



city of
powder springs

Rezoning Request

Application Checklist

Applicant Information

Name *Blue River Development LLC	Phone (404) 790-3092
Mailing Address 3810 Windermere Parkway, Suite 504, Cumming, GA 30041	Email bcooper@blueriverdevelopment.com; kelley@blueriverdevelopment.com

Application Checklist

The following information will be required:

- Application
- Notice of Intent
- Applicant's Written Analysis
- Campaign Contribution Disclosure
- Owner's Authorization, if applicable.
- Legal Description and Survey Plat of the property
- Application Fee (summary of fees attached)
- Copy of the Deed that reflects the current owners name
- Vicinity Map outlining the parcel/s in relation to the surrounding area
- Site plan, plat or survey prepared by an architect, engineer. The following information **must** be included:

Specific use or uses proposed for the site. Acreage, bearing and distances, other dimensions, and location of the tract(s). Locations, sizes and setbacks of proposed structures, including the number of stories and total floor area, height, for residential number of units, Square footage of heated floor area. Detention/retention areas, and utility easements. Location of dumpsters. Public or private street(s) - right of way and roadway widths, approximate grades Location and size of parking area with proposed ingress and egress. Specific types and dimensions of protective measures, such as buffers. Landscaping. Wetlands, stream buffers, and 100 year floodplain.
- Sketch Plan/ Architectural Rendering, if applicable
- Traffic Study required for development with 500,000 sf of nonresidential floor area or 350 dwelling units or more.

List additional attachments: Exhibit "A" - Applicant and Owner Representative Information, Exhibit "B" - Parcel/Address/Owner Information, and City and County 2021 and/or 2020 Paid Tax Receipts

Note Carefully

If your application qualifies as a "Development of Regional Impact" (see Article 13) then you must follow additional procedures BEFORE your application can be considered. The Community Development Department will assist you with the DRI process, which is mandated by State and GRTA requirements.

Indicate the current zoning district of the property, and the zoning district you are requesting. File a separate application for each Rezoning request naming a different zoning district. A Special Use request, Variance request can be filed concurrently with a Rezoning request on the same property by separate application.



**city of
powder springs**
Rezoning Request
Application Form

Applicant Information

Name *Blue River Development LLC	Phone (404) 790-3092
Mailing Address 3810 Windermere Parkway, Suite 504, Cumming, GA 30041	Email bcooper@blueriverdevelopment.com, kelley@blueriverdevelopment.com

Rezoning Request Property Information


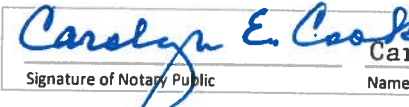
Address 5660 Powder Springs Dallas Road 5592 Powder Springs Dallas Road (portion)	Parcel ID / Lot# See Exhibit "B"	Acreage 11.5+/-
Present Zoning LI	Proposed Zoning PUD-R	
Source of Water Supply Cobb County Water	Source of Sewage Disposal Cobb County Water & Sewer	
Proposed Use Peak Hour Trips Generated	Source	

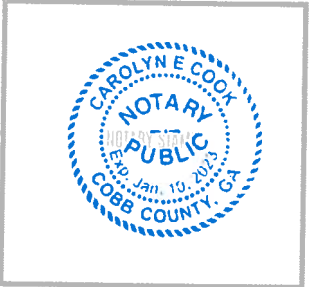
Additional Information, If Applicable

Elementary School and School's Capacity Powder Springs Elementary - 104 under capacity	Middle School and School's Capacity Cooper Middle - 95 under capacity
High School and School's Capacity McEachern High - 124 under capacity	

Notary Attestation

Executed in **Marietta** (City), **GA** (State).

BY:  Signature of Applicant	J. Kevin Moore Printed Name	October 26, 2021 Date
Attorneys for Applicant and Property Owners		
Subscribed and sworn before me this 26th day of October 20 21		
 Signature of Notary Public	Carolyn E. Cook Name of Notary Public	January 10, 2023 My Commission Expires



*See Exhibit "A" for Applicant's and Property Owners' Representative Information
For Official Use Only

PZ #	
Planning Commission Hearing	City Council Hearing
Withdrawal Date	Reason for Withdrawal



**city of
powder springs**
Rezoning Request
Notice of Intent

Applicant Information

Name *Blue River Development LLC	Phone (404) 790-3092
Mailing Address 3810 Windermere Parkway, Suite 504, Cumming, GA 30041	Email bcooper@blueriverdevelopment.com; kelley@blueriverdevelopment.com

Notice of Intent

PART I. Please indicate the purpose of this application :

The purpose of the Application for Rezoning is to rezone an approximately 11.5 acre tract, comprised of three assembled parcels, from the Light Industrial zoning category to the PUD-R zoning category for an attached, residential community, in the townhome style.

PART II. Please list all requested variances:

None known at this time.

Part III. Existing use of subject property:


The Property is mostly undeveloped; however, one parcel owned by Grace Baptist Church of Mableton, Inc. does have a structure on it.

Part IV. Proposed use of subject property:

Attached residential community, in the townhome style.

Part V. Other Pertinent Information (List or attach additional information if needed):

Applicant Signature

BY: 	*Blue River Development LLC/	October 26, 2021
Signature of Applicant	GA Bar No. 519728 Printed Name	J. Kevin Moore Date
Attorneys for Applicant and Property Owners		



Rezoning Request

Applicant's Written Analysis

Applicant Information

Name ***Blue River Development LLC**

Phone **(404) 790-3092**

Mailing Address **3810 Windermere Parkway, Suite 504, Cumming, GA 30041**

Email **bcooper@blueriverdevelopment.com; kelley@blueriverdevelopment.com**

Written Analysis

In details please address these Rezoning Criteria:

a. Whether the proposed zoning district and uses within that district are compatible with the purpose and intent of the comprehensive plan. The future development map and the future land use plan map of the city's comprehensive plan shall be used in decision making relative to amendments to the official zoning map.

The proposed PUD-R zoning district is compatible with the purposes and intent of the City's Comprehensive Plan and Future Land Use Map as the proposed development will provide quality housing; as well as, allow residential zoning and development to be adjacent to similar developments.

b. Whether the proposed zoning district and uses permitted within that district are suitable in view of the zoning and development of adjacent and nearby property.

The proposed PUD-R zoning classification, and the proposed quality residential community, are suitable uses for the Subject Property in view of uses of surrounding properties. The majority of adjacent and surrounding properties are primarily residential uses. The proposed community would be a quality development consistent with surrounding neighborhoods.

c. Whether the existing use or usability of adjacent or nearby property will be adversely affected by one or more uses permitted in the requested zoning district.

No adjacent or nearby properties will be adversely or negatively impacted by rezoning the Subject Property to the proposed PUD-R zoning classification and development of a quality residential development.

d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned;

The proposed PUD-R zoning classification will allow for a higher and better use of the Subject Property than the existing LI zoning classification in that it will provide quality housing; as well as, transitional zoning between existing single-family and existing LI uses and public uses.

e. Whether public facilities such as roads, schools, water and sewer utilities, and police and fire protection will be adequate to serve the proposed zoning district and uses permitted.

There is adequate public facilities and infrastructure in place to sufficiently service the proposed residential community.


f. Whether the proposed zoning district and uses permitted within that zoning district are supported by new or changing conditions not anticipated by the comprehensive plan or reflected in the existing zoning on the property or surrounding properties.

The existing zoning classification does not reflect changing conditions of the surrounding area. If the Property were developed pursuant to the existing zoning, the surrounding communities would be adversely impacted.

g. Whether the proposed zoning district and uses permitted within that zoning district reflect a reasonable balance between the promotion of the public health, safety, morality or general welfare and the right to unrestricted use of property.

