



Community Development – Zoning Division

John Pederson – Division Manager

ZONING CASE

Z-26-2021

SITE BACKGROUND

Applicant	Duke Realty Limited Partnership
Phone	770-717-3220
Email	david.sprinkle@dukerealty.com
Representative Contact	Stephen Rothman
Phone	404-853-5050
Email	srothman@wbilegal.com
Titleholder	Charles M. Bettis
Property Location	Located on the southeast side of Discovery Boulevard and on the northeast side of Mableton Parkway
Address	Discovery Boulevard
Access to Property	Discovery Boulevard, Mableton Parkway

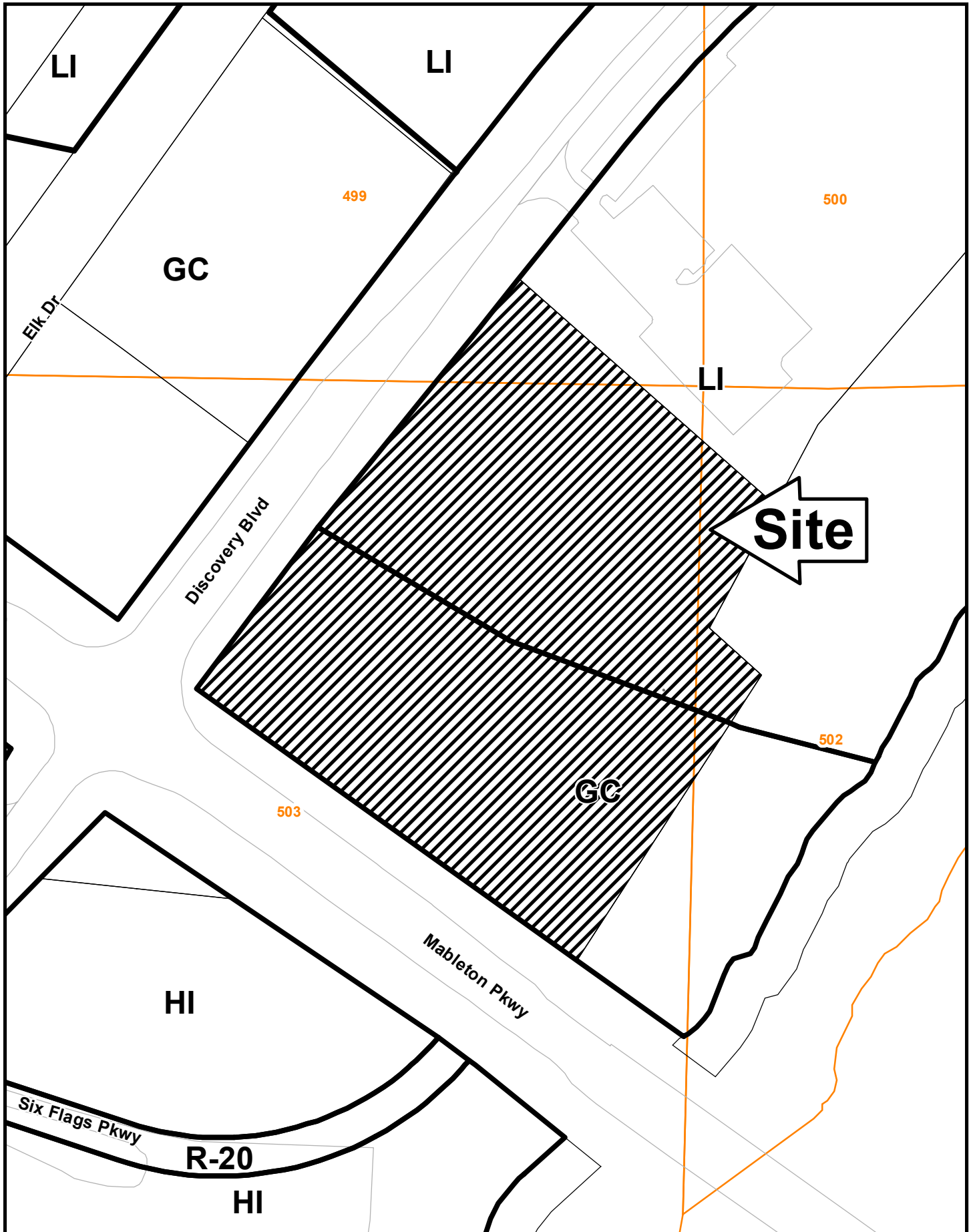
QUICK FACTS

Commission District	4-Sheffield
Current Zoning	GC. LI
Current Use of Property	Undeveloped lot
Proposed Zoning	LI
Proposed Use	Warehouse, distribution facility
Future Land Use	PIA, cac
Site Acreage	8.76
District	18
Land Lot	499, 502, 503
Parcel #	18050300040
Taxes Paid	Yes

FINAL ZONING STAFF RECOMMENDATIONS

[Click here to enter text.](#)

