

PROPERTY INFORMATION

ADDRESS	14375 Providence Road
DISTRICT, LAND LOT	2/2 845
OVERLAY DISTRICT	Northwest Fulton
EXISTING ZONING	C-1 (Community Business) Z62-06/ AG-(Agricultural)
PROPOSED ZONING	C-1 (Community Business)/AG-1 (Agricultural)
ACRES	1.05
EXISTING USE	Commercial Block and Metal Building – 3,085 sq. ft.
PROPOSED USE	Commercial Building – 3085 sq. ft. and

PETITIONER ADDRESS Segars & Snidow, LLC
14355 Providence Road
Milton, GA 30004
770-757-7279

REPRESENTATIVE PHONE Donald A. Rolader, Esq.
770-442-0330

INTENT

To rezone from C-1 (Community Business) and AG-1 (Agricultural) to C-1 (Community Business) and AG-1 (Agricultural) for an existing building consisting of 3,085 square feet at an overall density of 2,938 square feet per acre with the following four-part concurrent variance*:

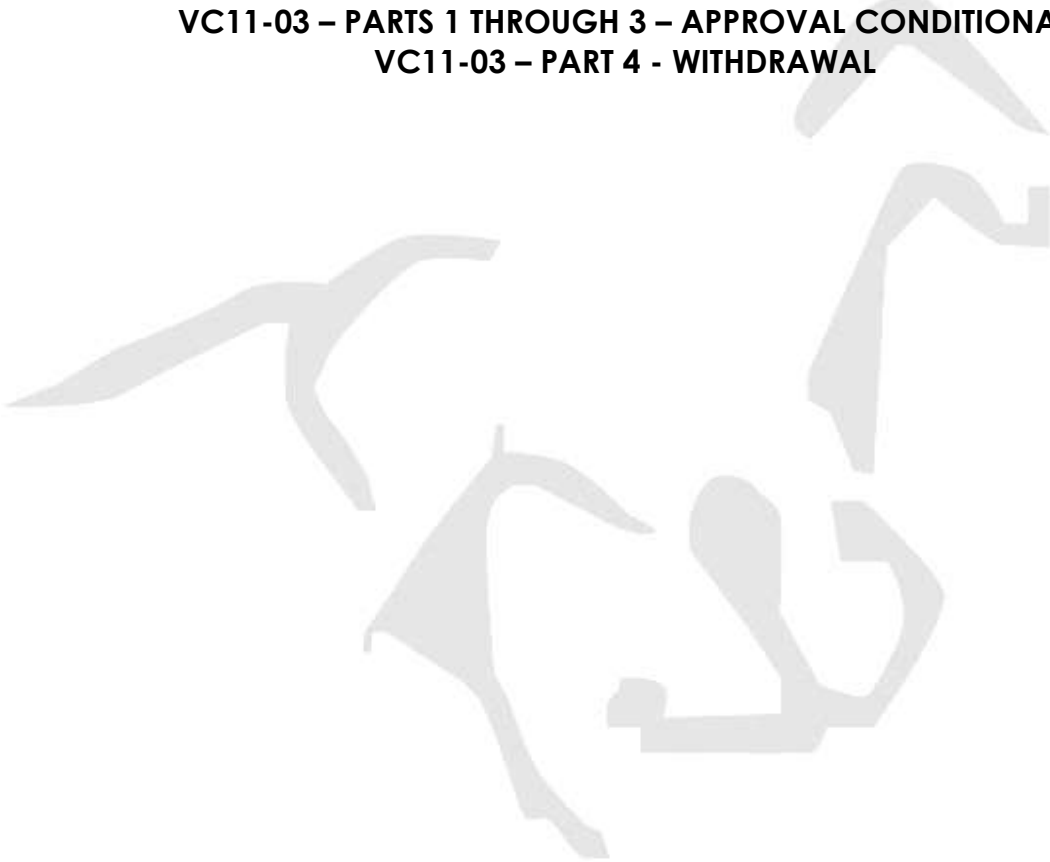
- 1) Sect. 64-1141(3)a. To reduce the 50 foot buffer and 10 foot improvement setback along the west property line labeled points 18 and 19, 13.44 feet of property line labeled 20 and the west property line for a distance of 98 feet to 0 feet;
- 2) Sect. 64-1141(3)a. To reduce the 50 foot buffer and 10 foot improvement setback to 0 feet for a distance of 118 feet along the north property line;
- 3) Sect. 64-1141(3)a. To reduce the 50 foot buffer and 10 foot improvement setback to a 20 foot undisturbed buffer and 0 foot improvement setback along the east property lines;
- 4) Sect. 64-1410 To reduce the required parking from 15 spaces to 11 spaces.

COMMUNITY DEVELOPMENT RECOMMENDATION – MAY 24, 2011

Defer to the June 28, 2011 Planning Commission to allow applicant to revise the request and site plan.

COMMUNITY DEVELOPMENT RECOMMENDATION – JUNE 28, 2011

**RZ11-14 – APPROVAL CONDITIONAL
VC11-03 – PARTS 1 THROUGH 3 – APPROVAL CONDITIONAL
VC11-03 – PART 4 - WITHDRAWAL**



Prepared by the Community Development Department for the
Planning Commission Meeting on June 28, 2011
*Based upon the Revised Site Plan submitted on June 20, 2011



**Site Map for
14375 Providence Road
City of Milton**

- US Highway
- State Highway
- Major Road
- Road
- Ramp
- Mass & Merrimack
- Parcel of 14375 Providence Road
- Parcel
- Lakes & Ponds
- All-in-City Lots



