

**RECOMMENDED CONDITIONS**  
**CZ-17-21185**

1. The property shall be used for multifamily residential at the existing density of 13 units per acre.
2. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.
3. Any retaining wall located next to an adjoining property, when said retaining wall exceeds 12 feet in height, must be approved by variance to the Zoning Board of Appeals.



**DeKalb County Department of Planning & Sustainability**

**330 Ponce De Leon Avenue, Suite 500**

**Decatur, GA 30030**

**(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: March 7, 2017, 6:30 P.M.**

**Board of Commissioners Hearing Date: March 28, 2017, 6:30 P.M.**

**STAFF ANALYSIS**

**Case No.:** Z-17-21185 **Agenda #:** N. 2

**Location/Address:** 3191, Flowers Road South, Atlanta **Commission District:** 1 **Super District:** 7

**Parcel ID(s):** 18-266-02-007

**Request:** To rezone property from MR-2 - Conditional (Medium-Density Residential-2-Conditional) to O-I (Office-Institutional) to make the zoning of the property consistent with that of other parcels in the same development.

**Property Owner(s):** Courtland Partners

**Applicant/Agent:** Courtland Partners c/o Kathryn M. Zickert

**Acreage:** 20.68 acres

**Existing Land Use:** Multifamily residential

**Surrounding Properties:** To the north, northwest, and west: Mercer University; to the northeast and east: multifamily residential; to the southeast, south, and southwest: single-family residential.

**Adjacent Zoning:** **North:** O-1 **South:** R-100 **East:** O-I **West:** O-I **Northeast:** O-I **Northwest:** O-I **Southeast:** R-100 **Southwest:** R-100

**Comprehensive Plan:** Suburban  **Consistent**  **Inconsistent** See LP-17-21187

<b>Proposed Density:</b> Same as existing; no new construction proposed	<b>Existing Density:</b> 13 units per acre
<b>Proposed Units/Square Ft.:</b> Same as existing; no new construction proposed	<b>Existing Units:</b> 269 units±

**Companion Application:**

The applicant has filed a companion application (LP-17-21187) to amend the Future Land Use Map from SUB (Suburban) to INS (Institutional).

**Zoning History:**

The subject property is one of three parcels that comprise the Park Point North apartment complex. The complex was zoned between 1978 and 1987. The subject property was zoned from R-100 and O-I to RM-85 in 1986, with the condition that the property be developed for apartments. The other two parcels were zoned to the O-I classification. When the updated zoning code and maps were adopted in 2015, the zoning classification of the subject property was changed to MR-2.

## **SITE AND PROJECT ANALYSIS**

The subject property has approximately 1,417 feet of street frontage on Flowers Road, a two-way, two-lane collector. The entire Park Point North apartment complex contains 770 units; approximately 250 units are located on the subject property. The buildings are three stories high and are served by surface parking.

The rezoning is requested to make the zoning of the subject property consistent with that of other parcels in the same development, which are zoned O-I. The application states, "The applicant does not intend to redevelop the Subject Property. Rather, this rezoning is sought to make the zoning classification across the entirety of the Subject Property consistent." The applicant has concurrently applied for a land use map amendment to re-designate all three parcels of the Park Point North complex from SUB (Suburban) to INS (Institutional), so that the property will not be limited to the maximum SUB density of eight units per acre. The Institutional character area does not have a residential density limit.

The apartment complex is located to the south and southeast of the Mercer University campus. Single-family residential neighborhoods are located to the south and southeast. The development is separated from the nearest single-family residential properties by the Henderson Mill Creek floodplain. The floodplain is several hundred feet wide, reaching up to 920 feet in width along the southern boundary of the subject property. The floodplain contains wetlands and wooded areas.

The Mercer University campus, as well as the other two parcels that comprise Park Point North, are zoned O-I. The single-family residential neighborhoods to the south and southeast are zoned R-100. The proposed zoning classification of O-I is consistent with O-I zoning of Mercer University and the other Park Point North parcels. O-I zoning of the subject property would allow it, along with the other Park Point North parcels, to be used by Mercer University, should the University wish to use the apartments for dorms or redevelop the site for other purposes.

## **LAND USE AND ZONING ANALYSIS**

**Section 27-832 of the Zoning Ordinance, "Standards and factors governing review of proposed amendments to the official zoning map" states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.**

### **A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:**

The proposal is consistent with the following policy of the 2035 Comprehensive Plan: "Provide opportunities for the development of institutional uses within the County." (Institutional Character Area Policy No. 4) The O-I zoning classification would allow a range of institutional uses, including possible future expansion of Mercer University.

### **B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:**

The existing multifamily residential use is compatible with the use of nearby properties for Mercer University and for detached single-family homes. Multifamily use of the property could continue under the proposed O-I zoning classification. In addition, the O-I district allows a range of educational and civic uses that would be suitable for the property.

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

The subject property has reasonable economic use as currently zoned; however, a higher and better use might be possible by rezoning the property to O-I.

### **D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:**

Because the zoning proposal would not change the existing use of the property, it is not expected to adversely affect the adjoining or nearby properties. The site is separated from the nearest single-family residential properties by a 100-foot wide floodplain.

**E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:**

The existing development and zoning pattern of the surrounding area supports the zoning proposal. Staff is not aware of any changing conditions that would support either approval or disapproval of the zoning proposal.

**F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:**

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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

The zoning proposal does not involve any new construction or expansion of the existing apartment complex; thus, it is not expected to increase demand or cause a burden on the existing streets, utilities, or schools.

**H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources:**

Because the zoning proposal does not involve new development or changes to the natural areas on the site, it is not expected to adversely impact the environment or surrounding natural resources.

**Compliance with District Standards:**

O-I STANDARD		REQUIRED/ALLOWED	PROVIDED	COMPLIANCE
MIN. LOT AREA		20,000 square feet	20.68 acres	Yes
MIN. LOT WIDTH		100 feet	1,417 feet	Yes
MAX. LOT COVERAGE		80%	(estimate) 50%	Yes
MIN. OPEN SPACE		≥ 40,000 s.f of gross floor area – 20%	(estimate) 60%	Yes
MIN. TRANSITIONAL BUFFER		50 feet next to R zoning	99 feet – 395 feet (floodplain and wetlands)	Yes
BLDG. SETBACKS	FRONT	Min. – 50 ft.	30.72 – 99.51	The existing front setback, which was established when the property was developed in 1986, appears to be legally nonconforming.
	INTERIOR SIDE	Min. 20. ft.	East side: 22 ft. West side: 33.38 ft.	Yes Yes
	REAR	Min. 30 ft.	99.61 ft.	Yes
MAX. BLDG. HEIGHT WITHOUT SLUP		N. A. – no changes proposed to height	N.A.	N. A.