The proposed PUD-R zoning classification, together with the quality residential community, is a more reasonable use of the Property, and provides a better overall promotion of public health, safety, morality, and general welfare of area residents and neighborhoods, while not adversely impacting existing LI uses.

Applicant Signature

BY:  *Blue River Development LLC/ October 26, 2021
Signature of Applicant GA Bar No. 519728 Printed Name J. Kevin Moore Date
Attorneys for Applicant and Property Owners



city of powder springs

Rezoning Request

Campaign Contribution Disclosure

Applicant and Attorney Information

Applicant's Name Blue River Development LLC	Applicant's Address 3810 Windermere Parkway, Suite 504, Cumming, GA 30041
Applicant's Attorney Moore Ingram Johnson & Steele, LLP - J. Kevin Moore	Attorney's Address Emerson Overlook Suite 100 326 Roswell Street, Marietta, GA 30060

Campaign Contribution Disclosure

The following information is provided in accordance with the Georgia Conflict of Interest in Zoning Actions Act, O.C.G.A. 36-67A-1 et seq.

The property that is the subject of the attached application is owned by:

- Individual(s)
 Corporation
 Partnership
 Limited Partnership
 Joint Venture

All persons, corporations, partners, limited partners, or joint ventures party to ownership of the property that is the subject of the attached application are listed below:

 Kent P. Amburn

 Kimberly O. Amburn

 Grace Baptist Church of Mableton, Inc.

APPLICANT: Within the two years preceding the date of the attached application, the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift
None		

ATTORNEY: Within the two years preceding the date of the attached application, the attorney representing the applicant has made campaign contributions or gifts aggregating \$250 or more to the Mayor, to members of the Powder Springs City Council, or to members of the Planning Commission, as follows:

Name of Official	Amount of Contribution or Gift	Date of Contribution or Gift
None		



city of powder springs

Rezoning Request

Owner's Authorization Form

Owner's Authorization

Applicant Name *Blue River Development LLC **Applicant's Address** 3810 Windermere Parkway, Suite 504, Cumming, GA 30041


Property Address 5592 Powder Springs Dallas Road (portion) **Property PIN** 19073400060

This is to certify that ~~XXXXXX~~ We are ~~an individual~~ ~~or~~ ~~an authorized representative of a corporation that~~ the owner of ~~the~~ ~~subject~~ ~~property~~ of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

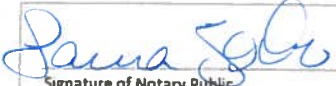
Signature of Property Owner(s)

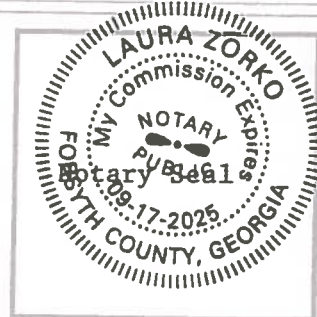
 Kent P. Amburn October 24, 2021
 Signature of Owner Printed Name Date


State of GA, County of _____.

This instrument was acknowledged before me this 25 day of October 2021

20 21, by Kent P. Amburn . Identification Presented: ID

 Laura Zorko 9-17-25
 Signature of Notary Public Name of Notary Public My Commission Expires



 Kimberly O. Amburn October 24, 2021
 Signature of Owner Printed Name Date

State of GA, County of _____.

This instrument was acknowledged before me this 25 day of October 2021

20 21 by Kimberly O. Amburn . Identification Presented: ID

 Laura Zorko 9-17-25
 Signature of Notary Public Name of Notary Public My Commission Expires





city of powder springs

Rezoning Request

Owner's Authorization Form

Owner's Authorization

Applicant Name *Blue River Development LLC	Applicant's Address 3810 Windermere Parkway, Suite 504, Cumming, GA 30041
Property Address 5650 Powder Springs Dallas Road, one unnumbered parcel on Powder Springs Dallas Road Powder Springs, GA	Property PIN 19073500070; 19073500080

This is to certify that ~~XXXXXXXXXXXX~~ I am the Authorized Representative of a Corporation that is the owner of a majority interest in the subject property of the attached application. By execution of this form, this is to authorize the person names as "applicant" below, acting on behalf of the owner, to file for and pursue a request for approval of the following:

Check all that apply:

Rezoning <input checked="" type="checkbox"/>	Special Use <input type="checkbox"/>	Hardship Variance <input type="checkbox"/>
Special Exception <input type="checkbox"/>	Flood Protection Variance <input type="checkbox"/>	Appeal of Administrative Decision <input type="checkbox"/>

Signature of Property Owner(s)

GRACE BAPTIST CHURCH OF MABLETON, INC

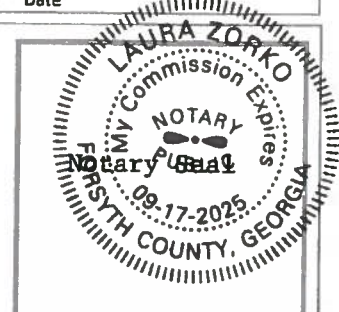
BY: <u>David K. Maddox</u>	Date October 21, 2021
Signature of Owner	Printed Name

TITLE:
State of GA, County of _____.

This instrument was acknowledged before me this 21 day of October month.

20 21, by David Maddox. Identification Presented: ID.

<u>Laura Zorko</u>	<u>Laura Zorko</u>	<u>9-17-25</u>
Signature of Notary Public	Name of Notary Public	My Commission Expires



Signature of Owner	Printed Name	Date
--------------------	--------------	------

State of _____, County of _____.

This instrument was acknowledged before me this _____ day of _____ month.

20 ____ by _____ name of signer. Identification Presented: _____

<u>[Signature]</u>	_____	_____
Signature of Notary Public	Name of Notary Public	My Commission Expires



EXHIBIT "A" – ATTACHMENT TO APPLICATION FOR REZONING

Application No.: _____
Planning Commission Hearing: **November 22, 2021**
City Council Hearing: **December 6, 2021**

Applicant: **Blue River Development LLC**
Titleholders: **Kent P. Amburn; Kimberly O. Amburn; and
Grace Baptist Church of Mableton, Inc.**

Applicant's and Property Owners' Representative:

J. Kevin Moore, Esq.
Moore Ingram Johnson & Steele, LLP
Attorneys at Law
Emerson Overlook, Suite 100
326 Roswell Street
Marietta, Georgia 30060
(770) 429-1499 (Office)
(770) 429-8631 (Telefax)
E-mail: jkm@mijs.com

EXHIBIT "B" – ATTACHMENT TO APPLICATION FOR REZONING

Application No.: _____
Planning Commission Hearing: November 22, 2021
City Council Hearing: December 6, 2021

Applicant: Blue River Development LLC
Titleholders: Kent P. Amburn; Kimberly O. Amburn; and
Grace Baptist Church of Mableton, Inc.

**ADDRESS, PARCEL, AND OWNER LISTING FOR PROPERTIES
INCLUDED IN APPLICATION FOR REZONING**

<u>Property Address</u>	<u>Tax ID/ Parcel #</u>	<u>Owner Name</u>
5592 Powder Springs Dallas Road (portion)	19-073400060	Kent P. Amburn Kimberly O. Amburn
5660 Powder Springs Dallas Road	19-073500070	Grace Baptist Church of Mableton, Inc.
Powder Springs Dallas Road (unnumbered)	19-073500080	Grace Baptist Church of Mableton, Inc.

