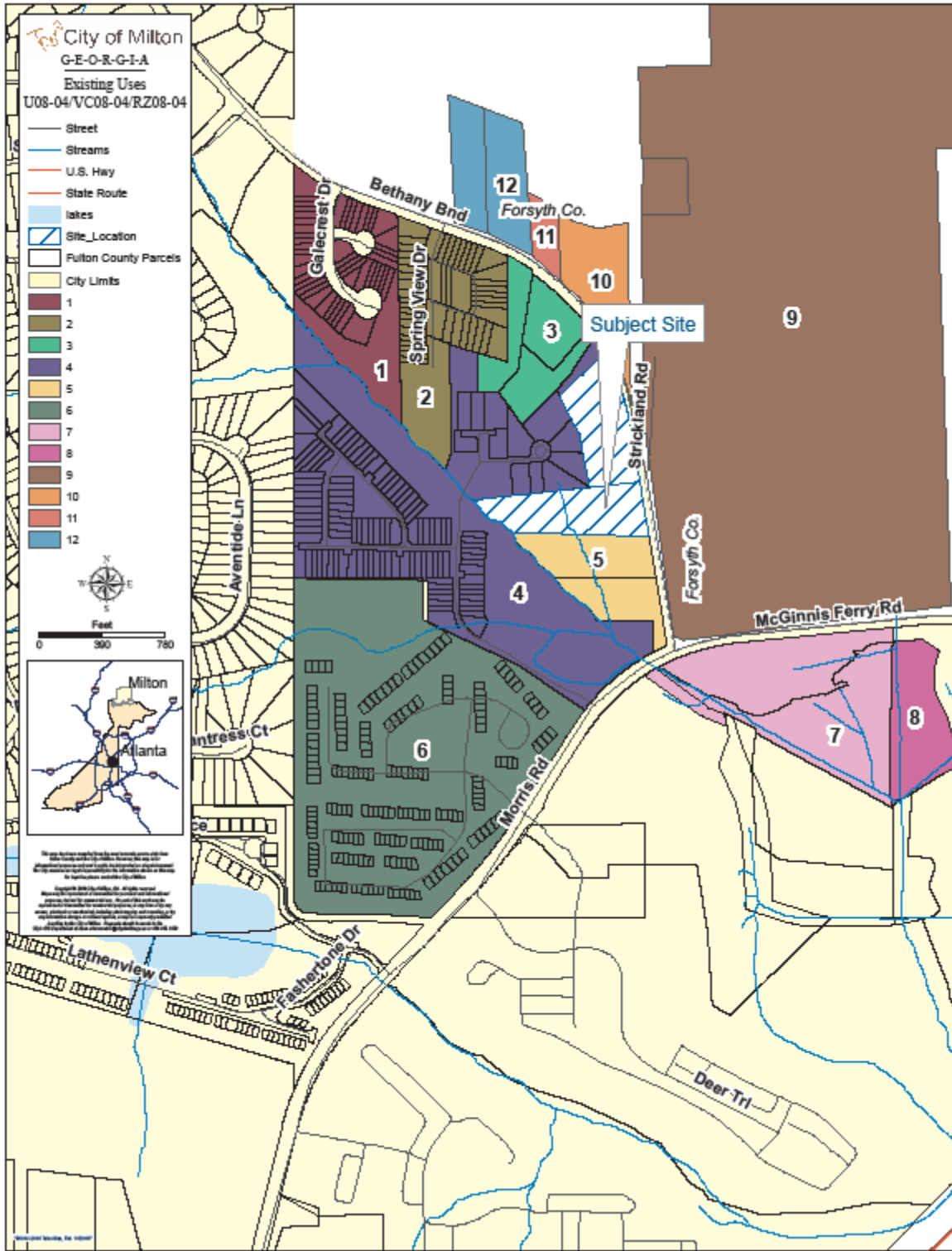
**J. Ingress and egress to the property.**

Staff notes that the applicant is proposing an asphalt drive. The location of the drive shall meet the minimum site distance standards as approved by the Transportation Engineer.

**Existing uses and zoning of nearby property (See Map following table)**

<b>Location</b>	<b>Parcel / Zoning Petition</b>	<b>Zoning / Name</b>	<b>Approved Density/Min. Heated Floor Area</b>
Northwest	<b>1</b> Z97-115	TR (Townhouse Residential) Conditional Windcrest Park	6.76 units/acre 1,500 sq. ft.
Northwest	<b>2</b> Z99-136	TR (Townhouse Residential) Conditional Spring Valley	7.86 units/acre 2 stories 1,200 sq. ft.
Northwest	<b>3</b>	AG-1 (Agricultural) Scattered homes	
West	<b>4</b> Z02-105	TR (Townhouse Residential) Conditional Spring Valley	4.99 units/acre 1,500 sq. ft. attached 2,000 sq. ft. detached
South	<b>5</b> Z03-152	O-I (Office-Institutional) Conditional Red Apple Day Care Center	N/A
Southwest	<b>6</b> Z98-93	TR (Townhouse Residential) Conditional Fairview	8 units/acre 1,250 sq. ft.
Southeast	<b>7</b> Z96-124	A (Medium Density Apartment) Conditional The Preserve at Deerfield	12 units/acre 3 stories
Southeast	<b>8</b> Z00-161	MIX	8.52 units/acre 7 story limit
East (Forsyth County)	<b>9</b> Existing	MPD (Master Planned District) Horse farm	N/A
East (Forsyth County)	<b>9</b> Proposed	MPD and CUP Union Hill Township	0.95 units/acre 35' max. bldg. height residential, 60' max. bldg. height commercial
North (Forsyth County)	<b>10</b>	NS (Neighborhood Shopping District) Undeveloped	N/A
North (Forsyth County)	<b>11</b>	A1 (Agricultural District) Scattered single-family homes	N/A
North (Forsyth County)	<b>12</b>	CBD (Commercial Business District) Pet Lodge Pet Resort	N/A

# EXISTING USES AND ZONING MAP



Prepared by the Community Development Department for the  
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## SITE PLAN ANALYSIS

Based on the applicant's site plan submitted to the Community Development Department on July 1, 2008. Staff offers the following considerations:

### BUILDING SETBACKS

The following building setbacks are required for the proposed TR (Townhouse Residential) development:

Front Yard Setback-40 Feet  
Minimum Side Yard-30 Feet to Interior Line  
Rear Yard Setback-35 Feet

The site plan indicates compliance with the required building setbacks.