O-I STANDARD	REQUIRED/ALLOWED	PROVIDED	COMPLIANCE
TRANS'L HEIGHT PLANE	Information not provided	Buildings are more than 370 feet from the nearest single-family detached homes to the southeast and south.	Yes

**STAFF RECOMMENDATION:**

The proposal is consistent with the following policy of the 2035 Comprehensive Plan: "Provide opportunities for the development of institutional uses within the County." (Institutional Character Area Policy No. 4) The O-I zoning classification would allow a range of institutional uses, including possible future expansion of Mercer University. Because the zoning proposal would not change the existing use of the property, it is not expected to adversely affect the adjoining or nearby properties. In addition, the development is separated from the nearest single-family residential properties by a 100-foot wide floodplain. The O-I district allows a range of educational and civic uses that would be suitable for the property and compatible with the use and development of the surrounding area. Therefore, the Department of Planning and Sustainability recommends "Approval" with the following conditions:

1. The property shall be used for multifamily residential at the existing density of 13 units per acre.
2. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.
3. Any retaining wall located next to an adjoining property, when said retaining wall exceeds 12 feet in height, must be approved by variance to the Zoning Board of Appeals.

**Attachments:**

1. Department and Division Comments
2. Application
3. Site Plan
4. Zoning Map
5. Land Use Plan Map
6. Aerial Photograph
7. Site Photographs

## NEXT STEPS

*Following an approval of this zoning action, one or several of the following may be required:*

- **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

**Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.**



**DeKalb County Department of Planning & Sustainability**

**330 Ponce De Leon Avenue, Suite 500**

**Decatur, GA 30030**

**(404) 371-2155 / plandev@dekalbcountyga.gov**

**Planning Commission Hearing Date: March 7, 2017, 6:30 P.M.**

**Board of Commissioners Hearing Date: March 28, 2017, 6:30 P.M.**

**STAFF ANALYSIS**

**Case No.:** Z-17-21185 **Agenda #:** N. 2

**Location/Address:** 3191, Flowers Road South, Atlanta **Commission District:** 1 **Super District:** 7

**Parcel ID(s):** 18-266-02-007

**Request:** To rezone property from MR-2 - Conditional (Medium-Density Residential-2-Conditional) to O-I (Office-Institutional) to make the zoning of the property consistent with that of other parcels in the same development.

**Property Owner(s):** Courtland Partners

**Applicant/Agent:** Courtland Partners c/o Kathryn M. Zickert

**Acreage:** 20.68 acres

**Existing Land Use:** Multifamily residential

**Surrounding Properties:** To the north, northwest, and west: Mercer University; to the northeast and east: multifamily residential; to the southeast, south, and southwest: single-family residential.

**Adjacent Zoning:** **North:** O-1 **South:** R-100 **East:** O-I **West:** O-I **Northeast:** O-I **Northwest:** O-I **Southeast:** R-100 **Southwest:** R-100

**Comprehensive Plan:** Suburban  **Consistent**  **Inconsistent** See LP-17-21187

<b>Proposed Density:</b> Same as existing; no new construction proposed	<b>Existing Density:</b> 13 units per acre
<b>Proposed Units/Square Ft.:</b> Same as existing; no new construction proposed	<b>Existing Units:</b> 269 units±

**Companion Application:**

The applicant has filed a companion application (LP-17-21187) to amend the Future Land Use Map from SUB (Suburban) to INS (Institutional).

**Zoning History:**

The subject property is one of three parcels that comprise the Park Point North apartment complex. The complex was zoned between 1978 and 1987. The subject property was zoned from R-100 and O-I to RM-85 in 1986, with the condition that the property be developed for apartments. The other two parcels were zoned to the O-I classification. When the updated zoning code and maps were adopted in 2015, the zoning classification of the subject property was changed to MR-2.

## **SITE AND PROJECT ANALYSIS**

The subject property has approximately 1,417 feet of street frontage on Flowers Road, a two-way, two-lane collector. The entire Park Point North apartment complex contains 770 units; approximately 250 units are located on the subject property. The buildings are three stories high and are served by surface parking.

The rezoning is requested to make the zoning of the subject property consistent with that of other parcels in the same development, which are zoned O-I. The application states, "The applicant does not intend to redevelop the Subject Property. Rather, this rezoning is sought to make the zoning classification across the entirety of the Subject Property consistent." The applicant has concurrently applied for a land use map amendment to re-designate all three parcels of the Park Point North complex from SUB (Suburban) to INS (Institutional), so that the property will not be limited to the maximum SUB density of eight units per acre. The Institutional character area does not have a residential density limit.

The apartment complex is located to the south and southeast of the Mercer University campus. Single-family residential neighborhoods are located to the south and southeast. The development is separated from the nearest single-family residential properties by the Henderson Mill Creek floodplain. The floodplain is several hundred feet wide, reaching up to 920 feet in width along the southern boundary of the subject property. The floodplain contains wetlands and wooded areas.

The Mercer University campus, as well as the other two parcels that comprise Park Point North, are zoned O-I. The single-family residential neighborhoods to the south and southeast are zoned R-100. The proposed zoning classification of O-I is consistent with O-I zoning of Mercer University and the other Park Point North parcels. O-I zoning of the subject property would allow it, along with the other Park Point North parcels, to be used by Mercer University, should the University wish to use the apartments for dorms or redevelop the site for other purposes.

## **LAND USE AND ZONING ANALYSIS**

**Section 27-832 of the Zoning Ordinance, "Standards and factors governing review of proposed amendments to the official zoning map" states that the following standards and factors shall govern the review of all proposed amendments to the zoning maps.**

### **A. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan:**

The proposal is consistent with the following policy of the 2035 Comprehensive Plan: "Provide opportunities for the development of institutional uses within the County." (Institutional Character Area Policy No. 4) The O-I zoning classification would allow a range of institutional uses, including possible future expansion of Mercer University.

