



City of Cumming Planning & Development

100 Main Street
Cumming, Georgia 30040
Phone: (770) 781-2024
Email: s.morgan@cityofcumming.net
Website: www.cityofcumming.net

Annexation Petition
into the
City of Cumming, GA

Annexation# 2024/24

RECEIVED

JUN 10 2024

CITY OF CUMMING

Please Print Clearly

Applicant's Name: Virtue Investment Group, LLC

Applicant's Mailing Address: 202 Tribble Gap, Cumming, GA 30040

City: Cumming State: GA Zip: 30040

Applicant's Telephone Number(s): 770-781-4100

Address of Property to be Annexed: 0 Dahlonega Highway Cumming, GA 30040

County Zoning Classification: Commercial Business District (CBD)

Requested City Zoning Classification: Highway Business (HB)

Tax Map # C22 Parcel # 023 Land Lot # 1038, 1039, 1050, &1051

District # 3rd Size of Property in Acres: 3.356

Current Use of Property: Vacant / Undeveloped

Petition **MUST** include a completed application with signatures and **ALL** attachments.

- An 8 ½ x 11 copy of the current **RECORDED BOUNDARY SURVEY** of said property showing the contiguity of said property to the existing corporate limits of the City of Cumming, Georgia (**Attached hereto as Exhibit "A"**).
- A copy of the current metes and bounds **LEGAL DESCRIPTION** that matches the boundary survey of the property being annexed (**Attached hereto as Exhibit "B"**).
- Survey must be signed and sealed by a Registered Land Surveyor.
- If property is to be rezoned upon annexation, you must file a separate Re-Zoning Application along with this petition.

Please answer the following questions:

1. Intended Use of Land: Residential Commercial
 Existing Structure(s) Vacant
 Other (specify) _____

2. Number of persons currently residing on the property: N/A;
 Number 18 years or older: N/A; Number registered to vote: N/A

3. The number of all residents occupying the property:

N/A _____ American Indian _____	N/A _____ Alaskan Native _____
N/A _____ Asian _____	N/A _____ Pacific Islander _____
N/A _____ Black, not of Hispanic Origin _____	N/A _____ Hispanic _____
N/A _____ White, not of Hispanic Origin _____	

4. The U.S. Department of Commerce requires certain information for the purpose of Population Estimates. Please complete the attached **Exhibit "C"**.

5. Please briefly describe your reason for seeking annexation: See attached Letter of Intent.

I/We the undersigned, being the owner(s) of real property of the territory described herein, understanding that the City of Cumming has not sought this annexation but that the undersigned files this petition voluntarily of its own free will and volition, respectfully request that the Mayor and City Council of the City of Cumming, Georgia annex this property into the City and extend the City boundaries to include the same.

Upon signature of this document, I/We the undersigned certify that all the information provided is true and accurate to the best of our knowledge.

 4/23/2024
Property Owner's Signature Date

Deanli Properties LLC - Rajan Kalidindi
Property Owner's Printed Name

 4/23/2024
Applicant's Signature Date

Virtue Investment Group LLC - Rajan Kalidindi
Applicant's Printed Name

5755 North Point Pkwy, Suite 262, Alpharetta, Georgia 30022
Applicant's Address

770-609-9999
Applicant's Telephone Number

Annexation Application Checklist: Date Rec'd _____	Completed Application with Signatures
Rec'd _____	Exhibit "A" – Current Boundary Survey
Rec'd _____	Exhibit "B" – Legal Description
Rec'd _____	Exhibit "C" – Population Estimate Information
Date of Planning Commission Meeting (if rezone): _____	
Dates Advertised: _____	
Date of City Council Reading: _____	Approved: YES NO
Certified Mail: _____	County Board of Commissioner Chairman _____ County Manager _____ County Attorney _____

Exhibit "C" – Population Estimate Information

A. Number of existing housing units

N/A

B. List of Addresses for each housing unit in the annexed area at the time of the annexation

N/A

C. Disposition of existing structures (e.g. to be demolished, moved or converted)

N/A

D. Names of affected Subdivision

N/A

E. Name of affected Multi-Family Complex

N/A

F. Names of Group Quarters (dormitories, nursing homes, jails, etc.)

N/A

G. Names of affected Duplexes

N/A

H. Names of Mobile Home Parks

N/A



Miles Hansford, LLC

ATTORNEYS AT LAW

202 Tribble Gap Road · Suite 200 · Cumming, GA 30040
178 S Main Street · Suite 310 · Alpharetta, GA 30009
Phone 770.781.4100