### PRIVATE POOL REQUIREMENTS

Staff notes that the applicant is requesting a variance to reduce the setback from 100 feet to 10 feet for pool fencing. Article 19.3.12.3 states, "Swimming pools, pool equipment, accessory structures, and fencing shall be located a minimum of 100 feet from any residential building, adjoining property line or street." Due to the irregular shape of the subject site, Staff recommends **APPROVAL CONDITIONAL of Part One of VC08-04.**

### BUILDING HEIGHT

Staff notes that the applicant is requesting a concurrent variance to increase the building height from 2 stories (30 feet) to 3 stories (40 feet) from average finished grade to bottom of roof eave (Article 12G.4.F.14). Although there is an approved zoning for up to 3 stories to the southeast; based on City Council's recent decision on April 28, 2008, to adopt new height regulations for the Highway 9 Overlay District, Staff recommends **DENIAL of PART TWO of VC08-04.**

### PARKING REQUIREMENTS

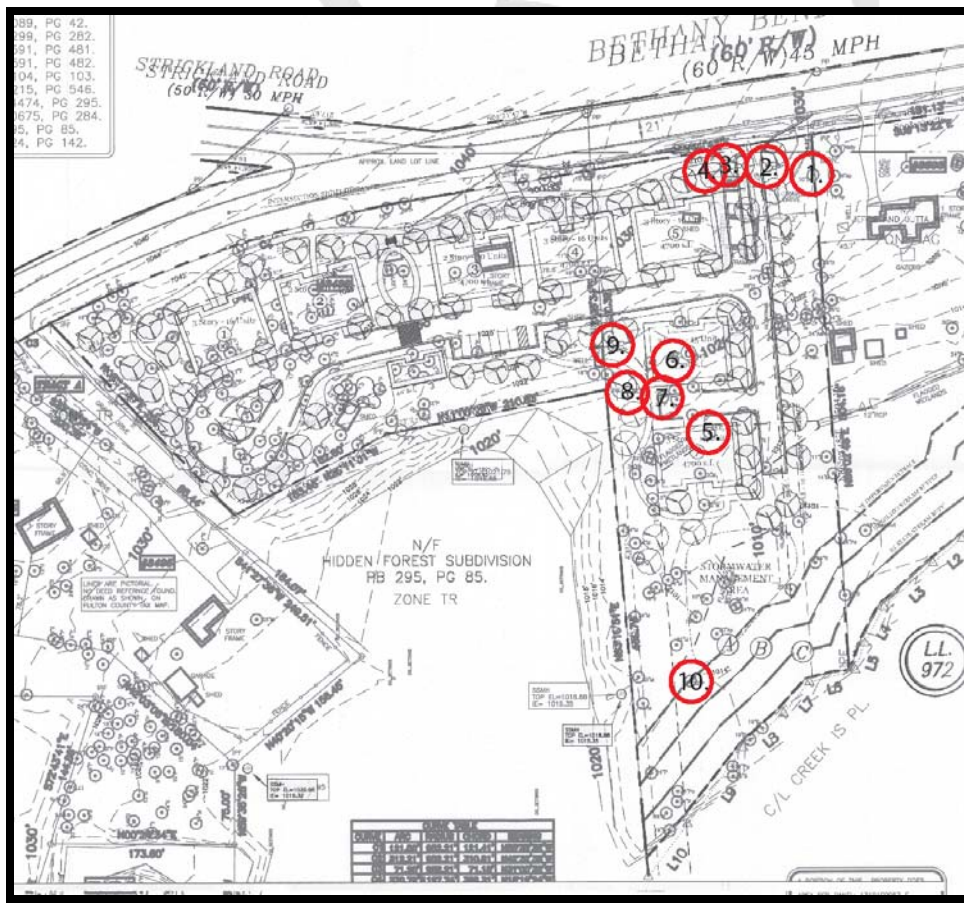
The following chart illustrates the parking required by Article 19.4.41(2).7 of the City of Milton Zoning Ordinance for the proposed uses:

Proposed Use	Minimum Requirement	Spaces Provided
• Senior Housing (98 units)	• 1.4 spaces per unit (98 units)	• 120 spaces
<b>Total</b>	<b>137 spaces required</b>	

Staff notes that the applicant is providing 120 parking spaces, which is less than the required one hundred-thirty seven (137) parking spaces required per Article 19.4.41(2).7 of the City of Milton Zoning Ordinance. Staff notes that the applicant may receive a ten percent (10%) reduction in the required number of parking spaces with an administrative variance. Otherwise, the applicant must meet the parking requirements as prescribed in 19.4.41(2).7 at the time of LDP submittal. It also appears that the site plan is in compliance with the landscape and layout requirements of Article 12G.4. Section F.

### CITY ARBORIST

The site is heavily wooded with mix of pines and hardwoods. Other than specimen trees along Bethany Bend Road, the interior consists of a lot of understory brush and downed trees. The site is adjacent to a stream and wetland area to the SW that provides a good wildlife habitat. Some wetland flagging was located during initial site visit. Specimen trees located: (1) 12" dogwood, (2) 35" oak, (3) 34" oak, (4) 37" oak, (5) 32" pine, (6) 24" pine, (7) 34" pine, (8) 24" pine, (9) 28" pine, (10) 27" poplar. The applicant indicates in the Environmental Site Analysis that approximately 0.4 acres of wetland is on the subject site. This will be mitigated at another location as specified by the Corps of Engineers.



## **SR 9 OVERLAY DISTRICT**

### **LANDSCAPE STRIPS AND BUFFERS**

Article 12G.4 Section A1 of the State Route 9 Overlay District requires a twenty (20) foot-wide landscape strip on Bethany Bend Road. Article 12G.4 Section A.3 further states that for every thirty (30) linear feet of landscape strip, a minimum of one 3" caliper hardwood shade tree is required to be planted in the center of the landscape strip or as approved by the Director of Community Development. For the sides and rear property lines, a ten foot landscape strip is required. Article 12G.4. Section A.2 also requires that a minimum 10' wide landscape strip be placed along any interior property line adjacent to a nonresidential zoning and/or use. The applicants' site plan shows compliance with the requirement.

### **PEDESTRIAN PATHS**

Sidewalks are required along all public and private road frontages and shall be a minimum of six (6) feet wide. It appears that the site plan indicates sidewalks along Bethany Bend Road.

### **PUBLIC INVOLVEMENT**

On July 27<sup>th</sup>, 2008 the applicant was present at the Community Zoning Information Meeting held at the Milton City Hall. There were two members of the community in attendance. One attendee stated that she liked the use for senior housing, and hopes that the developer can save as many specimen trees as possible.

City of Milton Design Review Board Meeting – August 5, 2008

The following comment was made by the DRB:

- Due to the proximity of the buildings to each other, Building Codes will probably limit the amount of glass allowed on the side walls. Building would have to be a minimum of 30' feet apart to remove requirement for fire protection.
- The proposed buildings will be much taller the single family detached structures adjacent to this site.
- The landscape area around the clubhouse and pool should be more than 10'; add a mix of evergreens; possibly plant up to the fence line.
- The Board approves of using green space to break up the site.
- The Board approves of building facing road.

