

**APPLICATION FOR REZONING
TO THE CITY OF SMYRNA**

Type or Print Clearly

(To be completed by City)

Ward: 1

Application No: Z18-009

Hearing Date: _____

APPLICANT: 2520 Spring Road, LLC

Name: Julie L. Sellers, Esq.

(Representative's name, printed)

Address: 1230 Peachtree Street NE, Suite 1200, Atlanta, GA 30309

Business Phone: (404) 665-1242 Cell Phone: _____ Fax Number: _____

E-Mail Address: jsellers@pftlegal.com

Signature of Representative: 

TITLEHOLDER

Name: 2520 Spring Road, LLC

(Titleholder's name, printed)

Address: See Representative

Business Phone: See Representative Cell Phone: _____ Home Phone: _____

E-mail Address: See Representative

Signature of Titleholder: See attached at Exhibit "A"

(Attach additional signatures, if needed)

(To be completed by City)

Received: 4/11/18

Heard by P&Z Board: _____

P&Z Recommendation: _____

Advertised: _____

Posted: 4/27/18

Approved/Denied: _____

ZONING REQUEST

From GC to OD
Present Zoning Proposed Zoning

LAND USE

From Regional Activity Center to Regional Activity Center (no change requested)
Present Land Use Proposed Land Use

For the Purpose of Climate controlled Self-Storage Facility with Retail/Commercial

Size of Tract +/- 2.71 acres

Location 2520 Spring Road; Tax Parcel ID # 17 081000410
(Street address is required. If not applicable, please provide nearest intersection, etc.)

Land Lot (s) 810 District 17

We have investigated the site as to the existence of archaeological and/or architectural landmarks. I hereby certify that there are no X* there are such assets. If any, they are as follows:

To the best of our knowledge.

(To be completed by City)

Recommendation of Planning Commission:

Council's Decision:

CONTIGUOUS ZONING

North: GC _____

East: GC and RM-12 _____

South: RM-12 _____

West: GC _____

CONTIGUOUS LAND USE

North: Regional Activity Center _____

East: Regional Activity Center _____

South: Regional Activity Center _____

West: Regional Activity Center _____

INFRASTRUCTURE

WATER AND SEWER

A letter from Scott Stokes, Director of Public Works Department is required stating that water is available and the supply is adequate for this project.

A letter from Scott Stokes, Director of Public Works Department is required stating that sewer is available and the capacity is adequate for this project.

- If it is Cobb County Water, Cobb County must then furnish these letters.

Comments:

See attached letter from Scott Stokes, Director of Public Works

TRANSPORTATION

Access to Property? There will only be one access point on Spring Road.

Improvements proposed by developer? Please see enclosed site plan.

Comments:

ZONING DISCLOSURE REPORT

Has the applicant* made, within two years immediately preceding the filing of this application for rezoning, campaign contributions aggregating \$250 or more or made gifts having in the aggregate a value of \$250 or more to the Mayor or any member of the City Council or Planning and Zoning Board who will consider this application?

No.

If so, the applicant* and the attorney representing the applicant* must file a disclosure report with the Mayor and City Council of the City of Smyrna, within 10 days after this application is filed.

Please supply the following information, which will be considered as the required disclosure:

The name of the Mayor or member of the City Council or Planning and Zoning Board to whom the campaign contribution or gift was made:

n/a

The dollar amount of each campaign contribution made by the applicant* to the Mayor or any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application, and the date of each such contribution:

n/a

An enumeration and description of each gift having a value of \$250 or more by the applicant* to the Mayor and any member of the City Council or Planning and Zoning Board during the two years immediately preceding the filing of this application:

n/a

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

No.

If so, describe the nature and extent of such interest: n/a

ZONING DISCLOSURE REPORT (CONTINUED)

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

NO.

If so, describe the nature and extent of such interest:

n/a

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

NO.

If so, describe the relationship and the nature and extent of such interest:

n/a

If the answer to any of the above is "Yes", then the Mayor or the member of the City Council or Planning and Zoning Board must immediately disclose the nature and extent of such interest, in writing, to the Mayor and City Council of the City of Smyrna. A copy should be filed with this application**. Such disclosures shall be public record and available for public inspection any time during normal working hours.

We certify that the foregoing information is true and correct, this 10th day of April, 2018.



(Applicant's Signature)

(Attorney's Signature, if applicable)

Notes

* Applicant is defined as any individual or business entity (corporation, partnership, limited partnership, firm enterprise, franchise, association or trust) applying for rezoning action.

** Copy to be filed with the City of Smyrna Zoning Department and City Clerk along with a copy of the zoning application including a copy of the legal description of the property.

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No.

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We certify that the foregoing information is true and correct, this 9th day of April, 2018.

(Applicant's Signature)



(Attorney's Signature, if applicable)

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n/a

Does the Mayor or any member of the City Council or Planning and Zoning Board have a property interest (direct or indirect ownership including any percentage of ownership less than total) in the subject property?

No.

If so, describe the natural and extent of such interest: n/a

ZONING DISCLOSURE REPORT (CONTINUED)

Does the Mayor or any member of the City Council or Planning and Zoning Board have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is 10% or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property?

No.

If so, describe the nature and extent of such interest:

n/a

Does the Mayor or any member of the City Council or Planning and Zoning Board have a spouse, mother, father, brother, sister, son, or daughter who has any interest as described above?

No.

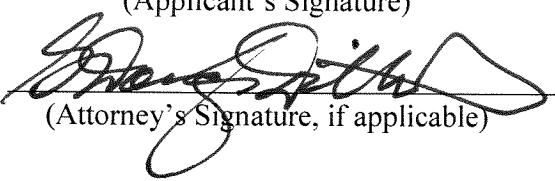
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REZONING ANALYSIS

Section 1508 of the Smyrna Zoning Code details nine zoning review factors which must be evaluated by the Planning and Zoning Board and the Mayor and Council when considering a rezoning request. Please provide responses to the following using additional pages as necessary. **This section must be filled out by the applicant prior to submittal of the rezoning request.**

1. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Please see attached.

2. Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.

Please see attached.

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

Please see attached.

REZONING ANALYSIS (CONTINUED)

4. 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.

Please see attached.

5. Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Please see attached.

6. 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.

Please see attached.

REZONING ANALYSIS (CONTINUED)

7. Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

Please see attached.

8. Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

Please see attached.

9. Whether due to the size of the proposed use, in either land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.

Please see attached.

