Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Rusty Roth, AICP, Director

STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2020-24 Legistar #: 20200534

Board of Zoning Appeals Hearing: Monday, July 27, 2020 – 6:00 p.m.

Property Owner: **1411 Bells Ferry Road, LLC**
1705 White Circle
Marietta, GA 30066

Applicant: **Moore Ingram Johnson & Steele, LLP – J. Kevin Moore**
326 Roswell Street
Marietta, GA 30060

Address: **1401 & 1411 Bells Ferry Road**

Land Lot: 08690 District: 16 Parcel: 0170 & 0180

Council Ward: 4B Existing Zoning: CRC (Community Retail Commercial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to disturb and replant the 40-foot buffer. [*§710.05*]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES

1401 &1411 Bells Ferry Road

Buffer along the northern property line

Recommended Action:

Approval with stipulations. The applicant, 1411 Bells Ferry Road, LLC, is requesting a variance to disturb within the landscape buffers of 1401 and 1411 Bells Ferry Road. Collectively, the subject properties are over four (4) acres and zoned CRC (Community Retail Commercial). Properties to the north are zoned RA-8 (Single Family Residential Attached – 8units/acre) and LI (Light Industrial), while property to the west is zoned RM-12 (Multi-Family Residential – 12units/acre). The property to the south is zoned CRC.

The owner is proposing to develop the property and build three (3) commercial buildings; and is requesting to disturb the landscape buffer along the northern and western property lines. However, site development plans were only submitted after the City's Engineering staff issued a stop work order for unauthorized grading and tree removal at the site. This variance request was submitted after staff noted the buffer disturbance on site development plans.

The proposed development would consist of three (3) separate office buildings and supporting infrastructure, such as parking, driveways, detention, etc. Because the properties are adjacent to residential properties, a 40-foot landscape buffer is required. Landscape buffers are required to be established and maintained to reduce noise and unsightly views; and to serve as additional protection for lower intensity residential properties adjacent to more intense commercial development. As stated within the City's zoning ordinance, *any grading, improvements, or construction shall not disturb or encroach upon the buffer area*. The applicant is proposing to disturb and grade most of the buffers; and notes on the plan indicate that all trees within the limits of disturbance will be removed.

In addition to requiring a landscape buffer, the City's tree protection and landscaping section requires a minimum site density factor to be maintained based off the site's acre. The minimum tree density is calculated at seventeen (17) units per acre; and the units are assigned based off the tree type and size. The proposed tree plan proposes a 70-unit tree density with fifty (50) units being planted into the buffer area. The proposed tree replacements will be planted at 5-6 feet in height. The purpose of the buffer replanting is not based off of units, instead it is based on visibility; therefore, the replanting shall be planted in a way to screen the views seen from the residential properties with natural vegetation and fencing.

Due to the lack of detail on the plan that has been submitted, staff is unable to determine whether the proposed replanting plan is sufficient to provide an adequate buffer. In addition, no fence is noted in the buffer. Since a purposefully planted landscape buffer will provide more protection in the future, ***staff recommends approval of the requested variance with the following stipulations:***

1. ***A six (6) foot tall, opaque fence must be installed along the property line adjacent to the buffer.***
2. ***The forty (40) foot landscape buffer shall be fully replanted with a minimum of four (4) staggered rows of a mixture of evergreen trees, spaced 10 feet apart; and each tree must be a minimum of 5-feet tall at installation.***

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Department of Development Services
205 Lawrence Street
Marietta, GA 30060
Phone: 770-794-5440

APPLICATION FOR VARIANCE OR APPEAL

(Owner/Applicant/or Representative must be present at all public hearings)

(NOTE: CORRESPONDENCE IS HANDLED VIA EMAIL UNLESS OTHERWISE REQUESTED)

For Office Use Only:

Application #: V2020-24 **Legistar #:** 20200534 **BZA Hearing Dt:** 07/27/2020

City Council Hearing Dt (if applicable) #: — **PZ #:**

This is a variance/appeal application for:

[X] **Board of Zoning Appeals** [ ] **City Council**

*Owner's Name 1411 Bells Ferry Road, LLC

EMAIL Address: ghrib@cobbindustrialinc.com

Mailing Address 1705 White Circle Zip Code: 30066 Phone Number (678) 581-2622

***Applicant/Owner's Representative:** J. Kevin Moore – Moore Ingram Johnson & Steele, LLP

COMPLETE ONLY IF APPLICANT IS NOT OWNER:

Applicant:

EMAIL Address:

Mailing Address Zip Code: Phone Number

Address of subject property: 1401 & 1411 Bells Ferry Road Date of Acquisition: 07/15/2019

Land Lot (s) 08690 District 16 Parcel 0170 0180 Acreage 4.1± Zoned CRC Ward 4B FLU: IM

List the variance(s) or appeal requested (please attach any additional information): **See Attached Exhibit "B"**

buffers

Required Information

1. Application fee ($250)
2. Completed notarized application. **The original application must be submitted with ALL original signature(s) – Copies of the application or signature(s) will NOT be accepted.**
3. Copy of the deed that reflects the current owner(s) of the property.
4. Letter describing the reason for the variance request, stating why strict adherence to the code would result in a particular hardship (as distinguished from a mere inconvenience or desire to make more money).
5. **Site plan – drawn to scale.** Site plans must illustrate property lines and all relevant existing information and conditions in addition to proposed additions or modifications within the referenced property lines of the tract(s).
   Copies Required: One (1) - (8 ½" x 11") **-or-** (11" x 17") drawn to scale.
   Optional Additional Plat size: (24"x 36"). If providing (24"x 36") then 5 copies REQUIRED.
6. Copy of current tax bill showing payment or documentation certified by the City of Marietta Tax Office.

Note: The Department of Development Services reserves the right to obtain additional information that reasonably may be required in order that an informed decision may be made.

OVER

CAMPAIGN CONTRIBUTIONS

The Owner and Applicant herein certify that he/she ☐has ☐has not made campaign contributions or gifts aggregating $250.00 or more to the Mayor, any member of Council or any member of the Board of Zoning Appeals within the two (2) years preceding the filing of this application.

See Attached Exhibit "A"
Signature of Owner

See Attached Exhibit "A"
Signature of Applicant

Print Name

Print Name

FINANCIAL INTEREST

The Applicant herein certifies that he/she ☐has ☐has not a financial interest in the property which is ten percent (10%) or more.

Print Name

See Attached Exhibit "A"
Signature of Applicant

APPLICANT CERTIFICATION

- The Applicant certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Applicant's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.

See Attached Exhibit "A"
Signature of Applicant

Date

Please Print

OWNER CERTIFICATION

- The Owner certifies that all information in this application, and all information furnished in support of this application, is true and complete to the best of the Owners's knowledge and belief. Should any portion not be true, then the application may be rejected.
- Penalty for false or fraudulent statement: Whoever, in any matter, knowingly and willingly falsifies or makes any false, fictitious or fraudulent statement of representatives concerning this application shall be denied the request stated in this application.
- The Owner hereby gives permission to enter on the property for inspection during the time application is pending.

See Attached Exhibit "A"
Signature of Owner

Please Print

Address

Date

Signed, sealed and delivered in the presence of:

My Commission Expires:

Note: Owner, Applicant or Representative must be present at meeting in order for case to be heard.

EXHIBIT "A" - ATTACHMENT TO APPLICATION FOR VARIANCE
(Page Two of Three)

Application No.: _____
Legistar No.: _____
Hearing Date: **July 27, 2020**

Applicant/Property Owner: **1411 Bells Ferry Road, LLC**

MOORE INGRAM JOHNSON & STEELE, LLP

BY: _____
J. Kevin Moore
Georgia Bar No. 519728

Attorneys for Applicant/Property Owner

Date Executed: June 15, 2020

Signed, sealed, and delivered in the presence of:

Carolyn E. Cook
Notary Public
My Commission Expires: January 10, 2023

[Notary Seal]

CAROLYN E. COOK NOTARY PUBLIC EXP. Jan. 10, 2023 COBB COUNTY, GA

Applicant/Property Owner Address:

1411 Bells Ferry Road, LLC
1705 White Circle
Marietta, Georgia 30066
(678) 581-2622 (Office)
E-mail: ghrib@cobbindustrialinc.com

EXHIBIT "B" – ATTACHMENT TO APPLICATION FOR VARIANCE

Application No.: _____
Legistar No.: _____
Hearing Date: **July 27, 2020**

Applicant/Property Owner: 1411 Bells Ferry Road, LLC

Listing of Requested Variance(s) and Statement of Hardship:

The property which is the subject of the Application for Variance is located at 1411 Bells Ferry Road (hereinafter collectively "Property" or "Subject Property"), is zoned to the Community Retail Commercial ("CRC") zoning classification, and is being developed for use as an office park. Due to the shape of the Property, a waiver to allow for encroachment and grading into the required forty-foot buffer adjacent to the residentially zoned property is required to accomplish installation of certain infrastructure for the overall office park development. Therefore, Applicant seeks the following variance:

(1) Waiver of 710.05(E.) of the City of Marietta Ordinance to allow encroachment into forty-foot buffer area for grading and installation of certain infrastructure during development of the proposed office park.

Upon completion of grading and installation of infrastructure, the disturbed area will be remediated and restored with extensive landscaping, providing a far superior visual screen than existing vegetation.

If the required Buffer Ordinance is strictly adhered to, Applicant would be unable to reasonably or economically construct the proposed project on the Property.

TO: **Marietta Daily Journal**

FROM: **City of Marietta**

RUN DATE: **July 10, 2020**

CITY OF MARIETTA
PUBLIC NOTICE OF VARIANCES

The City of Marietta hereby gives notice that a public hearing will be held to give consideration to the following requests. The Board of Zoning Appeals will consider the following requests on **Monday, July 27th, 2020 at 6:00 P.M.,** City Hall. Anyone wishing to attend may do so and be heard relative thereto.

V2020-24 [VARIANCE] 1411 BELLS FERRY ROAD, LLC is requesting a variance for property zoned CRC (Community Retail Commercial), located in Land Lot 869, District 16, Parcels 0170 & 0180, 2nd Section, Marietta, Cobb County, Georgia, and being known as 1401 & 1411 Bells Ferry Road. Variance to disturb and replant the 40' buffer. Ward 4B.

