



SANDY SPRINGS

GEORGIA

PLANNING COMMISSION

Reed Haggard, Chair

Robin Conklin

Elizabeth Kelly

Dave Nickles

Andy Porter

Andrea Settles

Karen Trylovich

Wednesday, May 18, 2022

Regular Meeting

6:00 p.m.

The Planning Commission meeting will be held in the Studio Theatre at Sandy Springs City Hall
(1 Galambos Way, Sandy Springs, GA 30328).

Live-stream: **Public Meeting Portal (CivicClerk):** <https://sandyspringsga.civicclerk.com>
Zoom Webinar: <http://spr.gs/pcmeeting>

Teleconference: **Phone:** (646) 558-8656 **Webinar ID:** 818 0393 5386

Public Comment: <http://spr.gs/publiccomment>

I. Call to Order

II. Roll Call and General Announcements

III. Approval of Meeting Agenda

IV. Approval of Meeting Minutes

A. **PC2022-002** January 19, 2022 Planning Commission Meeting

V. Cases

A. **PC2022-003** U21-0005

Request for a Conditional Use Permit to allow for a currently operating religious private school use in an existing building.

(Presented by Matthew Anspach, Senior Planner)

VI. Ongoing Business

VII. New Business

VIII. Adjournment

Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in a public meeting, or who have questions regarding the accessibility of the meeting or facilities should contact the City Clerk at 770-730-5600 promptly for assistance.

The City will make reasonable accommodations for those persons.

1 Galambos Way, Sandy Springs, Georgia 30328 • 770-730-5600 • SandySpringsGA.gov

The Planning Commission meeting was held on January 19, 2022 at 6:00 p.m., Chair Reed Haggard presiding.

I. Call to Order

Chair Reed Haggard called the meeting to order at 6:00 p.m.

II. Roll Call and General Announcements

Members present: Chair Reed Haggard, Vice Chair Andy Porter, Member Robin Conklin, Member Elizabeth Kelley, Member Dave Nickles, Member Andrea Settles, Member Karen Trylovic.

III. Approval of Meeting Agenda

Motion and vote. A motion was made by Member Elizabeth Kelley, seconded by Member Andrea Settles, to approve the meeting agenda. The motion carried by unanimous vote.

IV. Approval of Meeting Minutes

Motion and vote. A motion was made by Member Andrea Settles, seconded by Member Dave Nickles, to approve the November 17, 2021 Planning Commission Meeting Minutes. The motion carried by unanimous vote.

V. Cases

- A. **2022-0001 CA21-0001**
 6669 Peachtree Dunwoody Road
 Request for a Comprehensive Plan Character Area Map Amendment from
 Protected Neighborhood to Urban Neighborhood.

Chair Reed Haggard opened the public hearing.

Support

1. **Gary Hammond, 7000 Peachtree Dunwoody Road, Sandy Springs (applicant)**
2. **Don Abernathy, 330 Burnt Oak Court, Sandy Springs**

Chair Haggard closed the public hearing.

Motion and vote. A motion was made by Member Andrea Settles, seconded by Member Dave Nickles, to approve CA21-0001, to amend the Comprehensive Plan Character Area of 6669 Peachtree Dunwoody Road (Parcel # 17 0020 LL0175) from Protected Neighborhood to Urban Neighborhood. The motion carried by unanimous vote.

VI. Ongoing Business

Chair Reed Haggard welcomed new member Robin Conklin to the Planning Commission.

VII. New Business

Matthew Anspach, Senior Planner, announced the Planning and Zoning Retreat is planned for March 11, 2022. More information will be provided at a later time. The City Council Retreat will be held on February 3, 2022.

VIII. Adjournment

Motion and vote. A motion was made by Member Elizabeth Kelley, seconded Dave Nickles, to adjourn the meeting. The motion carried by unanimous vote.

The meeting adjourned at 6:24 p.m.

Approved: May 18, 2022

Reed Haggard, Chair

Raquel D. González, City Clerk

PROPOSED DEVELOPMENT / USE

The approximately 1.4-acre subject property is almost rectangular in shape and is located between Roswell Road to the east and the Silverwood Drive subdivision to the rear or west. Just to the north is the Primrose School. To the south are similar looking two story office-type buildings that share parking and other site elements with the subject establishment. The subject property is currently developed with a single two story office building (with an additional basement out the rear), some recreational areas, patios, an 8 foot tall security fence, and other features and improvements.

Overall, as mentioned before, no new building or primary structure is proposed as a part of this Use Permit request. Only required minor site elements and possible additional site elements related to standards and mitigation are being considered. The use is a private school which offers instruction in grades 1 through 8 to 120 students (a maximum of 150).



View facing northwest, with the subject property directly in view

Received

April 18, 2022, 3:10 PM


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Case No.: **U21-0005**Planner's initials:

APPLICATION

ZONING MAP AMENDMENT (REZONING) & CONDITIONAL USE PERMIT

☐ ZONING MAP AMENDMENT - OR - ☒ CONDITIONAL USE PERMIT

Application Checklist:

Page No.	Item	Completed/ Included in Submittal
2	Project Information Sheet	☐
3-6	Detailed Process and Instructions	N/A
7	Application Form	☐
8-10	Authorization and Disclosure Forms	☐
11	Letter of Intent	☐
11	Zoning Impact Analysis	☐ or N/A ☐
11-12	Conditional Use Analysis	☐ or N/A ☐
12	Traffic Impact Study	☐ or N/A ☐
12	Development of Regional Impact	☐ or N/A ☐
12	Chattahoochee River Corridor Certificate	☐ or N/A ☐
12-13	8½" x 11" copy of Survey	☐
12-13	8½" x 11" copy of Site Plan (optional for Rezoning)	☐ or N/A ☐
12-13	11" x 17" copy of Survey	☐
12-13	11" x 17" copy of Site Plan (optional for Rezoning)	☐ or N/A ☐
12-13	Two (2) full-scale copies of Survey	☐
12-13	Two (2) full-scale copies of Site Plan (optional for Rezoning)	☐ or N/A ☐
12	8½" x 11" copy of Legal Description (must be in Word format)	☐
	11" x 17" copy of Elevations and/or Sections	☐ or N/A ☐
14	Meeting Schedule	N/A
15	Fee Schedule	N/A
15	Fee Payment	☐
16	Sign Specifications	N/A
17	Sign-In Sheet Template	N/A
4	Summary of and Sign-In Sheet Completed at CMI	☐
	All documents in electronic form (email)	☐

The Director reserves the right to request additional information deemed necessary to analyze the request. Incomplete applications will not be accepted.

Planner's initials:



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GEORGIA

Case No.: **U21-0005**
Planner's initials:

PROJECT INFORMATION SHEET

PROPERTY	Address(es): 5180 Roswell Road	
	Parcel Tax ID(s): 17 009200050644	
	Total acreage: approx. 1.4 acres	Council District: 6
	Current zoning: ON-3	Current use: private school, religious
	Character Area: Neighborhood Village	

APPLICATION	Purpose of the Application: allow private school in an existing building	
	Check all that apply:	
	☐ Zoning Map Amendment (Rezoning)	☒ Conditional Use Permit
	Detailed request: The Applicant requests a Conditional Use Permit to allow a currently operating religious private school use in an existing building.	
	Petitioner: Chaya Mushka Children's House c/o Jordan Edwards, The Galloway Law Group, LLC	
Petitioner's address: 4062 Peachtree Road NE, Suite A330, Atlanta, GA 30319		
Phone: (404) 965-3682	Email: jordan@glawgp.com	

OWNER	Property owner: CRYSTAL AT 5180 LLC	
	Owner's address: 5180 Roswell Road, Sandy Springs, GA 30342	
	Phone: (404) 891-0530	Email: mendel@dnrealtycorp.com
	Signature (authorizing initiation of the process): <u>M. Chazanow</u> By: Menachem Chazanow	
<i>If the property is under contract, provide a copy of the contract</i>		

- TO BE FILLED OUT BY P&Z STAFF -

Pre-Application Meeting date: 11/30/2021	Anticipated Application date: 1/4/2022
CMI date, time, and location: 12/20/2021, 6:00 PM, 5180 Roswell Road	
ADDITIONAL INFORMATION NEEDED:	
SUBMITTAL ITEMS WAIVED BY DIRECTOR:	



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Case No.: U21-0005
Planner's initials: [Signature]

APPLICATION FORM

APPLICATION	Purpose of the Application: Allow a private school in an existing building
	Check all that apply: ☐ Zoning Map Amendment (Rezoning) ☒ Conditional Use Permit
	Detailed request: The Applicant requests a Conditional Use Permit to allow a currently operating religious private school use in an existing building.

COMMUNITY MEETING I REPORT	Date and location of CMI: December 20, 2021 at CMCH School, 5180 Roswell Road	
	Beginning time: 6:00 PM	End time: 7:00 PM
	Summary of concerns discussed: Five people attended the meeting in person and three attended online. After presenting the purpose of the application and giving a synopsis of the school and its zoning efforts to date, attendees raised the following topics: whether the school would be compliant with the Development Code; the current trash collection schedule includes trucks on the property at very early hours; maintenance or contractor vehicles present at late hours; security lights that are visible from nearby residences; the impact to traffic on Osner Road; sound from the recreation area and carpool drop-off operations.	
	Does the Application address the concerns discussed at the CMI? ☒ Yes ☐ No	
	Explain: Some of the topics raised, such as the trash collection schedule, security lighting, and contractor vehicles, pertain not to the school (or not solely to the school) but to neighboring properties; however, the Applicant will communicate with the owner of those properties to address these issues. The school will be consistent with the applicable Use Standards established in Article 7 of the Development Code. The school's growth up to the maximum of 150 students should not significantly impact traffic. The Applicant will work to mitigate light and noise effects on neighboring residential properties.	

- TO BE FILLED OUT BY P&Z STAFF -

Application date: <u>1/4/2022</u>	Tentative Planning Commission date: <u>3/16/2022</u>
CMI date and time: <u>1/31/2022</u>	Tentative Mayor and City Council date: <u>4/19/2022</u>
OFFICIAL REQUEST (FOR PUBLICATION):	
Applicant requests a Conditional Use Permit to allow a School (Private, K-12) to be operated in an existing building and surrounding site.	

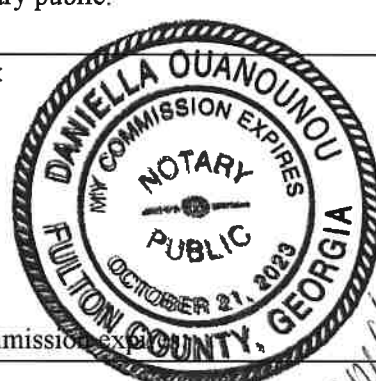
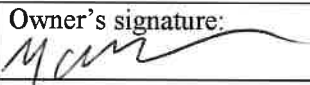


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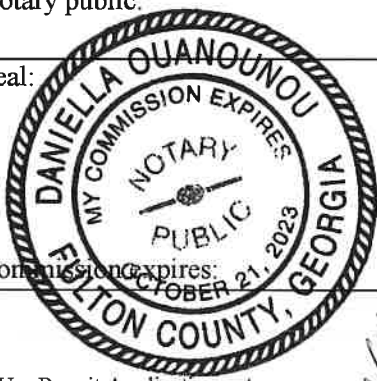
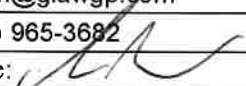
AUTHORIZATION FORM – PART I

A- The property owner must fill out the following section and have it notarized. If a property has multiple owners, each owner must separately fill out a copy of the Authorization Form.

Owner states under oath that he/she is the owner of the property described in the attached legal description, which is made part of this Application.	
Owner's name: CRYSTAL AT 5180 LLC	Sworn and subscribed before me this 27 th day of Dec 20 21
Address: 5180 Roswell Road	
City, State, Zip Code: Sandy Springs, GA 30342	Notary public:
Email address: mendel@dnrealtycorp.com	Seal: 
Phone number: (404) 891-0530	
Owner's signature:  By: Menachem Chazanow	

B- If the Applicant is *not* the current owner of the subject property:

Fill out the following section, check the appropriate statement, and have it notarized.

Applicant states under oath that:	
☐ He/she is the executor or Attorney-in-Fact under a Power-of-Attorney for the owner (<i>attach a copy of the contract</i>); or ☒ He/she has an option to purchase the subject property (<i>attach a copy of the contract</i>); or ☐ He/she has an estate of years which permits the Applicant to apply (<i>attach a copy of the lease</i>)	
Applicant's name: Chaya Mushka Children's House	Sworn and subscribed before me this 27 th day of Dec 20 21
Company name: c/o Jordan Edwards	
Address: The Galloway Law Group, LLC 4062 Peachtree Road NE, Suite A330	Notary public:
City, State, Zip Code: Atlanta, GA 30319	Seal: 
Email address: jordan@glawgp.com	
Phone number: (404) 965-3682	
Applicant's signature:  By: Isser New Rabbi and Director, CMCH	Commission expires: OCTOBER 21, 2023

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), dated as of October ___, 2020, between Crystal at 5180 LLC, a Georgia limited liability company ("Seller") and Merkos Linyonei Chinuch Chabad Lubavitch of Georgia, Inc., a Georgia corporation ("Purchaser").

RECITALS:

WHEREAS, Seller is the owner of premises located at 5180 Roswell Road, Atlanta, Georgia 30342, as more fully described below; and

WHEREAS, Seller wishes to sell to Purchaser, and Purchaser wishes to purchase from Seller, a portion of such premises, on and subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, for ten dollars (\$10.00) in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

Section 1. Sale of Premises; Acceptable Title

§1.01. Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, upon and subject to the terms and conditions set forth in this Agreement, the following (collectively, the "Premises"): (a) the parcel of land more particularly described in Schedule A attached hereto (the "Land"); (b) all buildings and improvements situated on the Land (the "Buildings"; the Land and the Buildings, collectively, the "Real Property"); (c) all leases, licenses and occupancy agreements in effect with respect to space at the Premises, and all leases with respect to space at the Premises entered into by Seller following the Effective Date (as hereinafter defined) in accordance with the terms of this Agreement (collectively, the "Leases"); and (d) all fixtures, equipment and other personal property attached or appurtenant to, and used in connection with the ownership and operation of, the Land or the Buildings (collectively, the "Personal Property").

§1.02. At Closing (as hereinafter defined), Seller shall convey to Purchaser and Purchaser shall accept from Seller fee simple title to the Premises, subject to the Permitted Exceptions (as hereinafter defined).

Section 2. Purchase Price; Earnest Money Deposit

§2.01. The purchase price ("Purchase Price") to be paid by Purchaser to Seller for the Premises is [REDACTED], subject to credits and adjustments as provided for in this Agreement.

§2.02.

(a) Within two (2) business days of the Effective Date, Purchaser shall advance to Landmark Abstract Agency, Attention Jacob Rekant, Esq. (the "Escrow Agent") an earnest money deposit in the sum of [REDACTED], which sum (the "Initial

Earnest Money Deposit”) shall be held in escrow and disbursed by the Escrow Agent in accordance with the terms of this Agreement. Except as otherwise expressly set forth herein, the Initial Earnest Money Deposit shall not be refunded to Purchaser.

(i) Within one (1) business day following receipt of the Initial Earnest Money Deposit, the Escrow Agent shall deliver a portion of the Initial Earnest Money Deposit, in the amount of [REDACTED] Dollars (the “Released Deposit”), to Seller by wire of immediately available funds pursuant to wire instructions provided by Seller’s attorney. On delivery of the Released Deposit to Seller, the Released Deposit shall be deemed earned by Seller for all purposes, and shall not be refundable by Seller under any circumstance, except as expressly set forth in this Agreement.

(ii) Following delivery by Escrow Agent of the Released Deposit to Seller pursuant to Section 2.02(a) above, the balance of the Initial Earnest money Deposit, in the amount of [REDACTED] Dollars (the “Retained Initial Deposit”), shall be retained by Escrow Agent, and shall be held in escrow and disbursed by Escrow Agent in accordance with the terms of this Agreement.

(b) On or before the day that is thirty (30) days following the Effective Date, Purchaser shall advance to the Escrow Agent an additional earnest money deposit in the sum of [REDACTED] Dollars [REDACTED], which sum (the “Additional Earnest Money Deposit”) shall be held in escrow and disbursed by the Escrow Agent in accordance with the terms of this Agreement. Except as otherwise expressly set forth herein, the Additional Earnest Money Deposit shall not be refunded to Purchaser.

(c) As used in this Agreement:

(i) the term “Effective Date” means the day on which a fully executed copy of this Agreement is delivered to Purchaser or Purchaser’s attorney (in the manner provided for notice in Section 9.01 below).

(ii) the term “Earnest Money Deposit” means the Initial Earnest Money Deposit together with, once advanced, the Additional Earnest Money Deposit.

(iii) The term “Retained Deposit” shall mean the Retained Initial Deposit, together with, once advanced, the Additional Earnest Money Deposit.

§2.03. Escrow Agent shall hold the Retained Deposit in a segregated, non interest-bearing account.

§2.04. At the Closing, the Earnest Money Deposit shall be applied towards the Purchase Price. If for any reason the Closing does not occur, and either party makes a written demand (a “Demand”) upon Escrow Agent for delivery of the Retained Deposit pursuant to this Agreement, Escrow Agent shall give written notice (“Notice of Demand”) to the other party of such Demand. If Escrow Agent does not receive a written objection to the Demand from the other party within seven (7) business days after the delivery of the Notice of Demand, Escrow Agent shall be authorized to deliver the Retained Deposit in accordance with the Demand in Escrow Agent’s

sole and absolute discretion. If Escrow Agent, for a good faith reason elects not to deliver the Retained Deposit in accordance with the Demand or if Escrow Agent receives a written objection within such seven (7) business day period, Escrow Agent shall continue to hold the Retained Deposit until otherwise directed by written instructions, executed by both Seller and Purchaser, regarding the delivery of the Retained Deposit, or a final judgment of a court of competent jurisdiction. Notwithstanding anything to the contrary contained herein, Escrow Agent shall have the right, at any time as determined by Escrow Agent in Escrow Agent's sole and absolute discretion, to deposit the Retained Deposit with the clerk of a court of competent jurisdiction over the subject matter and parties hereto. In such event, Escrow Agent shall give written notice of such deposit to Seller and Purchaser, and Escrow Agent shall then be relieved and discharged of all further obligations and responsibilities hereunder.