April 2011

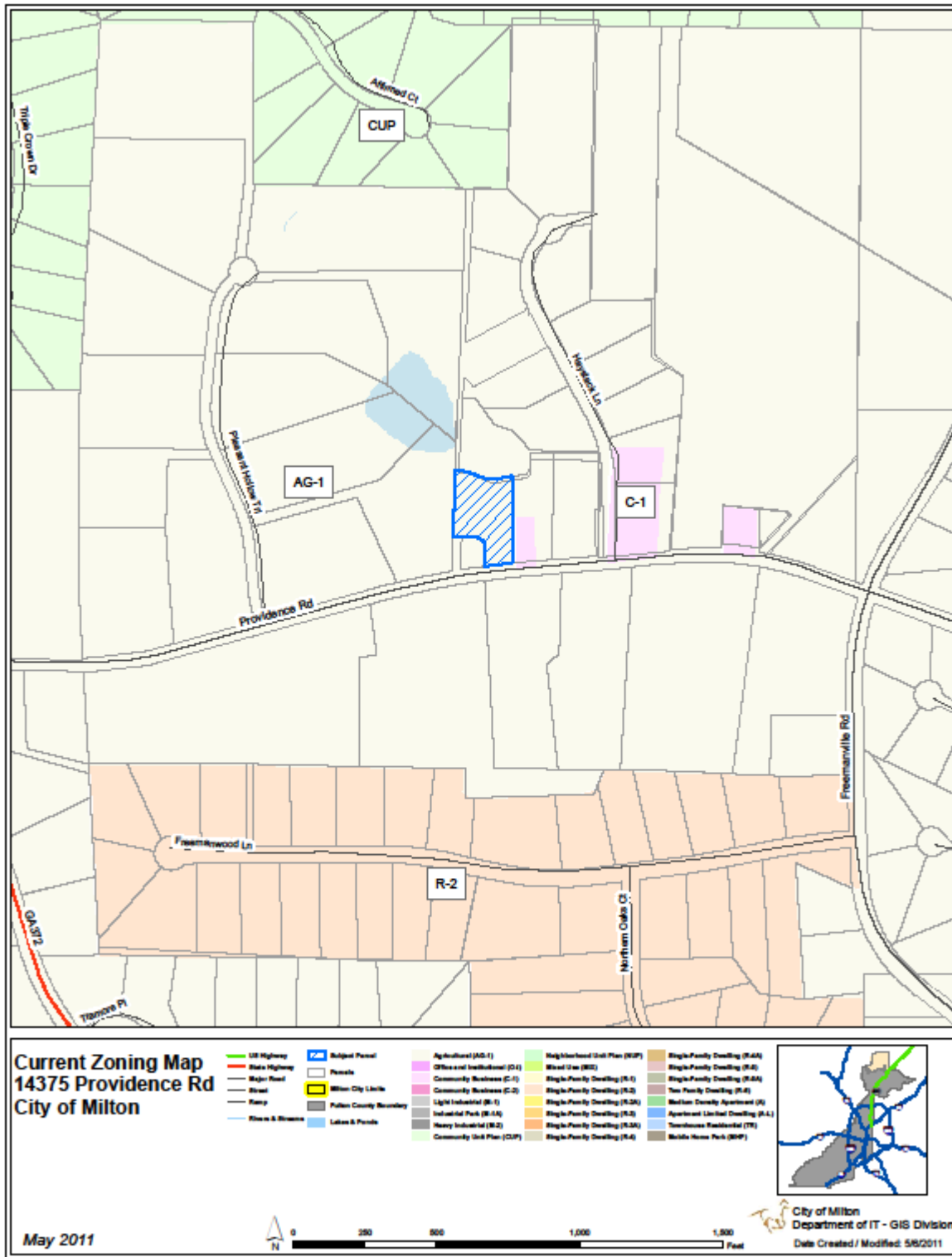


City of Milton
Department of IT - GIS Division
Created/Altered: 4/13/2011

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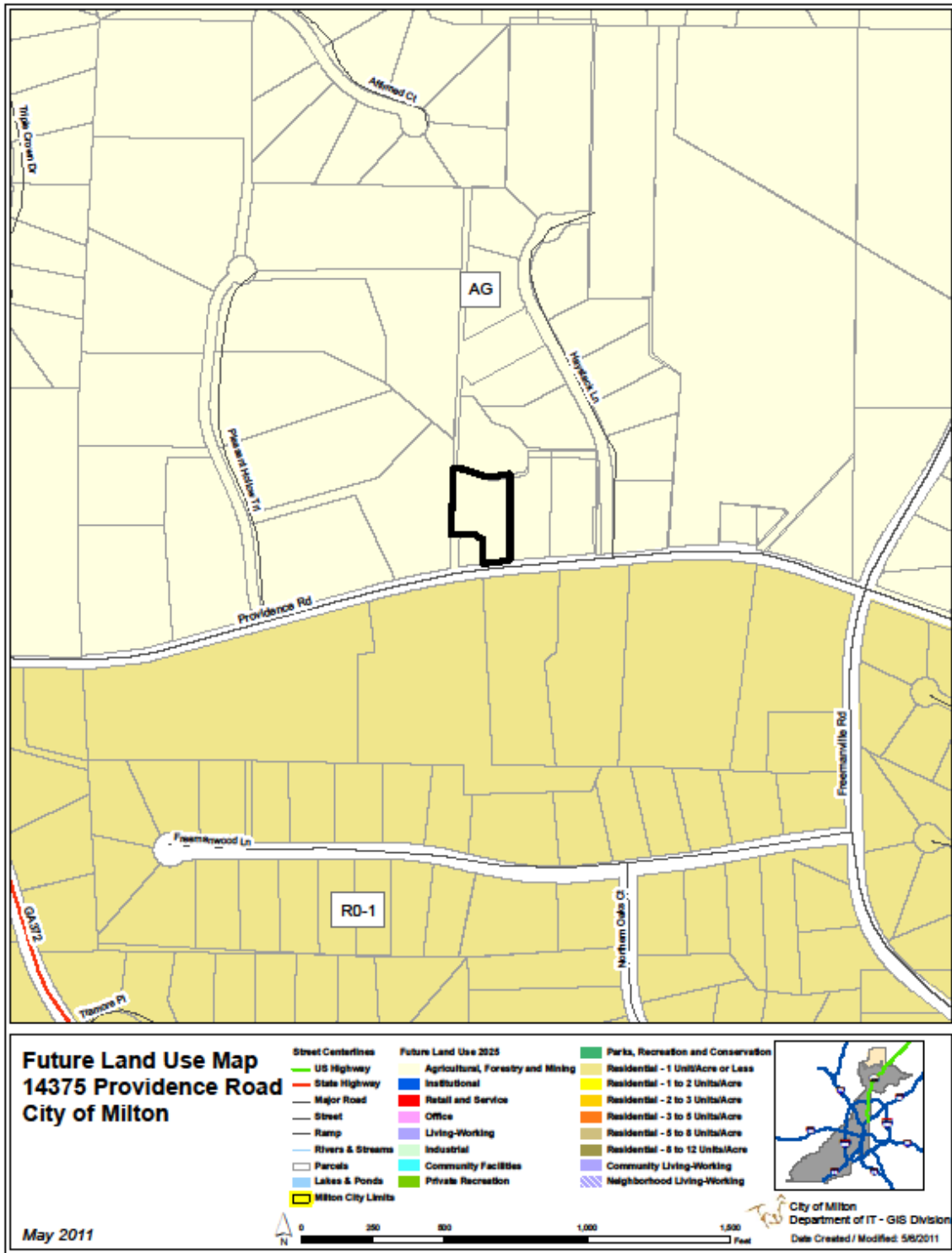
LOCATION MAP