Deed Book 12165 Pg 533
Filed and Recorded Feb-03-1999 04:24pm
1999-0020403
Real Estate Transfer Tax \$268.00
Jay C. Stephenson
Clerk of Superior Court
Cobb County, Georgia

W/C RETURN TO:
MOORE INGRAM JOHNSON & STEELE, LLP
192 ANDERSON ST.
MARIETTA GA 30060

R 12.00

**LIMITED
WARRANTY DEED**

STATE OF GEORGIA
COUNTY OF COBB

THIS INDENTURE, made the 3rd day of February, in the year One Thousand, Nine Hundred Ninety-Nine, between
ROY L. DICKSON
of the County of Cobb, and State of Georgia, as party or parties of the first part, hereinafter called Grantor, and
KENT P. AMBURN and KIMBERLY O. AMBURN

as party or parties of the second part, 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 OTHER VALUABLE CONSIDERATIONS AND TEN AND NO/100 DOLLARS (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt whereof is 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,

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 734 AND 747 OF THE 19TH DISTRICT, 2ND SECTION, CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by this 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 Grantee forever in FEE SIMPLE.

AND THE SAID Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons CLAIMING BY, THROUGH, OR UNDER GRANTOR, BUT NOT OTHERWISE.

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

Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness



[Signature] (Seal)
ROY L. DICKSON

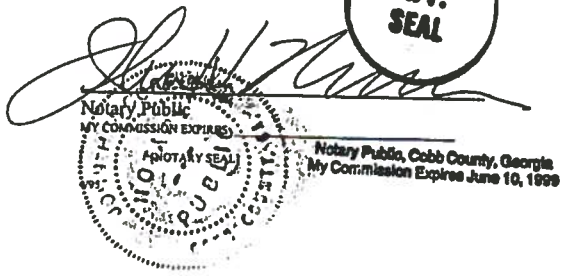


EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 734 and 747, of the 19th District, 2nd Section, City of Powder Springs, Cobb County, Georgia, and being 17.678 acres designated as Tract A on that certain survey for Powder Springs Partners, dated April 25, 1996, last revised May 27, 1998, prepared by Braswell Engineering, Inc., and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly right of way of U. S. Highway 278 with the westerly land lot line of Land Lot 734, said district and section; thence running north 01 degrees 55 minutes 16 seconds west as measured along the westerly land lot line of Land Lot 734, said district and section, for a distance of 760.65 feet to a point located at the intersection of the westerly land lot line of Land Lot 734, said district and section, with the southwesterly right of way of State of Georgia (railroad grade - tracks removed); thence running along the arc of a curve, in a southeasterly direction as measured along the southwesterly right of way of State of Georgia, for an arc distance of 287.26 feet (said arc being subtended by a chord bearing south 72 degrees 18 minutes 24 seconds east, a chord distance of 287.23 feet, and having a radius of 2669.58 feet) to a point; thence running south 70 degrees 51 minutes 12 seconds east as measured along the southwesterly right of way of State of Georgia, for a distance of 80.46 feet to a point and corner; thence running south 37 degrees 21 minutes 49 seconds east for a distance of 1140.00 feet to a point and corner; thence running south 52 degrees 38 minutes 11 seconds west for a distance of 650.00 feet to a point located on the northeasterly right of way of U. S. Highway 278; thence running north 37 degrees 21 minutes 49 seconds west as measured along the northeasterly right of way of U. S. Highway 278, for a distance of 822.85 feet to the point of BEGINNING.

FIS
Pay Direct

Thank you for your payment.

Please print this receipt and keep it for your records.

Parcel Id : 19-073400060

Property Location : 5592 POWDER SPRINGS
DALLAS RD

Owner Name : AMBURN KENT P AND
KIMBERLY O

Payment Amount: \$4,489.56

Convenience Fee: \$132.44

Total Payment Amount: \$4,622.00

Receipt Number: 3816642861

Transaction Date: 10/25/2021 10:01 AM

Payment Type:



Account Number: *3601



CARLA JACKSON TAX COMMISSIONER
HEATHER WALKER CHIEF DEPUTY
 Phone: 770-528-8600
 Fax: 770-528-8679

Printed: 10/26/2021

Cobb County Online Tax Receipt

Thank you for your payment!

Payer
 Laura Zorko

AMBURN KENT P AND KIMBERLY O

Payment Date: 10/25/2021

Tax Year	Parcel ID	Due Date	Appeal Amount			Taxes Due
2021	19073400060	10/15/2021	Pay:	N/A	or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance	
\$56.55	\$517.04	\$0.00	\$0.00	\$10,914.32	\$0.00	



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

J.C. Stephenson
Jay C. Stephenson
Clerk of Superior Court Cobb Cty. Ga.

1600 RAL

The space above this line is reserved for Recorder's use.

After recording, return to: Leo W. Clifton, Sr. *Wank*
2846 Veterans Memorial Highway
Austell, Georgia 30168

LIMITED WARRANTY DEED

THIS INDENTURE is made as of the 16th day of September, 2004, between **RAKESTRAW PIPELINE, INC.** (hereinafter referred to as "Grantor") and **GRACE BAPTIST CHURCH OF MABLETON, INC.** (hereinafter referred to as "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors, executors, administrators, legal representatives and assigns where the context requires or permits).

WITNESSETH

GRANTOR, in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee; ALL THAT TRACT OR PARCEL of land lying and being in Land Lot 672 AND 735, of the 19TH District, 2ND of Cobb County, Georgia (hereinafter referred to as the "Land"), all as more particularly described in the attached Exhibit "A", which Exhibit is incorporated herein.

TO HAVE AND TO HOLD the Land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only


property use, benefit and behoof of Grantee forever in FEE SIMPLE; subject only to the matters (hereinafter referred to as "Permitted Exception") set out in the attached Exhibit "B", which Exhibit is incorporated herein.

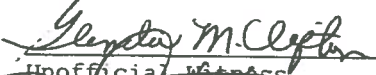
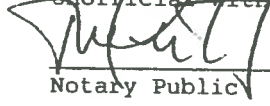
AND GRANTOR WILL WARRANT and forever defend the right and title to the Land and the Easements unto Grantee against the claims of any persons owning, holding or claiming by, through or under Grantor, except for claims arising under or by virtue of the Permitted Exceptions,

EXECUTED under seal as of the date above.

GRANTOR:
BY:
RAKESTRAW PIPELINE, INC.

Signed, sealed and delivered in the presence of:


S. W. RAKESTRAW
Chief Executive Officer


~~Unofficial Witness~~

Notary Public

Commission Expiration Date

(NOTARIAL SEAL)



EXHIBIT "A"

LEGAL DESCRIPTION

AS TO TRACT I:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 735 of the 19th District, 2nd Section, Cobb County, Georgia, and being more particularly described as follows:

Begin at the "TRUE POINT OF BEGINNING" which is the intersection of the east Land Lot Line of Land Lot 735, with the northeast Right of Way on US 278 (100 Foot Right of Way); thence North 33 degrees 37 minutes 09 Seconds West along said road 101.36 feet; thence continuing along said road North 30 degrees 40 minutes 57 seconds west 320.0 feet to an iron pin; thence running North 55 degrees 43 minutes 24 seconds East 157.36 feet to an iron pin; thence running North 88 degrees 48 minutes 11 seconds East 80.0 feet to iron pin on the East line of Land Lot 735; thence running along the East line of Land Lot 735 South 01 degrees 11 minutes 48 seconds East 450.0 feet to the "TRUE POINT OF BEGINNING".

Being the same property conveyed in Warranty Deed from RACEHORSE VETERINARY PRODUCTS, INC. to RAKESTRAW PIPELINE, INC. dated July 27, 1988, filed August 5, 1988, at Deed Book 5026, Page 255, Cobb County, Georgia Records.