## Public Notice Requirements

The Community Zoning Information Meeting was advertised in the Milton Herald on July 9, 2008 and the sign was installed before the required date of July 9, 2008 along the frontage of Bethany Bend Road. The notice of Community Zoning Information Meeting was sent, to adjacent property owners, on July 9, 2008. The request for the rezoning/use permit was advertised in the Milton Herald on August 6, 2008 and notice sent to adjacent property owners on August 14, 2008 for the Planning Commission and City Council Public Hearings. The sign was still erected on the site on August 14, 2008. The sign remained in the prescribed location on August 6, 2008.

## Public Participation Plan and Report

The applicant has met the requirements of the Public Participation Plan. The applicant will be required to submit the public participation report 7 business days prior to the Planning Commission Meeting and an updated public participation report will be required 7 business days prior to the Mayor and City Council meeting.

## CONCLUSION

It is Staff's opinion that the proposed 98 unit senior housing development is consistent with the Focus Fulton 2025 Comprehensive Land Use Plan and the City of Milton Zoning Ordinance, therefore Staff recommends **APPROVAL CONDITIONAL** of **RZ08-08** and **U08-04** if developed with the recommended conditions. Staff recommends **APPROVAL CONDITIONAL** of **PART 1** of **VC08-04** to reduce the setback from 100 feet to 10 feet for swimming pools, pool equipment, accessory structures and pool fencing and **DENIAL** of **PART 2** of the concurrent variance to increase the building height from 2 to 3 stories and 30 feet to 40 feet.

## RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be APPROVED TR (Townhouse Residential) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
  - a) To 98 units of senior housing at a density of 19.84 units per acre, whichever is less. (U08-04)
- 2) To the owner's agreement to abide by the following:
  - a) To the site plan received by the Community Development Department on July 1, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, all other applicable city ordinances and these conditions prior to the approval of a Land Disturbance Permit. In the event the Recommended Conditions of Zoning cause the approved site plan to be substantially different, the applicant shall be required to complete the concept review procedure prior to application for a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
- 3) To the owner's agreement to the following site development considerations:
  - a) The site plan must provide adequate fire truck access to all buildings on site, in alleys, one-way, and dead-end conditions; as acceptable to the Milton Public Works Director and Fire Marshal.
  - b) Provide parking to meet and not exceed parking requirements.
  - c) Use pervious concrete or other ADA acceptable pervious material for amenity parking.
  - d) Setback for swimming pools, pool equipment, accessory structures and fencing shall be located a minimum of 10 feet from any residential building, adjoining property line or street. (VC08-04 – Part 1)

- 4) To the owner's agreement to abide by the following requirements, dedication and improvements:
- a) Dedicate at no cost to the City of Milton prior to the approval of a Land Disturbance Permit or Certificate of Occupancy (whichever comes first), sufficient land as necessary to provide the Right of Way for the approved final site plan including the following:
    - i. Provide the following transportation improvements as approved by Milton Public Works Director:
      - 1. NB Left turn lane on Bethany Bend into site driveway as coordinated with City of Milton Public Works and Forsyth County Public Works
      - 2. SB Right turn lane on Bethany Bend into site driveway
      - 3. Provide 4' bike lane along entire Bethany Bend frontage
      - 4. Provide overlay and striping for full width of Bethany Bend the length of property lines plus any additional taper lengths necessary or as approved by the Director of Public Works and coordinated with the Milton and Forsyth Public Works
      - 5. Provide pedestrian access paths from development to Bethany Bend at North and South ends of the site
    - ii. Provide at least 12 feet of right-of-way from the back of curb of all abutting road improvements, along the entire property frontage, as well as allow the necessary construction easements while the rights-of-way are being improved.
    - iii. Provide 6 foot wide concrete multi-use path along the entire Bethany Bend frontage of the property located no more than 1 foot off the Right of Way line and no less than 5 feet behind the back of curb or as approved by the Director of Public Works.
    - iv. Provide a black four-board equestrian style fence 3 feet behind the right of way on the development property adjacent to the sidewalk/trail as approved by the Director of Public Works. If site is gated, a taller fence with 2 inch by 4 inch welded wire mesh may be used.
  - b) All entrances shall meet the Community Service Policies and AASHTO guidelines, or as approved by the Director of Public Works.

- 5) To the owner's agreement to abide by the following:
- a) The developer's Professional Engineer shall demonstrate to the City by engineering analysis submitted with the LDP application, that the discharge rate and velocity of the storm water runoff resulting from the development is restricted to seventy-five percent (75%) of the pre-development conditions. Locations shall be as approved by the Stormwater Engineer.
  - b) The water quality and detention facilities shall utilize earthen embankments, where possible. Walled structures are not encouraged. If walled structures are proposed, they must meet the acceptable design standards of the Department of Community Development.
    - i. Detention facility shall have a six foot high, five-board equestrian style fence with two inch by four inch welded wire constructed around it as required by the Stormwater Engineer.
  - c) The Developer shall utilize GASWCC limited application controls. All water quality and detention facilities shall have vegetated surfaces to be regularly maintained by the owner.

## APPENDIX A

### Comments on Public Services and Utilities

Note: Various City and/or County departments that may or may not be affected by the proposed development provide the following information. Comments herein are based on the applicant's conceptual site plan and are intended as general non-binding information and in no manner suggest a final finding by the commenter. All projects, if approved are required to complete the City of Milton Plan Review process prior to the commencement of any construction activity.

#### Transportation/Public Works:

##### Comments:

- Provide a separate and approved fire apparatus access road 24 feet wide as approved by the Director of Public Works and Fire Marshal.
- Show location of pedestrian gate at gated entrance.
- Remove road stub at West end of property that extends past building 7, may be shown as Grasspave access to stormwater management area.
- Show gate plan for entrance according to City of Milton gate standard.
- Show required left turn lane.
- Show Milton trail requirements.
- Show new Right of Way line.
- Sidewalk should be adjacent to roadway and should not meander.
- Show fencing along property frontage.
- Show pedestrian access to Bethany Bend at both the North and South ends of the property.
- Delineate Flood plain as obtained from a detailed study.
- Delineate wetlands.
- Show all improvements outside the wetlands area or provide statement that a permit has been obtained.

#### Fulton County Schools

##### Comments:

- Staff notes that the proposed rezoning will have minimal impact on the surrounding school system.

#### Fulton County Tax Assessor:

Property Tax ID #: 22-5470-0972-015-8, 21-5470-0972-024-0

#### Water and Wastewater (Sewer):

Water: Fulton County Public Works Department  
Anticipated Water Demand: No data available at printing

This parcel is not on public sewer

##### Comments:

- This information does not guarantee that adequate water volume and pressure are available at this time or will be adequate upon application of permits. Please contact the Fulton County Department of Public Works for more information.