MilesHansford.com

J. Ethan Underwood
eunderwood@MilesHansford.com

RESERVATION OF CONSTITUTIONAL AND OTHER LEGAL RIGHTS

Applicant:	Virtue Investment Group, LLC
Subject Property:	3.356 Acres Designated as Forsyth County Tax Parcel(s): C22-023
Current Zoning:	CBD – Commercial Business District (Forsyth County)
Proposed Zoning:	HB – Highway Business District (City of Cumming)
Proposed Use:	5,000 SF of Office; 10,000 SF of Office, Storage Facility
Application:	Petition for Annexation
ROW Access:	Dahlonega Highway (SR 9)
Governing Jurisdiction:	City of Cumming

This Reservation of Constitutional and Other Legal Rights (“the Reservation”) is intended to supplement and form a part of the land use application (including any request for zoning, conditional use permit, site plan approval, and variances) (collectively, the “Application”) of the Applicant and the owners of the Subject Property (collectively, the “Owner”) and to put the Governing Jurisdiction on notice of the Applicant’s assertion of its constitutional and legal rights.

The Applicant has filed a timely application, has provided all required information and has submitted the appropriate application fees. The Application meets all judicial and statutory requirements for approval.

The Applicant objects to the standing of any opponents who are not owners of land adjoining the Subject Property and to the consideration by the Governing Jurisdiction of testimony or evidence presented by any party without standing in making its decision regarding the Application. The Applicant also objects to the consideration of testimony or evidence that is hearsay, violates any applicable rules of procedure or evidence, or that is presented by any party who fails to comply with notice and campaign disclosure requirements.

The Current Zoning (and/or zoning conditions) of the Subject Property is unconstitutional and deprives the Subject Property and all viable economic use thereof. The Proposed Use is the only viable economic use of the Subject Property, and the Governing Jurisdiction has deemed this Application necessary to allow the Proposed Use. As such, the Applicant and Owner file this Application for the purpose of changing the Current Zoning (and/or zoning conditions and requesting variances) to facilitate the Proposed Use, and to exhaust administrative remedies in the event the Application is denied. As such, the filing of this application is not an admission of the need for any such approval of the Applicant’s right to develop the property. The Applicant and Owner reserve the right to challenge the Current Zoning and any zoning conditions and other restrictions affecting the Subject Property.

Denial of the Application or approval of the Application in any form that is different than as requested by the Applicant will impose a disproportionate hardship on the Applicant and Owner of the Subject Property without benefiting any surrounding property owners. There is no reasonable use of the Subject Property

without benefiting any surrounding property owners. There is no reasonable use of the Subject Property other than as proposed by the Application and no resulting benefit to the public from denial of or modification to the Application.

Any provisions in the applicable land use, subdivision, and /or zoning ordinances (collectively the "Zoning Ordinance") that classify, or may classify, the Subject Property into any of the non-requested zoning or use classifications, including the Proposed Zoning District and Proposed Use at a density or intensity less than that requested by the Applicant, are unconstitutional in that they constitute a taking of the Applicant's and Owner's property rights without first paying fair, adequate, and just compensation for such rights in violation of Article I, Section III, Paragraph I of the Georgia Constitution of 1983, as amended and the Fifth and Fourteenth Amendments to the Constitution of the United States.

The Subject Property is suitable for development as proposed in the Application and it is not suitable for development under any other zoning classification, use, or at a density or intensity less than that requested by the Applicant. Failure to approve the Application as requested by the Applicant would be an unreasonable application of local land use authority, which bears no relationship to the public health, safety, morality or general welfare of the public and would constitute an arbitrary and capricious abuse of discretion in violation of Article I, Section I, Paragraph I of the Georgia Constitution of 1983, as amended and the Due Process Clause of the Fifth and Fourteenth Amendments to the Constitution of the United States.