§2.05. Seller and Purchaser acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be the agent of either of the parties, and that Escrow Agent shall not be liable to either of the parties except for damages resulting from Escrow Agent's gross negligence and/or willful and/or intentional actions or omissions in the performance of its duties hereunder. Seller and Purchaser shall jointly and severally indemnify and hold Escrow Agent harmless from and against all costs, claims and expenses, including reasonable attorneys' fees, incurred in connection with the performance of Escrow Agent's duties hereunder, excepting those damages arising from Escrow Agent's gross negligence and/or willful and/or intentional actions or omission in the performance of its duties hereunder.

§2.06. By executing this Agreement below, Escrow Agent agrees to be bound by and comply with the terms and provisions of this Section 2, and the other terms and provisions of this Agreement pertaining to the Earnest Money Deposit.

Section 3. Due Diligence

§3.01. Seller shall, within five (5) business days after the Effective Date, deliver or make available (either physically or electronically) to Purchaser the following, if and to the extent that same are in Seller's possession (collectively, the "Due Diligence Materials"):

- (a) Copies of utility bills, including, but not limited to water, sewer, electric and gas, for the Premises for the twelve (12) most recently concluded calendar months;
- (b) Copies of tax bills for the Premises for the Tax Years 2018 and 2019;
- (c) Insurance Loss Runs with respect to the Premises for the five (5) most recently concluded calendar years;
- (d) A copy of Seller's most recent title insurance policy with respect to the Premises ("Seller's Title Policy");
- (e) A copy of the most recent survey with respect to the Premises in Seller's possession, if any ("Seller's Survey");

(f) A copy of the Plat of Subdivision recorded with the Clerk of the Superior Court, Fulton County, Georgia at Plat Book 429, Page 34 (the "Subdivision Plat"); and

(g) A copy of the Easement and Cost Sharing Agreement with respect to the Premises recorded with the Clerk of the Superior Court, Fulton County, Georgia at Deed Book 61444, Page 82 (the "Easement Agreement");

(h) Intentionally omitted;

(i) A copy of any Environmental Phase 1, Phase 2, limited or otherwise, or any other environmental assessment or report concerning the Property;

(j) A copy of Seller's hazard insurance policy insuring the property against fire, casualty, damage, loss, and/or other perils.

§3.02. Purchaser, and Purchaser's employees, agents and representatives, shall, from the Effective Date until the Closing or sooner termination of this Agreement, subject to the provisions of this Section 3, be entitled to enter onto the Premises in order to conduct such investigations and tests as Purchaser shall reasonably deem appropriate. Purchaser shall, in connection with any such entry, inspection or investigation, secure and maintain such policies of insurance, with such coverages and such deductibles, as are customary in the County in which the Premises are located in connection with such entry, inspection or investigation, and shall prior to any such entry provide to Seller evidence of same, which insurance and evidence shall be reasonably satisfactory to Seller.

§3.03. Purchaser shall, subject to the provisions of Section 3.02 above, be entitled to, prior to the day (the "Environmental Contingency Expiration Date") that is thirty (30) days following the Effective Date, perform such environmental examinations and investigations with respect to the Premises as Purchaser shall deem appropriate. In the event that any such environmental examination or investigation raises an "Environmental Issue" (hereinafter defined), Purchaser shall be entitled to terminate this Agreement by written notice to Seller of such termination delivered on or prior to the Environmental Contingency Expiration Date ("Notice of Termination- Environmental"), which shall be accompanied by a copy of the environmental report that raised the Environmental Issue in question. In the event that Purchaser terminates this Agreement pursuant to this Section 3.03, the Retained Deposit, and the Adjournment Deposit, if paid by Purchaser, shall be promptly returned to Purchaser, and Seller shall retain the Released Deposit, upon which this Agreement shall be deemed terminated, and the parties hereto shall have no further rights or obligations under this Agreement other than those which are expressly stated to survive the termination of this Agreement. Notwithstanding the foregoing, in the event that Purchaser timely sends a Notice of Termination- Environmental, Seller shall be entitled to, in Seller's sole discretion, within seven (7) business days of delivery to Seller of the Notice of Termination- Environmental, notify Purchaser of Seller's election to correct and/or remediate the Environmental Issue in question, in which event (i) the Notice of Termination- Environmental shall be null and void, and Seller and Purchaser shall proceed to Closing as contemplated hereby, (ii) Seller shall be solely responsible to correct and/or remediate the Environmental Issue in question on or prior to Closing, and Seller shall further indemnify,

defend, and hold harmless Purchaser from and against any and all loss, liability, expense, claim and/or cause of action suffered or incurred by Purchaser in connection therewith; provided, however, that, in such event, Purchaser shall at Closing reimburse Seller for Seller's costs and expenses in connection with such correction and/or remediation, up to [REDACTED] Dollars [REDACTED]; (iii) Seller shall be entitled to adjourn the Closing Date hereunder as shall be reasonably necessary in order to complete such correction and/or remediation; and (iv) should Seller not otherwise correct and/or remediate the Environmental Issue in question on or prior to Closing (as may be adjourned as set forth above), then Purchaser shall have the right to terminate this Agreement, whereupon the Retained Deposit, and the Adjournment Deposit if paid by Purchaser, shall be promptly returned to Purchaser, and Seller shall retain the Released Deposit, and this Agreement shall be deemed terminated, and the parties hereto shall have no further rights or obligations under this Agreement other than those which are expressly stated to survive said termination. "Environmental Issue" shall mean an issue or issues disclosed in a Phase I, Phase II, or any other environmental report prepared for Purchaser with respect to the Premises which would cost in the aggregate [REDACTED] Dollars [REDACTED] or more to remediate; provided, however that any condition caused by Purchaser, its employees, agents or invitees shall in no event be deemed an Environmental Issue. The provisions of this Section 3.03 shall survive the Closing or termination of this Agreement.

§3.04. Purchaser shall, subject to the provisions of Section 3.02 above, be entitled to, prior to the day (the "Zoning Contingency Expiration Date") that is sixty (60) days following the Effective Date, perform such examinations and investigations with respect to the zoning and permitted use of the Premises as Purchaser shall deem appropriate. In the event that any such examination or investigation raises a "Zoning Issue" (hereinafter defined), Purchaser shall exercise good faith and commercially reasonable efforts to resolve and/or cure such Zoning Issue on or prior to the Zoning Contingency Expiration Date. In the event that, despite compliance by Purchaser with the preceding sentence, the Zoning Issue remains unresolved and uncured on the Zoning Contingency Expiration Date, Purchaser shall be entitled to terminate this Agreement by written notice to Seller of such termination, delivered on or prior to the Zoning Contingency Expiration Date, which notice shall be accompanied by a copy of an e-mail from a representative of the applicable municipality or governing body that sets forth or describes the Zoning Issue. The parties agree that, exclusive of the aforesaid e-mail from a representative of the applicable municipality or governing body, no other report, analysis, or written determination from the applicable municipality or governing body shall be required in order for Purchaser to terminate pursuant to this Section. In the event that Purchaser terminates this Agreement pursuant to this Section 3.04, the Retained Deposit shall be promptly returned to Purchaser, and Seller shall retain the Released Deposit, upon which this Agreement shall be deemed terminated, and the parties hereto shall have no further rights or obligations under this Agreement other than those which are expressly stated to survive the termination of this Agreement. "Zoning Issue" shall mean an issue with respect to the zoning and or permitted use of the Premises due to which Purchaser reasonably determines that Purchaser will not be permitted to occupy or use the Premises for operation of a religious school.

§3.05. Except for the express indemnities given by Seller in favor of Purchaser set forth above in Section 3.03, Purchaser agrees to indemnify, defend and hold harmless Seller from and against any and all losses, claims, costs and expenses (including, without limitation, attorney's

fees) arising out of or incurred in connection with the exercise by Purchaser of its rights pursuant to Sections 3.02, 3.03 or 3.04 above. The provisions of this Section 3.05 shall survive the termination of this Agreement, and the Closing.

Section 4. Title

§4.01. Seller shall, at Closing, deliver to Purchaser fee simple title to the Premises, subject to the Permitted Exceptions (as hereinafter defined).

§4.02. Purchaser shall, within seven (7) days following the Effective Date, order a title report/commitment with respect to the Premises (the "Title Report"), and shall upon receipt cause a copy of same to be delivered to Seller's attorney. In addition, Purchaser may order a survey with respect to the Premises, and shall upon receipt cause a copy of same to be delivered to Seller's attorney.

§4.03. Purchaser shall, on or prior to the day that is twenty (20) days following the Effective Date, notify Seller in writing of the title and survey related matters, if any, to which Purchaser objects (such notice, "Purchaser's Title Objections"); provided, however, that in no event shall Purchaser be entitled to object to any matters raised in (i) Seller's Title Policy, (ii) Seller's Survey, (iii) the Subdivision Plat or (iv) the Easement Agreement. Seller shall, within five (5) days following Seller's receipt of Purchaser's Title Objections, notify Purchaser in writing as to which of the items referenced in Purchaser's Title Objections, if any, Seller will satisfy and remove of record prior to the Closing (such notice, "Seller's Title Response"). In the event that Seller fails to provide Seller's Title Response within such five (5) day period, Seller shall be deemed to have responded, on the final day of such five (5) day period, that Seller will not satisfy or remove any of the items referenced in Purchaser's Title Objections. It is agreed that, except as expressly set forth in this Section 4, Seller shall not be required to satisfy or remove of record any items objected to by Purchaser in Purchaser's Title Objections. In the event that Seller agrees in Seller's Title Response to satisfy and remove of record all items objected to by Purchaser in Purchaser's Title Objections, Seller shall pursue such satisfaction and removal diligently and in good faith, and deliver the Premises to Purchaser at Closing free and clear of all such items. In the event that Seller does not agree in Seller's Title Response to, or is deemed to have responded that it will not, satisfy and remove of record any or all of the items objected to in Purchaser's Title Objections, Purchaser shall be entitled to, as Purchaser's sole remedy, either (i) terminate this Agreement by written notice to Seller on or before the day (the "Title Contingency Expiration Date") that is thirty (30) days following the Effective Date, time being of the essence, in which event the Retained Deposit shall be promptly returned to Purchaser, and Seller shall retain the Released Deposit, upon which this Agreement shall be deemed terminated, and the parties hereto shall have no further rights or obligations under this Agreement other than those which are expressly stated to survive the termination of this Agreement or (ii) proceed to Closing, in which event (a) Seller shall pursue the satisfaction and removal of record of the items which Seller agreed in Seller's Title Response to satisfy and remove of record, if any, diligently and in good faith, and deliver the Premises to Purchaser at Closing free and clear of all such items, and (b) Purchaser shall, at Closing, accept title subject to the matters to which Purchaser objected in Purchaser's Title Objections which Seller did not agree in Seller's Title Response to satisfy and remove of record. The term Permitted Exceptions, as used in this Agreement, shall

mean (i) all matters raised in Seller's Title Policy, Seller's Survey, the Subdivision Plat or the Easement Agreement; (ii) zoning ordinances affecting the Property, (iii) general utility, sewer and drainage easements of record upon which the improvements do not encroach, (iv) declarations of condominium and declarations of covenants, conditions and restrictions of record as of the Effective Date of this Agreement; (v) other easements, restrictions and other encumbrances specified in this Agreement and incorporated herein by this reference; (vi) leases specified in this Agreement other than Purchaser's current lease of the Premises; (vii) current City, State and County ad valorem property and sanitary taxes not yet due and payable; (viii) all conditions existing as of the Effective Date to which Purchaser does not object in Purchaser's Title Objections; and (ix) in the event that Seller does not agree in Seller's Title Response, or is deemed not to agree, to cure any or all matters to which Purchaser objects in Purchaser's Title Objection and Purchaser does not timely terminate this Agreement due to such failure, all matters referenced in Purchaser's Title Objections which Seller does not agree in Seller's Title Response to satisfy and remove of record.

§4.04. Seller and Purchaser acknowledge and agree that Purchaser, as tenant, is presently party to a lease with respect to the Premises (the "Purchaser's Lease"). Purchaser agrees that such lease shall not serve as an objection to title, and at Closing Seller and Purchaser shall execute and deliver to the other a termination with respect to the Purchaser's Lease, in form reasonably acceptable to Seller and Purchaser, pursuant to which such lease shall be terminated effective as of the Closing (the "Termination of Purchaser's Lease").

§4.05. Anything in Section 4.03 above to the contrary notwithstanding, Seller shall be required to satisfy and remove of record the following, and the same shall not be deemed Permitted Exceptions: (i) all mortgages encumbering the Real Property to which Seller is a party; (ii) all mechanic's and materialmen's liens encumbering the Real Property arising due to obligations of Seller; (iii) all tax liens and water liens encumbering the Real Property or any portions thereof (other than those, if any, arising due to obligations that are the responsibility of Purchaser under the Purchaser's Lease); and (iv) all judgments of record against the Seller which result in a lien against the Real Property.

Section 5. Closing

§5.01. Closing Date.

(a) The closing of title pursuant to this Agreement (the "Closing") shall take place on or before the day that is One Hundred Eight (180) days following the Effective Date (the "Closing Date"). The Closing shall be conducted via escrow, with the Escrow Agent serving as settlement agent.

(b) Notwithstanding the foregoing, Purchaser shall be entitled to adjourn the Closing Date for one (1) period of Sixty (60) days (the "Extension Option"), which adjournment shall be effected, if at all, by (i) written notice to Seller, not less than ten (10) business days prior to the then scheduled Closing Date, of Purchaser's election to so adjourn the Closing Date (the "Adjournment Notice") and (ii) delivery to Seller, on the day on which the Adjournment Notice is sent, time being of the essence, by wire of immediately available funds pursuant to wire instructions to be provided

by Seller's counsel, an additional deposit (the "Adjournment Deposit"), in the amount of [REDACTED] Dollars [REDACTED], which Adjournment Deposit shall be deemed earned by Seller on receipt, and shall, except as otherwise expressly set forth in this Agreement, not be refunded to Purchaser under any circumstance.

§5.02. At the Closing, Seller shall deliver the following (collectively, the "Seller's Closing Deliverables") to Purchaser:

(a) A Limited Warranty Deed with respect to the Real Property, in form reasonably satisfactory to Seller, Purchaser and Purchaser's title insurance company, duly executed by Seller and notarized (the "Deed").

(b) The Termination of Purchaser's Lease, in form reasonably satisfactory to Seller and Purchaser, duly executed by Seller and notarized.

(c) A Bill of Sale, in form reasonably satisfactory to Seller and Purchaser, pursuant to which Seller conveys to Purchaser the Personal Property, as is, without representation or warranty, and without any additional consideration being given by Purchaser to Seller.

(d) A Settlement Statement (the "Settlement Statement"), in form and substance reasonably satisfactory to Seller and Purchaser, with respect to the subject transaction.

(e) Affidavit of Seller regarding mechanic's liens due to obligations of Seller, and parties in possession (other than pursuant to Purchaser's Lease);

(f) Evidence of formation, authority and good standing of Seller as may be reasonably required by Purchaser's title insurer;

(g) A certificate that Seller is not a foreign corporation or party (as defined in the Internal Revenue Code) and an affidavit respecting O.C.G.A. § 48-7-128;

(h) An Affidavit of Seller's residence concerning applicability or inapplicability of withholding tax on transfer of the Property; and

(i) Such other documents and materials as shall be reasonably necessary in order to give effect to the transaction contemplated by this Agreement and the intentions of the parties as set forth herein.

§5.03. At the Closing, Purchaser shall deliver the following (collectively, the "Purchaser's Closing Deliverables") to Seller:

(a) The Purchase Price, less the Earnest Money Deposit, and, to the extent advanced by Purchaser pursuant to Section 5.01 above, less the Adjournment Deposit, subject to adjustments and prorations as set forth in this Agreement (the "Balance Due at Closing").

(b) The Termination of Purchaser's Lease, duly executed by Purchaser and notarized.

(c) The Settlement Statement, duly executed by Purchaser.

(d) Such other documents and materials as shall be reasonably necessary in order to give effect to the transaction contemplated by this Agreement and the intentions of the parties as set forth herein.

Section 6. Representations and Warranties

§6.01. Seller represents and warrants to Purchaser as follows:

(a) Seller is a limited liability company, duly formed and validly existing under the laws of the state of Georgia.

(b) This Agreement has been executed and delivered by Seller, constitutes the valid and binding obligation of Seller, and is enforceable against Seller in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law); and

(c) Exclusive of the satisfaction of the contingency referenced in Section 11.11 of this Agreement, Seller has secured all authorizations and consents, if any, required by applicable law, and by the organizational document of Seller, in order to enter into this Agreement and to consummate the transaction contemplated hereby.

(d) Seller's entering into this Agreement, and consummating the transaction contemplated hereby, is not prohibited by and will not violate any ruling or order by which Seller is bound.

(e) Seller is not a foreign person as defined by Section 1445 of the Internal Revenue Code.

(f) As of the Effective Date, there is no litigation or proceeding pending, to Seller's knowledge against Seller;

(g) As of the Effective Date, Seller has no actual knowledge of any pending or threatened in writing condemnation or eminent domain proceedings regarding the Property;

(h) Seller has entered into no management and/or service contracts for the Property which are not cancelable at Closing and Seller agrees to cancel all such contracts at Closing, other than those, if any, which Purchaser requests by written notice, not less than thirty (30) days prior to the Closing Date, that Seller assign to Purchaser at Closing; and

(i) There are no Leases or other occupancy agreements to which Seller is a party providing for the occupancy of the Premises that will survive Closing.

The representations and warranties set forth in this Section 6.01 shall be true, correct and complete on the Effective Date and on the date of the Closing, and shall survive the Closing for a period of one (1) year.

§6.02. Purchaser represents and warrants to Seller that:

(a) Purchaser is a corporation duly formed and validly existing under the laws of the state Georgia, and duly authorized to conduct business and in good standing in the State of Georgia.