Drainage:

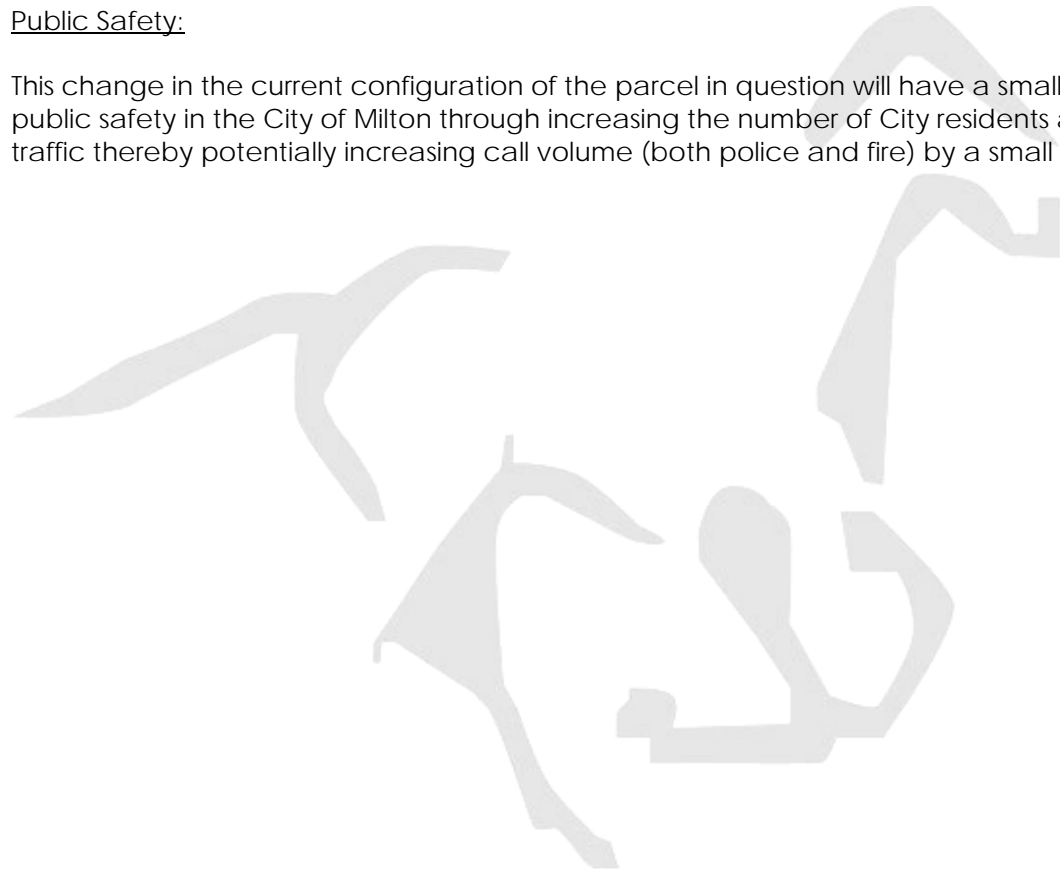
Flood Plain: No flood plain

City of Milton Fire Marshal:

Comments: The increase of height to 3 stories could impose some concerns of access to roof line depending on final grade and proximity of apparatus to vehicle, call volume could increase due to the increase of citizens in area, water demands could potentially be increased, and traffic congestion as well.

Public Safety:

This change in the current configuration of the parcel in question will have a small impact on public safety in the City of Milton through increasing the number of City residents and vehicular traffic thereby potentially increasing call volume (both police and fire) by a small amount.



**PROJECT NAME**  
**Milton Conservation Burial**

<b>PROPERTY INFORMATION</b>	
<b>ADDRESS</b>	1150 Birmingham Road
<b>DISTRICT, LAND LOT</b>	2/2 381
<b>OVERLAY DISTRICT</b>	Northwest Fulton Overlay
<b>EXISTING ZONING</b>	AG-1 (Agricultural)
<b>ACRES</b>	17.313
<b>EXISTING USE</b>	Undeveloped
<b>PROPOSED USE</b>	Use Permit for a Cemetery (Article 19.4.9)