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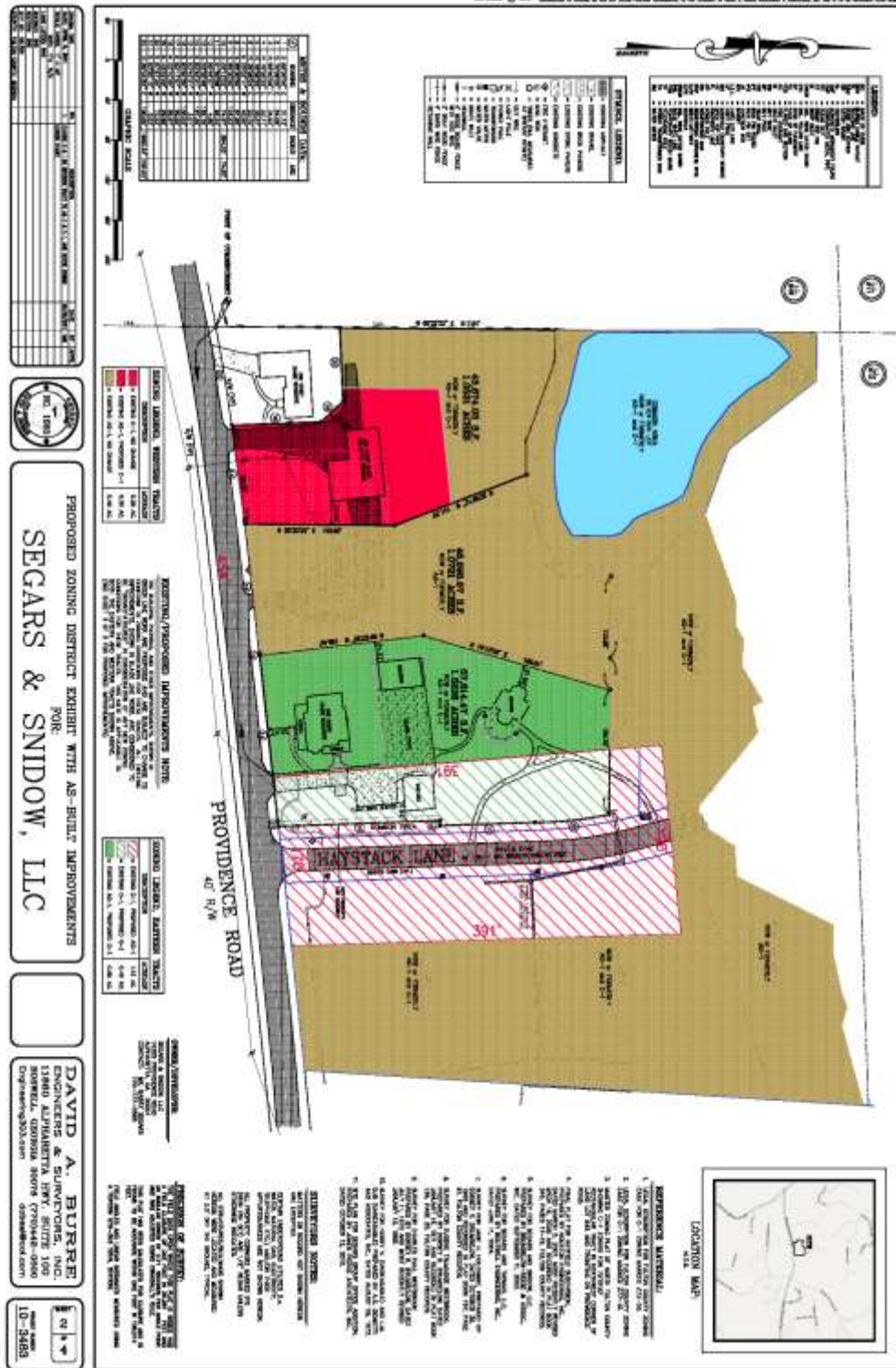
CURRENT ZONING MAP