(b) This Agreement has been executed and delivered by Purchaser, constitutes the valid and binding obligation of Purchaser, and is enforceable against Purchaser in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally, and by general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(c) Purchaser has secured all authorizations and consents, if any, required by applicable law, and by the organizational document of Purchaser, in order to enter into this Agreement and to consummate the transaction contemplated hereby.

(d) Purchaser's entering into this Agreement, and consummating the transaction contemplated hereby, is not prohibited by and will not violate any ruling or order by which Purchaser is bound.

The representations and warranties set forth in this Section 6.02 shall be true, correct and complete on the Effective Date and on the date of the Closing, and shall survive the Closing for a period of one (1) year.

Section 7. Adjustments: Closing Costs

§7.01. Seller and Purchaser shall at the Closing adjust for the items set forth below. Such adjustments shall be made as of the date of the Closing, with Seller responsible for all costs and entitled to all items of revenue attributable to the period prior to the day of the Closing, and Purchaser responsible for all costs and entitled to all items of revenue attributable to the period from the day of the Closing (inclusive) forward.

(a) All rents and other amounts due under the Purchaser's Lease shall be adjusted as of the date of the Closing. Purchaser shall at Closing received a credit in the amount of all such rents and other amounts, if any, received by Seller in advance and allocable to the period from the day of the Closing (inclusive) forward, and Seller shall at Closing receive a credit in the amount of all such rents and other amounts, if any, accrued under the Purchaser's Lease as of the date of the Closing and unpaid.

(b) Real estate taxes, personal property taxes, water charges and sewer rents, if any, on the basis of the fiscal period for which assessed; provided, however, that (i) to the extent that Purchaser pays any such amounts directly under Purchaser's Lease, such amount shall not be so adjusted and (ii) in the event that the parties adjust at Closing for property taxes, and following

Closing the rate is reduced or property taxes are waived, Purchaser shall reimburse Seller promptly for Seller's proportionate share of the reduction, or if taxes are waived for the full amount credited to Purchaser at Closing. This Section shall survive the Closing.

§7.02. Purchaser shall at Closing be entitled to a credit against the Purchase Price in an amount equal to the amount of the security deposit advanced by Purchaser under the Purchaser's Lease and as of the date of the Closing not applied in accordance with the terms of the Purchaser's Lease; provided, however, that Purchaser shall in no event be entitled to any such credit for such amount to the extent not delivered to Seller on Seller's purchase of the Premises.

§7.03. At or prior to Closing, Seller shall be required to pay the following: (i) all costs due with respect to the satisfaction and release of record of all mortgages which Seller is required to satisfy and remove of record pursuant to this Agreement; (ii) all transfer taxes and like levies due with respect to the subject transaction; and (iii) one half of the reasonable fee charged by the Escrow Agent for effecting the Closing. At or prior to Closing, Purchaser shall be required to pay the following: (i) all costs due in connection with the issuance of the title report and the survey arranged by Purchaser as contemplated in this Agreement; (ii) the premium due in connection with the issuance to Purchaser at Closing of an owner's title insurance policy and a lender's title policy, if applicable, with respect to the Premises; (iii) all costs due in connection with financing secured by Purchaser with respect to the subject transaction, if any; (iv) all costs in connection with Purchaser's due diligence with respect to the Premises; and (v) one half of the reasonable fee charged by the Escrow Agent for effecting the Closing. Seller and Purchaser shall each be required to pay the fees of their respective attorneys. Any costs and expenses in connection with the subject transaction not expressly addressed above shall be allocated pursuant to local custom.

Section 8. Broker

§8.01. Seller and Purchaser each represent and warrant to the other that they have not dealt with any broker or like party in connection with the subject transaction. Seller and Purchaser each agree to indemnify, defend and hold harmless the other from and against any and all costs, expenses, losses, liabilities, claims, and actions due to or arising out of the inaccuracy, or alleged inaccuracy, of the representations or warranties of the indemnifying party as set forth in this Section 8.01. This Section 8.01 shall survive the closing or termination of this Agreement.

Section 9. Notices

§9.01. All notices, requests and other communications under this Agreement shall be in writing and shall be delivered by (i) personal delivery, (ii) certified mail, postage prepaid, return receipt requested, (iii) overnight via a nationally recognized overnight courier, or (iv) via electronic mail (e-mail), addressed as set forth below. Notice may be sent by the attorneys of the parties hereto on behalf of their respective clients. Notice shall be deemed given and received (i) in the case of personal delivery or certified mail, on the date on which the notice is received or refused by the party to which such notice was sent, (ii) in the case of delivery via overnight courier, on the next business day immediately following delivery of such notice to the overnight courier for next business day delivery and (iii) in the case of delivery via e-mail, upon sending.

Notices to the respective parties hereunder shall be sent to the following addresses:

If to Seller:

Crystal at 5180 LLC
5180 Roswell Road
Atlanta, Georgia 30342
Attn: Mendel Chazanow
E-mail: mendel@dnrealtycorp.com

with a copy to:

The Law Offices of Mark H. Lazarus, PLLC
777 Chestnut Ridge Road, Suite 311
Spring Valley, NY 10977
Attn: Mark H. Lazarus, Esq.
E-mail: mark@lazaruslawfirm.com

If to Purchaser:

Merkos Linyonei Chinuch Chabad Lubavitch of Georgia,
Inc.
Attn: Isser New
5065 High Point Road NE
Atlanta, Georgia 30342
E-mail: issen@gmail.com

with a copy to:
Joshua D. Huckaby
O'Kelley & Sorohan, Attorneys at Law, LLC
2170 Satellite Blvd., Suite 375
Duluth, Georgia 30097
E-mail: jhuckaby@oslawllc.com

If to Escrow Agent:

Landmark Abstract Agency
Attn: Jacob Rekant, Esq.
207 Rockaway Turnpike
Lawrence, New York 11559
E-mail: Jrekant@laatitle.com

Section 10. Default

§10.01. In the event that Seller shall fail in any material respect to perform or comply with any of its obligations under in this Agreement, which breach or failure shall remain uncured for seven (7) business days after written notice by Purchaser thereof, Purchaser shall be entitled to, as its sole and exclusive remedy, either (i) terminate this Agreement by written notice to Seller of such termination, in which event the Earnest Money Deposit and, if advanced by Purchaser pursuant to Section 5.01(b) of this Agreement, the Adjournment Deposit shall be promptly returned to Purchaser, on which Seller and Purchaser shall have no further rights or obligations under this Agreement, other than those which expressly survive termination of this Agreement, or (ii) commence action to compel specific performance of this Agreement, which action shall be commenced, if at all, within sixty (60) days of the Closing Date.

§10.02. In the event that Purchaser shall fail in any material respect to perform or comply with any of its obligations under in this Agreement, which breach or failure shall remain uncured for seven (7) business days after written notice by Seller thereof, Seller may, as Seller's sole and exclusive remedy, terminate this Agreement by written notice to Purchaser of such termination and receive the Earnest Money Deposit, and if applicable the Adjournment Deposit, as liquidated damages. Seller and Purchaser have made this provision for liquidated damages because it would be difficult to calculate, on the date hereof, the amount of actual damages for such breach, and Seller and Purchaser agree that these sums represent reasonable compensation to Seller for such breach, and are not a penalty.

Section 11. Miscellaneous Provisions

§11.01. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or terminated except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

§11.02. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia.

§11.03. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

§11.04.

(a) Purchaser shall not assign all or any part of or any interest under this Agreement to any person, firm or entity, without the prior written consent of Seller, which may be granted or withheld in Seller's sole discretion. The foregoing prohibition shall include any conveyance, disposition or transfer of any ownership interest in or right of control over the Purchaser. Notwithstanding the foregoing, Purchaser shall be entitled to, without the prior written consent of Seller, but on notice to Seller no less than seven (7) business days prior to the Closing Date, assign this Agreement to an entity controlled by Purchaser or Isser New, provided, however, that such assignment shall not serve to release or discharge Purchaser of or from its obligations under this Agreement

(b) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and permitted assigns.

§11.05.

(a) Time is of the essence of this Agreement, and of the performance of each of the terms and conditions hereof.

(b) The term business day, as used herein, shall mean any day other than a Saturday or Sunday, federal or state holiday, or any other day on which commercial banks in Atlanta, Georgia are authorized or required to close for business. In the event that any date provided for in this Agreement or time for performance of an obligation by a party hereto shall fall, or any period provided for in this Agreement shall expire, on a day which is not a business day, such date, or such period, shall be extended through the next occurring business day.

§11.06. This Agreement may be executed in counterparts, which, together, shall constitute but one agreement. A copy of any party's signature to this Agreement transmitted via facsimile, e-mail or other electronic means shall be valid and enforceable as if it were an original.

§11.07. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EITHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PREMISES. ADDITIONALLY, NO PERSON ACTING ON BEHALF OF SELLER IS AUTHORIZED TO MAKE, AND BY EXECUTION HEREOF PURCHASER ACKNOWLEDGES THAT NO PERSON HAS MADE, ANY REPRESENTATION, AGREEMENT, STATEMENT, WARRANTY, GUARANTY OR PROMISE REGARDING THE PREMISES OR THE TRANSACTION CONTEMPLATED HEREIN, OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT; AND NO SUCH REPRESENTATION, WARRANTY, AGREEMENT, GUARANTY, STATEMENT OR PROMISE, IF ANY, MADE BY ANY PERSON ACTING OR PURPORTING TO ACT ON BEHALF OF SELLER SHALL BE VALID OR BINDING UPON SELLER UNLESS

EXPRESSLY SET FORTH IN THIS AGREEMENT. FURTHER, PURCHASER ACKNOWLEDGES AND AGREES THAT THERE ARE NO CONDITIONS PRECEDENT TO PURCHASER'S OBLIGATIONS UNDER THIS AGREEMENT, OTHER THAN THOSE, IF ANY, EXPRESSLY SET FORTH IN THIS AGREEMENT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE CLOSING OR SOONER TERMINATION OF THIS AGREEMENT.

§11.08. In the event of any fire and/or other casualty affecting the Premises or any part thereof prior to Closing, Seller shall notify Purchaser in writing of same. In the event that the cost to restore the Premises to the condition existing immediately prior to the occurrence of such fire or other casualty would exceed [REDACTED] Dollars [REDACTED], Purchaser may, at its election in its sole discretion, terminate this Agreement by written notice to Seller of such termination within ten (10) days after Purchaser's receipt of Seller's written notice of the occurrence of such fire or casualty. In the event Purchaser terminates this Agreement pursuant to this Section 11.09, the Retained Deposit, and, if advanced by Purchaser pursuant to Section 5.01(b) of this Agreement, the Adjournment Deposit, shall be returned to Purchaser, and the Released Deposit shall be retained by Seller, upon which Seller and Purchaser shall have no further rights or obligations pursuant to this Agreement other than those which are expressly stated to survive the termination of this Agreement. In the event that the cost to restore the Property to the condition existing immediately prior to the occurrence of such fire or other casualty would be [REDACTED] Dollars [REDACTED] or less, or that Purchaser fails to terminate this Agreement as and within the time-frame set forth above, then the parties shall proceed to Closing pursuant to this Agreement, and Seller shall at Closing assign and convey to Purchaser, without warranty, all insurance proceeds and all rights to collect any insurance proceeds pertaining to such fire or casualty. Anything in this Section to the contrary notwithstanding, Purchaser shall in no event be entitled to terminate this Agreement pursuant to this Section due to fire or casualty caused by the actions of Purchaser, its principals, agents, employees or invitees.

§11.09. In the event of any condemnation, eminent domain or similar taking of the Premises or any part thereof prior to Closing, Seller shall notify Purchaser in writing of same. In the event that the value of the Premises would, due to such condemnation, eminent domain or taking, be decreased by more than [REDACTED] Dollars [REDACTED], then Purchaser may, at its election and in its sole discretion, terminate this Agreement by written notice to Seller of such termination within ten (10) days after Purchaser's receipt of Seller's written notice of the occurrence of such condemnation, eminent domain or taking. In the event Purchaser terminates this Agreement pursuant to this Section 11.10, the Retained Deposit, and, if advanced by Purchaser pursuant to Section 5.01(b) of this Agreement, the Adjournment Deposit, shall be returned to Purchaser, and the Released Deposit shall be retained by Seller, upon which Seller and Purchaser shall have no further rights or obligations pursuant to this Agreement other than those which are expressly stated to survive the termination of this Agreement. In the event that the value of the Premises would not be decreased by more than [REDACTED] Dollars [REDACTED] due to such condemnation, eminent domain or taking, or that Purchaser fails to terminate this Agreement as and within the time-frame set forth above, then the parties shall proceed to Closing pursuant to this Agreement, and Seller shall at Closing assign

and convey to Purchaser, without warranty, all awards and all rights to collect any awards pertaining to such condemnation, eminent domain or taking.

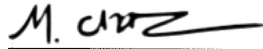
§11.10. Section 1031 Exchange. If so requested by either party, the other party will, at the expense of the requesting party, reasonably cooperate with the requesting party in structuring and completing this transaction for the requesting party so as to effect a like-kind exchange pursuant to Section 1031 of the Internal Revenue Code, as amended.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SELLER:

CRYSTAL AT 5180 LLC
a Georgia limited liability company



By: Menachem Chazanow
Its: Managing Member

PURCHASER:

MERKOS LINYONEI CHINUCH CHABAD
LUBAVITCH OF GEORGIA, INC.
a Georgia corporation



By: Isser New
Its: CFO

SCHEDULE A

Legal Description

The land, together with all improvements situated therein or thereon, identified as Lot 1, on a survey recorded in Plat Book 429, Page 34, Fulton County, Georgia, records.

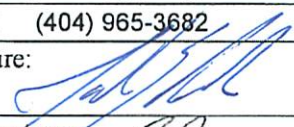


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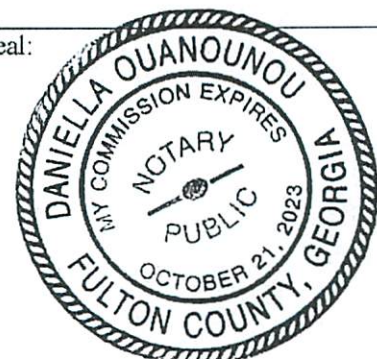
GEORGIA

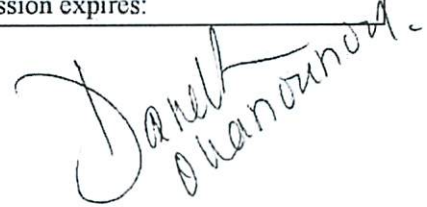
AUTHORIZATION FORM – PART II

- C- If an agent or attorney will represent the owner and/or the Applicant:
Fill out the following section and have it notarized.

Agent's name: Jordan Edwards
Company: The Galloway Law Group, LLC
Address: 4062 Peachtree Road NE, Suite A330
City, State, Zip Code: Atlanta, GA 30319
Email address: jordan@glawgp.com
Phone number: (404) 965-3682
Agent's signature: 
Applicant's signature: 

By: Isser New
Rabbi and Director, CMCH

Sworn and subscribed before me this 27 th day of Dec 2021
Notary public:
Seal: 
Commission expires:





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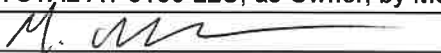
DISCLOSURE OF CONTRIBUTION FORM

Within the two (2) years immediately preceding the filing of this Application, have you made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to the Mayor or any member of the City Council? ☐ Yes ☒ No

List all individuals or business entities which have an ownership interest in the property which is the subject of this Application:
CRYSTAL AT 5180 LLC

Campaign Contributions:			
Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name: CRYSTAL AT 5180 LLC, as Owner, by Menachem Chazanow	
Signature: 	Date: 12-27-21

Note: Each party involved in the Application must sign an individual copy of this form.



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DISCLOSURE OF CONTRIBUTION FORM

Within the two (2) years immediately preceding the filing of this Application, have you made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to the Mayor or any member of the City Council? ☐ Yes ☒ No

List all individuals or business entities which have an ownership interest in the property which is the subject of this Application:

CRYSTAL AT 5180 LLC

Campaign Contributions:			
Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more

The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name: Chaya Mushka Children's House, as Applicant, by Isser New

Signature:

Date:

11-27-21

Note: Each party involved in the Application must sign an individual copy of this form.



SANDY SPRINGS™

GEORGIA

DISCLOSURE OF CONTRIBUTION FORM

Within the two (2) years immediately preceding the filing of this Application, have you made any campaign contributions aggregating \$250.00 or more or made gifts having an aggregate value of \$250.00 to the Mayor or any member of the City Council? ☒ Yes ☐ No

List all individuals or business entities which have an ownership interest in the property which is the subject of this Application:

CRYSTAL AT 5180 LLC

Campaign Contributions:			
Name of Government Official	Total Dollar Amount	Date of Contribution	Enumeration and Description of Gift Valued at \$250.00 or more
Rusty Paul	\$500.00	July 2, 2021	Campaign contribution

The undersigned acknowledges that this disclosure is made in accordance with the Official Code of Georgia, Section 36-67A-1 et. seq. Conflict of interest in zoning actions, and that the information set forth herein is true to the undersigned's best knowledge, information and belief.

Name: The Galloway Law Group, LLC, as Attorney for the Applicant, by Jordan Edwards
Signature:  Date: 1/03/2021

Note: Each party involved in the Application must sign an individual copy of this form.

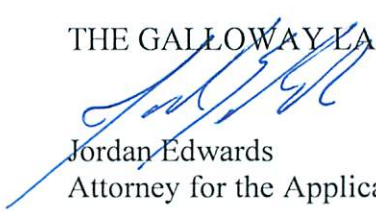
LETTER OF INTENT
APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF SANDY SPRINGS, GEORGIA

The Chaya Mushka Children's House School (the "School") requests a Conditional Use Permit for one lot measuring approximately 1.4 acres located at 5180 Roswell Road (Parcel Identification Number 17 009200050644) (the "Property") to allow a private school use in an existing building. The School, having mistakenly operated on the Property since 2018, brings this request following the Sandy Springs City Council's approval of Ordinance 2021-10-34, in order to operate as a private school in compliance with the Development Code.