**OWNER** Jim Bell  
**ADDRESS** 1150 Birmingham Road

**PETITIONER/REPRESENTATIVE** Jim Bell  
**ADDRESS** 1150 Birmingham Road  
Milton, GA 30004  
**PHONE** 770-569-4948

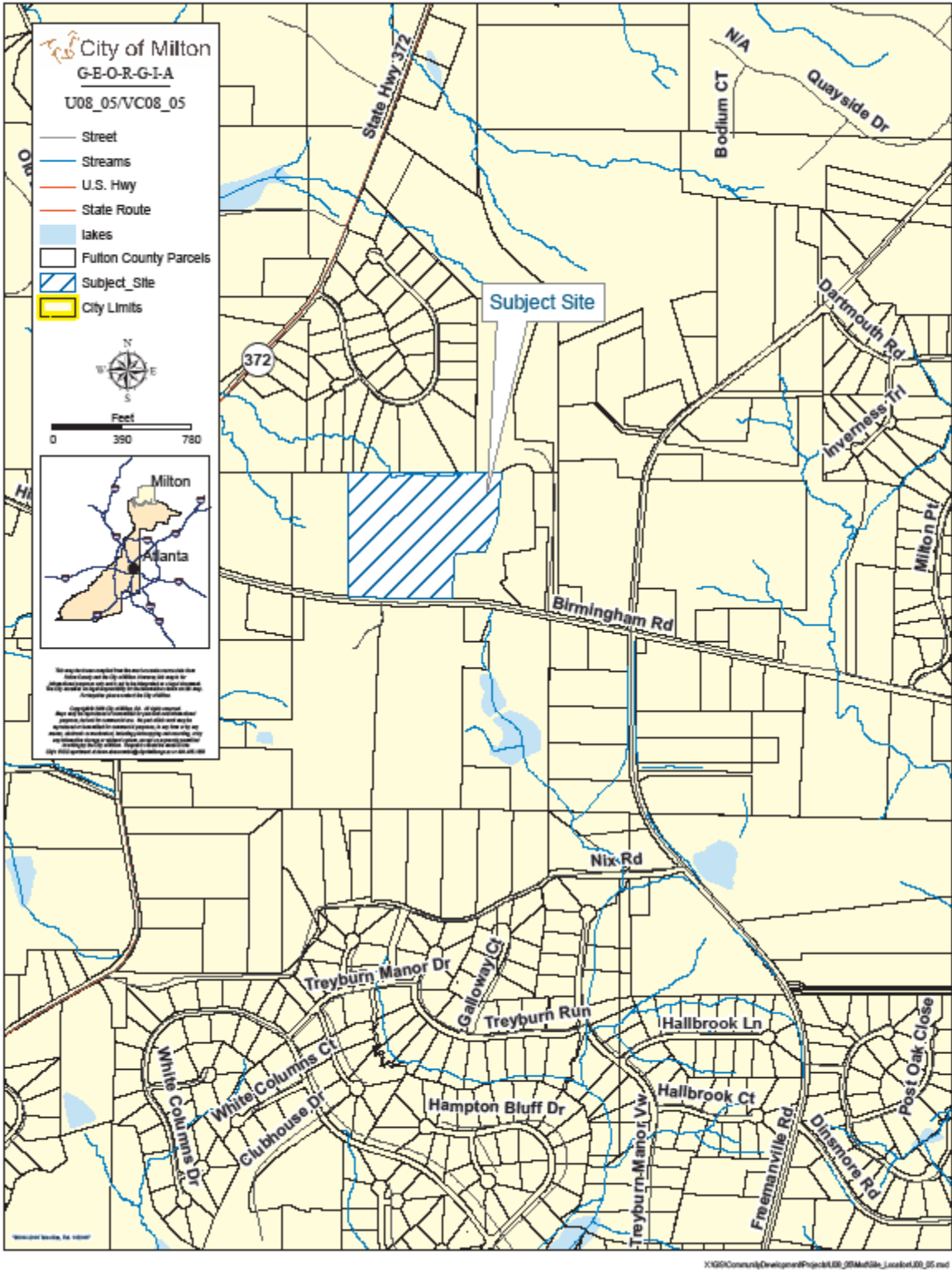
**INTENT**

To obtain a use permit to develop a cemetery on approximately 17.313 acres (Article 19.4.9). The applicant is also requesting a concurrent variance:  
1) To delete the 75' buffer and 10' impervious setback to 0' along western property lines N 00°32'03" W for 360.96', S 89°27'57" W for 65.23', and N 00°32''03" W, along all eastern property lines, and along the northern property line from northeastern corner to the 50' stream buffer line for a distance of 320' (12H.3.1 Section C.2).

**COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION**

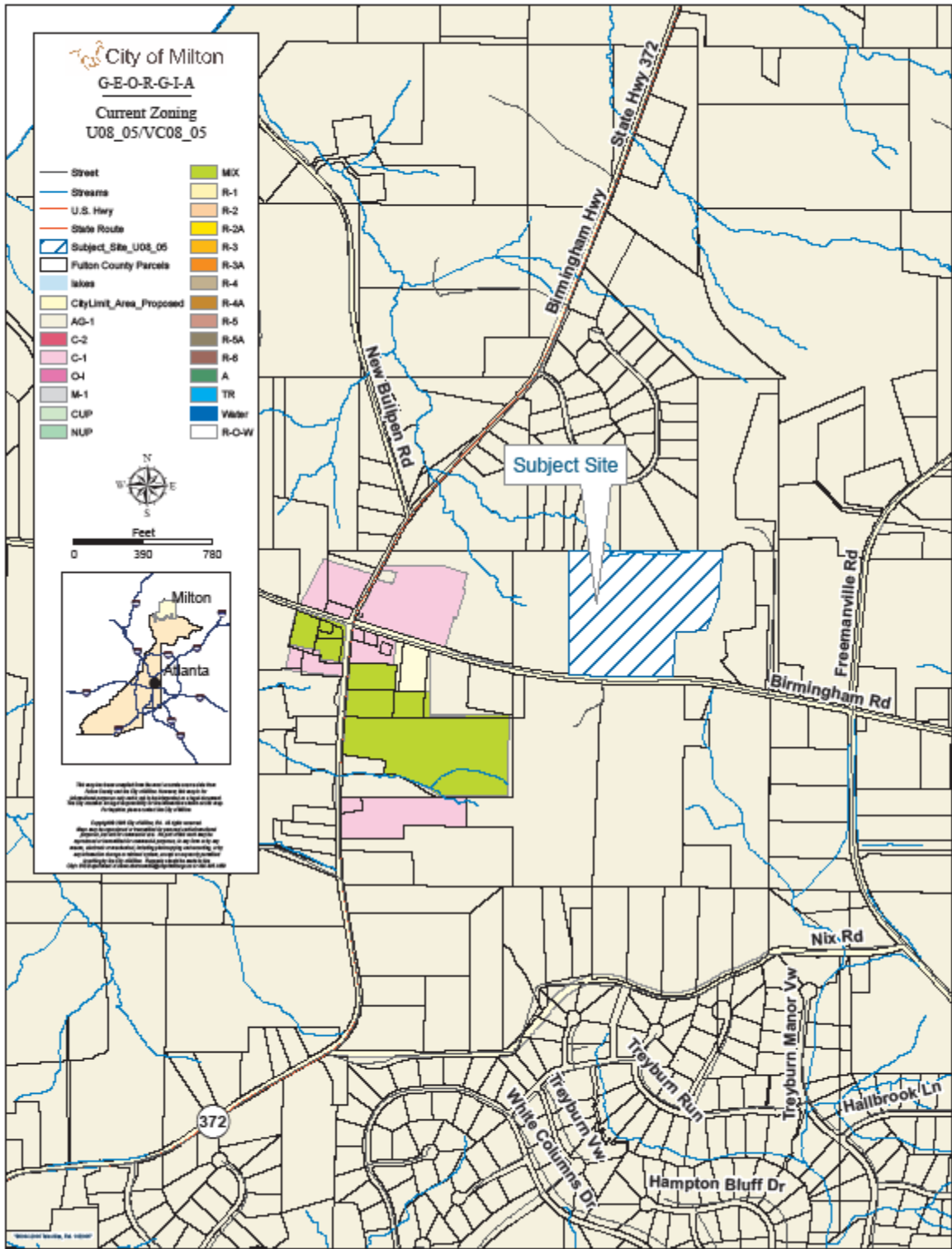
**U08-05 – APPROVAL CONDITIONAL**  
**VC08-05 – APPROVAL CONDITIONAL**

# LOCATION MAP



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Planning Commission Meeting on August 26, 2008