Letter of Intent and Impact Analysis

City of Smyrna

Rezoning and Concurrent Variances

Applicant:

2520 Spring Road, LLC

Property:

+/- 2.71 Acres at 2520 Spring Road
Parcel ID # 17 081000410

Submitted for Applicant by:

G. Douglas Dillard
Julie L. Sellers
PURSLEY FRIESE TORGRIMSON
1230 Peachtree Street, Suite 1200
Atlanta, Georgia 30309
(404) 665-1242
jsellers@pftlegal.com

I. INTRODUCTION

The subject property is approximately 2.71 acres of land located at 2520 Spring Road (“Property”). The Property is currently zoned GC (General Commercial) and is designated as “Regional Activity Center” in the City’s Comprehensive Plan. The Property is surrounded by a mix of land uses, including apartments to the rear, a gas station, laundromat, and car wash. The Property is primarily accessed by a single curb cut on Spring Road.

The Applicant and Property Owner, 2520 Spring Road, LLC (“Owner”), seeks to construct a three-story climate-controlled self-storage facility with ground-level commercial/office/accessory retail space. The total building will be approximately 103,628 square feet. Of the +/- 103,628 square feet, approximately 98,313 square feet will be utilized for climate controlled self-storage, approximately 1,051 square feet will be utilized for leasing space for the self-storage facility, and approximately 4,264 square feet will be utilized for commercial/office/retail space. A site plan with this information has been included with the rezoning application.

The Owner submitted a similar rezoning application in 2017, but withdrew the application before it reached public hearings. Over the last several months, the Owner has spent considerable time and resources revising its plans and building architecture to conform to the policies and guidelines outlined in the City’s 2017 Spring Road Livable Centers Initiative, Guide Smyrna: 2040 Comprehensive Plan,¹ the 2040 Future Land Use Map,² Comprehensive Plan Policy Map, and the Spring Road Urban Design Guidelines (Smyrna Zoning Ordinance, Appendix G).

Because the mixture of uses proposed is consistent with the intent of the Comprehensive Plan, no land use amendment is required by this application. Although the proposed OD zoning classification is not listed as a “corresponding” zoning classification within the City’s Comprehensive Plan, the proposed climate-controlled self-storage and commercial/office uses are consistent with surrounding uses and uses anticipated within the “corresponding” GC and MU zoning districts.

With this rezoning request, the Owner also seeks concurrent variances from the zoning code regulations and design guidelines. The variances are necessitated due to the Property’s narrow frontage on Spring Road.

¹ For example, Goal 15.1 of the City’s Comprehensive Plan makes it a goal of the City to “prioritize redevelopment and revitalization of existing underutilized commercial or industrial areas over development of new land for commercial purposes. Here, the Owner is redeveloping an underutilized commercial space for a new commercial use.

² Although the owner’s proposed “OD” zoning classification is not considered a “corresponding zoning” classification with the Regional Activity Center (“RAC”), the proposed mixed use storage/commercial building is consistent and compatible with the land uses permitted within the zoning districts that correspond with the RAC land use designation (e.g. Mixed Use (MU), General Commercial (GC), Office Institutional (OI)).

1. **Free-standing sign.** A variance from the Spring Road Urban Design Guidelines (Appendix G), Article II, Section 9(4)(e), which requires free-standing signs to be “set back at least 15 feet from the edge of the public right-of-way.” Because of the Property’s narrow frontage and the location of the existing inter-parcel access between adjacent lots, the owner proposes that the free-standing sign be located in general accordance with where it is shown on the enclosed site plan.

2. **Parking reduction.** A variance from Spring Road Guidelines (Appendix G), Article III, Section 12(1)(a) & Zoning Code, Article IX, Section 906.27, which requires a minimum of 4 parking spaces plus 1 parking space per 2,000 square feet of gross storage area in excess of 8,000 square feet for storage and 5.5 spaces per 1,000 square feet for commercial uses. Hence, the Code requires 79 parking spaces. The Owner is providing 49 parking spaces. The Owner has constructed and operated several self-storage facilities throughout Georgia. In the Owner’s experience, the parking provided will be more than sufficient to support the property use. Moreover, because loading and unloading will occur at the rear of the site, the Owner does not anticipate many of the spaces in front of the building will be used by storage customers.

3. **Parking aisles.** A variance to Spring Road Guidelines (Appendix G), Article III, Section 12(1)(c), which requires that parking spaces shall be oriented perpendicular to the building entrances. Because of the site’s configuration and narrow frontage, some of the Owners parking spaces will be parallel to the building entrance, as shown on the enclosed site plan.

4. **Building Width.** A variance from the Spring Road Guidelines (Appendix G), Article IV, Section 13(2)(a), which requires that “the width of individual buildings accessed by Spring Road shall not exceed 75 percent of the minimum of the lot, nor shall be less than 25 percent of the lot width.” Here, because the frontage of the lot is significantly narrower than the middle and rear of the lot, the Owner is not able to comply with this regulation.

5. **Maximum Building Setback.** A variance from the Spring Road Guidelines (Appendix G), Article IV, Section 14(1)(a), which imposes a 100 foot *maximum* front yard setback. Here, because the frontage of the lot is significantly narrower than the middle and rear of the lot, the Owner is not able to comply with this regulation. The building will not fit within 100 feet of the front property line. The Owner’s proposed front yard setback is shown on the enclosed site plan.

6. **Building Landscaping:** A variance from the Spring Road Guidelines (Appendix G), Article IV, Section 15(4)(a), which requires “landscaping areas adjacent to the building shall equal a minimum of five percent of the gross floor area.” Here, the gross floor area of the building is +/- 103,628 square feet, which pursuant to this Code provision requires 5,182 square feet of landscaping adjacent to the building. As

shown on the enclosed site plan, the Owner is able to provide the requisite amount of landscaping, but needs to disperse this landscaping along the perimeter of the site rather than next to the building because of the site's configuration and site circulation. Although the landscaping is not adjacent to the building, the amount of landscaping and its location along the Property's perimeter and throughout the site's parking areas achieves the beautification and aesthetic goals of this regulation.

7. **Tree Ordinance**. A Variance from the City of Smyrna Tree Conservation and Replacement Ordinance, Technical Standards and Best Management Practices, Section 3(C)(6) to allow encroachment into the 10-foot zoning buffer for the proposed detention facility at the rear of the property.

The Applicant proposes to retain the existing curb cut on Spring Road. This curb cut is less than 200 feet from the nearest existing curb cut. See Section 10(4)(a). Because the curb cut is already existing, it is a legal nonconforming characteristic of the site and no variance is necessary.

Similarly, the existing lot is less than three acres (2.71 acres). Pursuant to the Spring Road Guidelines (Appendix G), Article IV, Section 5(3), the existing lot is deemed to be a legal nonconforming lot.

Finally, the Owner will not be able to accommodate the required tree density on site and is therefore seeking approval for alternative compliance to the City's Tree Standards. See Smyrna Code, Section 106-32.