The existing building in which the school would operate is three stories tall (two stories plus a basement) and has a floor area of approximately 27,766 square feet. The School, which is affiliated with Congregation Beth Tefillah on High Point Road, is one of only a few Chabad schools in the Atlanta metropolitan area and the only one in Sandy Springs. The School offers instruction in grades 1 through 8 to approximately 120 children, most of whom live in the neighborhoods that surround the School. School-related traffic has never queued onto Roswell Road thanks to a drop-off/pick-up circulation plan with abundant stacking in place. The Property's historic architecture, established trees, and secluded orientation, as well as its proximity both to Congregation Beth Tefillah and to the homes of its students, provide an ideal learning environment. Accordingly, the School respectfully asks that the City Council approve this Conditional Use Permit.

Sincerely,

THE GALLOWAY LAW GROUP, LLC



Jordan Edwards
Attorney for the Applicant

4062 Peachtree Road, Ste A330
Atlanta, Georgia 30319
(404) 965-3682

CONDITIONAL USE ANALYSIS
APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF SANDY SPRINGS, GEORGIA

The Chaya Mushka Children’s House School (the “School”) requests a Conditional Use Permit for one lot measuring approximately 1.4 acres located at 5180 Roswell Road (Parcel Identification Number 17 009200050644) (the “Property”) to allow a private school use in an existing building. Because this Conditional Use Permit request is consistent with the approval criteria enumerated at Section 11.3.6.D. of the Sandy Springs Development Code, as documented below, the School respectfully asks that the City Council of Sandy Springs approve the Conditional Use Permit as requested.

1. The use is allowed as a conditional use in the respective zoning district.

The Property is zoned to Sandy Springs’ Office Neighborhood-3 (ON-3) zoning district. Division 7.2 of the Sandy Springs Development Code allows the “School, private (K-12)” use in the ON-3 district as a Conditional Use. See Sandy Springs Ordinance 2021-10-34, TA21-0004. Accordingly, with approval of the requested Conditional Use Permit, the proposed use is allowed on the Property as zoned, provided that all applicable use standards are satisfied.

2. The use complies with the applicable specific use standard listed in Article 7 without the granting of any variance.

Section 7.4.1.H. of the Sandy Springs Development Code enumerates several use standards applicable to the “School, private (K-12)” use. These include Basic Use Standards, which apply to all private schools, a set of additional Basic Use Standards that apply only to private schools in the ON-3 district, and Additional Use Standards. To the Applicant’s knowledge, the proposed use is consistent with these many use standards and no variance will be required.

3. The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.

To its front the Property is adjacent to one of Sandy Springs’ primary commercial corridors in Roswell Road, while to its rear the Property is adjacent to the RD-18 zoning district.

The proposed use for a small private school is compatible both with the relatively more intense uses envisioned for Roswell Road (“Roswell Road will be transformed from a primarily suburban, auto-oriented corridor—defined by strip-commercial centers and surface parking lots—into a great multimodal boulevard that will connect vibrant mixed-use neighborhoods.” Roswell Road Small Area Plan at Page 6.) and with the residential uses to the west. Crucially, the proposed private school will operate in an existing building constructed several decades ago, so approval of the Conditional Use permit will not result in a change to the location, scale, or site design of improvements on the Property.

4. Any significant adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset.

The proposed private school use is not expected to result in any significant adverse impacts in the affected area. The proposed school will operate within normal business hours and will utilize a carpool plan that ensures cars will not stack onto the public right of way. The proposed school will not produce noxious materials, odors, or noises.

5. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, water treatment, water supply and stormwater facilities, police, fire and emergency medical services while maintaining sufficient levels of service to existing development.

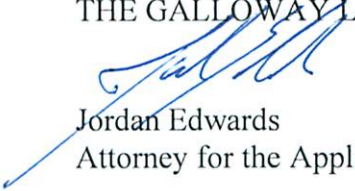
As stated above, the Property fronts one of the City’s primary vehicular corridors and the proposed school will operate in an existing building. The Property is already served by sufficient public facilities, and the proposed school will not burden existing schools, roads, recreation facilities, water treatment, water supply and stormwater facilities, police, fire, or emergency medical services. Even at the maximum student enrollment limitation established by the applicable Basic Use Standards, the proposed school would not place demands on public facilities that would result in insufficient levels of service to existing development.

As documented above, the requested Conditional Use Permit to allow a private school use in an existing building is consistent for the criteria enumerated at Section 11.3.6.D. of the

Sandy Springs Development Code. Accordingly, the School respectfully asks that the City Council of Sandy Springs approve the Conditional Use Permit as requested.

Sincerely,

THE GALLOWAY LAW GROUP, LLC



Jordan Edwards
Attorney for the Applicant

4062 Peachtree Road, Ste A330
Atlanta, Georgia 30319
(404) 965-3682

[illegible]

NOTE: THE CITY OF SANDY SPRINGS, FULTON COUNTY, CITY OF ATLANTA, FULTON COUNTY, GEORGIA, AND/OR AGENTS SHALL HAVE ACCESS TO AND CROSS ALL EASEMENTS FOR THE PURPOSE OF MAINTENANCE AND INSPECTION. ANTIMONY SEWER SERVICE PROVIDED BY FULTON COUNTY. WATER SERVICE PROVIDED BY CITY OF SANDY SPRINGS. ALL FEATURES AND IMPROVEMENTS ON SITE ARE EXISTING. A FIELD WORK WAS PERFORMED BY THIS SURVEYOR. INFORMATION TAKEN FROM PLAT BOOK 469 PAGE 34 OF FULTON COUNTY, GA. RECORDS.

LOT "1"
.396 ACRES
10,827 SQ.FT.
LOT COVERAGE
23,354 S.F.

LOT "1"
1.396 ACRES
60,827 SQ.FT.

ZONED UN-3
OFFICE NEIGHBORHOOD DISTRICT
TAX ID #: 17-009200050644
ADDRESS:
5180 ROSWELL ROAD
SANDY SPRINGS, GA., 30342

CURRENT ZONING: ON-3 OFFICE NEIGHBORHOOD DISTRICT
FRONT YARD SETBACK: 3' MIN., 20' MAX. PRIMARY
STREET BOLD-TO ZONE
REAR BUILDING SETBACK: 5'
SIDE COMMON LOT LINE BUILDING SETBACK: 5'
PARKING SPACES / DWELLING UNIT FOR SCHOOLS, PRIVATE
(1-12) PER SEC. 16-1: MIN. VEHICLE PARKING IS 1 PER 50
SQ. FT., MIN. SHORT-TERM BIKE PARKING IS 1 PER 30 STUDENTS
AND MIN. LONG-TERM BIKE PARKING IS 1 PER 60 STUDENTS
(66,000 SQ. FT., 300 SQ. FT., 200 PARKING SPACES
MINIMUM REQUIRED LOT AREA: 7500 SQ. FT.)

MINIMUM LOT WIDTH: 75' LOT WIDTH
MAXIMUM HEIGHT: 3 STORES MAX. / 42' MAX.

LOCK RESERVED FOR CLERK
SIGNED LOB CORY

Sec. 1.1.9, of the Sandy Springs Development Code: among the remaining conditions rezoning are buffers or setbacks adjacent to Protected Neighborhoods that exceed the requirements in this Development Code and any provision in an approved condition site plan that restricts vehicular access to or from a particular direction.

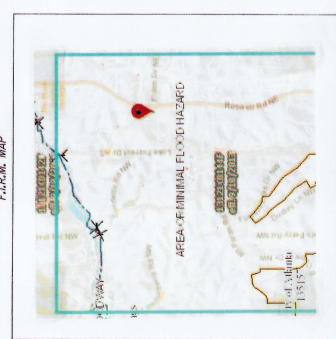
Per Section 11.9 of the Sandy Springs Development Code, prior conditions of rezoning are still in effect that require "a 50' setback adjacent to Protected Neighbors that exceed the requirements of this Development Code." Prior to the current ON-3 zoning classification, the depicted property was zoned C1 with conditions per Fulton County Z-80.84, which required, in pertinent part: "The petitioner's agreement to provide a 50 foot wide, natural, undisturbed buffer, replanted where sparsely vegetated, adjacent to the west property line and following the slope of the Silverwood Road cul-de-sac; and a 50' setback."

AS REQUIRED BY SUBSECTION (D) OF O. C. G. A. SECTION 15-6-67,

THIS PLAT WAS PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING. IT IS HEREBY CERTIFIED THAT THE SIGNATURE, STAMPS OR STATEMENTS, RECORDS, APPROVALS OR AFFIRMATIONS SHOULD BE CONFORMED WITH THE APPROPRIATE GOVERNMENTAL AGENCIES BY ANY PURCHASER OR USER OF THIS PLAT. THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING PRACTICES OF THE STATE OF GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE BOARD OF PROFESSIONAL LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 45-6-67.


 OA, REG. L.S. LIC. NO. 3244
 6-24-2021
 DATE

E1014 11013



PREPARED BY:
IRONSTONE SURVEYING INC.
LAND SURVEYORS
6 ERNEST BILES DRIVE
JACKSON, GA., 30233
IRONSTONESURVEYING.COM
PHONE #: 770-957-6614

CURRENT ZONING: ON-3 OFFICE NEIGHBORHOOD DISTRICT
3' MIN. / 20' MAX. PRIMARY STREET BUILD-TO ZONE
REAR BUILDING SETBACK: 5'
SIDE COMMON LOT LINE BUILDING SETBACK: 5'
MINIMUM LOT WIDTH: 75' LOT WIDTH
MAXIMUM HEIGHT: 3 STORIES MAX. / 42' MAX.
MAXIMUM HEIGHT WITHIN A TRANSITION AREA IS 2 STORIES / 28'.
MINIMUM REQUIRED LOT AREA: 7500 SQ.FT.

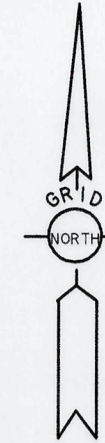
LOT "1"
1.396 ACRES
60,827 SQ.FT.
LOT COVERAGE
23,354 S.F.
DB 58993 82
PB 429 PG 34
ZONED ON-3
OFFICE NEIGHBORHOOD DISTRICT
TAX ID #: 17-009200050644
ADDRESS:
5180 ROSWELL ROAD
SANDY SPRINGS, GA., 30342

LOT "1"
1.396 ACRES
60,827 SQ.FT.
LOT COVERAGE
23,354 S.F.
DB 58993 82
PB 429 PG 34
ZONED ON-3
OFFICE NEIGHBORHOOD DISTRICT
TAX ID #: 17-009200050644
ADDRESS:
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SANDY SPRINGS, GA., 30342

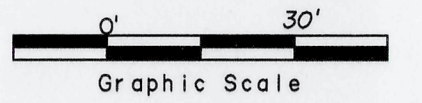
NOTE:
THE CITY OF SANDY SPRINGS, FULTON COUNTY, CITY OF ATLANTA,
PERSONNEL AND/OR AGENTS SHALL HAVE
FREE ACCESS TO AND ACROSS ALL EASEMENTS FOR THE PURPOSE OF
MAINTENANCE AND INSPECTION.
SANITARY SEWER SERVICE PROVIDED BY FULTON COUNTY.
WATER SERVICE PROVIDED BY CITY OF SANDY SPRINGS.
ALL FEATURES AND IMPROVEMENTS ON SITE ARE EXISTING.
NO FIELD WORK WAS PERFORMED BY THIS SURVEYOR.
INFORMATION TAKEN FROM PLAT BOOK 429 PAGE 34
OF FULTON COUNTY, GA., RECORDS.



IF YOU DIG GEORGIA...
CALL US FIRST!
811
UTILITIES PROTECTION CENTER
IT'S THE LAW



RETRACEMENT
SURVEY MADE FOR:
ZS ROSWELL ROAD HOLDINGS LLC.
PROPERTY LOCATED IN:
LAND LOT 92 * 17TH DISTRICT
FULTON COUNTY, GEORGIA
SCALE: 1" = 30' * 06-14-2021



THIS PLAT WAS PREPARED FOR THE EXCLUSIVE
USES OF THAT NAME APPEARING IN THE TITLE
BLOCK AND IS CERTIFIED TO NO OTHER PARTY.

REVISED 06/21/2021
REVISED 06/29/2021
REVISED 07/27/2021
REVISED 07/29/2021

ACCORDING TO THE F.I.R.M. OF FULTON COUNTY, PANEL
NUMBER 13121C 0144F, DATED 09-18-2013, A PORTION
OF THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD
HAZARD AREA.

THIS MAP OR PLAT HAS BEEN CALCULATED
FOR CLOSURE AND IS FOUND TO BE ACCURATE
WITHIN ONE FOOT 1/32,290 FEET.

THE FIELD DATA UPON WHICH THIS SURVEY
IS BASED HAS A CLOSURE PRECISION OF ONE
FOOT IN 16,785 FEET AND ANGULAR
ERROR OF 00'00"02" PER ANGLE POINT
AND WAS ADJUSTED USING LEAST SQUARES RULE.

THE EQUIPMENT USED TO
MAKE THIS SURVEY WAS A
TOPCON GPT-3005LW TOTAL STATION.

LEGEND	
P.O.B.	POINT OF BEGINNING
IPF	IRON PIN FOUND
IPP	IRON PIN PLACED
REBAR	REBAR
MTP	MASH TOP PIPE
OTP	OPEN TOP PIPE
R-W	RIGHT-OF-WAY
B/L	BUILDING LINE
N/F	NOW OR FORMERLY
OR	OR
PB	PLAT BOOK
PG	PAGE
L.L.	LAND LOT
L.L.L.	LAND LOT LINE
P/L	PROPERTY LINE
C/L	CENTER LINE
P/C	PROPERTY CORNER
⊗	POWER POLE
—E—	OVERHEAD POWER LINE
TRANS.	TRANSFORMER
W.M.	WATER METER
F.H.	FIRE HYDRANT
MIN.	MINIMUM
MAX.	MAXIMUM

NOTES:
REFERENCE INFORMATION TAKEN FROM DEED BOOK
58993 PAGE 84 OF FULTON COUNTY, GA., RECORDS.
THE FIELD WORK WAS COMPLETED ON 05-15-2019.
THE PLAT WAS COMPLETED ON 05-17-2019
THE CURRENT OWNER IS ZS ROSWELL ROAD HOLDINGS,
LLC, PER DEED BOOK 58993 PAGE 82-84 OF FULTON
COUNTY, GA., RECORDS.
THERE WAS NO OBSERVED EVIDENCE OF RECENT EARTH
MOVING WORK, BUILDING CONSTRUCTION, OR BUILDING
ADDITIONS OBSERVED IN THE PROCESS OF CONDUCTING
THE FIELDWORK.
THERE WAS NO OBSERVED CHANGES IN STREET
RIGHT-OF-WAY LINES OBSERVED IN THE PROCESS OF
CONDUCTING THE FIELDWORK.
THERE WAS NO OBSERVED EVIDENCE OF RECENT STREET
OR SIDEWALK CONSTRUCTION OR REPAIRS IN THE PROCESS
OF CONDUCTING THE FIELDWORK.

THE SUBJECT PROPERTY HAS INDIRECT PHYSICAL ACCESS TO
ROSWELL ROAD, WHICH IS A PUBLIC ROAD.
THERE WERE NO OBSERVED ENCROACHMENTS.
THERE WAS NO WETLANDS DESIGNATED BY THIS SURVEYOR.
THERE WAS NO OBSERVED EVIDENCE OF A CEMETERY
OR BURIAL GROUNDS.
THERE WAS NO OBSERVED EVIDENCE OF SITE USE AS A SOLID
WASTE DUMP, SUMP OR SANITARY LANDFILL.
THE SOURCE OF BEARINGS SHOWN HEREON ARE STATE PLANE
COORDINATES.
NO PORTION OF THIS PROPERTY LIES WITHIN THE BOUNDARIES
OF THE METROPOLITAN RIVER PROTECTION ACT.
IRON PINS PLACED 1/2" REBAR AT ALL CORNERS UNLESS
OTHERWISE NOTED.
THE SUBJECT PROPERTY IS IN THE NANCY CREEK DECLARED
SENSITIVE AREA.

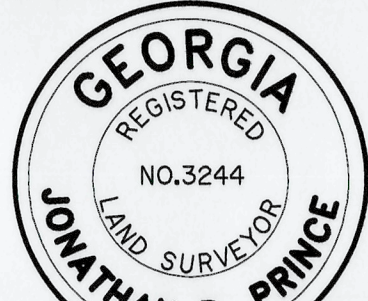
PAGE 1 OF 1
JOB #: 210232

BLOCK RESERVED FOR CLERK
OF SUPERIOR COURT

NOTE:
THESE LOTS ARE LIMITED TO A TOTAL OF ONE ACCESS
ONTO ROSWELL ROAD.
ACCESS LIMITED TO EXISTING CURB CUT OFF OF
ROSWELL ROAD.