# CURRENT ZONING MAP

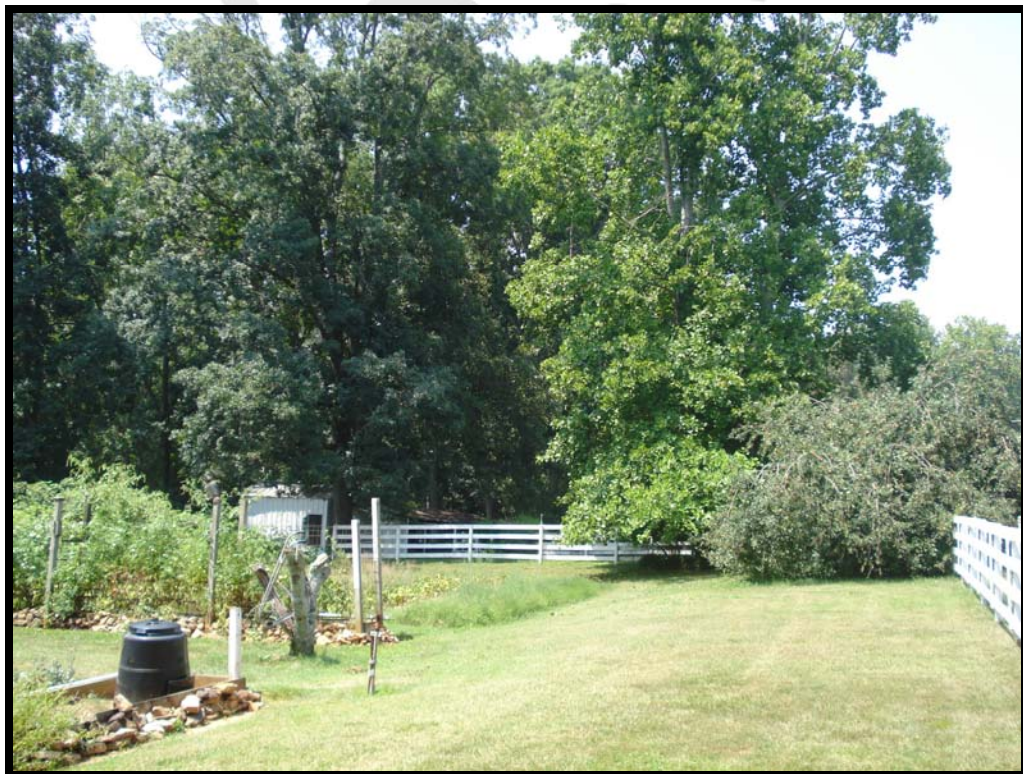


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**NORTH VIEW OF SUBJECT SITE FROM BIRMINGHAM ROAD**



**VIEW TO THE NORTHWESTERN SIDE OF SUBJECT SITE**



**VIEW TO THE NORTHEASTERN CORNER OF SUBJECT SITE**

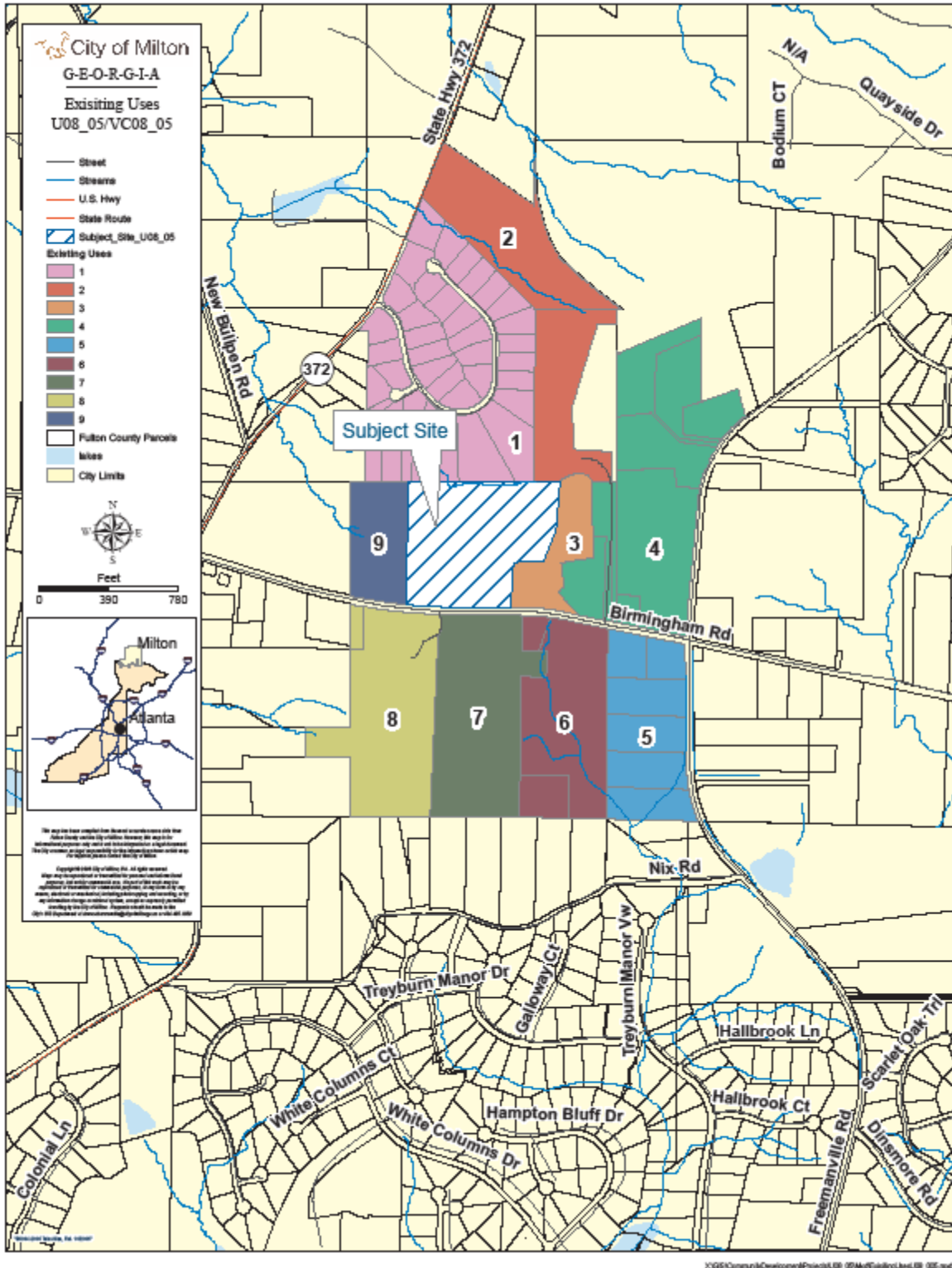
**SUBJECT SITE:**

The subject site is a 17.313 acre tract of agriculturally zoned land, located on the north side of Birmingham Road. The subject site is currently undeveloped and is located within the Agricultural, Forestry and Mining Land Use designation on the Focus Fulton 2025 Comprehensive Land Use Plan.

Existing uses and zoning of nearby property (See Map following table)

Location	Parcel / Zoning Petition	Zoning / Name	Approved Density/Min. Heated Floor Area
North	1	AG-1 (Agricultural) Bream Ridge Subdivision	1 unit/acre
North	2	AG-1 (Agricultural) Undeveloped	1 unit/acre
East	3	AG-1 (Agricultural) Boiling Springs Baptist Church	N/A
Further East	4	AG-1 (Agricultural) Scattered homes	1 unit/acre
Southeast	5	AG-1 (Agricultural) Undeveloped	1 unit/acre
Southeast	6	AG-1 (Agricultural) Single-family home	1 unit/acre
South	7	AG-1 (Agricultural) Undeveloped	1 unit/acre
South	8	AG-1 (Agricultural) Single-family home	1 unit/acre
West	9	AG-1 (Agricultural) Undeveloped	1 unit/acre

# EXISTING USES AND ZONING MAP



Prepared by the Community Development Department for the Planning Commission Meeting on August 26, 2008

## **USE PERMIT CONSIDERATIONS:**

In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use that requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following as outlined in Article 19.2.4 of the Zoning Ordinance; Use Permit Considerations. Staff has reviewed said items pertaining to the subject use, and, offers the following comments:

**A. Whether the proposed use is consistent with the land use or economic development plans adopted by the Mayor and City Council:**

Provided the applicant complies with the Recommended Conditions of this petition and the Use Permit requirements of Article 19.4.9. of the Zoning Ordinance, the proposed development may be consistent with the intent and following policies of the Comprehensive Plan:

- Encourage development consistent with the surrounding scale, transition of densities and uses, and Comprehensive Plan policies, where appropriate.
- To the extent possible, open space should be incorporated into all developments

**B. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;**

If developed in accordance with Staff's Recommended Conditions and the provisions of the Zoning Ordinance, the proposed cemetery will be compatible with other land uses in the surrounding area.