II. PROJECT INFORMATION

The Owner selected this location for climate controlled self-storage due to the area's strong demographics and growing commercial and residential density along the Spring Road corridor. The property's size, flag shape lot, and location behind and down gradient from the RaceTrac gas station limit alternative redevelopment options. A self-storage use, however, is not as affected by these site constraints, and will provide a low intensity/low traffic generating use that will serve as an amenity to residents and commercial users alike. The blighted building on the property will be replaced with a modern, Class A building that will be consistent with the City's redevelopment goals and vision, as well as complement and enhance the area's aesthetics.

In an effort to further mitigate any impacts of the proposed rezoning and project, the Owner has crafted a set of zoning conditions for the City's review and consideration. The proposed zoning conditions are attached hereto at **Attachment 1**.

III. IMPACT ANALYSIS

The Owner satisfies all of the criteria for rezoning as set forth in Section 1508 of the Smyrna Zoning Code.

1) **Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

Yes, the proposed rezoning to the OD (Office Distribution) zoning classification is compatible with surrounding zoning districts and land uses. Surrounding zoning districts include GC (General Commercial) and RM-12 (multi-family). Surrounding land uses include a RaceTrac gas station, apartment complex to the rear, laundromat, and car wash. The current building on the Property is vacant and dated. The Owner proposes to demolish the existing building and construct a new 3-story climate-controlled self-service storage building with ground level commercial/office/retail uses. The building design and architecture will be in keeping with the design guidelines articulated in the Spring Road Urban Design Guidelines, and will be a drastic improvement over what currently exists on the Property.

2) **Whether the zoning proposal or the use proposed will adversely affect the existing use or usability of adjacent or nearby property.**

No, the proposed rezoning to OD will have no adverse impact on the use or value of surrounding properties. On the contrary, the proposed rezoning and climate-controlled self-service storage building will complement and enhance the value of surrounding uses. The proposed use will have a nominal impact on traffic (and will actually reduce traffic considering the other more intense uses that could be placed on the Property under the GC designation by right).

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

No, the Property has no reasonable economic use as currently zoned due to the site's odd configuration and sloping topography. The current building on the Property is in very poor condition and would require significant investment and rehabilitation to make it functional once more.

4) **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.**

No, the zoning proposal and climate-controlled self-service storage/commercial uses will not have an excessive or burdensome impact on existing streets, transportation facilities, utilities, or schools. First, the use is non-residential and will not generate any students. Therefore, there is no impact on the schools. The taxes generated from this site may actually have a positive impact on local public schools. Second, the proposed use is not a traffic generator. Based on actual data from similar climate-controlled self-service storage facilities in the surrounding area, this facility will generate 15-20 trips per day. The commercial/office/retail portion may generate more, depending on the use and user. A traffic memo has been prepared and submitted along with the Owner's zoning application. Finally, existing utilities are sufficient to handle the proposed use. However, if Smyrna deems utility upgrades to be necessary, the Owner will work with the City to make the

necessary utility upgrades. In fact, the proposed use will have far less impact on sewer and water than other uses permitted by right in the GC zoning district.

5) Whether the zoning proposal is in conformity with the policy and intent of the land use plan.

Yes. Although the owner's proposed OD zoning classification is not considered a "corresponding zoning" classification within the Regional Activity Center ("RAC"), the proposed mixed use self-storage/commercial building is compatible with the land uses permitted within the zoning districts that correspond with the RAC land use designation (e.g. Mixed Use (MU), General Commercial (GC), Office Institutional (OI)). As noted above, the proposed use is also consistent with surrounding land uses, which include a RaceTrac gas station, apartments, laundromat, and a car wash.

6) 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.

Yes, there are existing and changing conditions affecting the use and development of the property which give supporting grounds for approval of this rezoning proposal. As noted in the City's new Comprehensive Plan and the Spring Road LCI study, the Spring Road Corridor and area surrounding the new Braves stadium will experience significant growth and redevelopment over the next few decades. The proposed redevelopment of this site is consistent with the City's redevelopment goals and vision, which heavily emphasize superior and contextually-sensitive building design and aesthetics and a mix of uses on site. The Owner's vision for this Property achieves the City's goals.

7) Whether the development of the property under the zoning proposal will conform to, be a detriment to or enhance the architectural standards, open space requirements and aesthetics of the general neighborhood, considering the current, historical and planned uses in the area.

The Owner's proposed development will enhance the architectural standards and aesthetics of the general neighborhood in light of historical and planned uses in the area. The proposed modern architecture is far superior to the blighted building that remains in place on the Property today. Moreover, the size and scale of the building is complementary to surrounding uses and buildings.

8) Under any proposed zoning classification, whether the use proposed may create a nuisance or is incompatible with existing uses in the area.

No, the proposed use will not create a nuisance nor is the use incompatible with existing uses in the area. As noted above, the proposed use is also consistent with surrounding land uses, which include a RaceTrac gas station, apartments, laundromat, and a car wash.

- 9) **Whether due to the size of the proposed use, in their land area or building height, the proposed use would affect the adjoining property, general neighborhood and other uses in the area positively or negatively.**

The proposed building will have a positive impact on surrounding uses and the general neighborhood. The size and scale of the proposed building is in keeping with the neighborhood, while still promoting the Comprehensive Plan and LCI's goals of increasing density and enhancing aesthetics along the Spring Road Corridor.

IV. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the City of Smyrna grant the requested rezoning petition and concurrent variances as requested by the Owner. In accordance with Georgia law, the Owner's required constitutional and ante litem notice is attached hereto at **Attachment 2**.

If there are any questions about these requests, please feel free to contact me at 404-665-1242 or jsellers@pftlegal.com. Thank you.

Sincerely,

PURSLEY FRIESE TORGRIMSON



G. Douglas Dillard
Julie L. Sellers

Attachment 1
Proposed Zoning Conditions
2520 Spring Road, LLC

1. The architectural style and design of the proposed building shall be in general accordance with the conceptual color renderings/elevations prepared by Place Maker Design, dated April 10, 2018, and submitted with this zoning application.
2. The site will be developed in substantial accordance with the conceptual zoning site plan prepared by Travis Pruitt & Associates, Inc., signed and dated April 10, 2018 (“Site Plan”), except for modifications required to comply with conditions of zoning, variances, and the Smyrna Code.
3. Ground level of the proposed building facing Spring Road will be designed as commercial, retail, or office space, as depicted on the enclosed conceptual color renderings/elevations submitted with this zoning application. This area may also include a retail sales and leasing office for the storage use.
4. The primary entrances/exits for customers of the storage retail sales and leasing office and commercial/retail/office uses will be at the front of the building as depicted on the Site Plan
5. All storage activity, including but not limited to loading and unloading activities, will take place at the rear of the property and inside the building.
6. There will be no exterior access to the individual storage units. Access to all storage units will be through controlled access points.
7. Parking lot lighting will be in conformance with the Spring Road Urban Design Guidelines. All other exterior lighting shall be low-intensity and shielded with direct illumination confined within the perimeter of the subject property. Additionally, security lighting on the building will be hooded wall packs with automatic cutoffs to minimize light spill onto adjacent properties.
8. The Owner shall install a 15-foot wide landscape area along the Property’s Spring Road frontage, as measured from the front property line. The Owner/Applicant will coordinate specific plantings with City staff. One free-standing monument sign may be located within the 15-foot landscape easement.
9. There shall be no outside storage of any type permitted on site, including but not limited to vehicles, boats, trailers, and buses.
10. The rental of U-Haul or similar moving trucks shall be prohibited on the site.