### **B. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties:**

The existing multifamily residential use is compatible with the use of nearby properties for Mercer University and for detached single-family homes. Multifamily use of the property could continue under the proposed O-I zoning classification. In addition, the O-I district allows a range of educational and civic uses that would be suitable for the property.

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

The subject property has reasonable economic use as currently zoned; however, a higher and better use might be possible by rezoning the property to O-I.

### **D. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property:**



Because the zoning proposal would not change the existing use of the property, it is not expected to adversely affect the adjoining or nearby properties. The site is separated from the nearest single-family residential properties by a 100-foot wide floodplain.

**E. Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the zoning proposal:**

The existing development and zoning pattern of the surrounding area supports the zoning proposal. Staff is not aware of any changing conditions that would support either approval or disapproval of the zoning proposal.

**F. Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources:**

No historic buildings, sites, districts, or archaeological resources are located on the property or in the surrounding area.

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

The zoning proposal does not involve any new construction or expansion of the existing apartment complex; thus, it is not expected to increase demand or cause a burden on the existing streets, utilities, or schools.

**H. Whether the zoning proposal adversely impacts the environment or surrounding natural resources:**

Because the zoning proposal does not involve new development or changes to the natural areas on the site, it is not expected to adversely impact the environment or surrounding natural resources.

**Compliance with District Standards:**

O-I STANDARD		REQUIRED/ALLOWED	PROVIDED	COMPLIANCE
MIN. LOT AREA		20,000 square feet	20.68 acres	Yes
MIN. LOT WIDTH		100 feet	1,417 feet	Yes
MAX. LOT COVERAGE		80%	(estimate) 50%	Yes
MIN. OPEN SPACE		≥ 40,000 s.f of gross floor area – 20%	(estimate) 60%	Yes
MIN. TRANSITIONAL BUFFER		50 feet next to R zoning	99 feet – 395 feet (floodplain and wetlands)	Yes
BLDG. SETBACKS	FRONT	Min. – 50 ft.	30.72 – 99.51	The existing front setback, which was established when the property was developed in 1986, appears to be legally nonconforming.
	INTERIOR SIDE	Min. 20. ft.	East side: 22 ft. West side: 33.38 ft.	Yes Yes
	REAR	Min. 30 ft.	99.61 ft.	Yes
MAX. BLDG. HEIGHT WITHOUT SLUP		N. A. – no changes proposed to height	N.A.	N. A.

O-I STANDARD	REQUIRED/ALLOWED	PROVIDED	COMPLIANCE
TRANS'L HEIGHT PLANE	Information not provided	Buildings are more than 370 feet from the nearest single-family detached homes to the southeast and south.	Yes

**STAFF RECOMMENDATION:**

The proposal is consistent with the following policy of the 2035 Comprehensive Plan: “Provide opportunities for the development of institutional uses within the County.” (Institutional Character Area Policy No. 4) The O-I zoning classification would allow a range of institutional uses, including possible future expansion of Mercer University. Because the zoning proposal would not change the existing use of the property, it is not expected to adversely affect the adjoining or nearby properties. In addition, the development is separated from the nearest single-family residential properties by a 100-foot wide floodplain. The O-I district allows a range of educational and civic uses that would be suitable for the property and compatible with the use and development of the surrounding area. Therefore, the Department of Planning and Sustainability recommends “Approval” with the following conditions:

1. The property shall be used for multifamily residential at the existing density of 13 units per acre.
2. The approval of this rezoning application by the Board of Commissioners has no bearing on other approvals by the Zoning Board of Appeals or other authority, whose decision should be based on the merits of the application before said authority.
3. Any retaining wall located next to an adjoining property, when said retaining wall exceeds 12 feet in height, must be approved by variance to the Zoning Board of Appeals.

**Attachments:**

1. Department and Division Comments
2. Application
3. Site Plan
4. Zoning Map
5. Land Use Plan Map
6. Aerial Photograph
7. Site Photographs

## NEXT STEPS

*Following an approval of this zoning action, one or several of the following may be required:*

- **Land Disturbance Permit** *(Required for of new building construction on non-residential properties, or land disturbance/improvement such as storm water detention, paving, digging, or landscaping.)*
- **Building Permit** *(New construction or renovation of a building (interior or exterior) may require full plan submittal or other documentation. Zoning, site development, watershed and health department standards will be checked for compliance.)*
- **Certificate of Occupancy** *(Required prior to occupation of a commercial or residential space and for use of property for a business. Floor plans may be required for certain types of occupants.)*
- **Plat Approval** *(Required if any parcel is being subdivided, re-parceled, or combined. Issued “administratively”; no public hearing required.)*
- **Sketch Plat Approval** *(Required for the subdivision of property into three lots or more. Requires a public hearing by the Planning Commission.)*
- **Overlay Review** *(Required review of development and building plans for all new construction or exterior modification of building(s) located within a designated overlay district.)*
- **Historic Preservation** *(A Certificate of Appropriateness is required for any proposed changes to building exteriors or improvements to land when located within the Druid Hills or the Soapstone Geological Historic Districts. Historic Preservation Committee public hearing may be required.)*
- **Variance** *(Required to seek relief from any development standards of the Zoning Ordinance. A public hearing and action by the Board of Appeals are required for most variances.)*
- **Minor Modification** *(Required if there are any proposed minor changes to zoning conditions that were approved by the Board of Commissioners. The review is administrative if the changes are determined to be minor as described by Zoning Code.)*
- **Major Modification** *(Required submittal of a complete zoning application for a public hearing if there are any proposed major changes to zoning conditions that were approved by the Board of Commissioner for a prior rezoning.)*
- **Business License** *(Required for any business or non-residential enterprise operating in Unincorporated DeKalb County, including in-home occupations).*
- **Alcohol License** *(Required permit to sell alcohol for consumption on-site or packaged for off-site consumption. Signed and sealed distance survey is required. Background checks will be performed.)*

**Each of the approvals and permits listed above requires submittal of application and supporting documents, and payment of fees. Please consult with the appropriate department/division.**



DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM

The following areas below may warrant comments from the Development Division. Please respond accordingly as the issues related to the proposed request and the site plan enclosed as it relates to Chapter 14. You may address applicable disciplines.