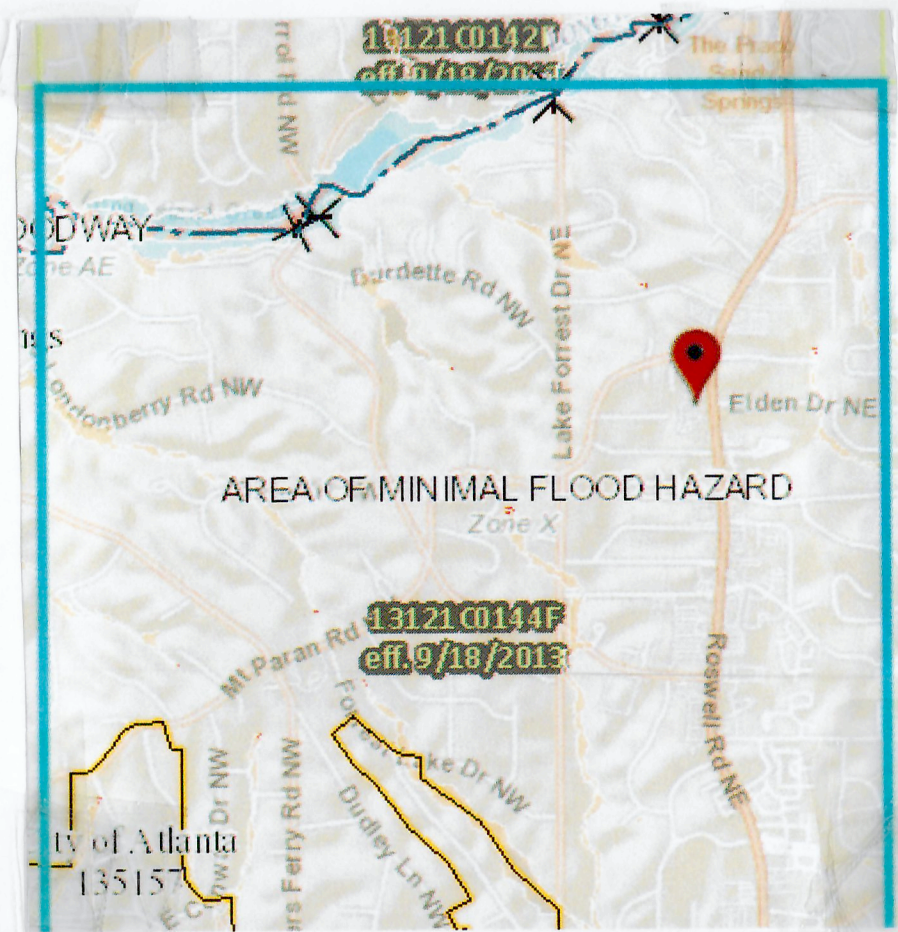
PARKING SPACES FOR SCHOOLS, PRIVATE
(K-12), PER SEC.8.1.2: MIN. VEHICLE PARKING IS 1 PER 500 SQ.FT.
MIN. SHORT-TERM BIKE PARKING IS 2 PER CLASSROOM OR 1 PER 30 STUDENTS.
MIN. LONG-TERM BIKE PARKING IS 1 PER CLASSROOM OR 1 PER 60 STUDENTS.
REQUIRED PARKING SPACES 27,766 SQ.FT. / 500 SQ.FT. = 56 PARKING SPACES
THERE ARE A TOTAL OF 48 PARKING SPACES.
THE NUMBER OF PARKING SPACES DO NOT MEET THE
REQUIREMENTS OF 56 PARKING SPACES.
THERE ARE 11 CLASSROOMS ON SITE.
REQUIRED SHORT TERM BIKE PARKING IS 22 PARKING SPACES.
REQUIRED LONG TERM BIKE PARKING IS 11 PARKING SPACES.
THERE ARE NO BIKE PARKING SPACES ON SITE.

AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67,
THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND
APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR
RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES,
SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS
OR AFFIRMATIONS SHOULD BE CONFIRMED WITH THE APPROPRIATE
GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT
AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE
UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT
COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR
PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES
AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR
PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH
IN O.C.G.A. SECTION 15-6-67.



GA. REG. L.S. LIC. NO. 3244
DATE 7-29-21

F.I.R.M. MAP



BUILDING FOOTPRINT * 9,255 SQ.FT.
CONCRETE SW / PATIO * 1,781 SQ.FT.
PORCH "1" * 366 SQ.FT.
PORCH "2" * 219 SQ.FT.
APHALT PARKING LOT * 20,988 SQ.FT.
EXISTING LOT COVERAGE * 23,354 S.F.
LOT SIZE * 60,827 S.F.
LOT COVERAGE PERCENTAGE * 23,354 S.F. / 60,827 S.F.
38.4%

PREPARED BY:
IRONSTONE SURVEYING INC.
LAND SURVEYORS
96 ERNEST BILES DRIVE
JACKSON, GA., 30233
WWW.IRONSTONESURVEYING.COM
PHONE #: 770-957-4614

CURVE	RADIUS	TANGENT	LENGTH	DELTA	DEGREE	CHORD	CH.BEARING	FIELD RECORD
C-1	46.40'	-646.44'	152.42'	188°12'40"	123°28'56"	92.56'	S 29°16'42"W	DEED RECORD
			138.96'			92.55'	S 27°35'27"W	

OWNER OF RECORD
ZS ROSWELL HOLDINGS LLC
5180 ROSWELL ROAD
SANDY SPRINGS, GA., 30342

PROPERTY BEING LOT "1" AS RECORDED IN
PLAT BOOK 429 PAGE 34 OF FULTON
COUNTY, GA., RECORDS.

N/F
ENCLAVE AT MT. PARAN LLC
DB 59826 PG 396
ZONED RT-3

N/F
HALPERN ENTERPRISES INC.
DB 54143 PG 628
ZONED RT-3

N/F
SONA PROPERTIES & INVEST, LLC
DB 58216 PG 1
ZONED ON-3

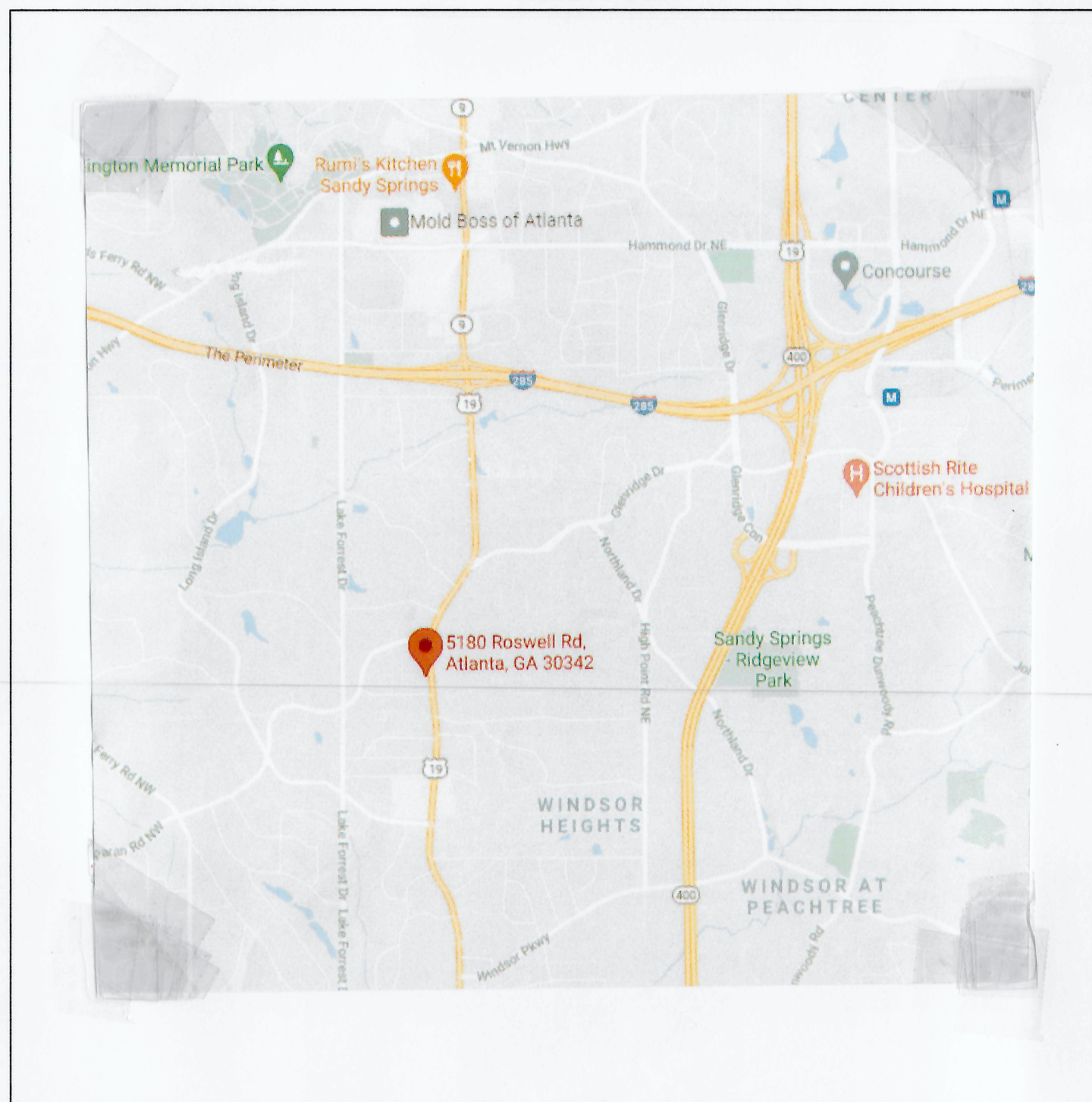
SILVERWOOD ROAD N.E.

ASPHALT PAVING

60' R/W

N/F
ZS ROSWELL ROAD HOLDINGS LLC.
DB 58993 82
PB 429 PG 34
ZONED ON-3
OFFICE NEIGHBORHOOD DISTRICT

VICINITY MAP



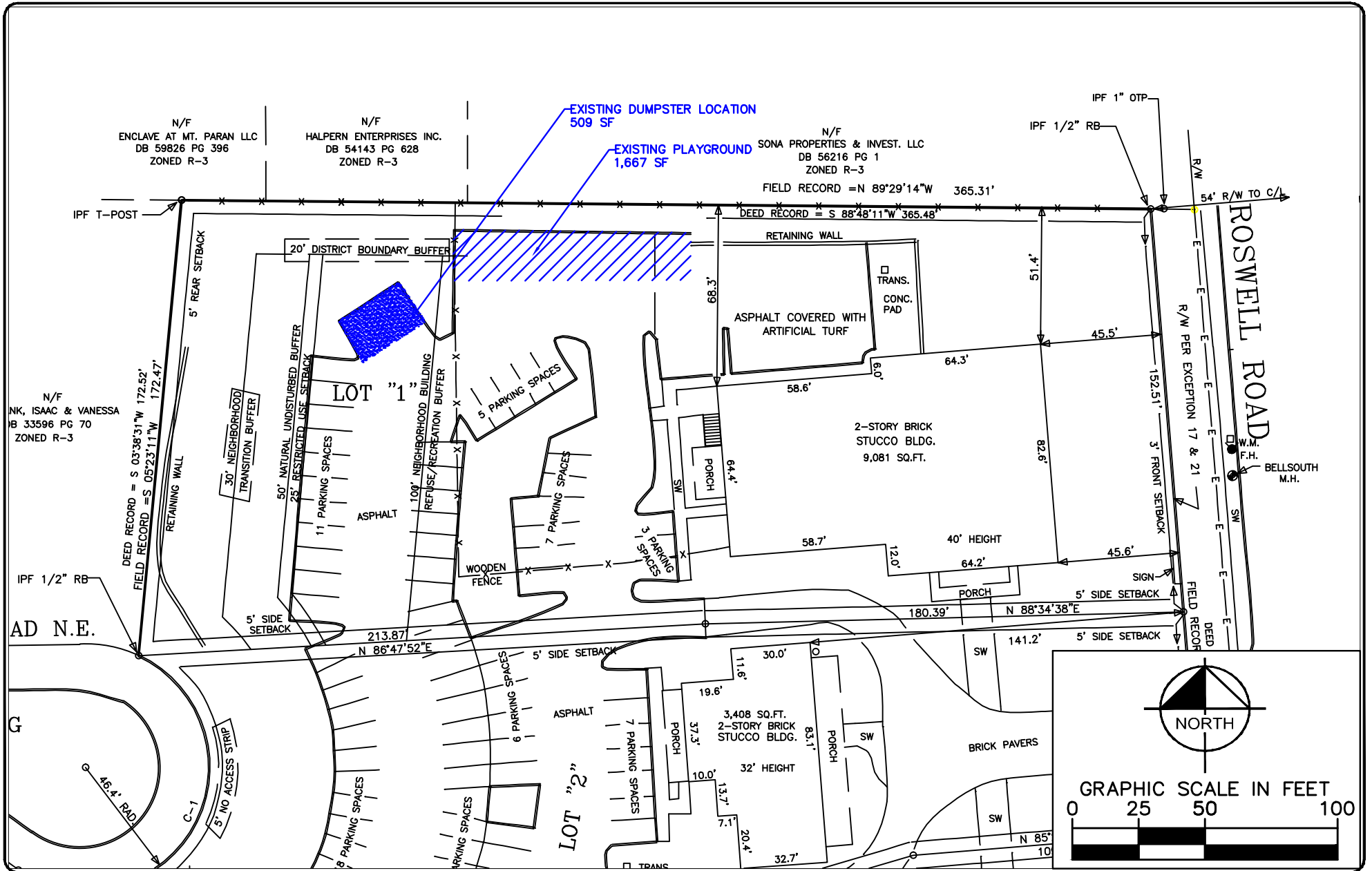
Per Sec. 1.1.9. of the Sandy Springs Development Code: among the remaining conditions
of rezoning are buffers or setbacks adjacent to Protected Neighborhoods that exceed
the requirements in this Development Code and any provision in an approved condition
or site plan that restricts vehicular access to or from a particular direction.

Per Section 1.1.9. of the Sandy Springs Development Code, prior conditions of rezoning are still in
effect that pertain to "buffers or setback adjacent to Protected Neighborhoods that exceed the
requirements of this Development Code". Prior to the current ON-3 zoning classification, the
depicted property was zoned O-1 with conditions per Fulton County Z-80-84, which required, in
pertinent part: "the petitioner's agreement to provide a 50 foot wide, natural, undisturbed
buffer, replanted where sparsely vegetated, adjacent to the west property line and following the
arc of the Silverwood Road cul-de-sac and a 50' setback."

EXHIBIT A

[LEGAL DESCRIPTION]

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 92 of the 17th District, Fulton County, Georgia, being shown as **Lot 1 – being 1.396 Acres**, on a Survey made for Landmark Abstract Agency, LLC, CIBC, Inc., and its successors and assigns, Crystal at 5180 LLC and Old Republic Title Insurance Company, as per plat recorded in Plat Book 429, Page 34, Fulton County, Georgia records, which plat is incorporated herein and made a part hereof by reference, being known as 5180 Roswell Road by the present system of numbering houses in Fulton County, Georgia.



Kimley»Horn

817 W. PEACHTREE STREET, NW
THE BILTMORE, SUITE 601
ATLANTA, GEORGIA 30308
PHONE: (404) 419-8700
WWW.KIMLEY-HORN.COM

TITLE:

SITE PLAN

PROJECT:

CMCH ELEMENTARY
SCHOOL 5180
ROSWELL ROAD

CLIENT:

CMCH ELEMENTARY
SCHOOL

JOB NUMBER:

014472000

SCALE:

1" = 50'

DATE:

4/18/2022

SHEET:

EXHIBIT A

CONSTITUTIONAL OBJECTIONS
APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF SANDY SPRINGS, GEORGIA

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

The portions of the Development Code of the City of Sandy Springs, Georgia, as applied to the Property, that would result in a denial of the Conditional Use Permit as requested, are, or would be, unconstitutional in that they would destroy property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

Any application of the Code of the City of Sandy Springs or the Sandy Springs Development Code to the Property which restricts its use to any use in a manner other than that requested is unconstitutional, illegal and null and void because such an application constitutes a taking of property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Owner/Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

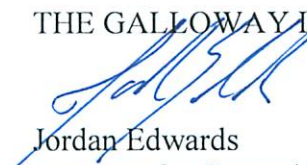
A denial of this Application would also constitute an arbitrary and capricious act by the City Council of the City of Sandy Springs without any rational basis therefore, thereby constituting an abuse of discretion in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal to grant the Conditional Use Permit as requested would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Owner/Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any approval of the Conditional Use Permit subject to conditions that are different from the conditions requested, to the extent such different conditions would have the effect of further restricting the utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act and would likewise violate each of the provisions of the State and Federal Constitutions set forth herein above.

In addition, this constitutes formal written notice to the City of Sandy Springs, pursuant to O.C.G.A. § 36-33-5, that the Owner/Applicant plans to seek to recover all damages that it sustains or suffers as a result of the denial of this Application and/or the unconstitutional zoning of the Property by the City of Sandy Springs. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Owner/Applicant respectfully requests that the City Council of the City of Sandy Springs grant the Conditional Use Permit as requested.

THE GALLOWAY LAW GROUP, LLC



Jordan Edwards
Attorney for Owner/Applicant

4062 Peachtree Road, Ste A330
Sandy Springs, Georgia 30319
(404) 965-3680

MEMORANDUM

To: Isser New, *CMCH Elementary*

From: John Walker, P.E., PTOE, *Kimley-Horn and Associates*
Harrison Forder, P.E., *Kimley-Horn and Associates*

Date: April 13, 2022

RE: ***CMCH Elementary – City of Sandy Springs, GA – Queueing Memorandum***

Kimley-Horn is pleased to provide this memorandum summarizing the existing traffic conditions and the site observations for the existing *CMCH Elementary School*, located at 5180 Roswell Road in the City of Sandy Springs, Georgia. For this evaluation, emphasis was placed on the on-site operations and queueing associated with the AM arrival (drop-off) and PM dismissal (pick-up) periods. This memorandum is provided to support permitting efforts with the City and to help answer questions the City may have regarding traffic.

PROJECT OVERVIEW

The 1.396-acre site is located at 5180 Roswell Road in the City of Sandy Springs, Georgia. The site currently consists of a 27,766 SF office building which currently operates as the *CMCH Elementary School*. The building shares a driveway and surface parking with two other office buildings (total 66,500 SF). The site is currently zoned ON-3 (Office-Neighborhood), and a Conditional Use Permit (CUP) is required for the school use.

The *CMCH Elementary School* currently has 127 students (maximum capacity of 150 students) and 24 staff. The AM drop-off occurs from 8:00 AM to 8:15 AM, and the school day starts at 8:15 AM. Dismissal begins at 3:30 PM, and the PM pick-up period occurs from 3:30 PM to 3:45 PM. Access to the site is provided via a shared driveway along Roswell Road (US 19/SR 9), located approximately 150 feet south of Elden Drive.

Figure 1 shows the location of the project site, while **Figure 2** provides an aerial image of the project site.

VEHICULAR VOLUMES

Vehicle peak hour turning movement counts were collected at the site driveway on Tuesday, March 1, 2022, while school was in session. The AM peak hour for the site occurred from 7:45 – 8:45 AM, while the PM peak hour for the site occurred from 3:30 – 4:30 PM.