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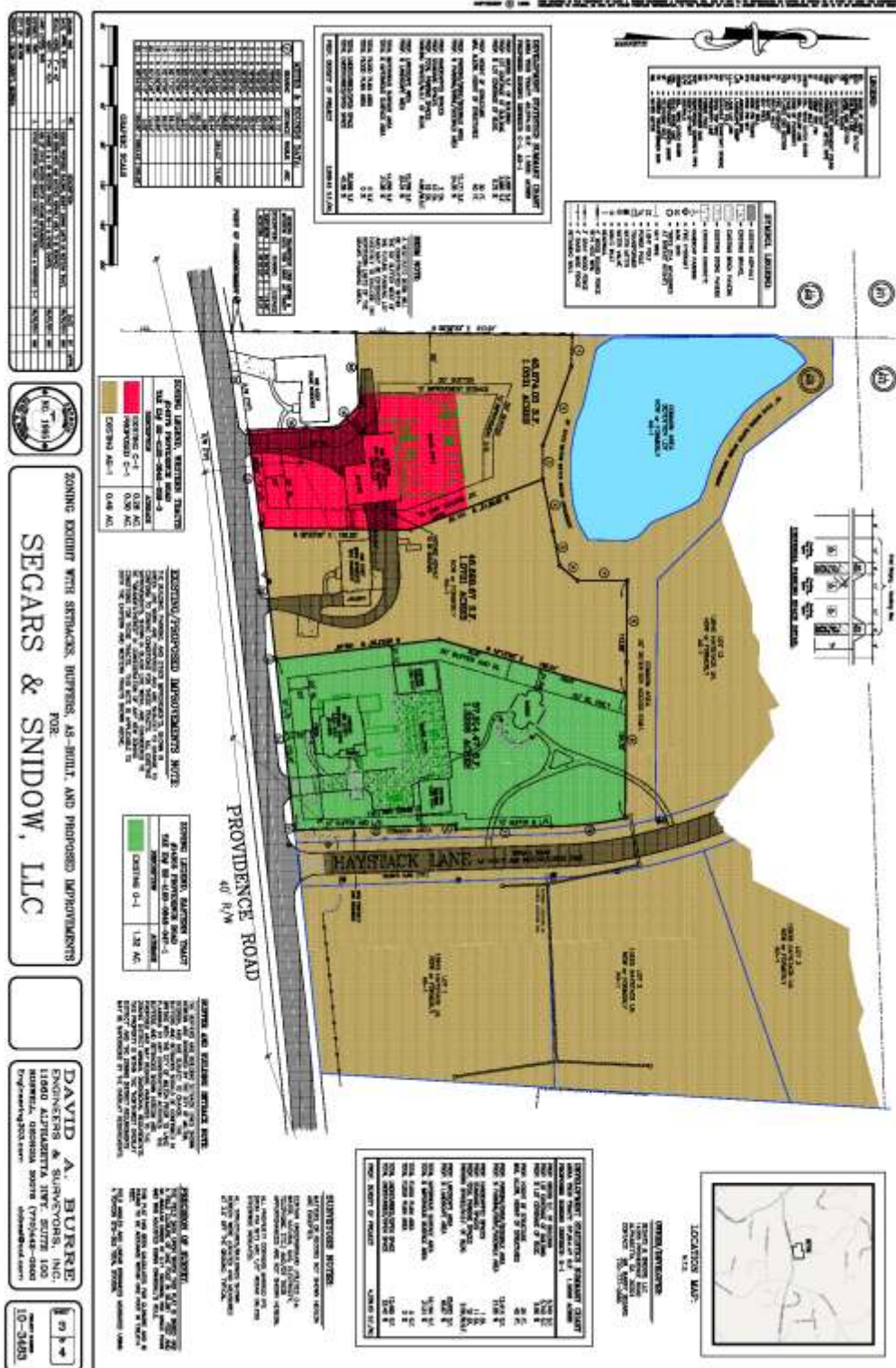
FUTURE LAND USE PLAN MAP

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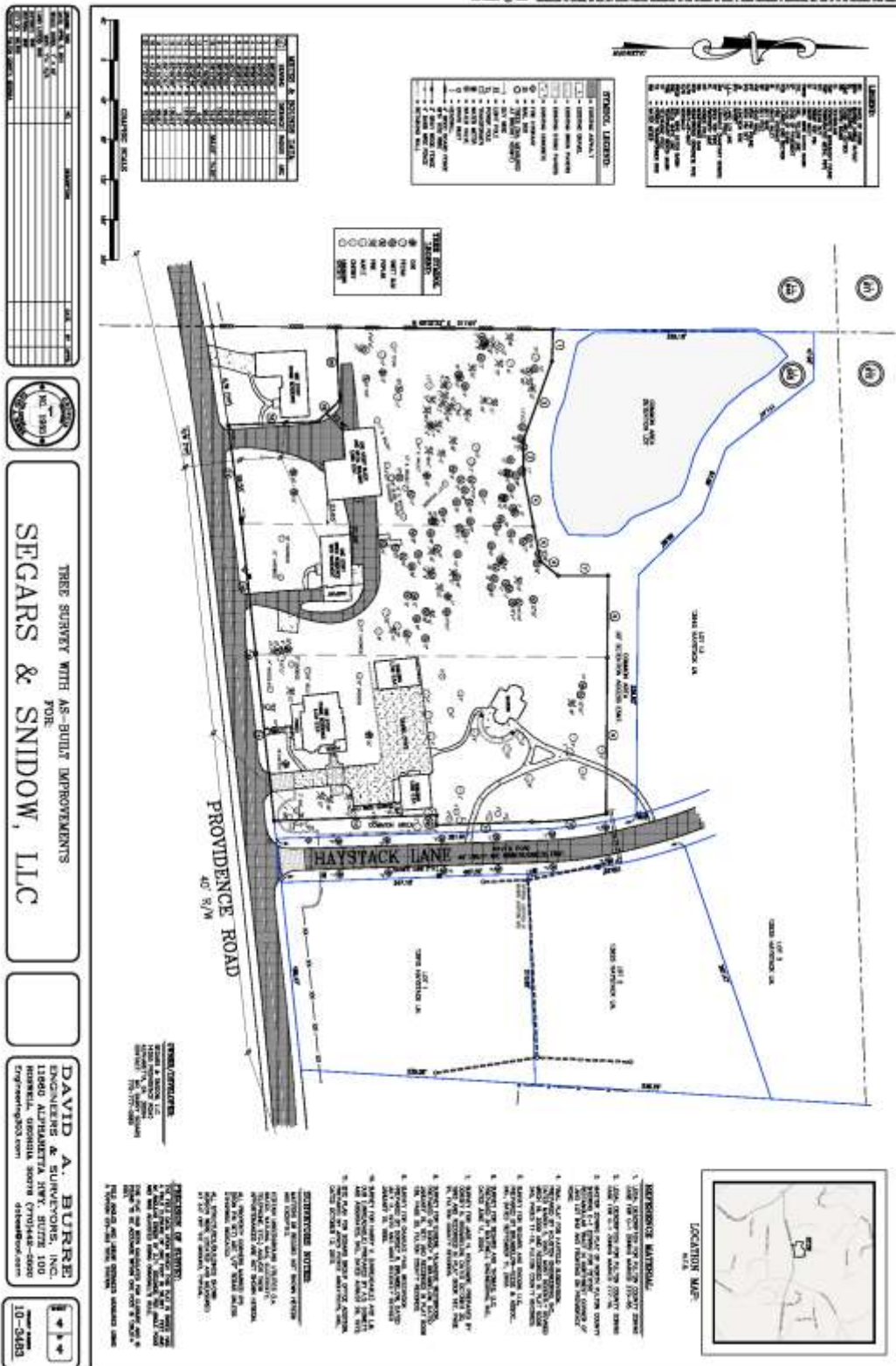
**PROPOSED ZONING DISTRICT EXHIBIT WITH AS-BUILT IMPROVEMENTS
REVISED SITE PLAN SUBMITTED JUNE 20, 2011 (Parcel to the west)**