AS TO TRACT II:

ALL THAT TRACT OR PARCEL OF LAND lying and being in the 19th District, 2nd Section of Cobb County, Georgia, and being in Land Lots 735 and 672 and being more fully and particularly described as follows:

BEGINNING at an iron pin which is located at the intersection of the East right-of-way U.S. Highway 278, (100 foot right-of way) with the South right-of-way of Seaboard Coastline Railroad (100 foot right-of-way); thence running East (S 75 degrees 21 minutes 19 seconds E) along said railroad right-of-way for a distance of 320.73 feet to an iron pin; thence continuing East (S 73 degrees 41 minutes 15 seconds E) along said right-of-way for a distance of 187.73 feet to an iron pin; thence continuing East (S 72 degrees 05 minutes 02 seconds E) along said railroad right-of-way for a distance of 48.63 feet to an iron pin which is located on the East line of Land Lot 735; thence running South (S 1 degree 11 minutes 48 seconds E) along said East line for a distance of 326.94 feet to an iron pin; thence running west (S 88 degrees 48 minutes 11 seconds W) for a distance of 80.00 feet to an iron pin, thence running South (S 55 degrees 43 minutes 24 seconds W) for a distance of 157.36 feet to an iron pin which is located on the East right-of-way of said U.S. Highway 278; thence running North (N 30 degrees 40 minutes 57 seconds W) along said East right-of-way for a distance of 27.03 feet to an iron pin; thence continuing North (N 30 degrees 28 minutes 35 seconds W) along said East right-of-way for a distance of 629.55 feet to an iron pin which is the POINT OF BEGINNING.

Being the same property conveyed in Warranty Deed from MARIETTA PLASTICS, INC. to RAKESTRAW PIPELINE, INC., dated August 23, 1988, filed September 8, 1988 at Deed Book 5066, Page 136, Cobb County, Georgia Records.

EXHIBIT "B"

PERMITTED EXCEPTIONS

AS TO TRACT I AND II:

Deed to Secure Debt in favor of Georgia State Bank, dated 11/06/2003, filed 10/07/2003, at Deed Book 13864, Page 1168, in the principal amount of \$153,124.00, Cobb County, Georgia Records.

Deed to Secure Debt in favor of Georgia State Bank, dated 11/06/2003, filed 10/07/2003, at Deed Book 13864, Page 1194, in the principal amount of \$50,964.00, Cobb County, Georgia Records.

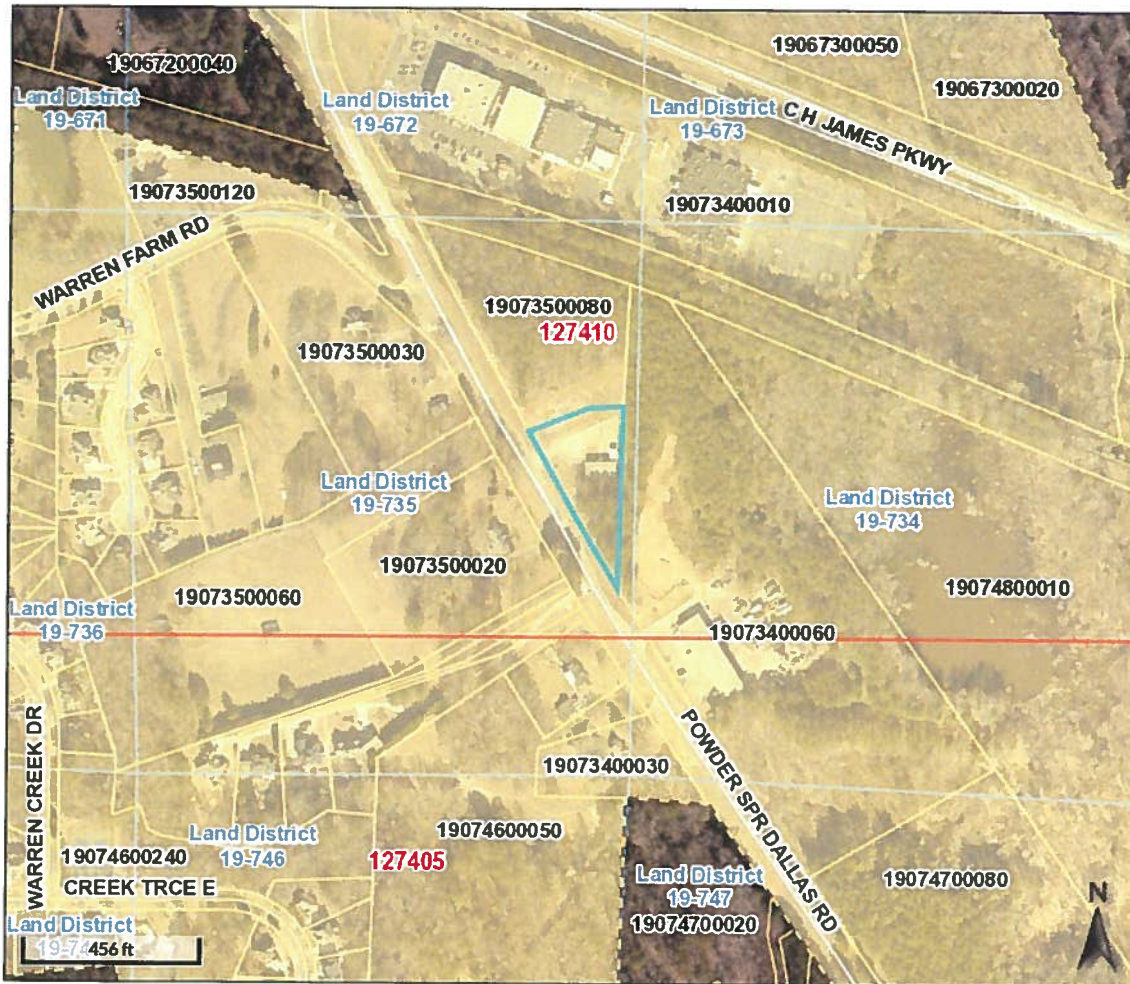
UCC 03320001409, Cobb County, Georgia Records.

Access for rights for commercial driveway in favor of D.O. T. dated 08-24-1984, recorded at Deed Book 3271, Page 475, Cobb County, Georgia Records.

Right of Way Easement to State Highway Board of Georgia filed 08-08-1936, recorded at Deed Book 123, Page 58, Cobb County, Georgia Records.

AS TO TRACT I ONLY:

Right of Way Easement to D.O.T. dated 07-11-94, recorded at Deed Book 8379, Page 544, Cobb County, Georgia Records.



Overview



Legend

- Cobb Tile Index
- Cities**
- Acworth
- Austell
- Kennesaw
- Marietta
- Powder Springs
- Smyrna
- Unincorporated
- ▲ Administrative Facilities
- Libraries
- Police Stations
- Fire Stations
- County Parks
- Federal Parks
- House Number Labels
- Parcels
- Land Lots
- Roads**
- ARTERIAL
- INTERSTATE
- LOCAL
- MAJOR
- MINOR
- PRIVATE
- RAMP

Parcel ID	19073500070	Physical Address	5660 POWDER SPRINGS DALLAS RD	Last 2 Sales			
Class Code	E2 - Exempt - Churches	Owner	GRACE BAPTIST CHURCH OF MABLETON INC	Date	Price	Reason	Qual
Taxing District	(5) POWDER SPRINGS		P O BOX 578	9/10/2004	\$400000	n/a	U
Acres	1.2		POWDER SPRINGS GA 30127	n/a	0	n/a	n/a