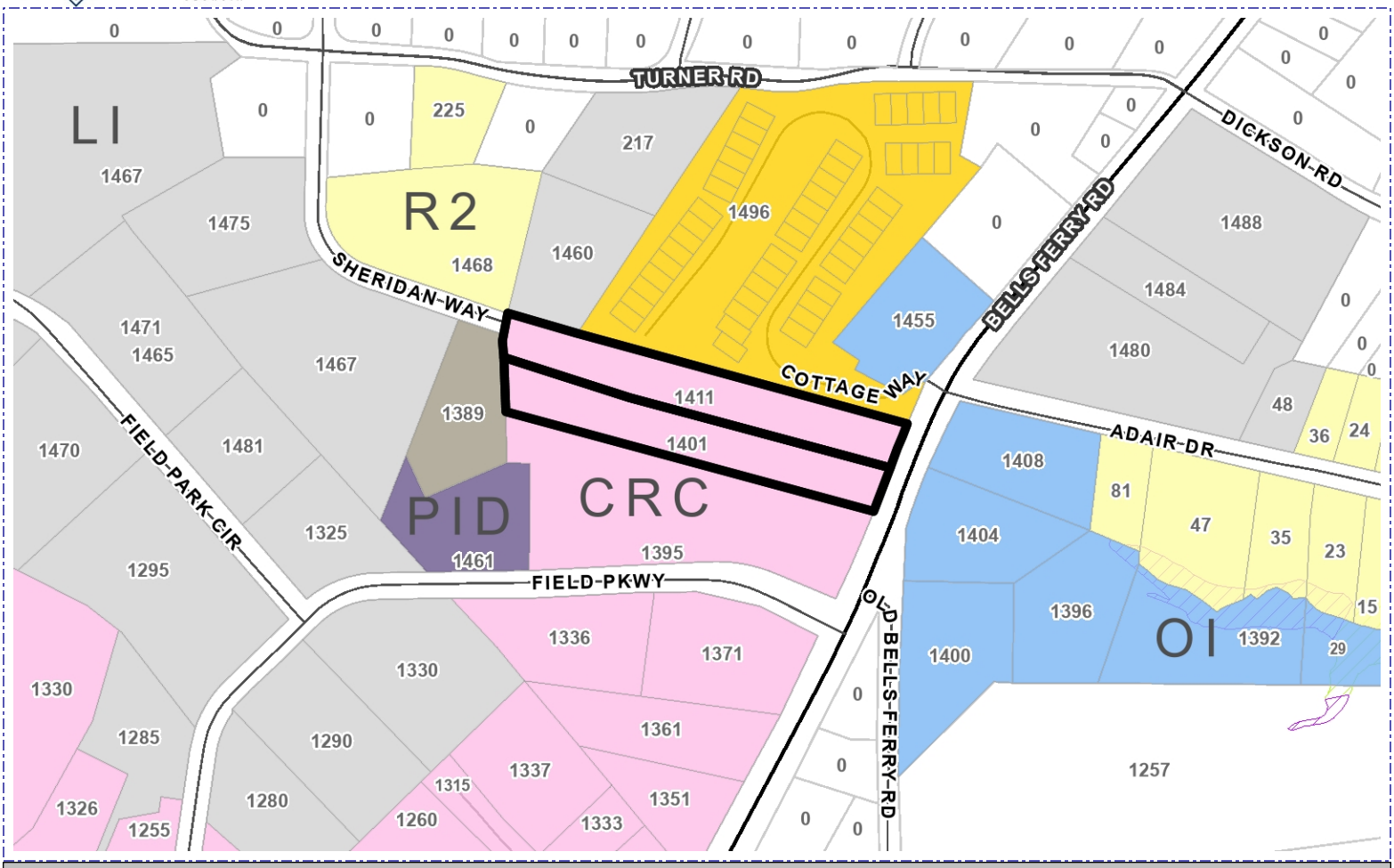
A description and plat of the property sought for the variances are on file in the Planning and Zoning Office, City Hall, and are available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto. You may also review the property file at www.mariettaga.gov and enter the case # in the search box.

For additional information including questions about virtual participation, please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call ADA Coordinator, at 770-794-5558 no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Variance



Address	Parcel Number	Acreage	Ward	Zoning	FLU
1401 BELLS FERRY RD	16086900180	2.079	4B	CRC	IM
1411 BELLS FERRY RD	16086900170	2.172	4B	CRC	IM

Property Owner: 1411 Bells Ferry Road, LLC

Applicant:

BZA Hearing Date: 07/27/2020

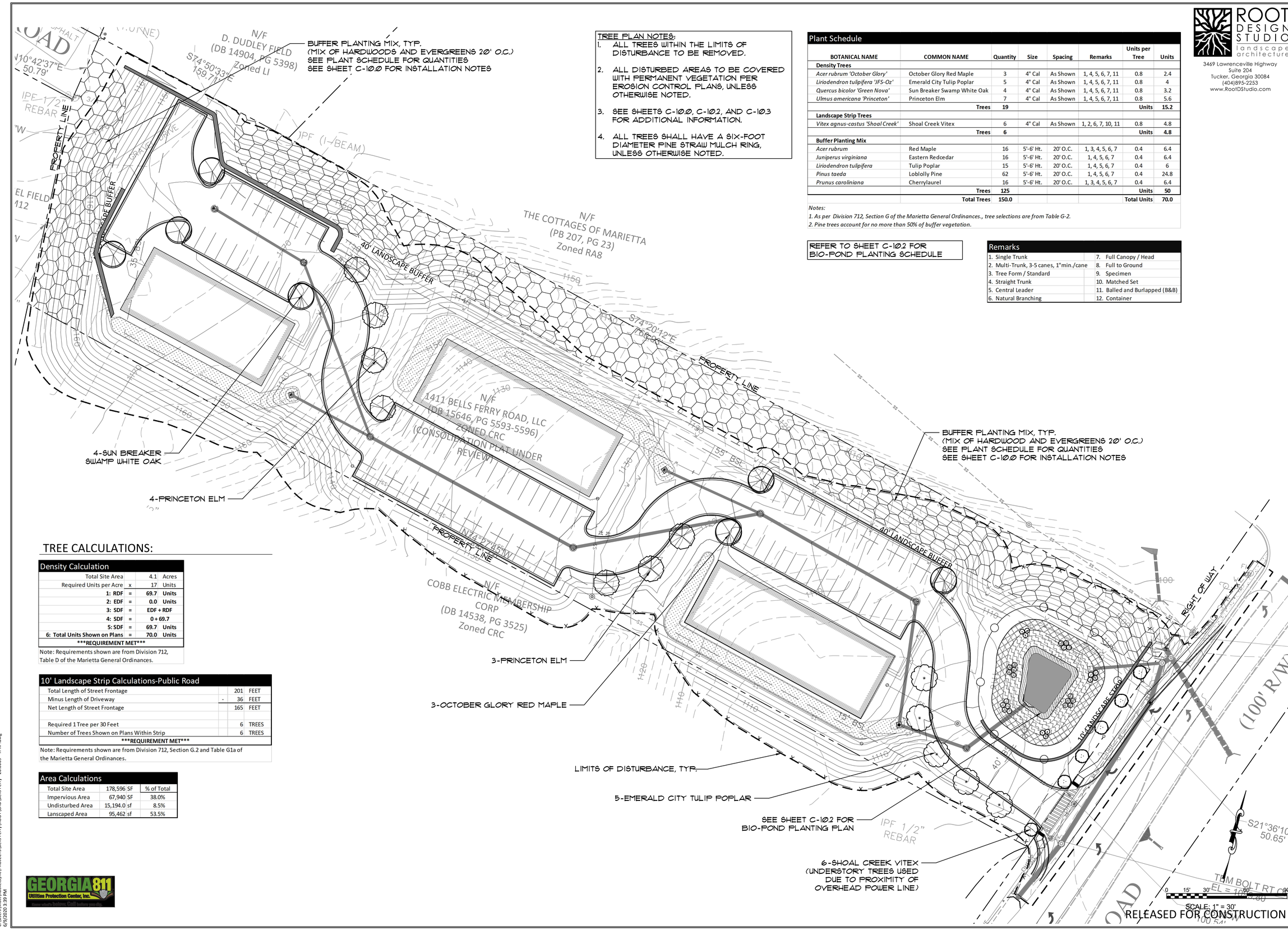
Acquisition Date:

Case Number: V2020-24

City of Marietta Planning & Zoning

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Moble Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise



TREE PLAN NOTES:

1. ALL TREES WITHIN THE LIMITS OF DISTURBANCE TO BE REMOVED.
2. ALL DISTURBED AREAS TO BE COVERED WITH PERMANENT VEGETATION PER EROSION CONTROL PLANS, UNLESS OTHERWISE NOTED.
3. SEE SHEETS C-10.0, C-10.2, AND C-10.3 FOR ADDITIONAL INFORMATION.
4. ALL TREES SHALL HAVE A SIX-FOOT DIAMETER PINE STRAW MULCH RING, UNLESS OTHERWISE NOTED.