**DEVELOPMENT ANALYSIS:**

• **Transportation/Access/Row**

Consult the Georgia DOT as well as the DeKalb County Transportation Department prior to applying for land development permit. Verify widths from the centerline of the roadways to the property line for possible right-of-way dedication. Improvements within the right-of-way may be required as a condition for land development application review approval. Safe vehicular circulation is required. Paved off-street parking is required.

• **Storm Water Management**

Compliance with the Georgia Stormwater Management Manual, DeKalb County Code of Ordinances 14-40 for Stormwater Management and 14-42 for Storm Water Quality Control is required as a condition of land development permit approval.

• **Flood Hazard Area/Wetlands**

The presence of FEMA Flood Hazard Area was indicated in the County G.I.S. mapping records for the site; and should be noted in the plans at the time of any land development permit application.

- **Landscaping/Tree Preservation**

Landscaping and tree preservation plans for any building, or parking lot must comply with DeKalb County Code of Ordinances 14-39 and are subject to approval from the County Arborist.

- **Tributary Buffer**

State water buffer was not reflected in the G.I.S. records for the site. Typical State waters buffer have a 75' undisturbed stream buffer and land development within the undisturbed creek buffer is prohibited without a variance per DeKalb County Code of Ordinances 14-44.1.

- **Fire Safety**

Plans for land development permit must comply with Chapter 12 DeKalb County Code for fire protection and prevention.



**DEKALB COUNTY GOVERNMENT  
PLANNING DEPARTMENT  
DISTRIBUTION FORM**

**NOTE: PLEASE RETURN ALL COMMENTS VIA EMAIL OR FAX TO EXPEDITE THE PROCESS TO  
MADOLYN SPANN [MSPANN@DEKALBCOUNTYGA.GOV](mailto:MSPANN@DEKALBCOUNTYGA.GOV) OR JOHN REID [JREID@DEKALBCOUNTYGA.GOV](mailto:JREID@DEKALBCOUNTYGA.GOV)**

**COMMENTS FORM:  
PUBLIC WORKS TRAFFIC ENGINEERING**

Case No.: CZ-17-21185 Parcel I.D. #: 18-265-03-011

Address: MERCER UNIV. DR  
FLOWERS ROAD S

**Adjacent Roadway (s):**

(classification)	(classification)

Capacity (TPD) _____	Capacity (TPD) _____
Latest Count (TPD) _____	Latest Count (TPD) _____
Hourly Capacity (VPH) _____	Hourly Capacity (VPH) _____
Peak Hour. Volume (VPH) _____	Peak Hour. Volume (VPH) _____
Existing number of traffic lanes _____	Existing number of traffic lanes _____
Existing right of way width _____	Existing right of way width _____
Proposed number of traffic lanes _____	Proposed number of traffic lanes _____
Proposed right of way width _____	Proposed right of way width _____

Please provide additional information relating to the following statement.

According to studies conducted by the Institute of Traffic Engineers (ITE) 6/7<sup>TH</sup> Edition (whichever is applicable), churches generate an average of fifteen (15) vehicle trip end (VTE) per 1, 000 square feet of floor area, with an eight (8%) percent peak hour factor. Based on the above formula, the \_\_\_\_\_ square foot place of worship building would generate \_\_\_\_\_ vehicle trip ends, with approximately \_\_\_ peak hour vehicle trip ends.

Single Family residence, on the other hand, would generate ten (10) VTE's per day per dwelling unit, with a ten (10%) percent peak hour factor. Based on the above referenced formula, the \_\_\_\_\_ (Single Family Residential) District designation which allows a maximum of \_\_\_ units per acres, and the given fact that the project site is approximately \_\_\_ acres in land area, \_\_\_ daily vehicle trip end, and \_\_\_ peak hour vehicle trip end would be generated with residential development of the parcel.

**COMMENTS:**

Field and plans reviewed. No problems found that would disrupt traffic flow.

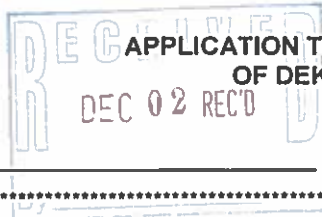
Signature:  **DAVID M. ROSS**



# DeKalb County Department of Planning & Sustainability

Lee May  
Interim Chief Executive Officer

Andrew A. Baker, AICP  
Director



## APPLICATION TO AMEND OFFICIAL ZONING MAP OF DEKALB COUNTY, GEORGIA

Date Received: \_\_\_\_\_ Application No.: 21185

Applicant: Cortland Partners c/o Kathryn M. Zickert E-Mail: kmzickert@sgrlaw.com

Applicant's Mailing Address: 1230 Peachtree St., NE, Ste. 3100, Atlanta, GA 30309

Applicant's Phone No.: 404-815-3704 Fax: 404-685-7004

Owner(s): Alliance PJRT Limited Partners E-Mail: kanej@starwood.com  
(If more than one owner, attach as Exhibit "A")

Owner's Mailing Address: 400 Galleria Parkway, Ste. 1450

Owner(s) Phone No.: 770-644-2341 Fax: 770-541-1105

Address/Location of Subject Property: 3191, 3081 and 3201 Flowers Rd. So.

District(s): 18 Land Lot(s): 266, 265 Block(s): 02, 03 Parcel(s): 007, 049, 011

Acreage: 59.028 Commission District(s): 1 / 7

Current Zoning Category: MR-2 / O-1 Proposed Zoning Category: O-1

Current Land Use Category: SUB Land Use Amendment Filed?  Yes  No

### PLEASE READ THE FOLLOWING BEFORE SIGNING

This form must be completed in its entirety before the Planning Department accepts it. It must include the attachments and filing fees identified on the attachments. An application, which lacks any of the required attachments, shall be determined as incomplete and shall not be accepted. 20 collated copies must be submitted.

#### Disclosure of Campaign Contributions

In accordance with the Conflict of Interest in Zoning Act, O.C.G.A., Chapter 36-67A, the following question must be answered: Have you the applicant made \$250 or more in campaign contributions to a local government official within two years immediately preceding the filing of this application?  Yes  No If the answer is yes, you must file a disclosure report with the governing authority of DeKalb County showing:

1. The name and official position of the local government official to whom the campaign contribution was made.
2. The dollar amount and description of each campaign contribution made during the two years immediately preceding the filing of this application and the date of each such contribution.