Attachment 2

REQUIRED CONSTITUTIONAL AND ANTE LITEM NOTICE

2520 Spring Road, LLC; 2520 Spring Road, Smyrna, Georgia 30080

Georgia law and the procedures of the City of Smyrna require us to raise Federal and State constitutional objections during the public hearing application process. While the Applicant/Owner anticipates a smooth application process, failure to raise constitutional objections at this stage may mean that the Applicant will be barred from raising important legal claims later in the process. Accordingly, we are required to raise the following constitutional objections at this time:

The portions of the Smyrna Zoning Code, facially and as applied to the Property, which restrict the Property to any uses, land use designations, design standards, conditions, land use designations, development standards, or to any zoning districts other than that proposed by the Applicant/Owner are unconstitutional in that they would destroy the Applicant/Owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Smyrna Zoning Code, facially and as applied to the Property, which restricts the Property to any uses, conditions, design standards, land use designations, development standards, or to any zoning classifications other than in accordance with the application as proposed by the Owner/Applicant would be unconstitutional, illegal, null and void, constituting a taking of Owner's/Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would be unconstitutional under the Takings Clause of the Fifth Amendment to the Constitution of the United States and the Just Compensation Clause of Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983. A refusal by the City of Smyrna to grant the applications as requested would constitute a taking of the Applicant's property. Because of this unconstitutional taking, the City of Smyrna would be required to pay just compensation to the Owner/Applicant in the amount of \$250,000.00.

A denial of this Application would constitute an arbitrary and capricious act by the Smyrna City Council without any rational basis therefore constituting an abuse of discretion in violation

of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States. A refusal to grant the requested rezoning or concurrent variances would lack objective justification and would result only from neighborhood opposition, which would constitute an unlawful delegation of the zoning power to non-legislative bodies in violation of the Georgia Constitution, Article IX, Section II, Paragraph 4.

A refusal by Smyrna City Council to grant the rezoning or concurrent variance requests in accordance with the criteria requirements as requested by the Owner/Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner/Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property, or approval of the Application, subject to conditions which are different from the conditions requested by the Owner/Applicant, to the extent such different conditions would have the effect of further restricting Owner/Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.


The existing zoning classification is unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional zoning classification within a reasonable time, a claim will be filed in the Superior Court of Cobb County demanding just and adequate compensation under Georgia law for the taking of the Property, diminution of value of the Property, attorney's fees and not less than \$250,000.00 in other damages arising out of the unlawful deprivation of the Owner/Applicant's property rights.

EXHIBIT "A" – ATTACHMENT TO APPLICATION FOR REZONING TO THE CITY OF SMYRNA

Address: 2520 Spring Road SE, Smyrna GA 30080

Applicant: 2520 Spring Road, LLC

2520 Spring Road, LLC

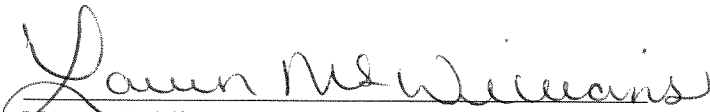
By: 

Title: Authorized Agent

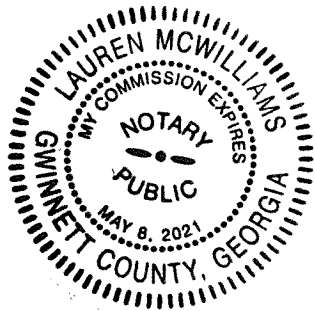
Printed Name: Adam Zuckerman

Date Executed: 4/6/2018

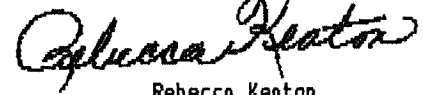
Signed, sealed and delivered in the presence of:


Notary Public

Commission expires: May 8, 2021



Deed Book 15493 Ps 261
Filed and Recorded Nov-13-2017 01:27pm
2017-0128131
Real Estate Transfer Tax \$0.00
0332017027027



Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Upon recordation, please return to:

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Attn: Richard W. Stephens, Esq.

When Recorded Return To:

Heather Townsend
National Commercial Services
First American Title Insurance Company
Six Concourse Parkway, Ste. 2000
Atlanta, GA 30328
File No: NCS 859136

STATE OF GEORGIA

COUNTY OF FULTON

QUIT-CLAIM DEED

THIS INDENTURE, made this 13th day of November, 2017, between ATLANTA PRO PERCUSSION, INC., a Georgia corporation (hereinafter called "Grantor") and 2520 SPRING ROAD, LLC, a Georgia limited liability company (hereinafter called "Grantee"), (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH:

THAT Grantor, for and in consideration of the sum of TEN AND NO/100THS DOLLARS (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey, confirm and forever quitclaim unto the said Grantee, all of Grantor's right, title and interest in and to that certain tract or parcel of land lying and being in Land Lot 810 of the 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia, and being more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise

appertaining, to the only proper use, benefit and behoof of the said property to Grantee, and to Grantee's heirs, successors and assigns, forever, in FEE SIMPLE.