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REVISED SITE PLAN SUBMITTED JUNE 20, 2011 (Parcel to the west)

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TREE SURVEY

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FRONT OF SUBJECT SITE (EXISTING BUILDING)



VIEW FROM BEHIND BUILDING

Prepared by the Community Development Department for the
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VIEW FROM BACK OF BUILDING TOWARD THE POND



VIEW FROM POND

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VIEW ACROSS POND LOOKING NORTHEAST

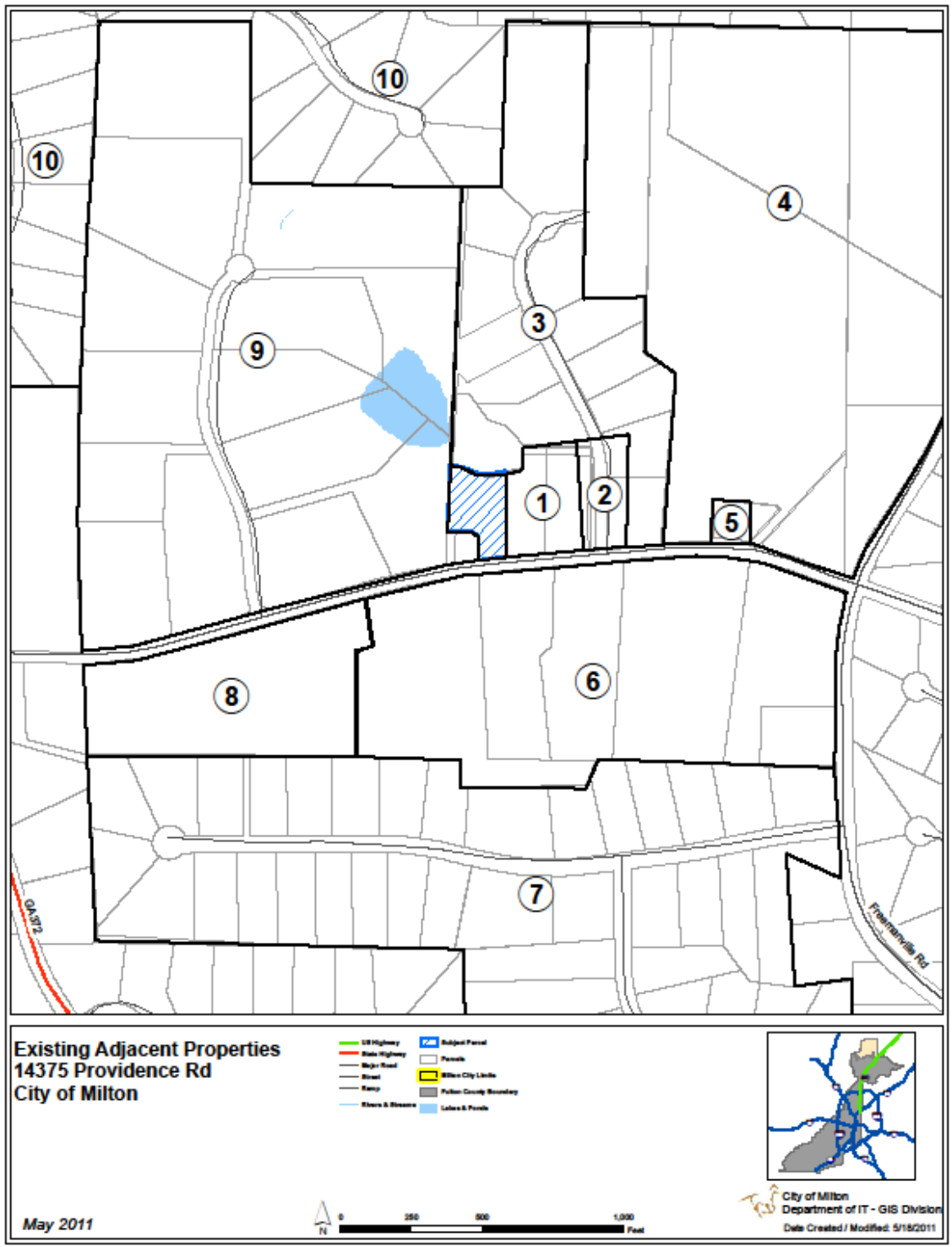


LOOKING FROM SUBJECT SITE TO THE WEST (PLEASANT HOLLOW FARM SUBDIVISION)