Date created: 10/19/2021
 Last Data Uploaded: 10/19/2021 6:36:28 AM

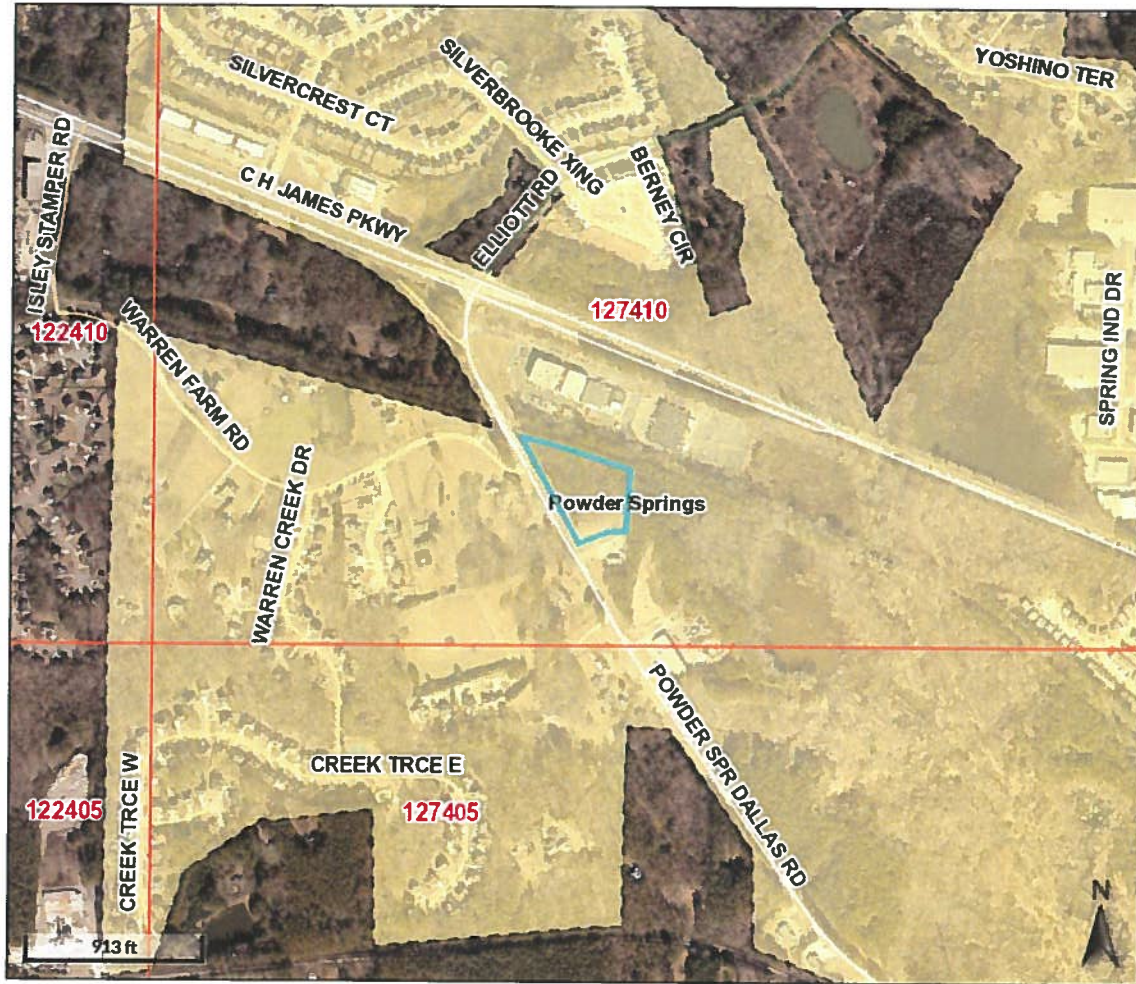


Parcel Id:	19-073500070	Tax Account Id:	6694
Property Location:	5660 POWDER SPRINGS DALLAS RD	Zoning Code:	
Owner Name/Address:	GRACE BAPTIST CHURCH OF MABLETON IN P.O. BOX 578 POWDER SPRINGS GA 30127-0578	Land Value:	0
		Improvement Value:	0
		Exempt Value:	0.00
		Total Assessed Value:	0.00
		Deductions:	None

Taxes

Make a Payment		View Current Bill					
Year	Due Date	Type	Billed	Balance	Interest	Total Due	Status
2021	11/17/2021	Tax	288.00	0.00	0.00	0.00	PAID
2020	11/15/2020	Tax	288.00	0.00	0.00	0.00	PAID
2019	11/29/2019	Tax	288.00	0.00	0.00	0.00	PAID
Last Payment: 10/20/21							

[Return to Home](#)



Overview



Legend

- Cobb Tile Index
- Cities**
- Acworth
- Austell
- Kennesaw
- Marietta
- Powder Springs
- Smyrna
- Unincorporated
- ▲ Administrative Facilities
- Libraries
- Police Stations
- Fire Stations
- County Parks
- Federal Parks
- Parcels
- Roads**
- ARTERIAL
- INTERSTATE
- LOCAL
- MAJOR
- MINOR
- PRIVATE
- RAMP

Parcel ID	19073500080	Physical Address	POWDER SPRINGS DALLAS RD	Last 2 Sales			
Class Code	E2 - Exempt - Churches	Owner	GRACE BAPTIST CHURCH OF MABLETON INC	Date	Price	Reason	Qual
Taxing District	(5) POWDER SPRINGS		5790 POWDER SPRING DALLAS HWY	8/10/2004	\$400000	n/a	U
Acres	3.66		POWDER SPRINGS GA 30127	n/a	0	n/a	n/a

Date created: 10/19/2021
 Last Data Uploaded: 10/19/2021 6:36:28 AM



Parcel Id:	19-073500080	Tax Account Id:	6944
Property Location:	POWDER SPRINGS DALLAS RD	Zoning Code:	
Owner Name/Address:	GRACE BAPTIST CHURCH OF MABLETON IN 5790 POWDER SPRINGS DALLAS RD POWDER SPRINGS GA 30127	Land Value:	0
		Improvement Value:	0
		Exempt Value:	0.00
		Total Assessed Value:	0.00
		Deductions:	None

Taxes

Make a Payment						
Year Due Date	Type	Billed	Balance	Interest	Total Due	Status
Last Payment: N/A						

[Return to Home](#)

LEGAL DESCRIPTION
(OVERALL)

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 672, 734 & 735, 19TH DISTRICT, 2ND SECTION, CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 REBAR FOUND AT THE INTERSECTION OF THE COMMON LINE OF LAND LOTS 734 & 734 AND THE NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD (F/K/A U.S. HIGHWAY 278, APPARENT 120' R/W), SAID POINT BEING THE TRUE POINT OF BEGINNING.

THENCE LEAVING SAID INTERSECTION AND FOLLOWING ALONG SAID COMMON LINE OF LAND LOTS 734 & 735 AND SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD SOUTH 01 DEGREES 00 MINUTES 25 SECONDS WEST 5.66 FEET TO A POINT;

THENCE LEAVING SAID INTERSECTION AND CONTINUING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD THE FOLLOWING COURSES AND DISTANCES:

NORTH 31 DEGREES 24 MINUTES 56 SECONDS WEST 101.36 FEET TO A POINT;

THENCE NORTH 28 DEGREES 28 MINUTES 44 SECONDS WEST 320.00 FEET TO A POINT;

THENCE NORTH 28 DEGREES 28 MINUTES 44 SECONDS WEST 27.03 FEET TO A POINT;

THENCE NORTH 28 DEGREES 16 MINUTES 22 SECONDS WEST 616.44 FEET TO A POINT AT THE INTERSECTION OF SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD AND THE SOUTHWESTERLY PROPERTY LINE OF THE STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION SILVER COMET TRAIL;

THENCE LEAVING SAID INTERSECTION AND FOLLOWING ALONG SAID SILVER COMET TRAIL THE FOLLOWING COURSES AND DISTANCES:

SOUTH 74 DEGREES 24 MINUTES 23 SECONDS EAST 194.23 FEET TO A POINT;