IN WITNESS WHEREOF, Grantor has signed and sealed this Deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

Ronald W. Slay
Unofficial Witness

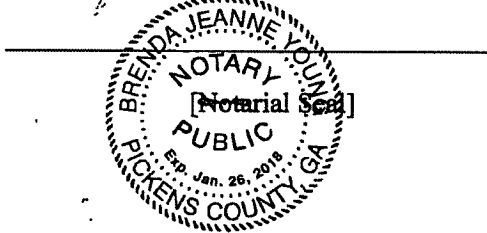
Brenda Jeanne Young
Notary Public

GRANTOR:

ATLANTA PRO PERCUSSION, INC., a Georgia corporation

By *Edward C. Hamrick*
Name: Edward C. Hamrick
Title: President

My Commission Expires:



[Corporate Seal]




EXHIBIT A

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 810 OF THE 17TH DISTRICT, 2ND SECTION, CITY OF SMYRNA, COBB COUNTY, GEORGIA, AS SHOWN ON THAT CERTAIN ALTA/NSPS LAND TITLE SURVEY PREPARED BY TRAVIS PRUITT & ASSOCIATES, INC. FOR SIG CAPITAL, LLC, ATLANTA PRO PERCUSSION, INC. AND FIRST AMERICAN TITLE INSURANCE COMPANY, LAST DATED MAY 30, 2017, AND BEARING THE SEAL AND CERTIFICATION OF JAIME F. HIGGINS (G.R.L.S. 2802), AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TO FIND THE POINT OF BEGINNING, COMMENCE AT THE INTERSECTION OF THE LAND LOT LINE COMMON TO LAND LOTS 810 AND 846 AND THE SOUTHERN RIGHT OF WAY LINE OF SPRING ROAD (100 FOOT RIGHT OF WAY WIDTH AT THIS POINT); THENCE PROCEEDING WESTERLY ALONG SAID RIGHT OF WAY LINE OF SPRING ROAD A DISTANCE OF 404.65 FEET TO A 1/2 INCH ROD FOUND AT THE NORTHWESTERN PROPERTY CORNER OF RACETRAC PETROLEUM, INC., AS RECORDED IN DEED BOOK 14888, PAGE 4403; THENCE LEAVING SPRING ROAD AND PROCEEDING WITH THE PROPERTY LINE OF RACETRAC PETROLEUM, INC., THE FOLLOWING COURSES AND DISTANCES: SOUTH 00 DEGREES 32 MINUTES 15 SECONDS WEST A DISTANCE OF 150.20 FEET TO A 1/2 INCH ROD FOUND AND SOUTH 89 DEGREES 53 MINUTES 55 SECONDS EAST A DISTANCE OF 144.63 FEET TO A 1/2 INCH REBAR SET ON THE WESTERN PROPERTY LINE OF VIRGINIA L. MAYFIELD AND JAMES K. GRAHAM, AS RECORDED IN DEED BOOK 1848, PAGE 467; THENCE PROCEEDING WITH THE WESTERN PROPERTY LINE OF VIRGINIA L. MAYFIELD AND JAMES K. GRAHAM AND FURTHER WITH THE WESTERN PROPERTY LINE OF JASMINE AT THE GALLERIA, LLC, AS RECORDED IN DEED BOOK 14331, PAGE 3696, SOUTH 00 DEGREES 38 MINUTES 04 SECONDS EAST A DISTANCE OF 381.72 FEET TO A 1/2 INCH ROD FOUND; THENCE PROCEEDING NORTH 89 DEGREES 56 MINUTES 58 SECONDS WEST A DISTANCE OF 266.65 FEET TO A 1/2 INCH REBAR SET AT THE SOUTHEASTERN PROPERTY CORNER OF LYON J. BROWN AND JANE E. BROWN, AS RECORDED IN DEED BOOK 13456, PAGE 2645; THENCE PROCEEDING WITH THE EASTERN PROPERTY LINE OF LYON J. BROWN AND JANE E. BROWN AND FURTHER WITH THE EASTERN PROPERTY LINE OF HYUNGHO LEE, AS RECORDED IN DEED BOOK 14579, PAGE 6421, NORTH 00 DEGREES 16 MINUTES 27 SECONDS EAST A DISTANCE OF 532.00 FEET TO A 1/2 INCH REBAR SET ON THE SOUTHERN RIGHT OF WAY LINE OF SPRING ROAD (100 FOOT RIGHT OF WAY WIDTH AT THIS POINT); THENCE PROCEEDING ALONG SAID RIGHT OF WAY LINE OF SPRING ROAD SOUTH 89 DEGREES 57 MINUTES 44 SECONDS EAST A DISTANCE OF 116.65 FEET TO A 1/2 INCH ROD FOUND, SAID POINT BEING THE POINT OF BEGINNING.

SAID TRACT CONTAINS 118115.8732 SQUARE FEET OR 2.7116 ACRES.

Deed Book 15493 Pg 264
Filed and Recorded Nov-13-2017 01:27pm
2017-0128132
Real Estate Transfer Tax \$1,500.00
0332017027023


Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

Upon recordation, please return to:
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
Atlanta, Georgia 30309-3592
Attn: Richard W. Stephens, Esq.

When Recorded Return To:
Heather Townsend
National Commercial Services
First American Title Insurance Company
Six Concourse Parkway, Ste. 2000
Atlanta, GA 30328
File No: NCS 859136

LIMITED WARRANTY DEED

STATE OF GEORGIA

COUNTY OF FULTON

THIS LIMITED WARRANTY DEED is made as of the 13th day of November, 2017, between ATLANTA PRO PERCUSSION, INC., a Georgia corporation (hereinafter referred to as "Grantor"), whose address is 2520 Spring Road, Smyrna, Georgia 30080, and 2520 SPRING ROAD, LLC, a Georgia limited liability company (hereinafter referred to as "Grantee"), whose address is 5607 Glenridge Drive, N.E., Suite 200, Atlanta, Georgia 30342 (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS in hand paid at and before the sealing and delivery of these presents, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee to wit:

ALL THAT TRACT OR PARCEL OF LAND lying and being located in Land Lot 810 of the 17th District, 2nd Section, City of Smyrna, Cobb County, Georgia, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Land"), subject only to and without warranty as to those matters set forth on Exhibit "B" attached hereto and incorporated herein by this reference (the "Permitted Title Exceptions"); TOGETHER with any and all buildings, improvements, structures, or fixtures located therein or thereon

(collectively the "Improvements"). The Land and Improvements are collectively called the "Property."

TO HAVE AND TO HOLD the said described property, with all and singular the rights members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the proper use, benefit and behoof of the said Grantee forever in FEE SIMPLE.

AND Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of those persons claiming by, through or under the said Grantor (other than any claim arising out of any of the Permitted Title Exceptions), but not otherwise.

IN WITNESS WHEREOF, the Grantor has caused this Limited Warranty Deed to be executed and delivered under seal by its duly authorized representative as of the date first written above.