The disclosure must be filed within 10 days after the application is first filed and must be submitted to the C.E.O. and the Board of Commissioners, DeKalb County, 1300 Commerce Drive, Decatur, Ga. 30030.

*Shawna E. Avila*  
NOTARY SIGNATURE

3-16-20  
EXPIRATION DATE / SEAL



*[Signature]*  
SIGNATURE OF APPLICANT / DATE

Check One: Owner  Agent

330 West Peachtree Street, Suite 100-500 - Decatur, Georgia - 30030  
[voice] 404-371-4556, [fax] (404) 371-4556 [Development Fax] (404) 371-3007  
Web Address <http://www.dekalbcountyga.gov/planning>  
E-mail address [planninganddevelopment@dekalbcountyga.gov](mailto:planninganddevelopment@dekalbcountyga.gov)

# CORTLAND PARTNERS, LLC

November 2, 2016 @ 7:00 p.m.  
COMMUNITY MEETING

NAME	ADDRESS	E-MAIL/PHONE NUMBER
Kathy Zickert	Ste 3100; 1230 Peachtree St NE Atl. 30309	kmzickert@sgrlaw.com
Brendan Sheehan	Suite 300, 3424 Peachtree Rd. Atl, 30326	brendan.sheehan@cortlandpartners.com
Mary Jo Darwin	2878 Dunnington Circle atl. Ga. 30341	770 491 6345
Virginia Bailey	2902 Dunnington Ci. Atlanta, GA 30341-5610	770 939 2606
Frances West	2903 Dunnington Cir Atlanta, Ga 30341	770 939-2269



## I. INTRODUCTION

This Application seeks to rezone ± 38.35 acres of land located in Land Lots 265 and 249, 18th District of DeKalb County (the “Subject Property”), consisting of two parcels known as 3081 Flowers Road South. This is two of three parcels that make up a 59.028 acre site developed into a gated apartment community known as “Park Pointe North.” A total of 20.68 acres of the development is already zoned MR-2 (CZ-86153), with the remaining 38.35 acres zoned OI (CZ-87160, CZ-78113). The MR-2 portion of the Subject Property contains 12 apartment buildings with one accessory structure and the OI portion contains 22 apartment buildings with two accessory structures. The apartments range in size from one to three bedrooms, and are served by a number of on-site amenities including pools, tennis courts, fitness centers and outdoor picnic areas. The applicant does not intend to redevelop the Subject Property. Rather, this rezoning is sought to make the zoning classification across the entirety of the Subject Property consistent.<sup>1</sup>

The existing apartment complex has a density of 13 units per acre. The DeKalb County Zoning Ordinance provides a base maximum of 12 units per acre for the MR-2 district, with up to 24 units per acre allowed with a density bonus. Here, the qualifying factor for a density bonus is additional enhanced open space in the form of four tennis courts, two pools, a clubhouse and numerous picnic areas. In addition, much of the Subject Property is undeveloped open space: the existing development has a total lot coverage of 11.49%, well below the 75% maximum for the MR-2 district. The existing development complies with all other requirements of the MR-2

---

<sup>1</sup> Concurrently with this Application, the Applicant seeks a Land Use Amendment to amend the County’s Land Use Plan with respect to the Subject Property from “Suburban” to “Institutional” and a variance to reduce the minimum unit size from 650 square feet to 600 square feet.

district with the exception of the 650 square feet minimum unit size, for which the applicant seeks a variance.<sup>2</sup>

This document is submitted as the Statement of Intent with regard to this Application, a preservation of the Applicant's constitutional rights, and the Impact Analysis as required by the DeKalb County Zoning Ordinance, § 27-7.3.5. A survey of the Subject Property and other required materials have been filed contemporaneously with the Application.

## **II. IMPACT ANALYSIS**

### **A.**

#### **THE PROPOSED ZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE COUNTY'S COMPREHENSIVE LAND USE PLAN.**

The Applicant has filed an application to modify the Land Use Map designation for the Subject Property from Suburban to "Institutional." The Institutional category primarily encourages religious, civic, education and governmental purposes. However, high-density residential uses are not inconsistent with the character area, and the proposed designation is appropriate given the surrounding uses and land use classifications. The Subject Property is immediately adjacent to a mix of institutional uses. Directly across Flowers Road South is property designated Institutional, which is currently developed as Mercer University's Atlanta Campus. Directly to the west of the Subject Property is property designated Office Park, used as offices. Properties to the south and east designated as Suburban are separated from the Subject Property by substantial natural buffers of mature trees, which will remain unchanged.

In addition, the proposal would foster a number of general policies and strategies of the County's Comprehensive Plan, including:

**INSCAP1:** Ensure that institutional land is compatible with adjacent uses.

---

<sup>2</sup> There are 16 units at 600 square feet, 108 units at 628 square feet, and 12 units at 640 square feet. The remaining 634 units are all larger than 700 square feet.

**LUP4:** Allow increased density to encourage urban lifestyles that support mixed use in activity centers.

**B.**

**THE PROPOSED ZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTIES.**

The Subject Property is surrounded by a mix of institutional, office and residential uses. Directly to the west of the Subject Property is the 20.68 acre portion of the apartment development that is already zoned OI. Directly across Flowers Road South is property zoned OI, developed as Mercer University's Atlanta Campus. The offices to the west of the Subject Property are also zoned OI. Across Mercer University Drive to the north are the Regency Square apartments, zoned OI. To the south and east of the Subject Property separated by a substantial natural buffer are single-family homes zoned R-100 and apartments zoned MR-1 (The Crossing at Henderson Mill). Rezoning the Subject Property to MR-2 is appropriate given the surrounding zoning and land uses.

**C.**

**THE PROPERTY TO BE AFFECTED BY THE ZONING PROPOSAL HAS LIMITED ECONOMIC USE AS CURRENTLY ZONED.**

The Applicant respectfully submits that a refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property to an intervening classification, would be unlawful, arbitrary, capricious, irrational and a manifest abuse of discretion; all in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property

to an intervening classification, would discriminate unfairly between the owner of the Subject Property and other property owners similarly situated, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property to an intervening classification, would amount to a taking of property, in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property to an intervening classification, would be unjustified from a fact-based standpoint and instead would result only from constituent opposition, which would be an unlawful delegation of authority in violation of Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia.