THENCE 353.04 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVE A RADIUS OF 5679.58 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 72 DEGREES 37 MINUTES 32 SECONDS EAST 352.98 FEET TO A #4 REBAR FOUND AT THE INTERSECTION OF SAID SOUTHWESTERLY PROPERTY LINE OF THE SILVER COMET TRAIL AND THE COMMON LINE OF LAND LOTS 734 & 735;

THENCE FOLLOWING ALONG SAID SOUTHWESTERLY PROPERTY LINE OF THE SILVER COMET TRAIL AND SAID COMMON LINE OF LAND LOTS 734 & 735 SOUTH 00 DEGREES 21 MINUTES 31 SECONDS EAST 10.61 FEET TO A #4 REBAR WITH CAP;

THENCE LEAVING SAID INTERSECTION AND CONTINUING ALONG SAID PROPERTY LINE OF THE SILVER COMET TRAIL THE FOLLOWING COURSES AND DISTANCES:

287.28 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 5669.58 FEET AND BEING SUBTENDED BY A CHORD BEARING AND

DISTANCE OF SOUTH 69 DEGREES 21 MINUTES 53 SECONDS EAST 287.25 FEET TO A #4 REBAR SET;

THENCE SOUTH 67 DEGREES 54 MINUTES 41 SECONDS EAST 80.47 FEET TO A #4 REBAR FOUND;

THENCE LEAVING SAID PROPERTY LINE OF THE SILVER COMET AND ALONG THE PROPERTY OF THE CITY OF POWDER SPRINGS SOUTH 34 DEGREES 25 MINUTES 31 SECONDS EAST 410.41 FEET TO A POINT;

THENCE LEAVING SAID CITY PROPERTY AND ALONG A CALCULATED LINE SOUTH 56 DEGREES 58 MINUTES 49 SECONDS WEST 650.29 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD;

THENCE LEAVING SAID CALCULATED LINE AND FOLLOWING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD NORTH 34 DEGREES 25 MINUTES 59 SECONDS WEST 77.39 FEET TO A #4 REBAR FOUND AT THE INTERSECTION OF THE COMMON LINE OF LAND LOTS 734 & 735 AND THE NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINS 11.48 ACRES MORE OR LESS.

LEGAL DESCRIPTION
(AMBURN PROPERTY)

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 734, 19TH DISTRICT, 2ND SECTION, CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 REBAR FOUND AT THE INTERSECTION OF THE WESTERN LINE OF LAND LOT 734 AND THE NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD (F/K/A U.S. HIGHWAY 278, APPARENT 120' R/W), SAID POINT BEING THE TRUE POINT OF BEGINNING.

THENCE LEAVING SAID INTERSECTION AND FOLLOWING ALONG SAID WESTERN LINE OF LAND LOT 734 AND THE PROPERTY LINE OF GRACE BAPTIST CHURCH OF MABLETON, INC. NORTH 01 DEGREES 01 MINUTES 34 SECONDS EAST 760.68 FEET TO A #4 REBAR FOUND WITH CAP AT THE INTERSECTION OF SAID WESTERN LINE OF LAND LOT 734 AND THE SOUTHWESTERLY PROPERTY LINE OF THE STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION SILVER COMET TRAIL;

THENCE LEAVING SAID WESTERN LINE OF LAND LOT 734 AND CHURCH PROPERTY AND FOLLOWING ALONG SAID PROPERTY LINE OF THE SILVER COMET TRAIL THE FOLLOWING COURSES AND DISTANCES:

ALONG A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 287.28 FEET, WITH A RADIUS OF 5669.58 FEET, SUBTENDED BY A CHORD OF 287.25 FEET, WITH A CHORD BEARING OF SOUTH 69 DEGREES 21 MINUTES 53 SECONDS EAST TO A #4 REBAR SET;

THENCE SOUTH 67 DEGREES 54 MINUTES 41 SECONDS EAST 80.47 FEET TO A #4 REBAR FOUND;

THENCE LEAVING SAID PROPERTY LINE OF THE SILVER COMET AND ALONG THE PROPERTY OF THE CITY OF POWDER SPRINGS SOUTH 34 DEGREES 25 MINUTES 31 SECONDS EAST 410.41 FEET TO A POINT;

THENCE LEAVING SAID CITY PROPERTY AND ALONG A CALCULATED LINE SOUTH 56 DEGREES 58 MINUTES 49 SECONDS WEST 650.29 FEET TO A POINT ON SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD;

THENCE LEAVING SAID CALCULATED LINE AND FOLLOWING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD NORTH 34 DEGREES 25 MINUTES 59 SECONDS WEST 77.39 FEET TO A #4 REBAR FOUND AT THE INTERSECTION OF THE WESTERN LINE OF LAND LOT 734 AND THE NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINS 6.67 ACRES MORE OR LESS.

LEGAL DESCRIPTION*
(CHURCH PROPERTY - COMBINED)

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 672 & 735, 19TH DISTRICT, 2ND SECTION, CITY OF POWDER SPRINGS, COBB COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #4 REBAR FOUND AT THE INTERSECTION OF THE EASTERN LINE OF LAND LOT 735 AND THE NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD (F/K/A U.S. HIGHWAY 278, APPARENT 120' R/W), SAID POINT BEING THE TRUE POINT OF BEGINNING.

THENCE LEAVING SAID INTERSECTION AND FOLLOWING ALONG SAID EASTERN LINE OF LAND LOT 735 AND SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD SOUTH 01 DEGREES 00 MINUTES 25 SECONDS WEST 5.66 FEET TO A POINT;

THENCE LEAVING SAID INTERSECTION AND CONTINUING ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD THE FOLLOWING COURSES AND DISTANCES:

NORTH 31 DEGREES 24 MINUTES 56 SECONDS WEST 101.36 FEET TO A POINT;

THENCE NORTH 28 DEGREES 28 MINUTES 44 SECONDS WEST 320.00 FEET TO A POINT;

THENCE NORTH 28 DEGREES 28 MINUTES 44 SECONDS WEST 27.03 FEET TO A POINT;

THENCE NORTH 28 DEGREES 16 MINUTES 22 SECONDS WEST 616.44 FEET TO A POINT AT THE INTERSECTION OF SAID NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD AND THE SOUTHWESTERLY PROPERTY LINE OF THE STATE OF GEORGIA DEPARTMENT OF TRANSPORTATION SILVER COMET TRAIL;

THENCE LEAVING SAID INTERSECTION AND FOLLOWING ALONG SAID SILVER COMET TRAIL THE FOLLOWING COURSES AND DISTANCES:

SOUTH 74 DEGREES 24 MINUTES 23 SECONDS EAST 194.23 FEET TO A POINT;

THENCE 353.04 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVE A RADIUS OF 5679.58 FEET AND BEING SUBTENDED BY A CHORD BEARING AND DISTANCE OF SOUTH 72 DEGREES 37 MINUTES 32 SECONDS EAST 352.98 FEET TO A #4 REBAR FOUND AT THE INTERSECTION OF SAID SOUTHWESTERLY PROPERTY LINE OF THE SILVER COMET TRAIL AND THE EASTERN LINE OF LAND LOT 735;

THENCE FOLLOWING ALONG SAID SOUTHWESTERLY PROPERTY LINE OF THE SILVER COMET TRAIL AND SAID EASTERN LINE OF LAND LOT 735 SOUTH 00 DEGREES 21 MINUTES 31 SECONDS EAST 10.61 FEET TO A #4 REBAR WITH CAP;

THENCE LEAVING SAID INTERSECTION AND CONTINUING ALONG SAID EASTERN LINE OF LAND LOT 735 AND ALONG THE AMBURN PROPERTY SOUTH 01 DEGREES 01 MINUTES 34 SECONDS WEST 760.68 FEET TO A #4 REBAR FOUND AT SAID INTERSECTION OF THE EASTERN LINE OF LAND LOT 735 AND SAID