Additionally, a 24-HR Volume count was collected on Roswell Road (US 19/SR 9), north of Elden Drive. The data indicates that the AM peak hour along Roswell Road occurs from 7:45 AM – 8:45 AM, while the PM peak hour occurs from 5:15 PM – 6:15 PM. Roswell Road is classified as a “Principal Arterial” per the GDOT Functional Classification map. The speed limit along Roswell Road is 35 MPH in the vicinity of the site.

Figure 3 illustrates the existing peak hour traffic volumes at the study intersections as well as the existing roadway geometry (intersection layout).

SITE OBSERVATIONS

A site observation was conducted on Thursday, March 31, 2022, during both the AM and PM peak periods to observe and document the on-site queueing patterns and traffic operations. **Figure 4** illustrates the queueing paths and parking areas for the *CMCH Elementary School*.

The area immediately behind the school is fenced off, and the fence is closed except during the AM arrival and PM dismissal periods. During the AM arrival time, the fence is opened by a school staff member at 7:55 AM, prior to the 8:00-8:15 carpool line. Drivers enter the site along the south side of the school and circulate clockwise around the parking lot to the northern entrance off the school area. Once inside the school grounds, students exit the vehicles, and drivers leave to the south. A school staff member directs traffic where the drivers exit the school and cross entering traffic. Students arrived consistently over the arrival period, and the maximum queue to drop off students was 3-4 vehicles. At 8:20, the gates to the school were closed. Any late arriving students were required to be dropped off by their parents, who parked and walked them to the school. During the morning period, it was observed that vehicles cut through parking spaces when circulating through the site for drop-off. Upon leaving the site onto Roswell Road (US 19/SR 9), the maximum observed queue was 2-3 vehicles. Drivers were observed to use the center two-way left-turn lane to make a two-stage left-turn exiting the site.

In the afternoon, drivers queued up before dismissal began at 3:30 PM. The gates to the school were opened at 3:25 PM, and approximately 14 cars were queued waiting to pick-up their students when the dismissal began. The maximum queue to pick-up students reached about 17 vehicles, and occurred just after 3:30. No queues ever extended out of the back row of the parking lot. Just like in the morning, a school staff member directs traffic where the drivers exit the school and cross entering traffic. After 3:45, the gates to the school were closed and late parents must park and walk into the school to pick up their students. During the afternoon period, more parking spaces were occupied and drivers circulated through the drive aisles as intended. Upon leaving the site onto Roswell Road (US 19/SR 9), the maximum observed queue was 1-2 vehicles.

During both the arrival and dismissal periods, the maximum queues of 17 vehicles never spilled out of the site into the public right-of-way. Approximately 23 vehicles (6 more than maximum observed) can queue before blocking the exiting driveway, and 36 cars (19 more than maximum observed) can queue on-site before spilling into the public right-of-way).

A bus is provided by the school for some students. The bus drops off students in the same drop-off location as the parents drop-off students. When school dismisses, the bus is first in line to leave the school. The bus parks in a parking spot when not in use.

ADDITIONAL CONSIDERATIONS

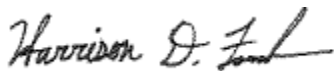
The current queuing plan sufficiently contains vehicles on-site and does not significantly impact site circulation through the shared parking lot. The following measures should be considered to reinforce the intended vehicle routing:

- Install a stop sign where the site exits to Roswell Road (US 19/SR 9). During the site visit, it was observed that the sign was missing.
- Consider using pavement markings through the drive aisles to show the queueing path for student drop-off/pick-up.
 - The markings could either consist of painted lines through the parking lot or themed markings (for example, Chattahoochee High School in Johns Creek uses paw prints painted onto the roadways for wayfinding).
- Identify a designated area for parents to park for late drop-offs. Some parents pulled over in the drive aisle of the parking lot instead of parking.
- If queues extend to block the exiting vehicle path, utilize a second staff person to direct traffic so that vehicles can exit the site.
- Consider providing ADA parking in closer proximity to the CMCH School Building, as the current ADA spaces are on the other side of the parking lot.

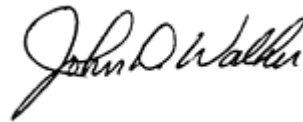
I hope this information is helpful. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



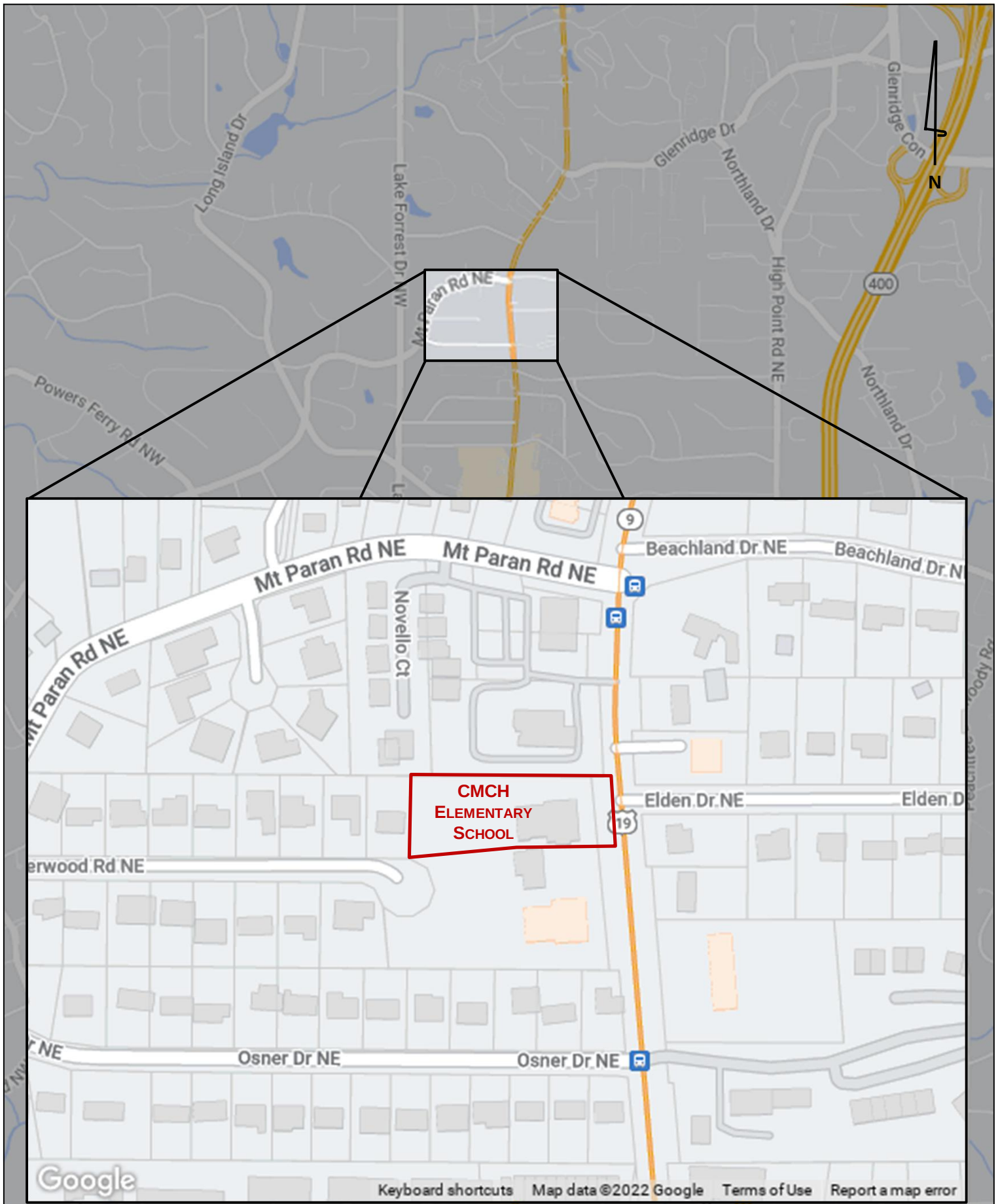
Harrison Forder, P.E.
Project Engineer



John D. Walker, P.E., PTOE
Senior Vice President

Attachments:

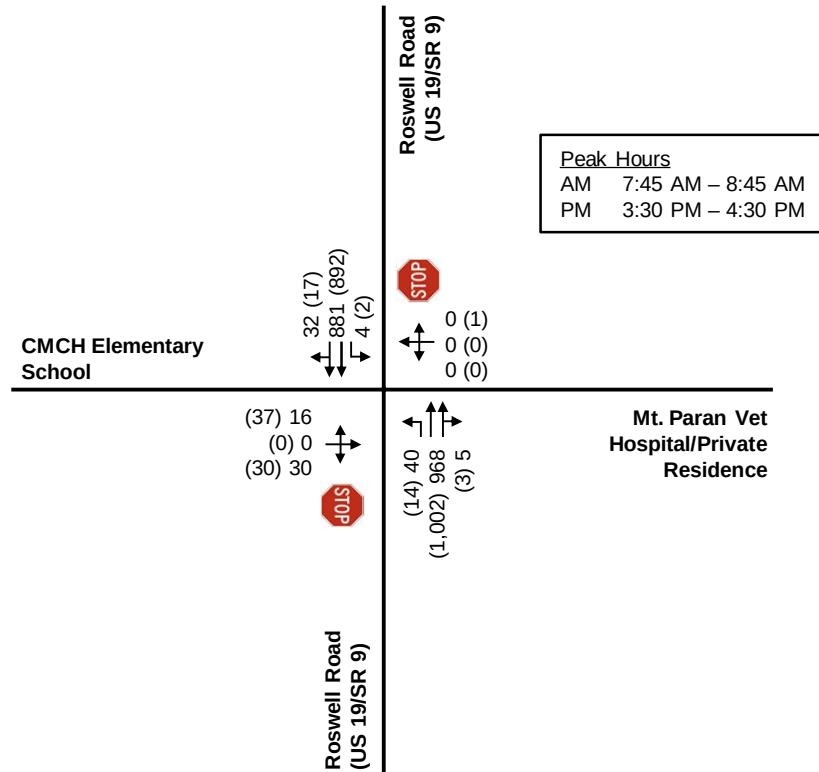
- Figure 1: Site Location Map
- Figure 2: Site Aerial
- Figure 3: Existing 2022 Traffic Conditions
- Figure 4: Queue Paths
- Raw Traffic Count Data





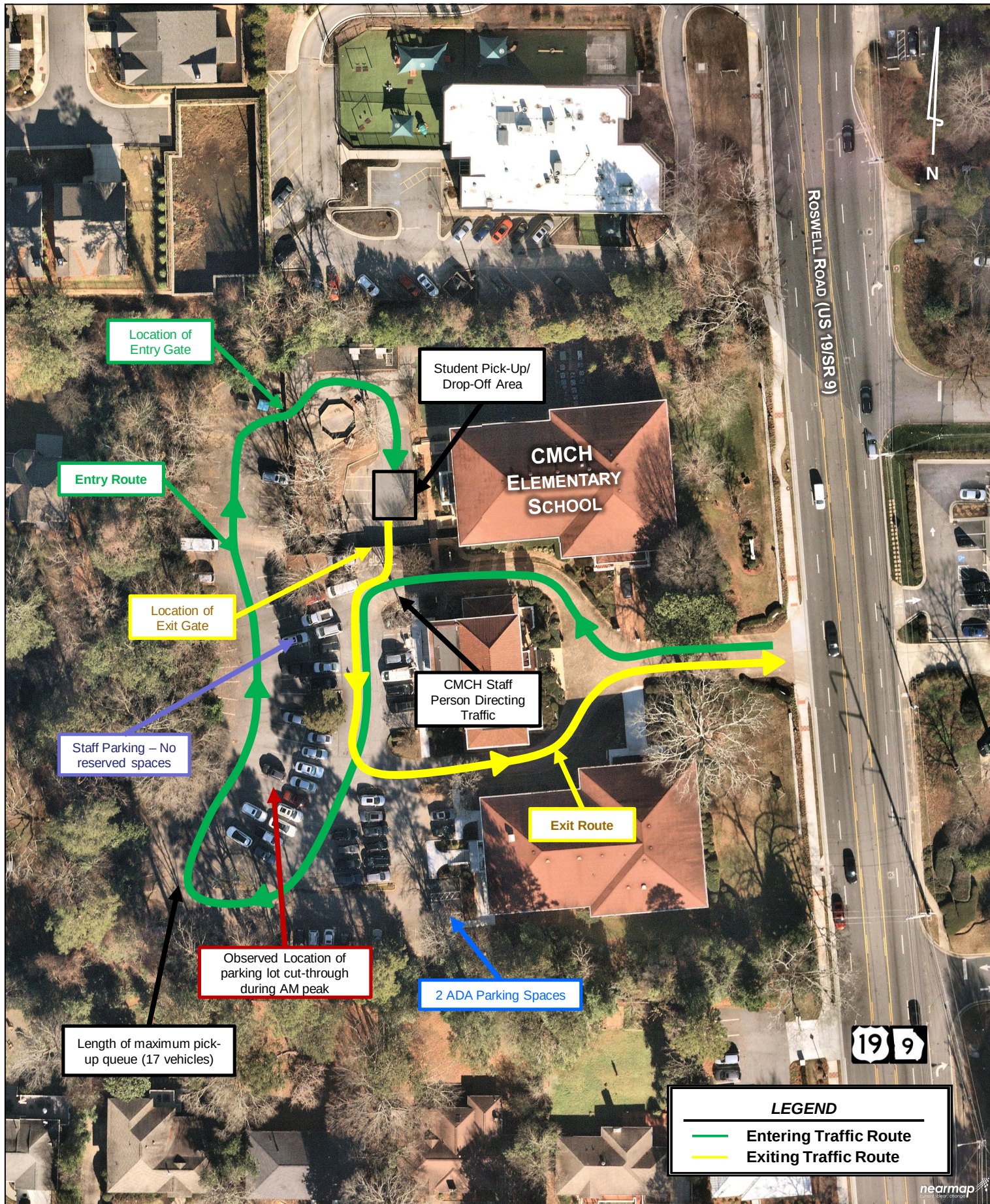


ADT: 27,246 vehicles per day



LEGEND

- Existing Roadway Laneage
- XX AM Peak Hour Traffic Volumes
- (XX) PM Peak Hour Traffic Volumes
- Existing STOP Control
- Existing Traffic Signal
- Intersection Reference Number



Classified Turn Movement Count || All vehicles

Sandy Springs, GA



www.marrtraffic.com

Site 1 of 1

GA-9 Roswell Rd NE (South)
GA-9 Roswell Rd NE (North)
Driveway (West)
Driveway (East)

Date

Tuesday, March 1, 2022

Weather

Cloudy
35°F

Lat/Long

33.896094°, -84.381482°

0700 - 0900 (Weekday 2h Session) (03-01-2022)

All vehicles

	Northbound					Southbound					Eastbound					Westbound					Int Total
	GA-9 Roswell Rd NE (South)					GA-9 Roswell Rd NE (North)					Driveway (West)					Driveway (East)					
TIME	Left 1.1	Thru 1.2	Right 1.3	U-Turn 1.4	App Total	Left 1.5	Thru 1.6	Right 1.7	U-Turn 1.8	App Total	Left 1.9	Thru 1.10	Right 1.11	U-Turn 1.12	App Total	Left 1.13	Thru 1.14	Right 1.15	U-Turn 1.16	App Total	
0700 - 0715	1	128	0	0	129	1	116	2	0	119	0	0	1	0	1	0	0	0	0	0	249
0715 - 0730	0	166	0	0	166	0	124	0	0	124	0	0	0	0	0	0	0	0	0	0	290
0730 - 0745	4	210	0	0	214	2	181	1	0	184	0	0	0	0	0	0	0	0	0	0	398
0745 - 0800	4	206	0	0	210	0	221	7	0	228	3	0	4	0	7	0	0	0	0	0	445
Hourly Total	9	710	0	0	719	3	642	10	0	655	3	0	5	0	8	0	0	0	0	0	1382
0800 - 0815	14	229	2	0	245	3	226	12	0	241	7	0	9	0	16	0	0	0	0	0	502
0815 - 0830	20	269	1	0	290	1	193	7	0	201	2	0	14	0	16	0	0	0	0	0	507
0830 - 0845	2	264	2	0	268	0	241	6	0	247	4	0	3	0	7	0	0	0	0	0	522
0845 - 0900	7	215	1	0	223	1	222	6	0	229	1	0	1	0	2	0	0	0	0	0	454
Hourly Total	43	977	6	0	1026	5	882	31	0	918	14	0	27	0	41	0	0	0	0	0	1985
Grand Total	52	1687	6	0	1745	8	1524	41	0	1573	17	0	32	0	49	0	0	0	0	0	3367
Approach %	2.98	96.68	0.34	0.00	-	0.51	96.88	2.61	0.00	-	34.69	0.00	65.31	0.00	-	0.00	0.00	0.00	0.00	-	
Intersection %	1.54	50.10	0.18	0.00	51.83	0.24	45.26	1.22	0.00	46.72	0.50	0.00	0.95	0.00	1.46	0.00	0.00	0.00	0.00	0.00	
PHF	0.54	0.91	0.75	0.00	0.88	0.42	0.91	0.65	0.00	0.93	0.50	0.00	0.48	0.00	0.64	0.00	0.00	0.00	0.00	0.00	0.95

1500 - 1700 (Weekday 2h Session) (03-01-2022)

All vehicles

TIME	Northbound					Southbound					Eastbound					Westbound					Int Total
	GA-9 Roswell Rd NE (South)					GA-9 Roswell Rd NE (North)					Driveway (West)					Driveway (East)					
	Left 1.1	Thru 1.2	Right 1.3	U-Turn 1.4	App Total	Left 1.5	Thru 1.6	Right 1.7	U-Turn 1.8	App Total	Left 1.9	Thru 1.10	Right 1.11	U-Turn 1.12	App Total	Left 1.13	Thru 1.14	Right 1.15	U-Turn 1.16	App Total	
1500 - 1515	9	236	0	0	245	2	190	2	0	194	3	0	1	0	4	0	0	0	0	0	443
1515 - 1530	9	227	2	0	238	2	199	7	0	208	3	0	2	0	5	1	0	0	0	1	452
1530 - 1545	4	241	0	0	245	1	205	4	0	210	17	0	12	0	29	0	0	1	0	1	485
1545 - 1600	4	250	1	0	255	1	252	4	0	257	5	0	8	0	13	0	0	0	0	0	525
Hourly Total	26	954	3	0	983	6	846	17	0	869	28	0	23	0	51	1	0	1	0	2	1905
1600 - 1615	0	254	1	0	255	0	208	3	0	211	8	0	3	0	11	0	0	0	0	0	477
1615 - 1630	6	257	1	0	264	0	227	6	0	233	7	0	7	0	14	0	0	0	0	0	511
1630 - 1645	1	267	2	0	270	0	220	2	0	222	4	0	5	0	9	0	0	0	0	0	501
1645 - 1700	1	284	0	0	285	0	248	1	0	249	3	0	4	0	7	0	0	0	1	1	542
Hourly Total	8	1062	4	0	1074	0	903	12	0	915	22	0	19	0	41	0	0	0	1	1	2031
Grand Total	34	2016	7	0	2057	6	1749	29	0	1784	50	0	42	0	92	1	0	1	1	3	3936
Approach %	1.65	98.01	0.34	0.00	-	0.34	98.04	1.63	0.00	-	54.35	0.00	45.65	0.00	-	33.33	0.00	33.33	33.33	-	
Intersection %	0.86	51.22	0.18	0.00	52.26	0.15	44.44	0.74	0.00	45.33	1.27	0.00	1.07	0.00	2.34	0.03	0.00	0.03	0.03	0.08	
PHF	0.33	0.93	0.50	0.00	0.94	0.00	0.91	0.50	0.00	0.92	0.69	0.00	0.68	0.00	0.73	0.00	0.00	0.00	0.25	0.25	0.94

COMMUNITY MEETING I SUMMARY
APPLICATION FOR CONDITIONAL USE PERMIT
CITY OF SANDY SPRINGS, GEORGIA

On December 20, 2021, the Chaya Mushka Children’s House School (the “School”) hosted a Community Meeting I in compliance with the procedures for requesting a Conditional Use Permit. The Conditional Use Permit requested by the School would allow a private school on one lot measuring approximately 1.4 acres located at 5180 Roswell Road (Parcel Identification Number 17 009200050644) (the “Property”).