Signed, sealed and delivered in the presence of:

ATLANTA PRO PERCUSSION, INC., a Georgia corporation

Richard N. Stepha
Unofficial Witness

By: Edward C. Hamrick
Name: Edward C. Hamrick
Title: President

Brenda Jeanne Young
Official Witness (Notary Public)

[CORPORATE SEAL]

My Commission Expires:

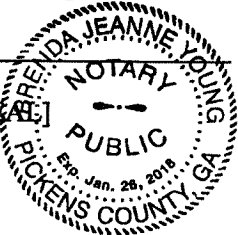
[NOTARY SEAL] 



EXHIBIT "B"

PERMITTED TITLE EXCEPTIONS

1. Taxes for the year 2018, which are liens not yet due and payable, and subsequent years, and taxes for prior years arising from reassessments, appeals or digest disputes.
2. Easements conveyed in Right of Way Deed from R. C. Loudermilk to Cobb County, Georgia, dated October 5, 1965, filed for record October 25, 1965, and recorded in Deed Book 872, Page 371, Cobb County, Georgia records.
3. Easement from A. P. Jones to Georgia Power Company, dated September 11, 1956, filed for record October 3, 1956, and recorded in Deed Book 378, Page 230, aforesaid records.

NOTE: Per containment letter from Georgia Power Company dated July 25, 2017, Georgia Power Company claims no further interest in the easement except the right to operate, maintain, rebuild and renew its existing facilities, under all terms and conditions of its easement, within its presently maintained right-of-way.

4. Easements conveyed in Right of Way Deed from A. P. Jones and Marvin P. Davis to State Highway Department of Georgia, dated October 16, 1965, filed for record October 25, 1965, and recorded in Deed Book 872, Page 375, aforesaid records.
5. Easement from Irwin Greenbaum, Edward Krick, Gertrude F. Krick, Marilyn G. Crystall and Elaine G. Friedman to Cumberland Bridge Associates LTD., a Georgia limited partnership, dated April 8, 1981, filed for record April 20, 1981, and recorded in Deed Book 2343, Page 1, aforesaid records.
6. Reciprocal Driveway Agreement by and between D. Lawrence Wollner and W. Hubert Colquitt and John H. Dickenson, dated October 7, 1968, filed for record November 27, 1968, and recorded in Deed Book 1071, Page 62, aforesaid records.
7. The following matters as shown on ALTA/NSPS Land Title Survey prepared by Travis Pruitt & Associates, Inc., dated August 31, 2017:
 - a. concrete pad located on adjacent property extends over property line;
 - b. power lines, power poles and guy wires;
 - c. wood fence encroaching over property line by 6.7';
 - d. parking area along property line near Spring Road;
 - e. 18" RCP pipe crossing property;
 - f. possible gap;
 - g. asphalt extends beyond property line into property n/f Jasmine at Galleria;
 - h. block wall along and outside of property line;
 - i. 6' and 8' clay pipe extend beyond property line into sanitary sewer manhole located outside property line.

EXHIBIT "A"LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 810 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at an iron pin set on the southerly right-of-way of Spring Road (having a 100-foot right-of-way) 406.3 feet in a westerly direction along the southerly right-of-way of Spring Road from the intersection of the southerly right-of-way of Spring Road and east line of Land Lot 810; running thence in a westerly direction along the southerly right-of-way of Spring Road South 88 degrees 52 minutes 00 seconds West a distance of 116.65 feet to an iron pin set; thence leaving the southerly right-of-way of Spring Road and running South 00 degrees 46 minutes 00 seconds East a distance of 532.0 feet to an iron pin set; running thence North 88 degrees 52 minutes 00 seconds East a distance of 266.65 feet to an iron pin found; running thence North 00 degrees 46 minutes 00 seconds West a distance of 382.0 feet to a point; running thence South 88 degrees 52 minutes 00 seconds West a distance of 150.0 feet to an iron pin set; running thence North 00 degrees 46 minutes 00 seconds West a distance of 150.0 feet to an iron pin set on the southerly right-of-way of Spring Road and the POINT OF BEGINNING; such tract containing a one-story brick and concrete block shopping center building and being more fully described on that plat of survey prepared for Edward Hamrick by Perry E. McClung, Georgia Registered Land Surveyor No. 1541, dated April 8, 1997.



CITY OF SMYRNA

2800 King Street / P.O. Box 1226, Smyrna, Georgia 30081
(770) 434-6600 / www.smyrnacity.com

City of Smyrna

Water and Sewer Availability

The City of Smyrna has determined that water and sanitary sewer are available to the proposed development. Water and sanitary sewer are both located within the right-of way of Spring Road. Water flow tests, pressures and elevations are the responsibility of the developer.

This information is based upon concept plan titled 2520 Spring Road Storage, by Travis Pruitt and Associates dated 7-12-17 with a revised date of 4/3/18.

Sincerely,

Scott Stokes
Director Public Works

MAYOR
A. MAX BAUCON

CITY COUNCIL

WARD 1
DEREK NORTON

WARD 2
ANDREA BUCSHEIN

WARD 3
TERI ANULFOWICZ

WARD 4
CHARLES A. WELCH

WARD 5
SUSAN WILKINSON

WARD 6
DOUG STONER

WARD 7
RON TENNE

CITY ADMINISTRATOR
MICHAEL L. JONES, PE.

CITY CLERK
ERRI GRAHAM

CITY ATTORNEY
SCOTT A. COCHRAN

MUNICIPAL COURT JUDGE
L. ALTON CURTIS, JR.



Printed: 4/9/2018

Cobb County Online Tax Receipt

Thank you for your payment!

CARLA JACKSON TAX COMMISSIONER
CHELLY MCDUFFIE CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Payer:
 ATLANTA PRO PERCUSSION

ATLANTA PRO PERCUSSION INC

Payment Date: 8/29/2017

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due
2017	17081000410	10/15/2017	Pay: N/A or	\$0.00

Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$11,038.12	\$0.00



Scan this code with your mobile phone to view this bill!



Real Estate

View Bill

[View bill image](#)

As of 4/10/2018
Bill Year 2017
Bill 729
Owner ATLANTA PRO PERCUSSION INC
Parcel ID 17081000410

[View payments/adjustments](#)

Installment	Pay By	Amount	Payments/Credits	Balance	Interest	Due
1	11/15/2017	\$3,847.72	\$3,847.72	\$0.00	\$0.00	\$0.00
TOTAL		\$3,847.72	\$3,847.72	\$0.00	\$0.00	\$0.00



Real Estate

[Return to view bill](#)

Payments/Adjustments

As of 4/10/2018

Bill Year	2017
Bill	729

Activity	Posted	Paid By/Reference	Amount
Payment	10/10/2017	ATLANTA PRO PERCUSSION INC	\$3,847.72

[Return to view bill](#)

To: Ken Suddreth and Rusty Martin
 From: Adam Zuckerman (Stein Investment Group; 2520 Spring Road, LLC)
 Date: April 10, 2018
 Subject: Traffic Impact Statement for Rezoning Application at 2520 Spring Road

The proposed project is a mixed use building with climate-controlled self-storage and ground level commercial/office/retail. The total building will be approximately 103,628 square feet. Of the +/- 103,628 square feet, approximately 98,313 square feet will be utilized for climate controlled self-storage, approximately 1,051 square feet will be utilized for leasing space for the self-storage facility, and approximately 4,264 square feet will be utilized for commercial/office/retail space. A site plan with this information has been included with the rezoning application.