A refusal to approve the proposed rezoning, or any attempt to rezone the Subject Property to an intervening classification, would be invalid inasmuch as the Zoning Ordinance of DeKalb County is unlawful, null and void because its adoption and map adoption/maintenance did not and does not comply with the requirements of its predecessor ordinance and/or the Zoning Procedures Law, O.C.G.A. § 36-66-1, *et seq.*

DeKalb County's Zoning Ordinance lacks adequate standards for the Board of Commissioners to exercise its power to review this Application. Specifically, the "standards" set out in Section 27-7.3.5 are not sufficient to contain the discretion of the Board of Commissioners and to provide the Courts with a reasonable basis for judicial review. Because the stated

standards (individually and collectively) are too vague and uncertain to provide reasonable guidance, the Zoning Ordinance is unlawful and violates, among other things, the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States and Article I, Section I, Paragraphs I and II of the Constitution of the State of Georgia.

Any limitation on the time for presentation of the issues before the Board of Commissioners, which has the power to zone and rezone property, is a violation of the guarantees of free speech under the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph V of the Constitution of the State of Georgia. Further, said limitations are in violation of the right to petition and assemble, in violation of the First Amendment of the Constitution of the United States and Article I, Section I, Paragraph IX of the Constitution of Georgia, as well as the due process clauses of the United States and Georgia Constitutions.

**D.**

**THE PROPOSED ZONING WILL NOT ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTIES.**

The proposed rezoning for the Subject Property will not adversely affect the existing use or suitability of adjacent properties. The immediate area surrounding the Subject Property already contains a diverse mix of institutional, office and residential uses. The existing apartments were developed with appropriate attention to scale, setbacks and buffering and provide more than a 52 foot setback between the single-family homes to the east and more than a more than a 131 foot setback between the single-family homes to the south. This also meets the 50' transitional buffer requirement under Section 5.4.5 and Table 5.2 of the Code.

**E.**

**THERE ARE OTHER EXISTING AND CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH SUPPORT THE APPROVAL OF THE PROPOSED ZONING.**

As noted, the applicant does not intend to redevelop the Subject Property. Rather, the purpose of the proposed rezoning, land use amendment and variance applications is threefold: to make the zoning across the entirety of the Subject Property uniform; to have the land use classification reflect the existing density; and to make the legally nonconforming units lawful.

**F.**

**THE PROPOSED ZONING WILL NOT ADVERSELY AFFECT HISTORIC BUILDINGS, SITES, DISTRICTS, OR ARCHAEOLOGICAL RESOURCES.**

The Applicant knows of no historic buildings, sites, districts, or archaeological resources either on the Subject Property or located in the immediate vicinity that would suffer adverse impacts from the zoning requested.

**G.**

**THE PROPOSED ZONING WILL NOT CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS.**

Because the existing use will remain unchanged, there will be no change in traffic, utilities, schools or other public services.

**H.**

**THE PROPOSED ZONING WILL NOT ADVERSELY IMPACT THE ENVIRONMENT OR SURROUNDING NATURAL RESOURCES.**

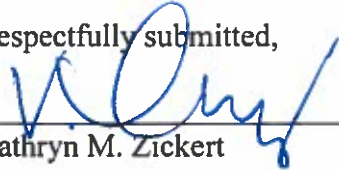
The Applicant has complied and will continue to comply with all federal, state, and County regulations relating to environmental protection.

### III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the proposed rezoning be approved. The Applicant also invites and welcomes any comments from Staff or other officials of DeKalb County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 30<sup>th</sup> day of November, 2016.

Respectfully submitted,



---

Kathryn M. Zickert  
Dennis J. Webb, Jr.  
Vickie B. Chung  
Attorneys for Applicant

Smith, Gambrell & Russell, LLP  
Promenade, Suite 3100  
1230 Peachtree Street, NE  
Atlanta, Georgia 30309  
404-815-3500

REF. 518784

DEKALB COUNTY BOARD OF COMMISSIONERS

ITEM NO. 3

ZONING AGENDA/MINUTES

REL. \_\_\_\_\_  
 ACTION \_\_\_\_\_  
 PUB. HRG. X

MEETING DATE August 26, 1986

RESOLUTION \_\_\_\_\_  
 ORDINANCE X  
 PROCLAMATION \_\_\_\_\_

SUBJECT: Rezoning Application - Post Partners II, Ltd.

DEPARTMENT: Planning

PUBLIC HEARING: X Yes \_\_\_\_\_ No

ATTACHMENT: X Yes \_\_\_\_\_ No 7 pp

INFORMATION CONTACT: Mac Baggett or Charles Coleman  
 PHONE NUMBERS: 371-2155

PURPOSE: CZ-86153 - To consider the application of Post Partners II, Ltd., to rezone property located on the southeast side of Flowers Road South, approximately 2,000' southwest of Mercer University Drive, from R-100 and OI to RM-85 (conditional). The application is conditioned on development of apartments.

DISTRICT: X 1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_ N/A

SUBJECT PROPERTY: 18-265-3-pt. 11 & pt. 40; 18-266-2-4 & pt. 3; 18-248-1-pt. 1 (3000 Flowers Road South). The property has frontage of approximately 1,315' on Flowers Road South and contains 20.83 acres.

RECOMMENDATION(s): PLANNING DEPARTMENT: Approval. The current Comprehensive Plan recommendation as applied to the majority of this property includes the development of high-rise apartments. Such a density would be consistent with this requested application. The construction of two-three story buildings will create less of an impact on nearby single family developments than five story buildings. The floodplain is also more than adequate for the separation of uses.

NOTE: A Comprehensive Plan amendment would be required for RM-85 zoning.

PLANNING COMMISSION: Approval per staff.

COMMUNITY COUNCIL: No recommendation.



392

FOR USE BY COMMISSION OFFICE/CLERK ONLY

**ACTION:** MOTION was made by Commissioner Williams, seconded by Commissioner Schulman, and passed 7-0-0, to approve the application as recommended by the Planning Department.