In advance of this community meeting, the School mailed 187 letters to the owners of property within 500 feet of the Property, based on a mailing list provided by the City. The meeting was held at the Property and was attended in person by five people, four of whom provided their contact information on an Attendance Sheet. See **Exhibit A – CMI Attendance Sheet**. The School also provided a virtual option for attending the meeting using the Zoom platform, which three people utilized. See **Exhibit B – Zoom Meeting Participation List**.

After summarizing the School’s Conditional Use Permit request, the School welcomed meeting attendees to voice their thoughts or ask questions. No one expressed opposition to the school use, although attendees who lived adjacent to the Property or to neighboring properties brought several issues to the School’s attention, including:

- The trash collection schedule, which has trucks on the Property at very early hours
- Maintenance or contractor vehicles present at late hours
- Security lights that are visible from nearby residences
- Sound from the recreation area and carpool drop-off
- Traffic on Osner Road

Some of these issues relate to the School, while others relate to neighboring properties over which the School has no control. However, the School is willing to work to address these concerns as applicable on the Property, and to communicate with the owners of adjacent properties to convey the issues raised at the community meeting.

EXHIBIT A

CMI Attendance Sheet

U21-0005 – Community Meeting I

December 20, 2021, 6:00 PM, at CMCH School, 5180 Roswell Road

Applicant: CMCH School

Name and Organization	Address	Email Address
MICHAEL SEABORN		com
Michael Holt		
Zachary Williams		com
Troy Schulman		ts.com

EXHIBIT B

Zoom Meeting Participation List

Meeting Participants						
☐ Export with meeting data		Report to Zoom		<button>Export</button>		
Name (Original Name)	User Email	Join Time	Leave Time	Duration (Minutes)	Guest	Recording Consent
Jordan Edwards	jordan@glawgp.com	12/20/2021 06:01:40 PM	12/20/2021 06:41:01 PM	40	No	Y
136 Osner		12/20/2021 06:01:59 PM	12/20/2021 06:42:33 PM	41	Yes	
Preston# Bill		12/20/2021 06:01:59 PM	12/20/2021 06:40:44 PM	39	Yes	Y
Joel Darby		12/20/2021 06:13:08 PM	12/20/2021 06:40:33 PM	28	Yes	Y

COMMUNITY MEETING II SUMMARY
APPLICATION FOR CHARACTER AREA MAP AMENDMENT
CITY OF SANDY SPRINGS, GEORGIA

On January 31, 2022, the Chaya Mushka Children’s House School (the “School”) hosted a Community Meeting II in compliance with the procedures for requesting a Conditional Use Permit (CUP). The CUP requested by the School would allow a private school use in an existing building located at 5180 Roswell Road (Parcel Identification Number 17 009200050644) (the “Property”). In advance of this community meeting, the School mailed 187 letters to the owners of property within 500 feet of the Property, based on a mailing list provided by the City, and posted a notice sign on the Property. The meeting was held at Sandy Springs City Hall and was attended by one member of the public. See **Exhibit A – CMII Attendance Sheet**. Additionally, the School provided a virtual option for attending the meeting using the Zoom platform, which was used by six people to attend. See **Exhibit B – Zoom Meeting Participation List**.

After summarizing the School’s Amendment request, described in the Letter of Intent submitted with the Application, the School provided a summary of the discussion at the first community meeting and welcomed attendees to voice their thoughts or ask questions. Topics raised at the meeting include:

- The measures the School has taken to address concerns raised at the first community meeting regarding the trash collection schedule, light pollution, and noise pollution;
- If the City Council approves the CUP request such that the School may operate in the existing building, the School will invest in the upgrades required by the Fire Marshall;
- Completion of a queueing plan by a registered transportation engineer;
- Historic zoning conditions required a buffer along the property’s western property line, but vegetation in the buffer has diminished over the years and is sparse in some areas.

EXHIBIT A
CMII Attendance Sheet

January 31, 2022, 6:00 PM, at Sandy Springs City Hall, 1 Galambos Way, Sandy Springs
Applicant: CMCH School

January 31, 2022, 6:00 PM, at Sandy Springs City Hall, 1 Galambos Way, Sandy Springs

Applicant: CMCH School

com

Exhibit B

Zoom Meeting Participation List

Name (Original Name)	User Email	Join Time	Leave Time	Duration (Minutes)	Guest	In Waiting Room
Jordan Edwards	jordan@glawgp.com	1/31/2022 18:00	1/31/2022 19:00	60	No	No
ckontz		1/31/2022 18:01	1/31/2022 18:01	1	Yes	Yes
Preston# Bill		1/31/2022 18:01	1/31/2022 18:02	2	Yes	Yes
ckontz		1/31/2022 18:01	1/31/2022 18:43	43	Yes	No
James Duffy Hickey		1/31/2022 18:01	1/31/2022 18:02	1	Yes	Yes
robinconklin		1/31/2022 18:01	1/31/2022 18:02	1	Yes	Yes
Susan Maziar		1/31/2022 18:01	1/31/2022 18:02	1	Yes	Yes
rhc (robinconklin)		1/31/2022 18:02	1/31/2022 18:43	42	Yes	No
Susan Maziar		1/31/2022 18:02	1/31/2022 18:43	42	Yes	No
Duffy Hickey (James Duffy Hickey)		1/31/2022 18:02	1/31/2022 18:41	40	Yes	No
Preston# Bill		1/31/2022 18:02	1/31/2022 18:43	42	Yes	No
yonatan		1/31/2022 18:35	1/31/2022 18:39	5	Yes	No



SANDY SPRINGS

GEORGIA

P&Z STAFF REPORT

Planning Commission Meeting, May 18, 2022

Case: **U21-0005 – 5180 Roswell Road**
Staff Contact: Matthew Anspach (MAnspach@SandySpringsga.gov)
Report Date: May 6, 2022

REQUEST

Request for a Conditional Use Permit to allow for a currently operating religious private school use in an existing building.

APPLICANT

Property Owner: Chaya Mushka Children's House	Petitioner: Chaya Mushka Children's House c/o Jordan Edwards The Galloway Law Group, LLC	Representative: Jordan Edwards The Galloway Law Group, LLC
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SUMMARY

The applicant requests a Conditional Use Permit for a School, Private (K-12) to allow for the continued use of the building as such. The school proposes only minor changes to the site such as fire safety work including sprinklers and movement of certain elements to come into Code compliance, such as location and screening of the refuse area. The school proposes an initial enrollment of 120 students, whereas the use standards allow for up to 150 students within any lot of up to 3 acres in the ON- zoning district.

RECOMMENDATION

Department of Community Development

Staff recommends **Approval with Conditions** of **Conditional Use Permit** U21-0005.

MATERIALS SUBMITTED AND REVIEWED**Materials:**

1. Application, received April 18, 2022
2. "CMCH Elementary Queueing Memo," prepared by John Walker, P.E., PTOE, Kimley-Horn and Associates and Harrison Forder, P.E., Kimley-Horn and Associate, received April 13, 2022

Plans:

1. "Site Plan: CMCH Elementary School," prepared by Kimley Horn, received April 18, 2022

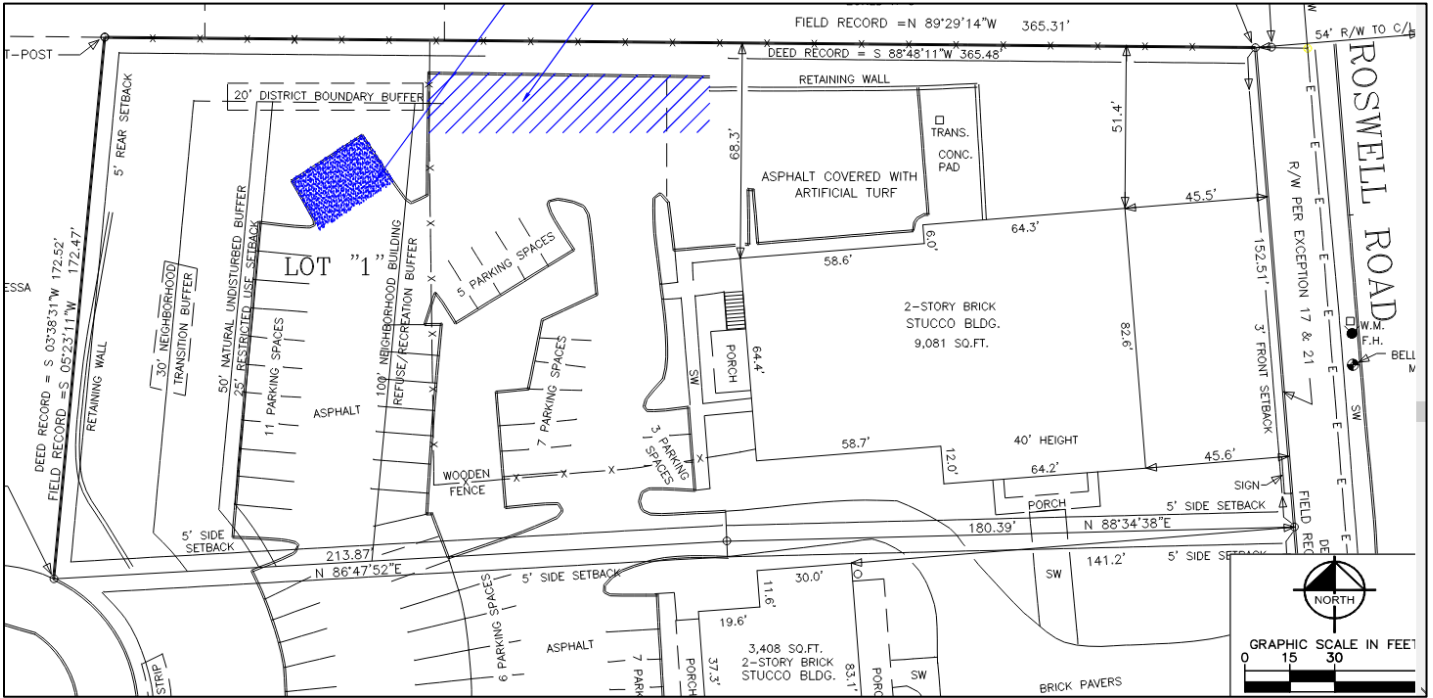
PROPERTY INFORMATION

Location:	5180 Roswell Road (Parcel # 17 009200050636)
Council District:	6 – Andy Bauman
Road frontage:	Approximately 153' of frontage on Roswell Road
Acreage:	Approximately 1.4 acres
Current Zoning: Existing Land Use:	ON-3 (Office Neighborhood, 3 story maximum height) Private School
Character Area:	Neighborhood Village

PROCESS

Initial Community Meeting (CMI): December 20, 2021	Second Community Meeting (CMII): January 31, 2022	Planning Commission Hearing: May 18, 2022	Mayor and City Council Hearing: June 21, 2022
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SITE PLAN (received June 1, 2021) (full size Site Plan in Package)



ELEVATIONS (received June 1, 2021) (full size Elevations in Package)

No new building or primary structure is proposed as a part of this Use Permit request. Only required minor site elements and possible additional site elements related to standards and mitigation are being considered.

PROPOSED DEVELOPMENT / USE

The approximately 1.4-acre subject property is almost rectangular in shape and is located between Roswell Road to the east and the Silverwood Drive subdivision to the rear or west. Just to the north is the Primrose School. To the south are similar looking two story office-type buildings that share parking and other site elements with the subject establishment. The subject property is currently developed with a single two story office building (with an additional basement out the rear), some recreational areas, patios, an 8 foot tall security fence, and other features and improvements.

Overall, as mentioned before, no new building or primary structure is proposed as a part of this Use Permit request. Only required minor site elements and possible additional site elements related to standards and mitigation are being considered. The use is a private school which offers instruction in grades 1 through 8 to 120 students (a maximum of 150).



View facing northwest, with the subject property directly in view



View facing northwest of drive into the subject property



View facing north of side (main) entrance into the school from entry drive



View facing west, showing the building and the rear of the property in the distance



View facing slightly north and west showing the fenced in area



View near rear of property facing north, showing dumpster/refuse area



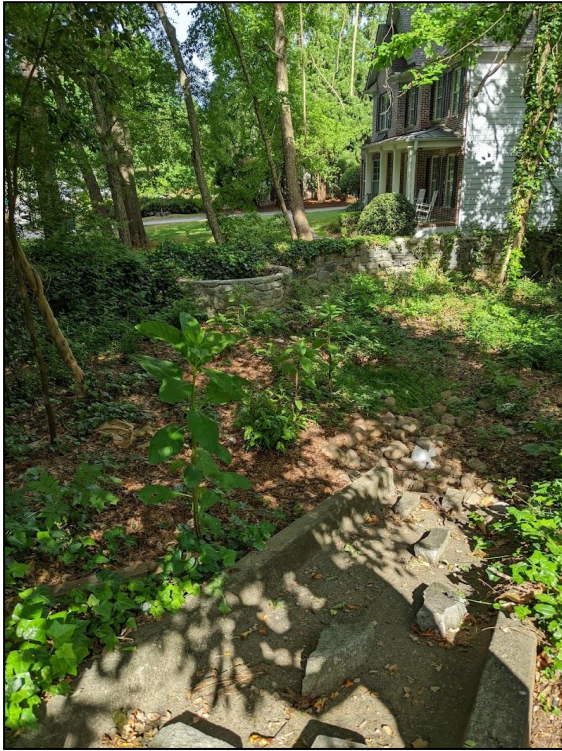
**View facing north and east, within fenced-in area;
various kids recreation facilities in the background**



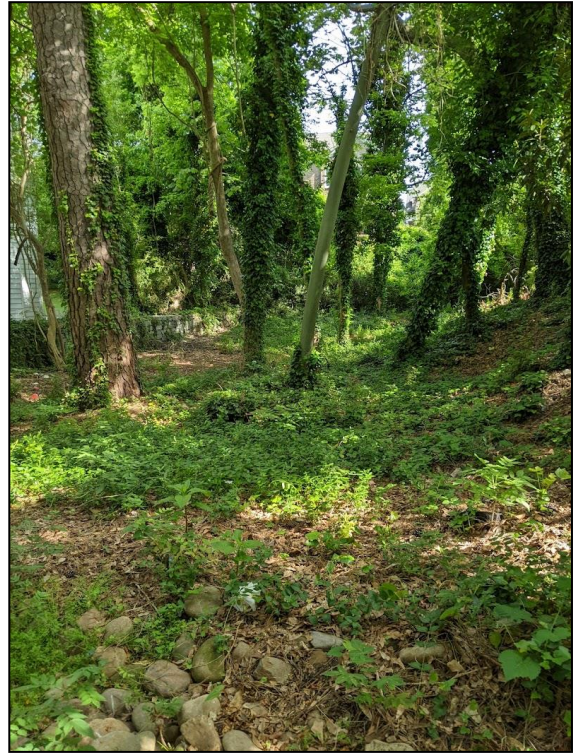
View facing west, vegetative area bordering Silverwood Road to the rear of the property; dry detention facility hidden behind vegetation



View facing east, from within vegetative dry detention facility; concrete flume to the right where stormwater enters