A refusal by the Governing Jurisdiction to approve the Application as requested by the Applicant will prohibit the only viable economic use of the Subject Property, will be unconstitutional and will discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Owner and the owners of similarly situated properties in violation of Article I, Section I, Paragraph II of the Georgia Constitution of 1983, as amended, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Governing Jurisdiction to approve the Application as requested by the Applicant without the consent of persons elected to the governing body of the Governing Jurisdiction will amount to an unlawful delegation of the Governing Jurisdiction's authority, in violation of Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, as amended.

Furthermore, the Governing Jurisdiction cannot lawfully impose more restrictive standards on the Subject Property's development than are presently set forth in the Zoning Ordinance. Any conditions or other restrictions imposed on the Subject Property without the consent of the Applicant and Owner that do not serve to reasonably ameliorate the negative impacts of the development are invalid and void. The imposition of improvements or design requirements unnecessary to facilitate the proposed development constitute an illegal impact fee, an unconstitutional condemnation, or both. As such, the Applicant and Owner reserve the right to challenge any such conditions, restrictions, or design requirements.

The Applicant and Owner assert that each has expended substantial sums and significantly changed its economic position in reliance upon versions of the Zoning Ordinance that allow the development of the Subject Property as proposed by the Applicant. As such, the Applicant has acquired vested rights to develop the property and the filing of this Application shall not constitute a waiver of those vested rights.

Finally, the Applicant and Owner assert that the current Zoning Ordinance, Character Area Map, Future Development Map and Comprehensive Plan were not adopted in compliance with the laws or constitutions of the State of Georgia or of the United States, and a denial of the Applicant's request based upon provisions illegally adopted will deprive the Applicant and Owner of due process under the law.

This Reservation constitutes an Ante Litem Notice pursuant to O.C.G.A. § 36-11-1, which places the Governing Jurisdiction and all other agents of the Governing Jurisdiction, in their official and individual capacities, on notice of the Applicant's and Owner's intent to seek monetary damages and attorney's fees against the Governing Jurisdiction for any rezoning action, zoning condition, illegal impact fee, and any other unlawful restrictions and exactions that are imposed upon the Subject Property, the Applicant, or the Owner.

By filing this Reservation, the Applicant reserves all rights and remedies available to it under the United States Constitution, the Georgia Constitution, all applicable federal, state, and local laws and ordinances, and in equity.

The Applicant and Owner respectfully request that the Application be approved as requested by the Applicant and in the manner shown on the Application, which is incorporated herein by reference. This Reservation forms an integral part of the Application, and we ask that this Reservation be included with the Applicant's other Application materials. The Applicant and Owner reserve the right to amend and supplement this Reservation at any time.

Sincerely,



Ethan Underwood
Attorney for Applicant



J. Ethan Underwood
eunderwood@MilesHansford.com

LETTER OF INTENT REGARDING LAND USE APPLICATION

Applicant:	Virtue Investment Group, LLC
Subject Property:	3.356 Acres Designated as Forsyth County Tax Parcel(s): C22-023
Current Zoning:	CBD – Commercial Business District (Forsyth County)
Proposed Zoning:	HB – Highway Business District (City of Cumming)
Proposed Use:	5,000 SF of Office; 10,000 SF of Office, Storage Facility
Application:	Petition for Annexation
ROW Access:	Dahlonega Highway (SR 9)
Governing Jurisdiction:	City of Cumming

This statement is intended to comply with the application procedures established by the Zoning Ordinance of the City of Cumming (the “Zoning Ordinance”), the City of Cumming Annexation Petition, and other City of Cumming Ordinances and Standards. The Applicant incorporates all statements made in the Annexation for Public Hearing by the Applicant (the “Application”) as its letter of intent required by the City of Cumming.

The Subject Property is approximately 3.356 acres known as Forsyth County Tax Parcel C22-023.

Specifically, the Applicant requests the following:

- a) **Annex the Subject Property into the City of Cumming.**
- b) **Rezone the Subject Property from Commercial Business District (CBD) (County) to Highway Business District (HB) (City).**

REASON FOR ANNEXATION

The Applicant is seeking annexation into the City of Cumming to facilitate the development of the Proposed Use.

ZONING CRITERIA

1. The Existing Land Use Pattern

The Subject Property is adjacent to Single Family Residential District (R-1) (County), Commercial Business District (CBD) (County), and Institutional District (INST) (City) to the south. It is also adjacent to Single

Family Residential District (R1) (County) to the north and Institutional District (INST) (City) to the west. The Subject Property is adjacent to Highway Business (HB) (County) to the east.