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Location	Parcel / Zoning Petition	Zoning / Name	Approved Density/Min. Heated Floor Area
East	1	AG-1 (Agricultural) Single Family Residence	1 unit per acre N/A
Further East	2 RZ11-13	O-I (Office-Institutional) Segars and Snidow, LLC	4,348 sq. ft. per. Acre
Further East/North	3	AG-1 (Agricultural) The Hayfield Subdivision	1 unit per acre N/A
Further East	4	AG-1 (Agricultural) Single Family Residence/Farm	1 unit per acre N/A
Further East	5 RZ77-010	C-1 (Community Business) The Union Restaurant	Existing structure
Southeast and South	6	AG-1 (Agricultural) Scattered Single Family Residences	1 unit per acre N/A
Further South	7 RZ76-86	Crabapple North Subdivision	1 unit per acre N/A
Southwest	8 (None)	AG-1 (Agricultural) Providence Baptist Church and Cemetery	N/A
West	9	AG-1 (Agricultural) Pleasant Hollow Farm Subdivision	1 unit per acre N/A
Further North and Northwest	10 RZ03-159/RZ01-060	CUP (Community Unit Plan) Triple Crown Subdivision	1 unit per acre 2,500 square feet

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EXISTING USES LOCATION MAP

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SUBJECT SITE:

The site contains an existing 3,085 square foot building currently used as storage for a local sign company. A portion of the subject site is currently zoned C-1 (Community Business) pursuant to Z62-06 for the existing structure with .26 acre in 1962. The applicant is requesting that the existing .30 acre be rezoned from AG-1 to C-1 to bring the western portion of the existing building into a commercial zoning district. It appears that an addition was built, prior to 1993 based on aerial photography, on the existing structure that crossed over the zoning district line. The remaining .49 acre is proposed to be rezoned from AG-1 to AG-1 to provide buffering for the adjacent properties to the west and north. The total acreage for the rezoning is 1.05 acres. The site is located within the Agricultural Land Use designation on the City's Current Future Land Use Map.

SITE PLAN ANALYSIS

Based on the applicant's revised site plan submitted to the Community Development Department on June 20, Staff offers the following considerations:

EXISTING COMMERCIAL BUILDING - DEVELOPMENT STANDARDS – SEC. 64-776 for C-1 (Community Business) except where indicated

- Front yard – For all property and lots located adjacent to public rights-of-way and 400 feet or more beyond an intersection, buildings shall be set back no more than 30 feet from the edge of the required landscape strip or easements. (Northwest Fulton Overlay District)
- Side yard adjacent to AG-1 (Agricultural) or residential uses (east and western property lines) – None
See Landscape Buffer Requirements for Northwest Fulton Overlay District Sec. 64-1141(3)
- Rear yard adjacent to AG-1 (Agricultural) or residential uses (north property line – None
See Landscape Buffer Requirements for Northwest Fulton Overlay District Sec. 64-1141(3)
- Minimum lot frontage – 35 feet
- Height - There shall be a maximum height limit of two stories with the maximum height 30 feet from average finished grade to the bottom of the roof eave. (Northwest Fulton Overlay District)

Staff notes that the existing building is set back more than 30 feet from the required landscape strip. A condition will be written to allow the current distance based on the fact that the building was constructed prior to the adoption of the Northwest Fulton Overlay District.

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Streetscape and Landscape Strips- Sec. 64-1141 (1)- Northwest Fulton Overlay District

Front adjacent to Providence Road – 10 foot landscape strip

The site plan submitted complies with the requirements for streetscape and landscape strips of the Northwest Overlay District.

Landscape Buffers – Sec. 64-1141(3) – Northwest Fulton Overlay District

When non-residential uses are proposed adjacent to single family or AG-1 (Agricultural) districts for properties four acre or less, a 50 foot buffer and 10 foot improvement setback are required. The applicant is requesting the following three concurrent variances to this requirement.

Part 1: To reduce the 50 foot buffer and 10 foot improvement setback along the west property line labeled points 18 and 19, 13.44 feet of property line labeled 20 and the west property line for a distance of 98 feet to 0 feet. (Sect. 64-1141(3) a.)

Part 2: To reduce the 50 foot buffer and 10 foot improvement setback to 0 feet for a distance of 118 feet along the north property line. (Sect. 64-1141(3)a.)

The adjacent property to the west described above is a single family residence zoned AG-1 (Agricultural) and undeveloped AG-1 (Agricultural) property owned by the applicant. The basis for this request to delete the 50 foot buffer and 10 foot improvement setback is to limit the increase in C-1 (Community Business) district that brings the subject site into zoning compliance. Secondly, the applicant is providing the required buffer along that portion of the west property line that measures 98 feet in length adjacent to another AG-1 (Agricultural) district developed with a single family residence within the Pleasant Hollow Farm Subdivision.

The applicant is proposing a vegetated berm to be constructed within the 50 foot buffer west of the future parking lot and may be extended to enclose the northern limits of the gravel parking area. Although Staff is in agreement that the properties to the west should be shielded from the parking lot and traffic produced from the use, Staff does not support installing a vegetated berm. This would remove the existing trees and growth that currently provides screening. Additional plantings are recommended to supplement the undisturbed 50 foot buffer to provide the necessary screening to the adjacent properties. A condition will be included for the applicant to provide a 50 foot buffer and 10

foot improvement setback along the west and north property lines within the .49 acre parcel of AG-1 (Agricultural).