The Applicant has utilized ITE trip generation data and data collected from two of its climate controlled self-storage sites to determine the number of trips that will be generated from the proposed project. **Table 1.0** includes the anticipated trip generation using ITE data sets for office and retail. To be clear, the Applicant does not propose both uses at the square footages indicated—the Applicant proposes to incorporate office or retail at the square footages indicated. The chart provides traffic information for both uses.

Table 1.0

Use	RSF	AM Peak Factor	Total AM Peak	PM Peak Factor	Total PM Peak	Total Trips per Day Factor	Total Trips Per Day
Retail	4,264	1.03	4	3.74	16	42.92	183
Office	4,264	1.56	7	1.49	6	11.01	47

The Applicant has collected trip information from two of its climate-controlled self-storage projects in the metropolitan Atlanta area: (1) The Space Shop Self-Storage facility in Woodstock and (2) The Space Shop Self-Storage facility in Marietta. The trip data at each facility was collected over a 30-day period. The daily trip generation counts are attached hereto at **Exhibit 1**. The daily trips at each facility range from 11-21 trips/day, with the highest number of trips being generated on Saturdays. On average, weekday trips are 14-15 trips/day and weekend trips are 16-20 trips/day.

Conclusion

As evidenced by the data above, the proposed project will not have an excessive or burdensome impact on existing streets or transportation infrastructure. The proposed use is not a significant traffic generator, and will be less impactful on traffic and transportation infrastructure than other uses permitted by right in the GC zoning district.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Zuckerman', with a horizontal line underneath the name.

Adam Zuckerman

Stein Investment Group

Trailing-30 Day Tenant Visits | 3700 Roswell Road, Marietta, GA



Property Detail

Gross Building Square Footage	78,163
Net Rentable Square Footage	59,275
Total Number of Parking Spaces	8

Individual Daily Visits

Date	Day	Individual Visits
3/1/18	Thursday	18
3/2/18	Friday	16
3/3/18	Saturday	12
3/4/18	Sunday	12
3/5/18	Monday	6
3/6/18	Tuesday	11
3/7/18	Wednesday	16
3/8/18	Thursday	23
3/9/18	Friday	11
3/10/18	Saturday	17
3/11/18	Sunday	14
3/12/18	Monday	13
3/13/18	Tuesday	15
3/14/18	Wednesday	15
3/15/18	Thursday	21
3/16/18	Friday	12
3/18/18	Sunday	14
3/18/18	Sunday	14
3/19/18	Monday	8
3/20/18	Tuesday	14
3/21/18	Wednesday	17
3/22/18	Thursday	15
3/23/18	Friday	15
3/24/18	Saturday	20
3/25/18	Sunday	16
3/26/18	Monday	16
3/27/18	Tuesday	12
3/28/18	Wednesday	21
3/29/18	Thursday	12
3/30/18	Friday	22
3/31/18	Saturday	26

Trip Summary

Day	Avg. Visits
Monday	10.8
Tuesday	13.0
Wednesday	17.3
Thursday	17.8
Friday	15.2
Saturday	18.8
Sunday	14.0

Averages

Weekday	15.0
Weekend	16.1
Daily	15.3

Stein Investment Group

Daily Traffic Counts | 230 West Village Drive, Woodstock, GA



Property Detail

Gross Building Square Footage	102,648
Net Rentable Square Footage	78,413
Total Number of Parking Spaces	9

Individual Daily Traffic Counts

Date	Day	Counts
3/1/18	Thursday	13
3/2/18	Friday	11
3/3/18	Saturday	20
3/4/18	Sunday	17
3/5/18	Monday	14
3/6/18	Tuesday	9
3/7/18	Wednesday	9
3/8/18	Thursday	18
3/9/18	Friday	10
3/10/18	Saturday	17
3/11/18	Sunday	13
3/12/18	Monday	12
3/13/18	Tuesday	18
3/14/18	Wednesday	11
3/15/18	Thursday	18
3/16/18	Friday	14
3/18/18	Sunday	24
3/18/18	Sunday	24
3/19/18	Monday	12
3/20/18	Tuesday	8
3/21/18	Wednesday	13
3/22/18	Thursday	22
3/23/18	Friday	11
3/24/18	Saturday	27
3/25/18	Sunday	17
3/26/18	Monday	14
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3/30/18	Friday	23
3/31/18	Saturday	20