The surrounding area is used for primarily commercial uses with existing auto repairs shops and a storage facility to the east and VFW Post to the north. Two parcels to the south are current residential uses despite one parcel being zoned as Commercial Business District (CBD) (County), and another parcel to the south is undeveloped portion of the Dobbs Creek Recreation Center.

The existing land use pattern in this area is for commercial uses. As such, the Proposed Use is a suitable use for the area and provides a complimentary use to the nearby commercial and residential uses.

2. The possible creation of an isolated district unrelated to adjacent and nearby districts.

The Subject Property is adjacent to Single Family Residential District (R-1) (County), Commercial Business District (CBD) (County), and Institutional District (INST) (City) to the south. It is also adjacent to Single Family Residential District (R1) (County) to the north and Institutional District (INST) (City) to the west. The Subject Property is adjacent to Highway Business (HB) (County) to the east.

The Proposed Use and Proposed Zoning will not adversely affect the existing use or usability of adjacent or nearby property, nor will they create an isolated district unrelated to adjacent and nearby districts.

3. The population density pattern and possible increase or overtaxing of public safety or the load on public facilities including, but not limited to schools, utilities and streets.

The Applicant does not project the Proposed Use will result in any increase in the population. The Proposed Use will not result in a use that will cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The projected impact on utilities and other facilities will be in keeping with projected growth, and any applicable impact fees and/or taxes from the development will fund necessary infrastructure improvements.

4. The cost of the local government in providing, improving, increasing or maintaining public utilities, schools, streets and public safety measures

The Proposed Use will not result in a use that will cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The projected impact on utilities and other facilities will be in keeping with projected growth, and any applicable impact fees and/or taxes from the development will fund necessary infrastructure improvements.

5. Impact on the environment, including, but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality and quantity.

The Proposed Use will not result in an adverse impact on the environment. The Applicant will abide by all local, state, and federal requirements regarding environmental impacts to drainage, soil erosion and sedimentation, flooding, air quality and water quality.

6. Whether the proposed change will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

The Proposed Use is consistent with the developing trend in the area and provides a complementary use to the adjacent and nearby residential and institutional uses.

7. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.

The Subject Property is currently zoned Commercial Business District (CBD) (County). According to the Zoning Ordinance, the Proposed Use is not permitted in any residential zoning districts within the City except for the Proposed Zoning. Therefore, pursuant to the City's Zoning Ordinance, the Applicant requests the Subject Property be annexed into the City of Cumming with Highway Business District (HB) zoning to facilitate the Proposed Use.

8. The aesthetic effect of existing and future use of the property as it relates to the surrounding area.

The Proposed Use will enhance surrounding property values and is consistent with the developing trend in the area by providing a complementary use to the adjacent and nearby residential and commercial uses.

9. The extent to which the zoning decision is consistent with the Comprehensive Plan of the City.

The Subject Property is consistent with the Comprehensive Plan by providing a complementary use to the adjacent and nearby residential and commercial uses. The Subject Property is not currently depicted on the City's Future Land Use Map; however, it is contiguous to the City's boundary and will provide a complementary use to the nearby residential and institutional uses.

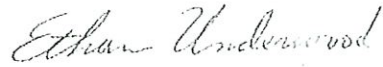
10. Any other factors relevant to the balancing interest in promoting the public health, safety, morality, or general welfare against a right to unrestricted use of property.

Approval of the Application will not cause a safety hazard or noxious condition.

CONCLUSION

The Applicant respectfully requests that the Application, as requested by the Applicant, be approved. The Applicant also reserves the right to amend this Letter of Intent and the Application by supplementing further responses and documents.

Sincerely,



Ethan Underwood
Attorney for Applicant



Miles Hansford, LLC
ATTORNEYS AT LAW

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Phone 770.781.4100

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J. Ethan Underwood
eunderwood@MilesHansford.com

April 23, 2024

CAMPAIGN DISCLOSURE

Applicant:	Virtue Investment Group, LLC
Subject Property:	3.356 Acres Designated as Forsyth County Tax Parcel(s): C22-023
Current Zoning:	CBD – Commercial Business District (Forsyth County)
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Governing Jurisdiction:	City of Cumming

Please be advised that Miles Hansford, LLC, has not given campaign contributions to any City of Cumming government officials.