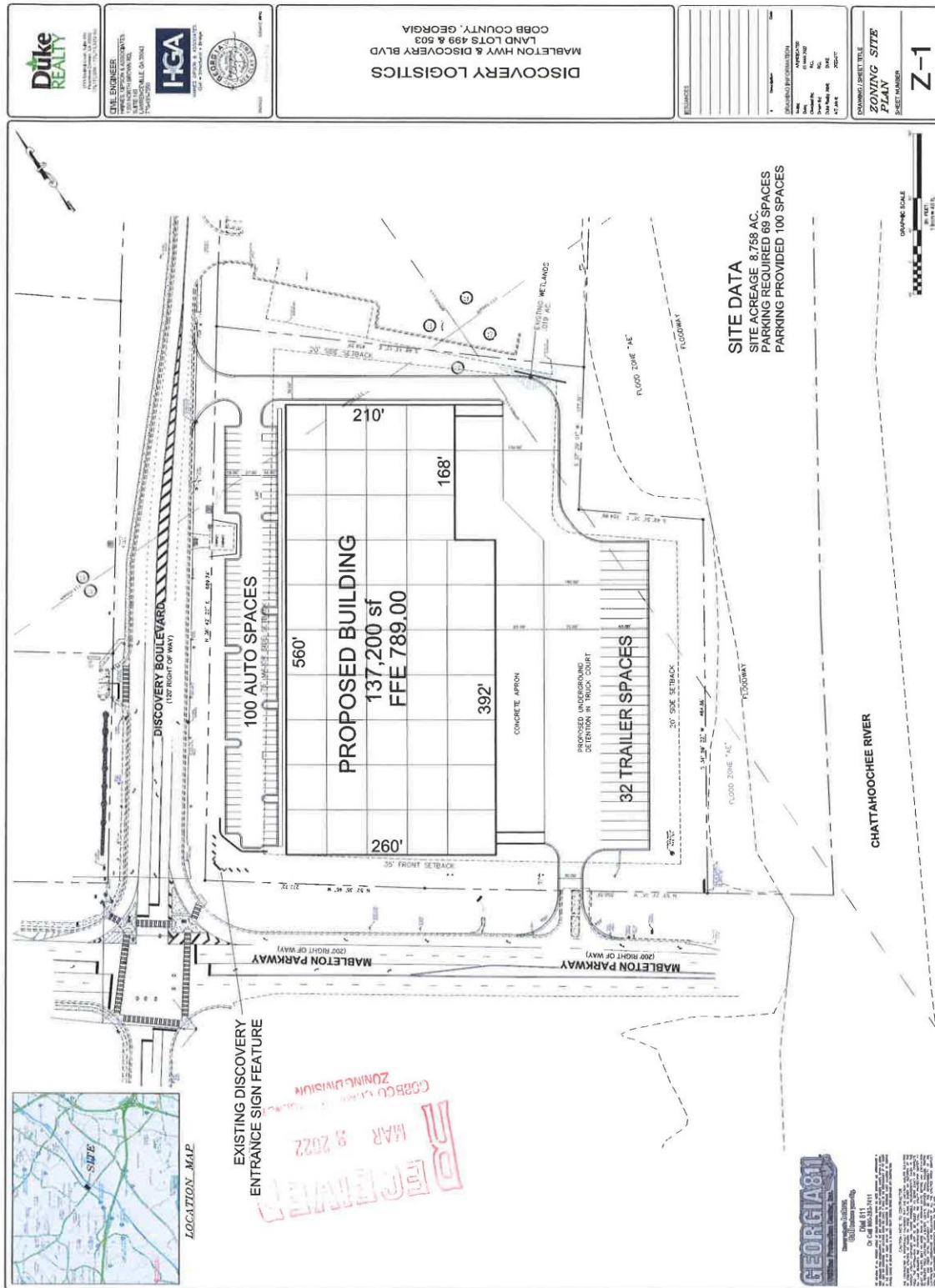
Z-26 2022-GIS



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200
Feet

— Zoning Boundary
— City Boundary



Z-26 Aerial Map



This map is provided for display and planning purposes only. It is not meant to be a legal description.

0 100 200
Feet

— Zoning Boundary
— City Boundary

Application No. _____

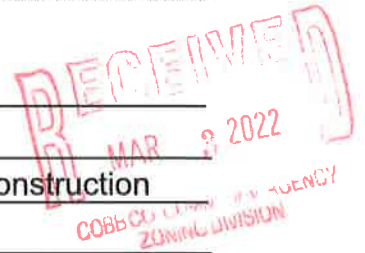
Summary of Intent for Rezoning

Part 1. Residential Rezoning Information (attach additional information if needed)

- a) Proposed unit square-footage(s): _____
- b) Proposed building architecture: _____
- c) List all requested variances: _____
- _____
- _____
- _____

Part 2. Non-residential Rezoning Information (attach additional information if needed)

- a) Proposed use(s): Warehouse / Distribution
- b) Proposed building architecture: Cast-in place concrete tilt-wall construction
(see enclosed renderings)
- c) Proposed hours/days of operation: Unlimited
- d) List all requested variances: See attached Letter of Intent



Sec. 134-230(4)(d), Reduce front yard setback from 75' to 35'

Sec. 134-289(3) & Development Standards Sec. 426.5 to allow Architectural Standards as shown on the enclosed renderings

Sec. 50-223 & Development Standards Sec 416.2.1 to reduce tree density factor from 15 units/acre to 11 units/acre

Development Standards Sec 402.8 to reduce uninterrupted ingress/egress from 50' to 25'

Part 3. Other Pertinent Information (List or attach additional information if needed)

Please see attached Letter of Intent

Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government?