ADOPTED: AUG 26 '86  
(DATE)

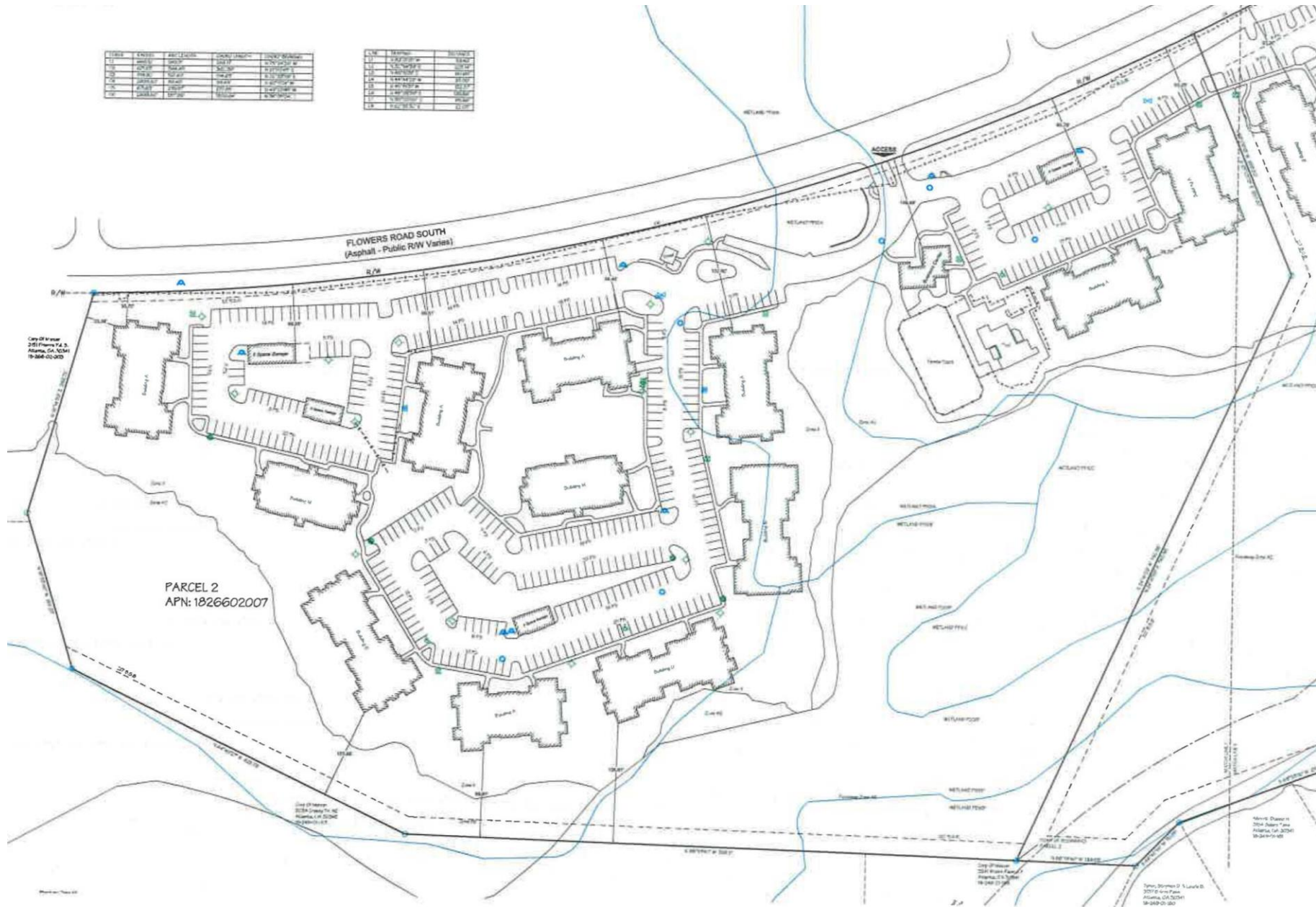
CERTIFIED: AUG 26 '86  
(DATE)

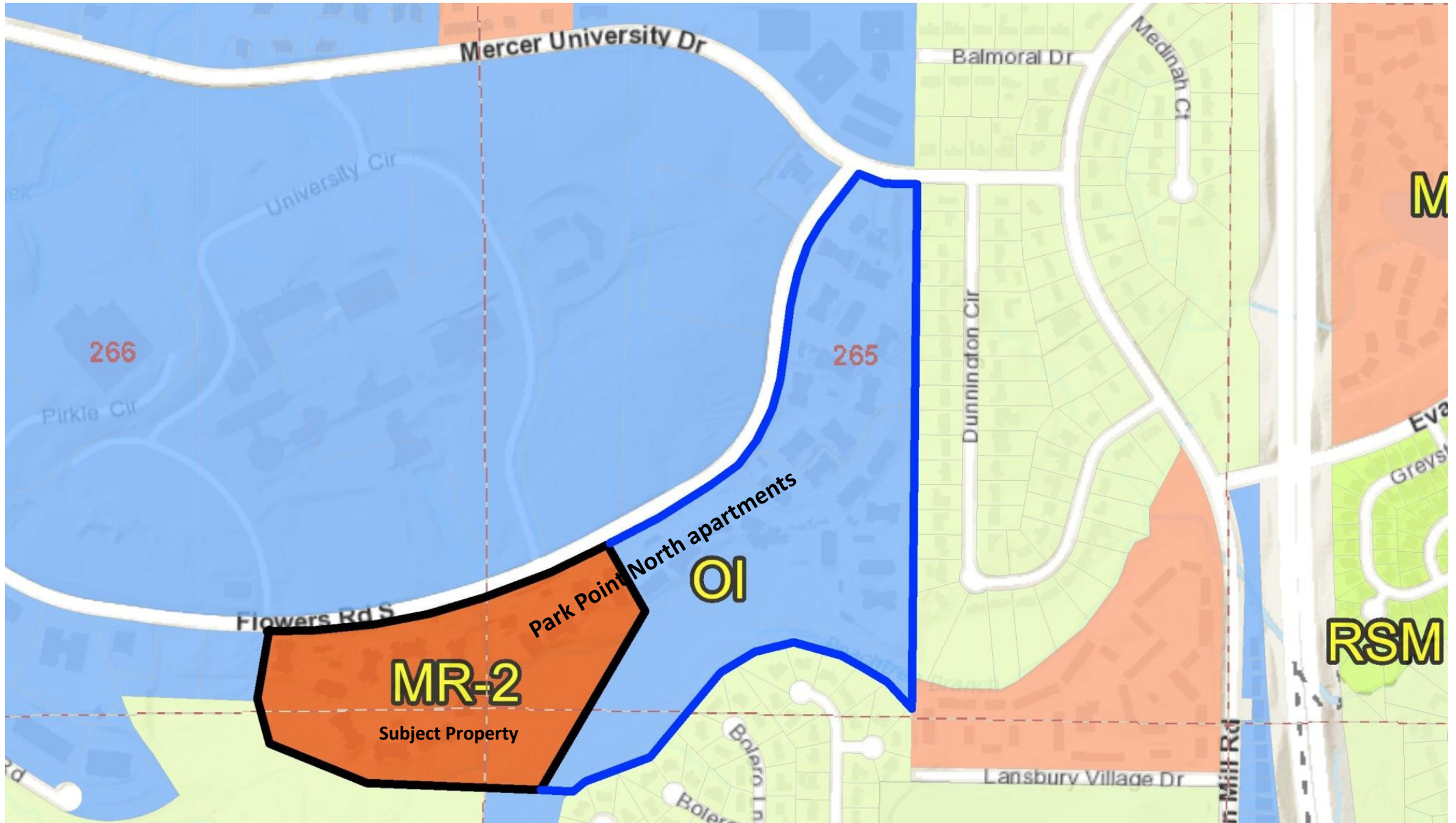
*William H. Williams*  
\_\_\_\_\_  
PRESIDING OFFICER  
DEKALB COUNTY BOARD OF COMMISSIONERS