This letter constitutes the disclosure of campaign contributions with respect to the above-referenced application and is forms a part of such application.

Sincerely,

Ethan Underwood
Attorney for Applicant

Legal Description

All that tract or parcel of land lying and being in Land Lots 1038, 1039, 1050, and 1051 of the 3rd Land District of the 1st Section, Forsyth County, Georgia containing 3.356 acres on a plat of survey dated April 2, 1986 prepared for Carrol C. Buice by Thomas M. Patton, certified by Thomas M. Patton, Georgia Registered Land Surveyor No. 967, recorded in Plat Book 24, Page 209, Forsyth County, Georgia records. Said property is more fully described according to the above-referenced plat, which is incorporated herein by this reference and described as follows:

To find the True Point of Beginning commence from an iron pin found located on the westerly right of way of Georgia Hwy 9 (an 80' R/W); run

Thence South 34 degrees 48 minutes 55 seconds West a distance of 182.00 feet to an iron pin found; run

Thence North 57 degrees 15 minutes 37 seconds West a distance of 176.44 feet to an iron pin found; run

Thence North 35 degrees 12 minutes 24 seconds East a distance of 19.80 feet to an iron pin found; run

Thence North 56 degrees 20 minutes 28 seconds West a distance of 99.94 feet to an iron pin found; run

Thence South 53 degrees 11 minutes 58 seconds West a distance of 96.56 feet to an iron pin found; run

Thence North 84 degrees 42 minutes 52 seconds West a distance of 112.12 feet to an iron pin found; run

Thence North 65 degrees 27 minutes 01 seconds West a distance of 46.81 feet to a point; run

Thence North 31 degrees 58 minutes 11 seconds West a distance of 135.75 feet to a point; run

Thence North 27 degrees 23 minutes 17 seconds West a distance of 133.40 feet to a point; run

Thence North 20 degrees 52 minutes 15 seconds East a distance of 39.20 feet to a point; run

Thence North 27 degrees 57 minutes 17 seconds East a distance of 38.20 feet to a point; run

Thence North 40 degrees 02 minutes 30 seconds East a distance of 65.41 to a point; run

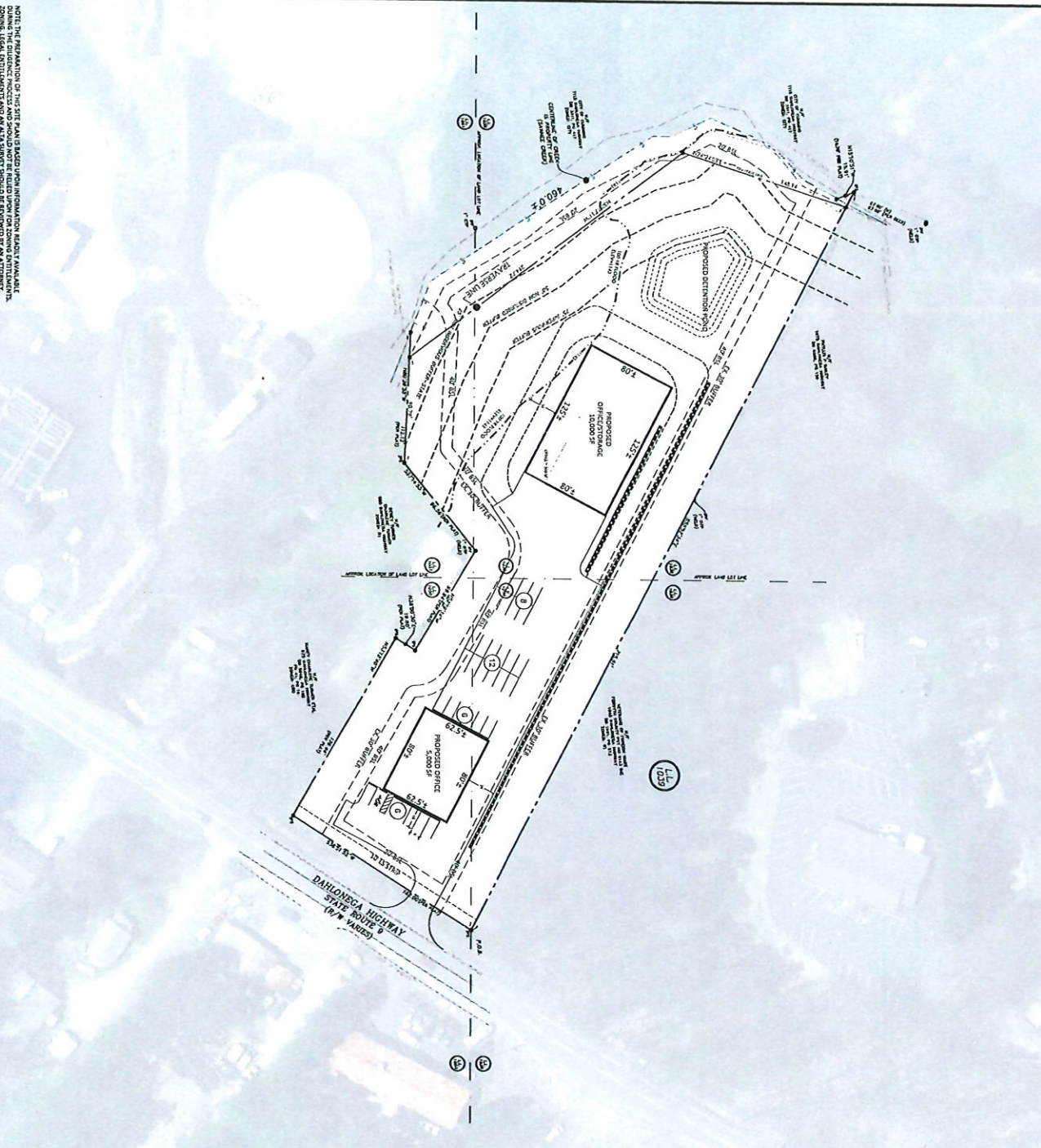
Thence North 19 degrees 19 minutes 49 seconds West a distance of 14.75 feet to a point; run