The adjacent property to the north of the re-configured C-1 (Community Business) parcel is currently owned by the applicant and is also zoned AG-1 (Agricultural). Further to the north, which is not part of the rezoning petition, is a detention pond for the Hayfield Subdivision. The detention pond is also classified as a state water but was grandfathered based on the time of construction to a 25 foot undisturbed buffer.

In addition, it appears that after the 1962 zoning an addition was constructed on the west side of the structure that resulting in the structure crossing over the C-1 (Community Business) zoning line. The existing structure located in AG-1 (Agricultural) was not known until the applicant had an as-built survey completed. The purpose of this rezoning request is to correct the non-conforming use/structure encroaching into the AG-1 (Agricultural) portion of the property. It was not unusual for properties to be subdivided without the proper administrative steps and therefore non-conforming lots/structures were created.

This exceptional situation or condition was not caused by the applicant. In addition, the requested concurrent variances will not cause a substantial detriment to the public good and surrounding properties as the applicant is the owner of the property directly to the west and north (the applicant is the developer of The Hayfield and its detention facility located to the north of the subject site). The proposed vegetated berm will provide additional protection for the Pleasant Hollow Farms subdivision to the west. Lastly, the public safety, health and welfare are secured, and substantial justice is done. Therefore, Staff recommends **APPROVAL CONDITIONAL of VC11-03, Parts 1 and 2.**

Part 3: To reduce the 50 foot buffer and 10 foot improvement setback to a 20 foot undisturbed buffer and 0 foot improvement setback along the east property lines. (Sect. 64-1141(3)a.)

The adjacent property to the east is developed with a single family residence and is also owned by the applicant. There is an existing asphalt driveway located between the house and the east property line that will be removed and replanted to buffer standards to provide additional screening from the residence to the east.

This exceptional situation or condition was not caused by the applicant. In addition, the variance would not cause a substantial detriment to the public good and surrounding properties as the applicant is the developer of the adjacent subdivision and nearby properties. Lastly, the public safety, health and

welfare are secured, and substantial justice is done. Therefore, Staff recommends **APPROVAL CONDITIONAL of VC11-03, Parts 3.**

OTHER SITE PLAN CONSIDERATIONS

Parking Requirements

The site plan submitted indicates a total of 15 parking spaces. The existing building is 3,085 square feet in size. Pursuant to Sec. 64-1410, Calculations, 5 spaces per 1,000 square feet are required for a commercial uses. Based on this calculation, a total of 15 spaces are required.

Staff notes that the parking is located on a gravel lot which is encouraged in the Northwest Fulton Overlay District. A condition will be included to require the parking to be on gravel except for the required handicapped space.

Currently there isn't a need for the additional parking for the sign company's use. Therefore, Staff is providing a condition that will require the property owner to install the required parking described above when a new commercial use/tenant is proposed.

The requested concurrent variance to reduce the parking is no longer needed and therefore, Staff recommends **WITHDRAWAL of VC11-03, Part 4.**

ENVIRONMENTAL SITE ANALYSIS

The Environmental Site Analysis (ESA) report is sufficient and satisfies the requirement of Section 64.2126. A field survey of the site was conducted by Staff to verify areas addressed in the ESA report. The proposed site does not contain wetlands, floodplains, streams steep slopes, historical sites or sensitive plant and animal species. Staff notes that the State waters buffer is located to the north of the subject site in the Hayfield Subdivision.

ARBORIST COMMENTS

There are two specimen trees in the front of the building which should not be an issue with this request. The specimen sycamore tree shown on the plan is in decay, will not be considered a specimen tree.

There is a small grove of black walnut trees located behind the existing building. Though a small area, with the existing surroundings and with the small grouping of walnut trees, this area should be preserved to the greatest extent possible

and any walnut trees removed shall be recompensed at the same recompense calculations as required for dogwood trees.

The existing back yard is nicely wooded down to the lake, and has been maintained in a very good state. Property slopes from the building to the lake. Grade change should be kept to a minimum.

Staff is not in support of the applicant's proposed berm along the west property line. It will remove existing trees to construct the berm and additional plantings without the berm will provide adequate screening for the adjacent property owners from a future parking area.

Upon a change of tenant/use, a pre-construction meeting will be required to ensure that the existing trees and their drip lines will be protected.

Future issuance of a valid land disturbance permit shall indicate conformance to the provisions of these regulations.

CITY OF MILTON FIRE MARSHAL

There are no outstanding fire code issues associated with the proposed rezoning as they are now presented.

DESIGN REVIEW BOARD MEETING COURTESY REVIEW – MAY 3, 2011

- Buffers should be preserved, heavily planted.
- Work with Arborist to come up with possible alternate planting plan.

PUBLIC INVOLVEMENT

On April 27, 2011 the applicant was present at the Community Zoning Information Meeting (CZIM) held at the Milton City Hall. There were eight members of the community in attendance.

The members of the community were concerned about additional parking in the rear and trips in and out of the site if there will be a change of tenants. They were specifically concerned about additional lighting from the parking lot and lights from the cars.

Public Comments – Staff has not received any correspondence regarding this development.

PUBLIC PARTICIPATION REPORT

The applicant conducted the required Public Participation Meeting on Wednesday, May 18, 2011 at the applicant's existing office to the east. At the time of this writing, Staff was awaiting a public participation report.

Standards of Review

(Section 64-2104) Planning Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 7, below, as well as any other factors it may find relevant.

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

The existing 3,085 structure is currently being used by a sign company for storage. The primary use surrounding the property are single family residential homes located on minimum one acre lots. Further to the east is the applicant's office which was zoned from C-1 (Community Business) and AG-1 (Agricultural) to O-I (Office Institutional) pursuant to RZ11-013/VC 11-02 approved by the Mayor and City Council on June 20, 2011. There is a horse farm further to the east and The Union Restaurant zoned C-1 (Community Business) pursuant to RZ77-10. To the south are scattered single family homes on AG-1 (Agricultural) as well as minimum one acre lots further to the south in the Crabapple North Subdivision zoned R-2A (Residential). To the southwest is the Providence Baptist Church and cemetery with the existing building which was built in 1940 prior the requirement of zoning regulations. West of the subject site is a single family residence and further to the west is the Pleasant Hollow Farms Subdivision zoned AG-1 (Agricultural) and developed with large single family residences.