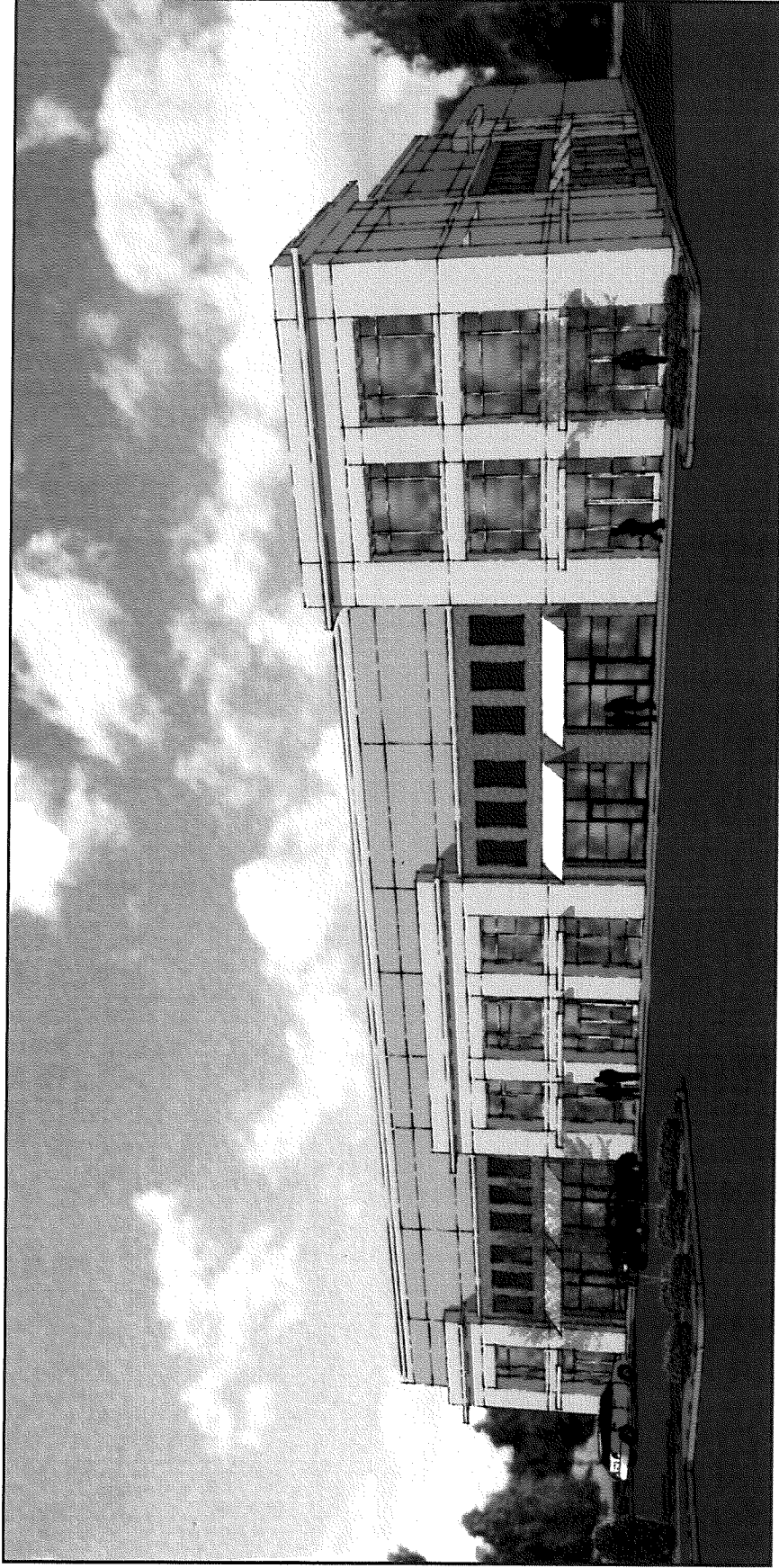
Traffic Summary

Day	Avg. Visits
Monday	13.0
Tuesday	12.0
Wednesday	12.8
Thursday	17.2
Friday	13.8
Saturday	21.0
Sunday	19.0

Averages

Weekday	13.9
Weekend	19.9
Daily	15.6

Exhibit 1

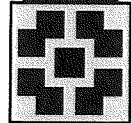


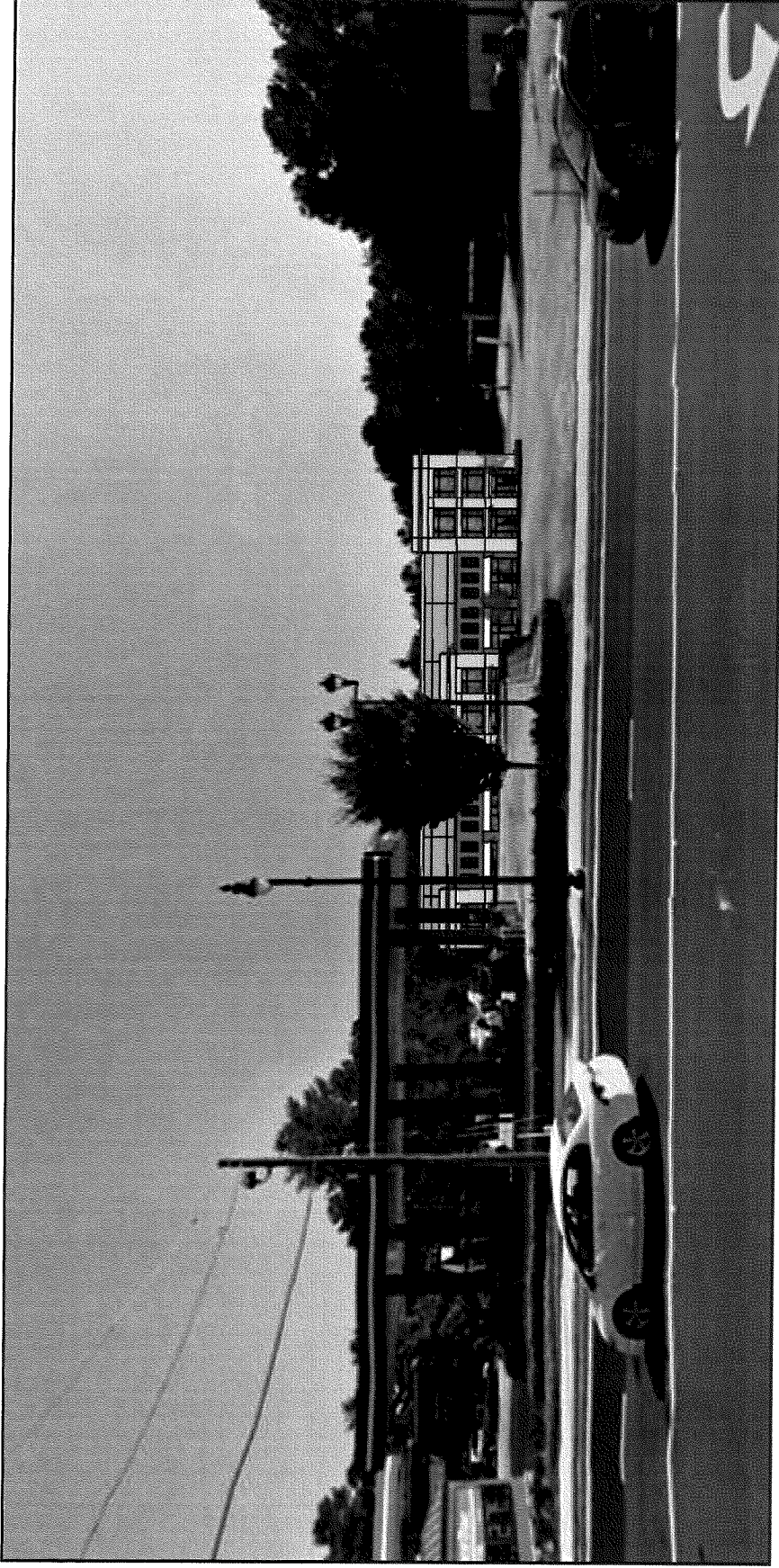
CONCEPTUAL RENDERING

PLACE MAKER DESIGN
1000 CIRCLE 75 PARKWAY - SUITE 400 - ATLANTA, GEORGIA 30339

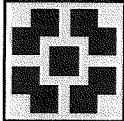
2520 SPRING ROAD
SMYRNA, GEORGIA

#17068
03/12/18





CONCEPTUAL RENDERING



PLACE MAKER DESIGN
1000 CIRCLE 75 PARKWAY, SUITE 400 - ATLANTA, GEORGIA 30339

#17068
03/12/18

2520 SPRING ROAD
SMYRNA, GEORGIA