Thence South 60 degrees 01 minutes 32 seconds East a distance of 715.51 feet to an iron pin found; which is the True Point of Beginning.

Said property is more fully described according to the above-referenced plat, which is incorporated herein by this reference.

This legal description is prepared solely for the purpose of facilitating a land use application and should not be relied upon for any other purpose.

NOTE: THE PREPARATION OF THIS SITE PLAN IS BASED UPON INFORMATION BELIEVED AVAILABLE TO THE ENGINEER. THE ENGINEER HAS CONDUCTED VISUAL GENERAL VERIFICATION OF THE INFORMATION PROVIDED AND HAS FOUND IT TO BE REASONABLY ACCURATE. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED OR THE RESULTS OF THE SITE PLAN. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY THE ENGINEER.



GENERAL NOTES

1. PROJECT LOCATION IS LOCATED IN GWINNETT COUNTY AND IS PROPOSED TO BE ANCHORED BY THE DAHLONGEGA HIGHWAY OFFICES. THE RESTRICTIONS SHOWN HEREIN ARE BASED UPON THE ROADWAY BUSINESS ZONING.
2. PROPERTIES TO THE NORTH AND SOUTH ARE NOT SHOWN. ANY 'C' ZONED DISTRICT TO THE WEST ARE LOCATED WITHIN CITY OF CHAMBLEE.
3. THE SUBJECT MAP IS SUBJECT TO THE CITY OF GWINNETT COUNTY.

Level 1		Level 2	
Existing/Req'	Proposed	Existing/Req'	Proposed
Zoning	Use Allowed		
Use Specific Req'	Flood Zone		
National Wetlands Inventory	Overlay District		
Office/Sworage	Office		
Total Bldg SF	5,000 SF		
Total Site Area	15,000 SF		
	3.34 AC		
Major	20'		
Minor	30'		
Side	10'		
Rear	20'		
Landscaping Strips			
Major	10'		
Minor	10'		
Side	30'		
Environmental Buffers			
Parking Ratio			
Parking Spaces	9x18'		
Parking Site	20%		
Compact Parking %			
Landscaping Spaces	20%		
US - Open Space %	5,000 SF		
Minimum Yield	60'		
Adjacent zoning North	R		
Adjacent zoning South	R		
Adjacent zoning East	INDL		
Adjacent zoning West	Dist. Hwy		
Water Sewer Proximity			
Overlay Requirements			