(Please list all Right-of-Ways, Government owned lots, County owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located).

No

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In addition, four variances are sought in order to construct a building compatible with the adjoining sites due to unique circumstances affecting this corner lot.

The list of variances sought are as follows:

1. Variance from Section 134-230(4)(d) to reduce the required front yard setback from 75 feet to 35 feet. Duke proposes to treat the Discovery Boulevard frontage as the front yard and allow the Mableton Parkway frontage to have a 35 foot setback.
2. Variance from Section 134-289(3) to allow architectural standards as shown on the renderings submitted herewith. This variance, to the extent necessary, also seeks relief from Development Standards Section 426.5. The standards are applicable to commercial or residential buildings, but pose an undue burden and threat to public safety, health, and welfare for warehouse-distribution uses.
3. Variance from Section 50-223 and if necessary Development Standards 416.2.1 to reduce required minimum tree density units from 15 units per acre to 11 units per acre. The site is largely cleared and tree planting requirements more dense than 11 units per acre prevent the planting of trees in a manner that will allow for healthy growth and maturation.
4. Variance from Section 402.8 of the Development Regulations to allow a 25-foot uninterrupted ingress/egress so as to allow parking along Discovery Boulevard and away from the loading zone for the proposed facility and to avoid the tree canopy closest to the Chattahoochee River.