Plant Schedule

BOTANICAL NAME	COMMON NAME	Quantity	Size	Spacing	Remarks	Units per Tree	Units
Density Trees							
Acer rubrum 'October Glory'	October Glory Red Maple	3	4" Cal	As Shown	1, 4, 5, 6, 7, 11	0.8	2.4
Liriodendron tulipifera 'JFS-Oz'	Emerald City Tulip Poplar	5	4" Cal	As Shown	1, 4, 5, 6, 7, 11	0.8	4
Quercus bicolor 'Green Nova'	Sun Breaker Swamp White Oak	4	4" Cal	As Shown	1, 4, 5, 6, 7, 11	0.8	3.2
Ulmus americana 'Princeton'	Princeton Elm	7	4" Cal	As Shown	1, 4, 5, 6, 7, 11	0.8	5.6
	Trees	**19**				**Units**	**15.2**
Landscape Strip Trees							
Vitex agnus-castus 'Shoal Creek'	Shoal Creek Vitex	6	4" Cal	As Shown	1, 2, 6, 7, 10, 11	0.8	4.8
	Trees	**6**				**Units**	**4.8**
Buffer Planting Mix							
Acer rubrum	Red Maple	16	5'-6' Ht.	20' O.C.	1, 3, 4, 5, 6, 7	0.4	6.4
Juniperus virginiana	Eastern Redcedar	16	5'-6' Ht.	20' O.C.	1, 4, 5, 6, 7	0.4	6.4
Liriodendron tulipifera	Tulip Poplar	15	5'-6' Ht.	20' O.C.	1, 4, 5, 6, 7	0.4	6
Pinus taeda	Loblolly Pine	62	5'-6' Ht.	20' O.C.	1, 4, 5, 6, 7	0.4	24.8
Prunus caroliniana	Cherrylaurel	16	5'-6' Ht.	20' O.C.	1, 3, 4, 5, 6, 7	0.4	6.4
	Trees	**125**				**Units**	**50**
	Total Trees	**150.0**				**Total Units**	**70.0**

Notes:
1. As per Division 712, Section G of the Marietta General Ordinances., tree selections are from Table G-2.
2. Pine trees account for no more than 50% of buffer vegetation.

REFER TO SHEET C-10.2 FOR BIO-POND PLANTING SCHEDULE

Remarks

1. Single Trunk	7. Full Canopy / Head
2. Multi-Trunk, 3-5 canes, 1"min./cane	8. Full to Ground
3. Tree Form / Standard	9. Specimen
4. Straight Trunk	10. Matched Set
5. Central Leader	11. Balled and Burlapped (B&B)
6. Natural Branching	12. Container

TREE CALCULATIONS:

Density Calculation

Total Site Area		4.1	Acres
Required Units per Acre	x	17	Units
1: RDF	**=**	**69.7**	**Units**
2: EDF	**=**	**0.0**	**Units**
3: SDF	**=**	**EDF + RDF**	
4: SDF	**=**	**0 + 69.7**	
5: SDF	**=**	**69.7**	**Units**
6: Total Units Shown on Plans	**=**	**70.0**	**Units**
*****REQUIREMENT MET*****			

Note: Requirements shown are from Division 712, Table D of the Marietta General Ordinances.

10' Landscape Strip Calculations-Public Road

Total Length of Street Frontage		201	FEET
Minus Length of Driveway	-	36	FEET
Net Length of Street Frontage		165	FEET
Required 1 Tree per 30 Feet		6	TREES
Number of Trees Shown on Plans Within Strip		6	TREES
*****REQUIREMENT MET*****			

Note: Requirements shown are from Division 712, Section G.2 and Table G1a of the Marietta General Ordinances.

Area Calculations

Total Site Area	178,596 SF	% of Total
Impervious Area	67,940 SF	38.0%
Undisturbed Area	15,194.0 sf	8.5%
Lanscaped Area	95,462 sf	53.5%

GEORGIA811 Utilities Protection Center, Inc.

ROOT DESIGN STUDIO landscape architecture
3469 Lawrenceville Highway
Suite 204
Tucker, Georgia 30084
(404)895-2253
www.RootDStudio.com

GEORGIA REGISTERED LANDSCAPE ARCHITECT No. LA001408 MICHAEL KIDD
06/09/2020

Urban Engineers, Inc.
1904 MONROE DRIVE, N.E., SUITE 150
ATLANTA, GEORGIA 30324
PHONE:(404) 873-5874
www.urbanengineers.net

REVISIONS

DATE	DESCRIPTION	△

TREE PROTECTION PLAN

BELLS FERRY OFFICE PARK
1411 BELLS FERRY ROAD
MARIETTA, GEORGIA

PROJECT No. 21905-1
LAND LOT(S): 869, 870
DISTRICT: 16th, 2nd Sec
COUNTY: Cobb
SCALE: AS SHOWN
DATE: 02/03/2020

DRAWING NO.: C-10.1

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