**C. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development;**

The proposed use does not violate any known local, state and/or federal statutes, ordinances or regulations governing land development.

**D. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets;**

It is Staff's opinion that the proposed use will generate a very minimal increase in traffic.

**E. The location and number of off-street parking spaces;**

Staff notes that the applicant has proposed a 20' wide gravel drive for two way traffic and a 12' grass shoulder for parking. The Zoning Ordinance does not provide a specific minimum parking requirement for a cemetery. It is Staff's opinion that the parking provided by the 12' shoulder will meet the need for parking for this use.

**F. The amount and location of open space;**

The applicant's site plan indicates that the subject site is undeveloped. Staff is of the opinion that the proposed development will provide adequate open space for the proposed development.

**G. Protective screening;**

If developed in accordance with the requirements of the Zoning Ordinance and the Northwest Fulton Overlay District, the buffer and landscape strip requirements should provide adequate screening for the proposed development. Staff notes that the applicant is requesting a variance to delete the 75-foot undisturbed buffer along portions of the east, west, and north property lines. It is the intent of the applicant to preserve existing screening, as to preserve the pastureland. Staff further notes that there will be fencing along the perimeter of the property.

**H. Hours and manner of operation;**

The applicant states that the hours of operation will be from 9:00am to 5:00pm, seven days a week. The applicant is proposing a gate at the entrance of the cemetery to control access to the property.

**I. Outdoor lighting;**

At the time of Land Disturbance Permit the site shall be in compliance with Article 12H.3.4 of the Northwest Fulton Overlay District regarding outdoor lighting. Staff notes that the applicant does not have any plans for lighting.

**J. Ingress and egress to the property.**

Staff notes that the applicant is proposing a gravel drive. The location of the drive shall meet the minimum site distance standards as approved by the Transportation Engineer.

## **SITE PLAN ANALYSIS**

Based on the applicant's site plan submitted to the Community Development Department on July 1, 2008, Staff offers the following considerations:

### **Northwest Overlay District**

#### **BUILDING HEIGHT**

Article 12H.3.5 Section D.1 of the Northwest Overlay District requires a maximum height limit of two stories with the maximum height 30 feet from average-finished grade to the bottom of the roof eave. At this time, the applicant does not have any plans for buildings on the subject site.

#### **LANDSCAPE STRIPS AND BUFFERS**

Article 12H.3.1 Section A.1 states that all properties shall provide a minimum 10 foot-wide landscape strip along all public streets. Staff notes that it appears that the applicant has met this requirement on the submitted site plan. Furthermore, Article 12H.3.1 Section C.2 of the Northwest Overlay District requires a seventy-five (75) foot-wide undisturbed buffer, with a 10' improvement setback, which shall be located adjacent to all AG-1 zoning districts and all property zoned, used, or developed for residential uses.

Staff further notes that the applicant has applied for a concurrent variance to delete the 75' buffer and 10' impervious setback to 0' along western property lines N 00°32'03" W for 360.96', S 89°27'57" W for 65.23', and N 00°32'03" W, along all eastern property lines, and along the northern property line from northeastern corner to the 50' stream buffer line for a distance of 320' (12H.3.1 Section C.2). Staff notes that there is some existing buffering along these property lines that will be preserved, which will be reflected in the recommended conditions. Lastly, the applicant has stated in his letter of intent that all graves will be placed 85' from the nearest property lines. Excluding the concurrent variance request, it appears to Staff that the applicant has met all landscape strip and buffer requirements. The applicant also indicates that no grave sites will be placed within the existing buffer areas. A condition will be included to reflect this requirement.

In accordance with the Focus Fulton 2025 Plan, "Maintaining Rural Character in Northwest Fulton County, Georgia," Staff finds the applicant's intent of preserving pastureland consistent with the following plan goals:

- Northwest Fulton County's existing rural character-defined by historic resources, wooded areas, agricultural uses, horse farms, pastures, lakes, farms, estates, and natural settings along roadsides-will continue to exist.

- A mature and natural landscape with informal placement of trees and indigenous vegetation is characteristic of the area.
- Cemeteries and places of historic, archeological or architectural significances are preserved.

In addition, in accordance with Article 22.3.1.A, "Relief, if granted, would be in harmony with, or, could be made in harmony with, the general purpose and intent of the Zoning Ordinance." Based on the above, Staff recommends **APPROVAL CONDITIONAL of VC08-05.**

#### BUILDING SETBACKS

Article 12H.3.5 Section C.2 of the Northwest Overlay District requires a maximum 30-foot building setback from the edge of the required landscape strip and/or easements for all properties and lots located adjacent to public rights-of-way and from 0 to 400 feet from an intersection. At this time, the applicant does not have any plans for buildings on the subject site.

#### PARKING REQUIREMENTS

The City of Milton Zoning Ordinance does not specifically address parking requirements for cemeteries. However, the applicant intends to provide a 12' wide grass shoulder along the proposed drive to accommodate vehicle parking. It is Staff's opinion that it will provide adequate parking for its use.

#### OTHER CONSIDERATIONS

According to the applicant, burial plot sections will be approximately 10' by 10', which will be less dense than traditional cemeteries where plots are typically 4' by 8'. The applicant also states that the site will have areas for scattering and burial of ashes in biodegradable urns.

#### PUBLIC INVOLVEMENT

On July 23, 2008 the applicant was present at the Community Zoning Information Meeting held at the Milton City Hall. There were five individuals from the community who were in attendance at the meeting. One attendee questioned whether or not his property value would be affected by the proposed use. The applicants will be presenting their plan to the Milton Design Review Board on August 5, 2008.

Public Comments – Staff has not received phone calls and emails

## PUBLIC NOTICE REQUIREMENTS

The Community Zoning Information Meeting was advertised in the Milton Herald on July 9, 2008 and the sign was installed before the required date of July 9, 2008 along the frontage of Birmingham Road. The notice of Community Zoning Information Meeting was sent, to adjacent property owners, on July 9, 2008. The request for the use permit was advertised in the Milton Herald on August 6, 2008 and notice sent to adjacent property owners on August 14, 2008. The sign was still in the appropriate location on August 6, 2008.

## CITY OF MILTON DESIGN REVIEW BOARD MEETING – AUGUST 5, 2008

The following recommendations were made by the DRB:

- The Board inquired about the location of the buffer in relation to the owner's residence, how the graves will be marked, if any specimen trees will be removed, and how the site will be traversed.