*Sherry Schulman*  
\_\_\_\_\_  
CLERK,  
DEKALB COUNTY BOARD OF COMMISSIONERS

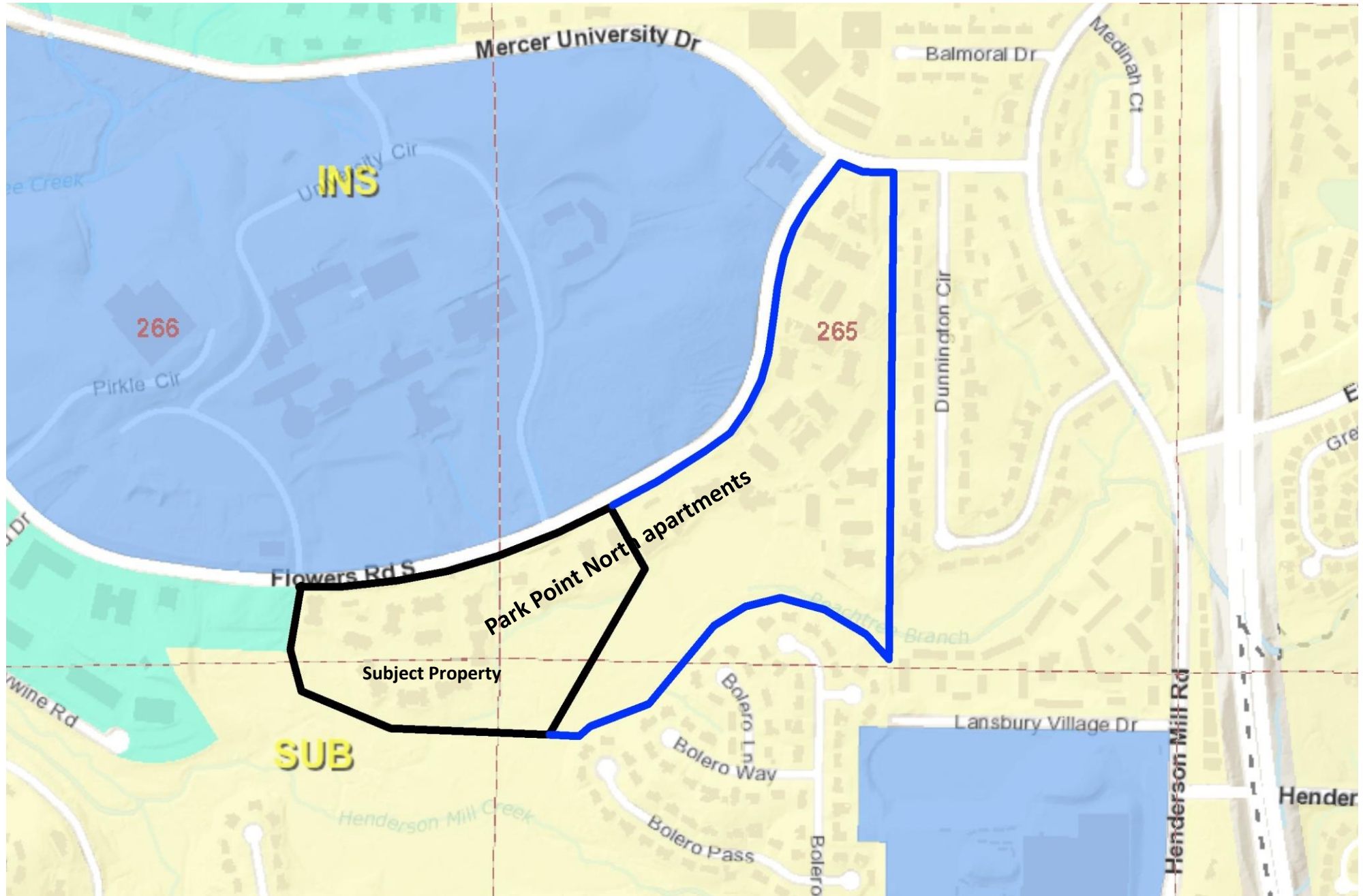
**MINUTES:** Mr. John Williams, 3405 Valley Road, N.W., Atlanta, GA. 30305, stated that they have an agreement with adjacent neighbors that they will not build a lake in the flood plain due to beavers in the area.

	FOR	AGAINST	ABSTENTION	ABSENT
DISTRICT 1 - Jean Williams	✓	_____	_____	_____
DISTRICT 2 - Sherry Schulman	✓	_____	_____	_____
DISTRICT 3 - John Evans	✓	_____	_____	_____
DISTRICT 4 - Robert J. (Bob) Morris	✓	_____	_____	_____
DISTRICT 5 - John S. Fletcher, Jr.	✓	_____	_____	_____
AT-LARGE - Brince H. Manning, III	✓	_____	_____	_____
AT-LARGE - Robert Lanier	✓	_____	_____	_____

















Flowers Road South, looking north towards Mercer University Drive.

**Subject Property**





N. 1, 2

LP-17-21187, Z-17-21185



**Mercer University**

**Mercer University**