Each variance is addressed in turn below.

1. Variance from Section 134-230(4)(d) to reduce the required front yard setback from 75 feet to 35 feet. Duke proposes to treat the Discovery Boulevard frontage as the front yard and allow the Mableton Parkway frontage to have a 35 foot setback.

Due to the extraordinary conditions of the property, given its size and shape at the corner of Mableton Parkway and Discovery Boulevard and the nearly square shape of the lot, the technical front yard is determined to be on the Mableton Parkway frontage. This requires the

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building to be set back further from Mableton Parkway and closer to Discovery Boulevard. These conditions are peculiar to this corner lot, which is isolated between the river and Discovery Boulevard at this intersection. A hardship results in setting the building farther back from Mableton Parkway and closer to Discovery Boulevard because the existing built environment along Discovery Boulevard has larger setbacks and serves local traffic more continuously than this portion of Mableton Parkway, which does not have an established built environment. This hardship creates a unique, incompatible and inconsistent building form for this parcel. On the other hand, this portion of Mableton Parkway, with no existing built environment, is immediately adjacent to the large, long bridge crossing the Chattahoochee River and adjoins the Fulton County Airport landing strip. The hardship arising from orienting the building toward Mableton Parkway and treating it as the front yard is not necessary to preserve the goal of providing for compatible building forms. Relief if granted would not cause detriment to the public good.

2. Variance from Section 134-289(3) to allow architectural standards as shown on the renderings submitted herewith. This variance, to the extent necessary, also seeks relief from Development Regulations Section 426.5.

This variance is sought because the Overlay standards are more appropriate for commercial or residential buildings, but pose an undue burden and threat to public safety, health, and welfare for warehouse-distribution uses. Due to the extraordinary conditions of the property, given its size and shape at the corner of Mableton Parkway and Discovery Boulevard and its proximity to industrial zoning and uses and isolation from the commercial corridor along Mableton Parkway, and the designation of the use on the Future Land Use Map as Industrial as well as being located in the Mableton Parkway Overlay District, the lot is not large enough or shaped in a manner that allows compliance with safety requirements for industrial uses and compliance with the overlay district architectural standards.

These unique aspects of the size and shape of the lot create a hardship because the standards requiring the provision of windows presents a safety concern for storage of goods and the recession of walls makes for interior spaces that are difficult to accommodate OSHA standards for movement of goods inside the building. The building exterior finishes are typically poured-in-place concrete to allow to structurally sound exterior walls. These conditions are peculiar to this corner lot, which is isolated between the river and Discovery Boulevard at this intersection, in an industrial area under the overlay design standards.

On the other hand, this portion of Mableton Parkway, with no existing built environment, is immediately adjacent to the large, long bridge crossing the Chattahoochee River and adjoins the Fulton County Airport landing strip. The hardship is not necessary to preserve the goal of providing for compatible building forms. Relief if granted would not cause detriment to the public good.

3. Variance from Section 50-223 and if necessary Development Regulation 16.2.1 to reduce required minimum tree density units from 15 units per acre to 11 units per acre.

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Due to the extraordinary conditions of the property, given its topography, which is largely cleared of any tree growth except for areas to the east closest to the river, and small size for industrial uses, a hardship arises. The hardship is that there remains a limited area to develop an industrial use. The hardship is not necessary to preserve the goal of providing for ample tree coverage because Duke, proposing 11 tree density units, offers a tree replanting plan that provides for ample tree coverage (but not too dense so as to inhibit tree growth and maturation) to meet the public good and purposes and intent of the tree protection ordinance. These conditions are peculiar to this parcel of land.

4. Variance from Section 402.8 of the Development Regulations to allow a 25 foot uninterrupted ingress/egress so as to allow parking along Discovery Boulevard and away from the loading zone for the proposed facility and to avoid the tree canopy closest to the Chattahoochee River.