## CITY ARBORIST

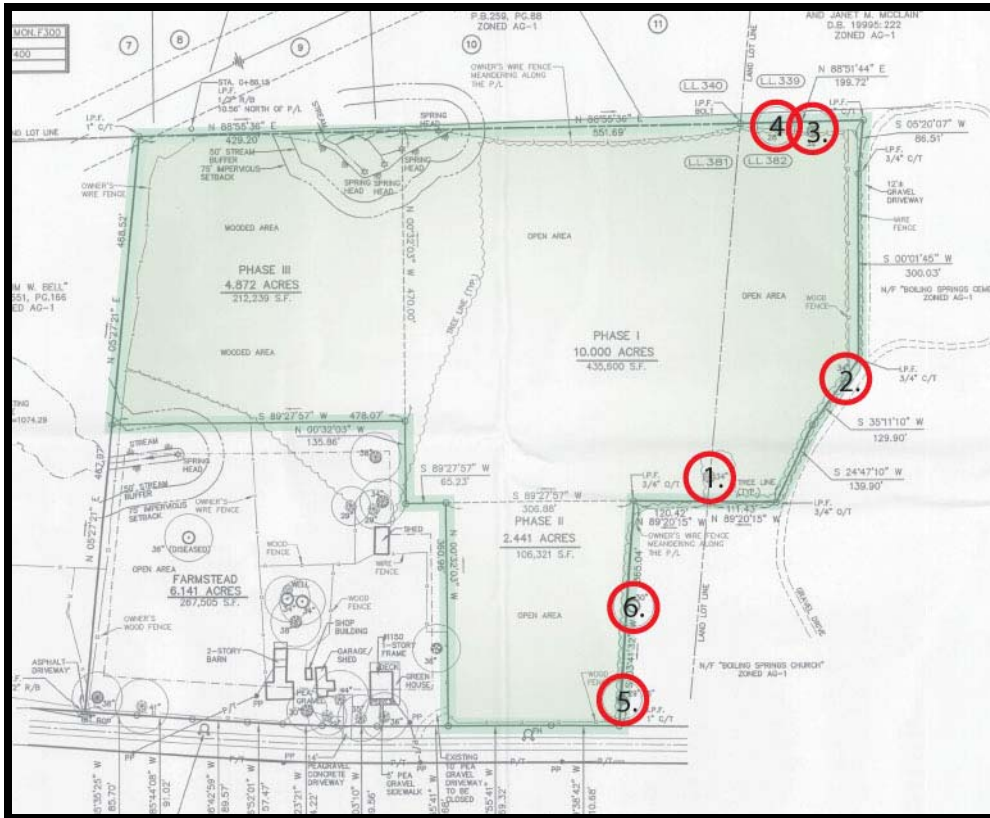
Phase I: Most of the 10 acres is pasture. There are perimeter trees to the east, north, and west. Springhead location is in the NW corner near the property line.

- 1-2) 34" oak
- 3) 32" oak
- 4) 28" pine

Phase II: All pasture with specimen trees at or just off property line.

- 5) 29" oak
- 6) 30" poplar

Phase III: Very nice wooded area with large but no specimen trees. Springheads are in the northeast corner of this phase. Wooded area is very nice with vegetation, canopy coverage and contour changes.



## CONCLUSION

Staff notes that the proposed cemetery appears to meet all requirements as stated in Article 19.4.9 of the City of Milton Zoning Ordinance, and recommends **APPROVAL CONDITIONAL** of **U08-05**. Furthermore, Staff is of the opinion that the requested variance is in line with the goals of the 2025 Focus Fulton Comprehensive Plan and that relief, if granted, would be in harmony with, or, could be made in harmony with, the general purpose and intent of the Zoning Ordinance and recommends **APPROVAL CONDITIONAL** of **VC08-05**.

## RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be approved USE PERMIT for a cemetery (Article 19.4.9.) CONDITIONAL subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
  - a) Cemetery.
- 2) To the owner's agreement to abide by the following:
  - a) To the site plan received by the Milton Community Development Department on July 1, 2008. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
- 3) To the owner's agreement to the following site development considerations:
  - a) Burial sites must remain 85' from all property lines.
  - b) The site plan must provide adequate access and turn around; as acceptable to the Milton Public Works Director and Fire Marshal.
  - c) Access from property to Birmingham Road shall meet Milton standards. If access is needed from adjacent property owners, the ingress/egress utility easement shall require Public Works approval and necessary permanent sidewalk easements may be required for such case.
- 4) To the owner's agreement to abide by the following requirements, dedication and improvements:
  - a. Dedicate at no cost to the City of Milton prior to the approval of a Land Disturbance Permit or Certificate of Occupancy (whichever comes first), sufficient land as necessary to provide the Right of Way for the approved final site plan including the following:

- i. Provide at least 33 feet of right-of-way from the edge of pavement, along the entire property frontage, as well as allow the necessary construction easements while the rights-of-way are being improved or as approved by the Director of Public Works.
  - ii. Provide 10 foot wide multi-use path along the entire Birmingham Road frontage of the property located zero feet from the Right of Way line and no less than 23 feet behind the back of curb or as approved by the Director of Public Works.
  - iii. Provide 10 foot wide multi-use path along the entire frontage of 50' wide ingress/egress, utility, permanent sidewalk easement immediately to the west of the property, as approved by the Director of Public Works.
  - iv. Provide a black four-board equestrian style fence 3 feet behind the right-of-way and adjacent to the sidewalk/trail or as approved by the Director of Public Works.
- b. Driveway including apron length, driveway width, and grass parking shoulder material shall meet the Community Service Policies and AASHTO guidelines, or as approved by the Director of Public Works

## APPENDIX A

### Comments on Public Services and Utilities

Note: Various City and/or County departments that may or may not be affected by the proposed development provide the following information. Comments herein are based on the applicant's conceptual site plan and are intended as general non-binding information and in no manner suggest a final finding by the commenter. All projects, if approved are required to complete the City of Milton Plan Review process prior to the commencement of any construction activity.

#### Transportation/Public Works

- Consider using Grasspave for the parking on the shoulder
- Provide parking requirements and calculations
- Milton Public Works to field verify sight distance
- Extend asphalt apron
- Easement from existing right of way (20 feet from edge of pavement) to 13 feet behind existing right of way shall be an ingress/egress, utility, permanent sidewalk/trail/pedestrian easement.
- Easement from 13 feet behind existing right of way to 75 feet behind existing right of way shall be an ingress/egress utility easement.
- Adequately address erosion and sediment control and stormwater runoff

#### Fulton County Tax Assessor:

Property Tax ID#: 22-4220-0381-009-0

#### Drainage:

Flood Plain: No Flood Plain

#### City of Milton Fire Marshal:

Comments:

No obvious fire concerns at this time

#### Public Safety:

This change will have no impact on police and fire operations in the City of Milton.