Based on the fact that the location of the existing structure was presumed to be entirely located within the C-1 (Community Business) parcel (Z62-06 and by enlarging the C-1 parcel to bring the structure into conformance with zoning and providing buffering, it is a suitable use for the property.

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

It is Staff's opinion that the proposal will not adversely affect existing use or usability of the adjacent properties as described above if the recommended conditions are approved to provide buffers to the

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adjacent properties to the west and the north. In addition the new rezoning will contain conditions to restrict the uses permitted on the site that will further protect the adjacent and nearby properties.

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

The subject site does not have a reasonable use as currently zoned C-1 (Community Business) because the structure is only partially included in the commercial zone and it is out of compliance with the Zoning Ordinance.

4. 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?

Based on the current and previous use of the building for commercial purposes, Staff does not anticipate a significant impact on existing streets, transportation facilities, utilities, or schools as proposed.

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

Future Land Use Plan Map: Agricultural

Proposed use/density:

Commercial / 2,938 square feet per acre

The Future Land Use Plan Map suggests Agricultural for the subject site and for properties north of Providence Road and Residential 1 unit or less for properties south of Providence Road.

The Milton City Council adopted the Partial Plan Update to the City's Comprehensive Plan on December 21, 2009. The proposed development is consistent with the following Plan Policy if developed with the recommended conditions:

- We will encourage the preservation of natural resources areas and preserve contiguous green open spaces development of land in appropriate designated areas as development occurs.

6. 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?

Although, the proposed zoning for C-1 (Community Business) is inconsistent with the Plan Map, it is Staff's opinion that the commercial zoning and associated building was approved in 1962. In addition, by rezoning the correct size parcel to C-1 (Community Business) and the remaining AG-1 (Agricultural) zoning to provide buffering, the subject site will have less impact on adjacent and nearby properties. Therefore, Staff supports the approval of this request to "fix" the existing zoning district to bring the existing zoning/use into compliance with the City's ordinances.

7. 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?

The proposed use will not be environmentally adverse to the natural resources, environment and citizens of the City due to the required development regulations.

CONCLUSION

Although the proposed rezoning is inconsistent with Future Land Use Plan's recommendation of Agricultural, it is Staff's opinion that by rezoning the property to C-1 (Community Business) and AG-1 (Agricultural), this corrects the non-conforming structure/use and provides buffering to the site from adjacent properties. Therefore, Staff recommends **APPROVAL CONDITIONAL of RZ11-14** to rezone from C-1 (Community Business) and AG-1 (Agricultural) to C-1 (Community Development) and AG-1 (Agricultural) to allow the existing office for a total of 3,085 square feet and the AG-1 (Agricultural) portion remain undisturbed buffers as depicted on the site plan.

It is also Staff's opinion that **Parts 1 through 3 of VC11-03 be APPROVED CONDITIONAL** and recommends **WITHDRAWAL of Part 4** for the reduction in parking.

RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be C-1 (Community Business) and AG-1 (Agricultural) 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) Retail, service commercial and accessory uses on .56 acre of 3,085 square feet or at 2,938 square feet per acre zoned, whichever is less, but excluding, billboards, day care facilities, rooming house, boarding house, assembly hall, clinic, community center building, convalescent center/nursing home/hospice, dancing school, financial establishment, funeral home, group residence, gymnasium, health club/spa, hospital, hotel, library, motels, museum, parking garage/deck, parking lot, personal care home, recording studio research laboratory, stadium, and thrift institution and any uses permitted through a Special Use Permit that requires a C-1 (Community Business) zoning district other than church or cemetery use. Above described acreage shall be zoned C-1 (Community Business) Conditional.
 - b) Agricultural (AG-1) located on .49 acre within the overall 1.05 acre tract as depicted with undisturbed buffers on the revised site plan submitted on June 20, 2011.
- 2) To the owner's agreement to abide by the following:
 - a) To the revised site plan received by the Community Development Department on June 20, 2011. 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. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the Certificate of Occupancy.

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- 3) To the owner's agreement to the following site development considerations:
- a) No more than one entrance/exit onto Providence Road
 - b) Parking areas shall be gravel except for the required handicapped space.
 - c) To delete the 50 foot buffer and 10 foot improvement setback to 0 feet along the west property line labeled points 18 and 19, 13.44 feet of property line labeled 20 and the west property line for a distance of 98 feet. (VC11-03, Part 1)
 - d) To delete the 50-foot buffer and 10 foot improvement setback to 0 feet for a distance of 118 feet along the north property line. (VC11-03, Part 2)
 - e) To provide a 20 foot undisturbed buffer and 0 foot improvement setback along the east property lines. (VC11-03, Part 3)
 - f) To provide a 50 foot undisturbed buffer and 10 foot improvement setback along the west and north property lines within the AG-1 (Agricultural) district as depicted on the revised site plan submitted on June 20, 2011.
 - g) To develop the parking lot as depicted on the revised site plan submitted on June 20, upon any change of use within the building.
 - h) To allow the existing building to remain as shown on the revised site plan submitted on June 20, 2011.
- 4) To the owner's agreement to abide by the following requirements, dedication, and improvements:
- a) Access to the site shall be subject to the approval of Milton Public Works, prior to the issuance of a Certificate of Occupancy. Entrance(s) shall conform to Chapter 48 Streets, Sidewalks and Other Public Places of the City of Milton Code of Ordinances, or be reconstructed to meet such criteria if required by City of Milton Public Works Department.