Due to the extraordinary conditions of the property, given its size and shape, a hardship arises in locating a parking area for passenger vehicles separate from the truck loading and unloading areas. The reason is it in the public interest to separate these uses is to avoid conflicting and unsafe pedestrian activity in the truck loading and unloading area. This hardship is not necessary to preserve safety because the ingress/egress area between the parking lot and Discovery Boulevard is sufficient to allow the free flow of passenger vehicles with detriment to the public health, safety and welfare.

Sincerely,

WILSON BROCK & IRBY, L.L.C.



Stephen Rothman

Enclosures

WILSON BROCK & IRBY, L.L.C.

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March 3, 2022

VIA HAND DELIVERY

Cobb County Board of Commissioners
c/o John Pederson
Zoning Division Manager
1150 Powder Springs Street, Suite 400
Marietta, Georgia 30061



Re: Application For Rezoning And Concurrent Variances;
Parcel ID No. 18 50300040
Northeast Corner of Mableton Pkway and Discovery Blvd.

Dear Commissioners:

This firm represents Duke Realty Limited Partnership ("Duke") who seeks a rezoning with concurrent variances for the above-referenced parcel. The parcel is an 8.5 acre parcel of land, more or less which has a split zoning of LI (Light Industrial) and GC (General Commercial). The Future Land Use Map designates the parcel as Industrial. The site is graded and is a vacant pad with little or no tree coverage within the buildable area of the lot. Duke wishes to rezone the entire parcel to LI with concurrent variances to allow the development of a 137,200 square foot warehouse distribution center.

The requested change to the LI zoning classification implements the policies of the Cobb County Comprehensive Plan and is consistent with the Future Land Use Map designation. The variances requested below are the minimal necessary to implement this policy and to allow development consistent with the intended use and the public health, safety and welfare. The proposed use and architectural type is consistent with other similar uses adjacent and near the property along Discovery Boulevard. Given the proximity to the Fulton County airport and adjoining industrial property, the proposed removal of the split zoning on the parcel and rezoning to a consistent LI zoning classification allows for a feasible use and development that is appropriate to the surrounding environment.

ZONING IMPACT ANALYSIS

The Zoning Impact Analysis is as follows:

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

The zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. The adjoining properties along Discovery Boulevard between the Chattahoochee River and the Boulevard are developed with the same type of use and construction-type as proposed herein. In addition, the Fulton County Airport is located on the other side of the River. The proposed ingress/egress for the warehouse-distribution facility is located as far from the intersection of Mableton Parkway and Discovery Boulevard in order to remove conflicting movements with the operation of the intersection.

- (b) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

The zoning proposal will not adversely affect the existing use or usability of adjacent or nearby property. The zoning proposal seeks to remove the split zoning on the parcel and allow the same zoning category as adjacent property.

- (c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

The property to be affected by the zoning proposal does not have a reasonable economic use as currently zoned. The reason for this is the split zoning on the parcel. The best indicator of the lack of economic use as currently zoned is the fact that this parcel is the last to be developed along the corridor on the east side of Discovery Boulevard north of Mableton Parkway, despite the fact that it is "pad-ready" for development.

- (d) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.

The zoning proposal will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools. The County's Comprehensive Plan, which takes into account planning for streets, transportation facilities and utilities, designates the entire parcel as appropriate for Industrial uses. The proposed change will have no burden on schools and the public infrastructure serving the site is adequate for the proposed use.

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

The zoning proposal is in conformity with the policy and intent of the land use plan. The land use plan identifies the property as an industrial land use and the zoning district requested is identified as compatible with the industrial land use category designated for the subject property.

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- (f) Whether there are other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of zoning proposal.

The existing split zoning on the parcel, designating narrow portion fronting on Mableton Parkway as GC and the remainder LI is not practical for any use on the single parcel that is allowable in those categories. Additionally, the GC requirements coupled with the Mableton Parkway Overlay Design standards renders development of the GC portion of the parcel difficult to feasibly develop, especially given the proximity to the adjoining Industrial uses and the landing strips for the Fulton County airport located to the east across the river.