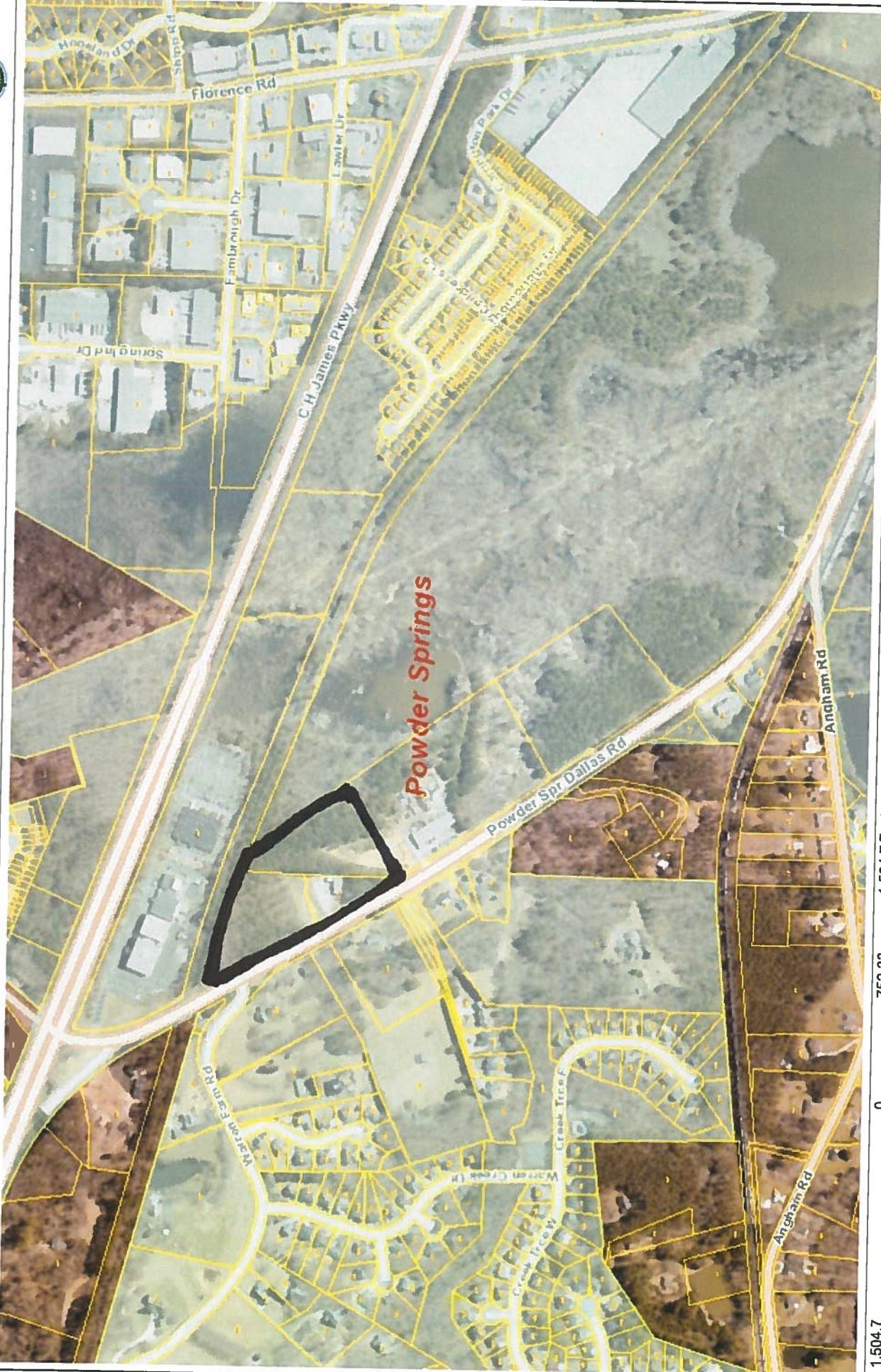
NORTHEASTERLY RIGHT OF WAY LINE OF POWDER SPRINGS DALLAS ROAD,
SAID POINT BEING THE TRUE POINT OF BEGINNING.

SAID TRACT OR PARCEL CONTAINS 4.81 ACRES MORE OR LESS.

*PROPERTY DESCRIPTION IS FROM RECORD DEED BOOK 14041, PAGE 1859, TRACTS I & II
AND UNRECORDED SURVEY FOR STATE OF GEORGIA DEPARTMENT OF
TRANSPORTATION BY DONALDSON, GARRETT & ASSOCIATES DATED SEPTEMBER 1993,
SHEET 12 OF 34. BEARINGS HAVE BEEN ROTATED TO THE COMMON PROPERTY LINE OF
THE SURVEY OF AMBURN PROPERTY BY GASKINS.



Powder Springs Dallas Road - Vicinity Map



1,504.7

0

752.33

1,504.7 Feet

WGS, 1984, Web Mercator_Auxiliary_Sphere
© Cobb County Georgia

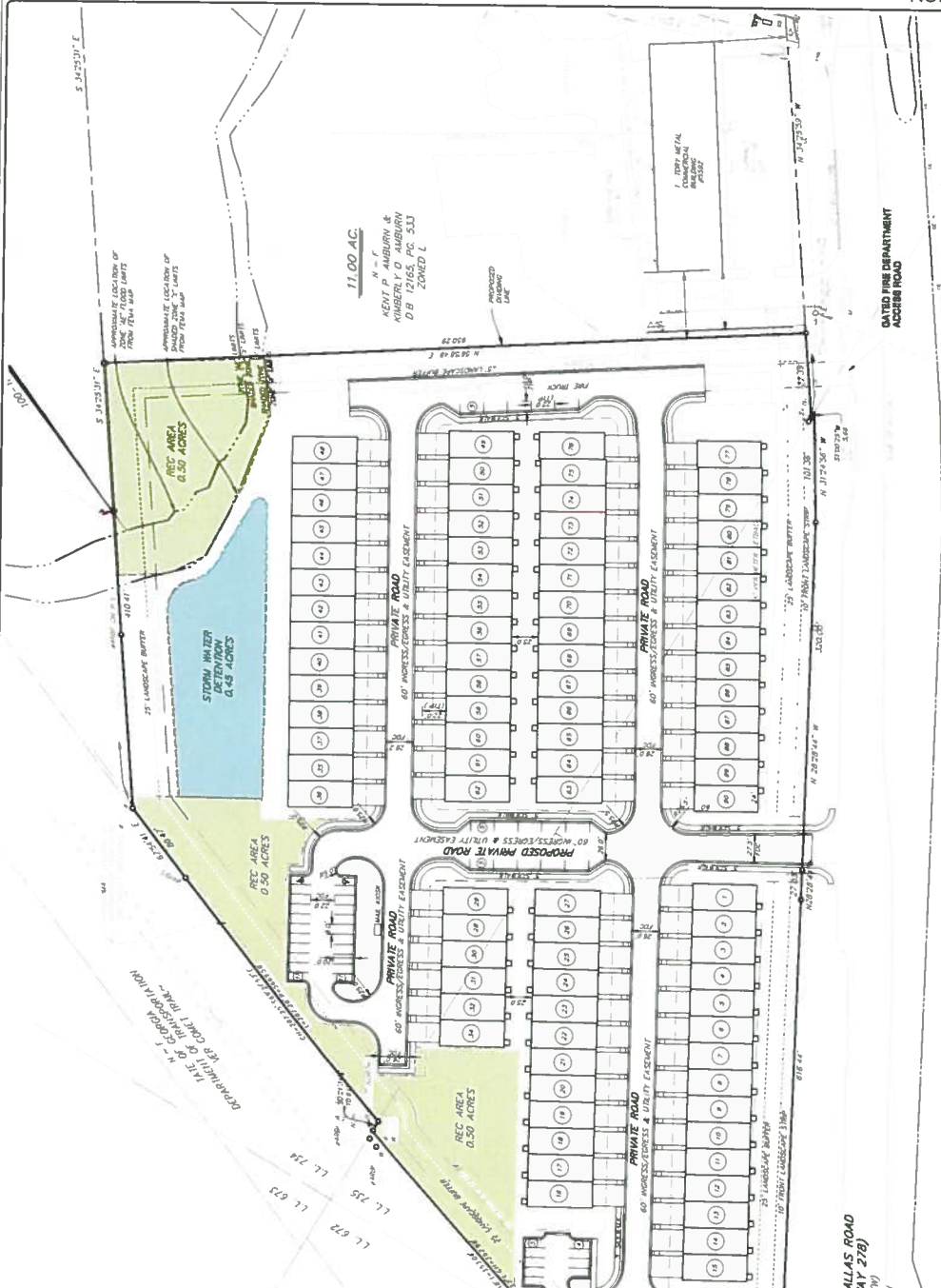
This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