**View facing west, from within vegetative area/
detention facility with outlet structure**



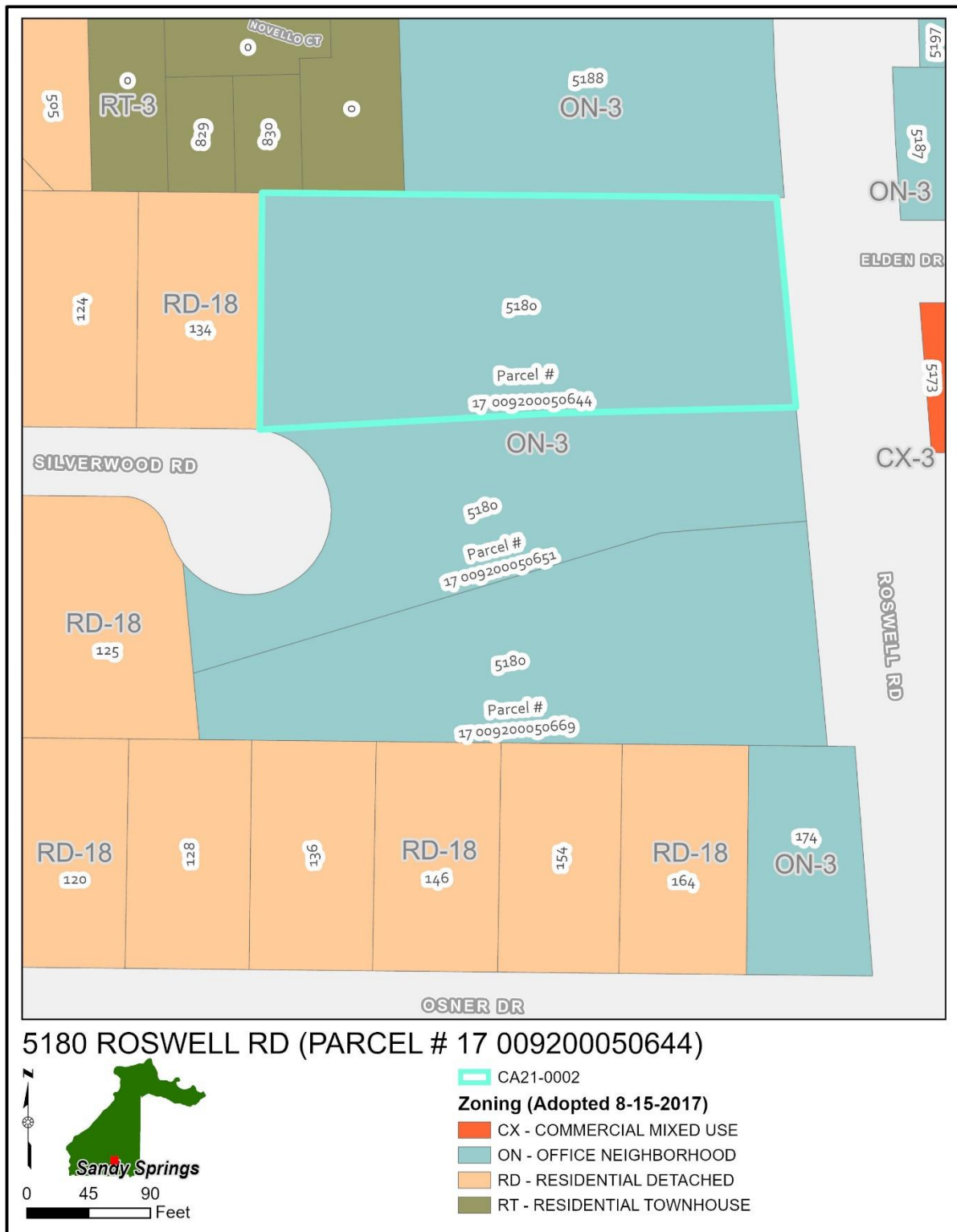
**View facing north, from within vegetative dry
area/detention facility**

EXISTING CHARACTER AREAS, ZONING, AND LAND USES OF PROPERTY IN THE VICINITY			
Location relative to subject property	Character Area / Zoning / Land use	Address(es)	Land area (acres) (approximate)
North	Urban Neighborhood / RT-3 / Single unit detached residence	830 Novello Court	0.09
North	Urban Neighborhood / RT-3 / Detention pond	0 Mount Paran Road NE (Parcel # 17 009200010200)	0.21
Northeast	Neighborhood Village / ON-3 / Day care	5188 Roswell Road	1.02
East	--	Roswell Road	--
Northeast	Neighborhood Village / ON-3 / Personal service	5187 Roswell Road	0.60
East	--	Elden Drive	--
Southeast	Commercial/Mixed Use / CX-3 / Animal care	5173 Roswell Road	0.57
South	Neighborhood Village / OX-3 / Office, Personal service, Medical	5180 Roswell Road (Parcel # 17 009200050651)	1.19
Southwest	--	Silverwood Road	--
West	Protected Neighborhood / RD-18 / Single unit detached residence	134 Silverwood Road	0.36
PROPOSED DEVELOPMENT			
--	Neighborhood Village / ON-3 / School, Private (K-12), Office, Personal service, Medical	5180 Roswell Road (Parcel # 17 009200050644)	1.40

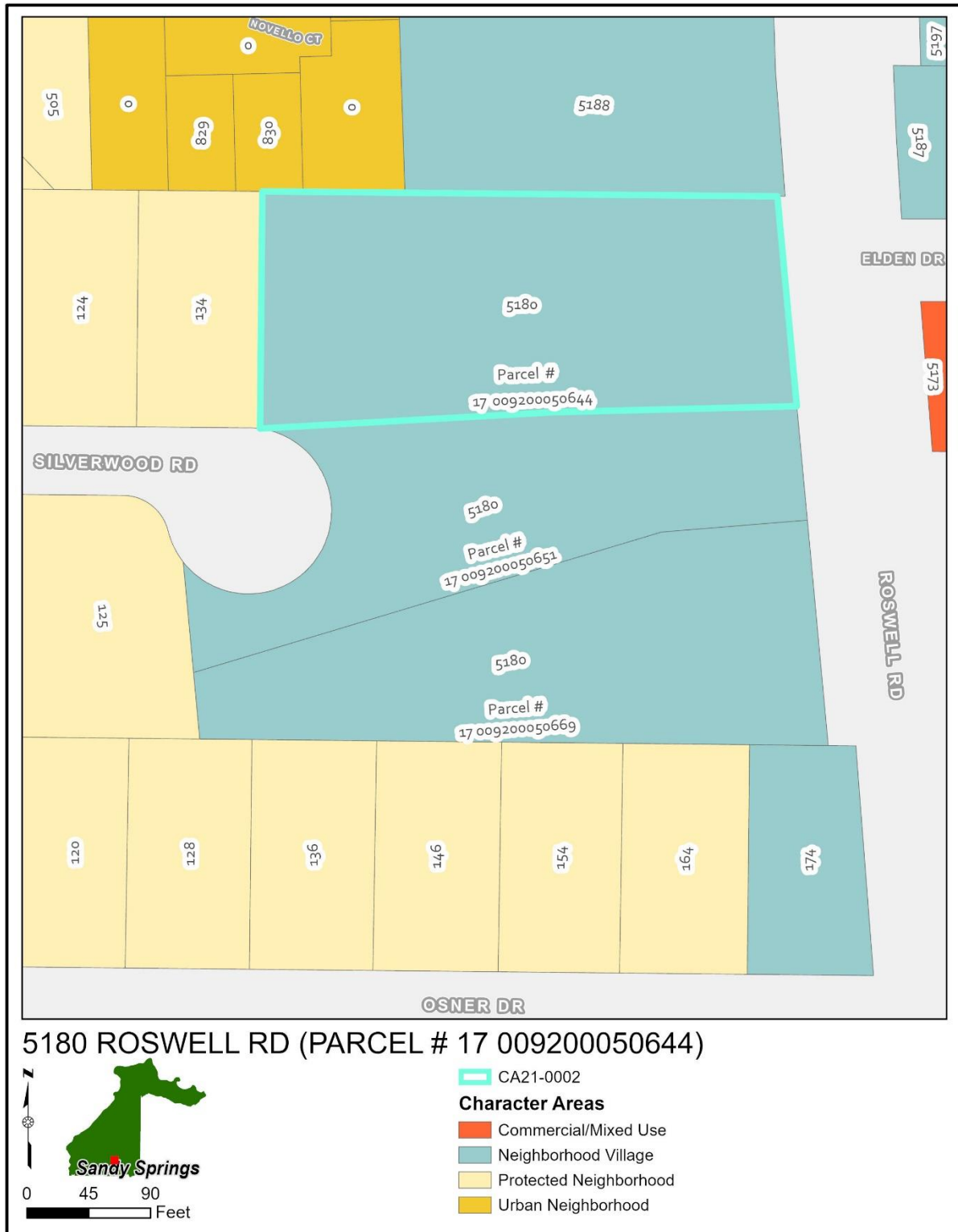
AERIAL IMAGE



ZONING MAP



CHARACTER AREA MAP



CONDITIONAL USE PERMIT CONSIDERATIONS

Per Sec. 11.3.6.D. of the Development Code, the following list of approval criteria for a Conditional Use Permit provides guidance for making decisions on approval:

1. The use is allowed as a conditional use in the respective zoning district (see Div. 7).

Finding: The proposed use, a School, Private (K-12), is allowed in the Office Neighborhood (ON-) District with a Conditional Use Permit.

2. The use complies with the applicable specific use standard listed in Article 7 without the granting of any Variance.

Finding: The use would not require any variance based on the information provided. School, Private (K-12) is defined as, “An educational use having a curriculum at least equal to a public school, but not operated by the Fulton County Board of Education” and has the following “Basic Use Standards”:

a. Day care facilities (see Sec. 7.5.5) in association with the school do not require a separate conditional use permit.

b. No buildings and refuse area may be located within 100 feet of a Protected Neighborhood district used for residential purposes.

Currently, the refuse area for the subject property, which also serves its neighbors to the south is located at approximately 95’ from the rear property line, which abuts Protected Neighborhood. Appropriate screening and location of the refuse area is one of Staff’s recommended conditions, in addition to requirements of the subject code section (Sec. 7.4.1.H.2.b. (Civic (School, Private (K-12)))) and Sec. 8.2.9.A.1. Screening (Service Areas).

c. No active outdoor recreation area may be located within 100 feet of a Protected Neighborhood district used for residential purposes.

The fenced in area of the site, which is located in the north and central portion and of the site is surrounded by an 7 foot tall wooden---secure fence, serves as the general recreation area for the school and is nearly 103’ from its nearest point to the rear property line, which abuts Protected Neighborhood.

d. No parking areas may be located within 50 feet of any Protected Neighborhood district used for residential [purposes].

The current survey and site plan both show that the parking area is observes a 50-plus foot distance from the rear property line due to a condition that remained from their previous Fulton County zoning conditions. The site is currently in compliance with this standard.

e. Student drop-off and vehicular turn-around facilities must be provided on-site so that vehicles may re-enter the street in a forward manner.

The current lot which wholly contains the schools building and recreation area shares parking and access with the two neighboring properties to the south. With this in mind, the applicant has provided a queuing plan that meets these standards.

Additional site work including way-finding, pavement markings, designated parking for drop-offs/pick-ups, ADA accessible parking in close proximity to the school entrance, and signage and guidance to prevent blockage of any access/egress paths will be required at permitting.

f. Off-site stadium: (N/A)

i. Vehicular access is prohibited from a local street. (N/A)

ii. A minimum 200-foot buffer and minimum 10-foot improvement setback must be provided along all common lot lines adjacent to a Protected Neighborhood or Urban Neighborhood district. (N/A)

iii. The hours of operation are limited to 6:00 AM and 11:00 PM adjacent to a street right-of-way or residential district. (N/A)

A stadium is not being considered for the site or any related off-site location and therefore the above standards do not apply and were not considered when evaluating the merits of this request for a Conditional Use Permit for the School.

g. In the ON- District, the following Basic Use Standards apply:

i. Lot area shall be a minimum of one (1) acre and a maximum of three (3) acres.

The subject site is 1.4 acres in size.

ii. Access shall be from an arterial street.

The site's vehicular access is from Roswell Road which is an arterial order street.

iii. The maximum lot coverage and maximum building height shall not exceed those in the ON-District.

The maximum lot coverage in the ON- district is 75%, while the subject site currently has a lot coverage of less than 50% and has no plans to increase impervious coverage on the site. The maximum building height for the district is 42 feet. The building height is under 30 feet when measured as per the Development Code Sec. 6.1.3.A.4.

iv. There shall be no more than 150 students per lot area of one (1) to three (3) acres.

The initial school enrollment is stated to be 120 students.

v. There shall be no athletic facilities on site. Any requirement for student recreation areas shall be permitted, as is required by the appropriate regulating State Authority.

No athletic facilities are being proposed. The current recreation area would be regulated by State Authorities, but permitted accordingly.

vi. Day care facilities associated with K-12 Private schools are limited to:

a) early childhood education (not elder or senior care);

b) a location interior to the School facility; and

c) shall be included in the enrollment cap.

The applicant's initial enrollment is below the cap and would allow for some increase based on this standard including day care, should they choose to include day care service in their offerings. No known

day care services have been discussed as of this report. Any students enrolled in an allowable day care program shall be included in their maximum allowable 150 student enrollment.

3. *The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.*

Finding: The Next Ten Comprehensive Plan states, “development outside the edges of protected neighborhoods will be carefully managed to prevent encroachment of non-residential or higher-intensity residential uses into this Character Area and to ensure compatible transitions between land uses and development intensities.” (Page 104). This would not be a proposal that Staff would support as to be considered carefully managed to prevent encroachment of non-residential...uses,” or “compatible transitions between land uses and development intensities.”

The Next Ten does look to increase the mix of uses along Roswell Road, but also recognizes that there is an appropriate process for that transition to happen. As the applicant acknowledged in their Letter of Intent, “the proposed private school will operate in an existing building constructed several decades ago, so approval of the Conditional Use Permit will not result in a change to the location, scale, or site design of improvements on the property.”

The proposed use is compatible with adjacent and nearby single unit detached residential uses. However, development of the site’s 85 foot Neighborhood Transition Buffer, which includes in the first 30 feet parallel to and abutting Protected Neighborhood, a mix of plantings or increased plantings on currently vegetative sites---to include shrubs, deciduous and evergreen trees, and a minimum 6 foot tall wall is proposed by Staff as a condition. This condition would help offset the default differences in use between Residential Detached and Office Neighborhood zoning districts; in particular a use such as a school that involves outdoor recreation and traffic queuing on site.

4. *Any significant adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset.*

Finding: Any significant adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset. The aforementioned recommended condition to fully develop the Neighborhood Transition Buffer, as well as minor improvements to the site required by the Basic and ON- district specific Use Standards will effectively mitigate the adverse impacts and incongruences between a school and a residential neighborhood.

The Urban Neighborhood to the north and west, Novello Court, is effectively already buffered by the large concrete detention facility and existing vegetation. As well, the neighborhood sits downhill from the school site.

5. *The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.*

Finding: As the service impacts are minor, the City and other service providers will be able to provide sufficient public facilities and services.

COMMENTS FROM OTHER PARTIES

Sandy Springs Public Works:

As recommended in the queueing study the applicant should:

- Add a stop sign exiting the site at Roswell Road.
- Add routing directional signs and pavement markings through the drive and parking aisles showing the paths for drop off and pick up.
- Designate an area for parents to park for late drop offs.
- Designate a 2nd staff person to help and have them ready in case queues extend to block the exiting vehicles path.

Sandy Springs City Engineer/ Transportation Engineer:

1. Provide a Queueing and Parking Plan (Q&P Plan) for approval by the Community Development Director including way-finding and pavement markings to establish a restricted and safe route.
2. On the aforementioned Q&P Plan, establish a safe designated parking area for late drop-offs and early pick-ups. Include signage for these locations in the plan.
3. On the aforementioned Q&P Plan, provide ADA accessible parking in close proximity to the School Entrance that provide better compliance with the intent of state and federal accessibility laws, rules and regulations.
4. On the aforementioned Q&P Plan, provide signage and guidance to prevent the blockage of any access/egress paths.
5. Provide an updated Queueing Study for review by the Community Development Director bi-annually or should enrollment increase by 10% or more from the current rate.
6. Update and adjust the Queueing and Parking Plan as necessary and if dictated by the update Queueing Study.

Sandy Springs Chief Environmental Compliance Officer:

No comment provided.

Sandy Springs Architect:

No comment provided.

Sandy Springs Arborist:

No comment provided.

Sandy Springs Sustainability Manager:

No comment provided.

Sandy Springs Building Official:

No comment provided.

Sandy Springs Fire Marshal:

The building that this school is currently in is not approved by fire or building codes for the operation of a school. School has been made aware of this several times. Upgrades needed were agreed to be deferred until after rezoning incase rezoning was denied, but it appears to now be moving forward.

Applicant has been made aware, and should continue to be aware, that significant changes will be required to the building to allow an Educational use in this space, including, but not limited to, addition of sprinkler system, change of egress layouts, and any other changes required by The International Building Code or Life Safety Code.

MARTA:

No comment provided.

Fulton County Schools:

No comment provided.

Fulton County Board of Health:

No comment provided.

Fulton County Public Services and Utilities:

No comment provided.

PUBLIC PARTICIPATIONCommunity Meeting I

There were 8 community members at the initial Community Meeting on December 20, 2021, held in person and virtually for approximately 45 minutes. The applicant explained the purpose of the application and some of the background on the school and its efforts to come into compliance with City code. Questions and comments regarded whether the school would be compliant with the code, trash collection, maintenance or contractor vehicle present at late hours, security lights, impact to Osner Road, sound from the recreation area, and carpool drop-off operations.

Community Meeting II

There were 7 attendees at the second Community Meeting on January 31, 2022, held in person and virtually for approximately 45 minutes. After reiterating the request and the background of the school at the site, questions and comments from the community members regarded measures the school has taken to address concerns from the CMI, that the school invest in the necessary upgrades if approved---such as those required by the Fire Marshall, completion of a queuing plan, and replanting in the buffer area to the west.

Correspondence Received

There were no public comments received at the time of this report.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Following review, and based on the findings, Staff recommends **Approval with Conditions** of **Conditional Use Permit** U21-0005, request to allow for a currently operating religious private school use in an existing building subject to the following conditions:

That the Applicant make site upgrades to come into compliance with the various Development Code, Building, and Fire Code requirements to include:

1. That the site must meet and/or exceed all building and fire codes, as well as the requirements set forth by the City Engineer pertaining to site development and traffic/transportation requirements;
2. That the applicant construct a Protected Neighborhood Transition Buffer (PNTB) wall, at a minimum of 6 feet in height for the length of the property at the rear (western) portion, at the back of the existing curb-making allowance for needed water egress through access to stormwater facilities such as the existing concrete flume or otherwise; and
3. That the applicant place the refuse area and provide screening as per the requirements in (Sec. 7.4.1.H.2.b. (Civic (School, Private (K-12)))) and Sec. 8.2.9.A.1. Screening (Service Areas).