1:9,028

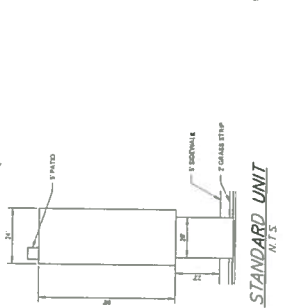


Map Notes:

ZONING	
TOTAL SITE AREA	= 11.5 ACRES
CURRENT ZONING	= LI (LIGHT INDUSTRIAL)
PROPOSED ZONING	= PD-R (PLANNED UNIT DEVELOPMENT-RESIDENTIAL)
NO. OF UNITS	= 90
MAXIMUM RESIDENTIAL DENSITY	= 8 DWELLING UNITS PER ACRE
PROPOSED RESIDENTIAL DENSITY	= 7.8 UNITS/AC
MAXIMUM BUILDING HEIGHT	= 35 FEET
MAXIMUM BUILDING HEIGHT	= 2 STORIES
REQUIRED OPEN SPACE/REC AREA	= 1.8 AC (1 AC 50 UNITS)
PROVIDE OPEN SPACE REC AREA	= 1.8 AC
REQUIRED PARKING	= 225 SPACES
PER POWDER SPRINGS BRD	= 180 SPACES (2X UNITS)
PER COBB TAD	= 45 SPACES (0.5X UNITS)
PROVIDED PARKING	= 226 SPACES
PER POWDER SPRINGS OR	= 180 SPACES
PER COBB TAD	= 46 SPACES



REVISION	DATE	DESCRIPTION



POWDER SPRINGS DALLAS ROAD
(FRONT 120' (ONLY)
SPEED LIMIT 45MPH

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U

GRACE BAPTIST CHURCH
OF HABLETON, INC.
D/B TRACT 1859
ZONED U



BLUE RIVER DEVELOPMENT
SILVER COMET
LAND LOT 73A, 19TH DISTRICT 2ND SECTION
CITY OF POWDER SPRINGS COBB COUNTY, GEORGIA
ZONED PRD

PROJECT ID	FIELD BOOK	NO.	DATE

PROJECT ID	FIELD BOOK	NO.	DATE

NOT ISSUED FOR CONSTRUCTION

10

ATTACHMENT TO APPLICATION FOR REZONING

Application No.: _____
Planning Commission Hearing: **November 22, 2021**
City Council Hearing: **December 6, 2021**

**BEFORE THE PLANNING AND ZONING COMMISSIONERS
AND THE MAYOR AND CITY COUNCIL
FOR THE CITY OF POWDER SPRINGS, GEORGIA**

**CONSTITUTIONAL CHALLENGE
ATTACHMENT TO APPLICATION FOR REZONING**

COME NOW, Applicant, BLUE RIVER DEVELOPMENT LLC (hereinafter referred to as “Applicant”), and Property Owners, KENT P. AMBURN; KIMBERLY O. AMBURN; and GRACE BAPTIST CHURCH OF MABLETON, INC. (hereinafter collectively referred to as “Owners” or “Property Owners”), and assert the following:

1.

By Application for Rezoning dated and filed October 26, 2021, Applicant and Property Owners applied for rezoning of certain real property located within incorporated City of Powder Springs, Georgia, a more particular description and delineation of the subject property being set forth in said Application (hereinafter referred to as the “Property” or “Subject Property”).

2.

The Application for Rezoning of the Property seeks rezoning from the existing zoning category of Light Industrial (“LI”) to the proposed zoning classification of PUD-R, as established by the governing authority of the City of Powder Springs, Georgia, under and pursuant to the Unified Development Code of Powder Springs Georgia, as amended, being hereinafter referred to as the “Unified Development Code of the City of Powder Springs.”

3.

With respect to the existing LI zoning classification, Applicant and Property Owners do contend the Unified Development Code of the City of Powder Springs, Georgia is unconstitutional as applied to the Property in that said Ordinance does not permit the Applicant and Property Owners to utilize the Property to the use set forth within the Application for Rezoning without the necessity of rezoning. However, Applicant and Property Owners do not contend the current zoning category of LI is unconstitutional, per se, only as applied. Thus, the Ordinance deprives Applicant and Property Owners of their Property under and pursuant to Art. I, § I, ¶¶ I and II of the Georgia Constitution of 1983, and the Equal Protection and Due Process Clauses of the Fifth and Fourteenth Amendments to the Constitution of the United States of America. This deprivation of Property without due process violates the constitutional prohibition against the taking of private property without just compensation. The existing zoning category of LI, together with any intervening zoning categories between the existing LI category and the requested PUD-R category, violate the Applicant's and Property Owners' rights to unfettered use of their Property, as stated above, in that said zoning classifications do not bear a substantial relation to the public health, safety, morality, or general welfare and are therefore confiscatory and void. Further, said Ordinance is unconstitutional in that it is arbitrary and unreasonable resulting in relatively little gain or benefit to the public, while inflicting serious injury and loss on the Applicant and Property Owners.

4.

To the extent the Unified Development Code of the City of Powder Springs, Georgia, allows or permits the Mayor and City Council to rezone the Subject Property to any category other than as requested, said Ordinance is further unconstitutional in that same violates

Applicant's and Property Owners' constitutionally guaranteed rights to due process, both substantive and procedural. Furthermore, any such action by the Mayor and City Council, or as allowed by the Unified Development Code of the City of Powder Springs, is an unconstitutional use of the zoning power and would constitute an abuse of discretion with no justification or benefit flowing to the public welfare. Accordingly, said Ordinance or action would likewise represent a taking of private property rights without the payment of just and adequate compensation in violation of the Constitutions of the State of Georgia and the United States of America.

5.

The Ordinance is further unconstitutional in that the procedures contained therein pertaining to the public hearing held in connection with the Zoning Application also violate Art. I, § I, ¶¶ I, II, and XII of the Georgia Constitution of 1983 in that said procedures impose unreasonable time restraints, contain the absence of rebuttal, contain the inability to confront witnesses, contain the lack of procedural and evidentiary safeguards, do not restrict evidence received to the issue at hand and are controlled wholly and solely by political considerations rather than the facts and considerations required by law. These procedures fail to comport with the due process requirements of the Constitution of the State of Georgia 1983 and the due process requirements of the Constitution of the United States of America.

Respectfully submitted, this 26th day of October, 2021.

MOORE INGRAM JOHNSON & STEELE, LLP

BY: 

J. KEVIN MOORE

Georgia Bar No. 519728

Attorneys for Applicant and Property Owners