



Reed Haggard, Chair
Robin Conklin
Elizabeth Kelly
Dave Nickles
Andy Porter
Andrea Settles
Karen Trylovich

6:00 p.m.

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

VIII. Adjournment

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

Planning Commission

October 18, 2023



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GEORGIA

U23-0002

6420 Roswell Road

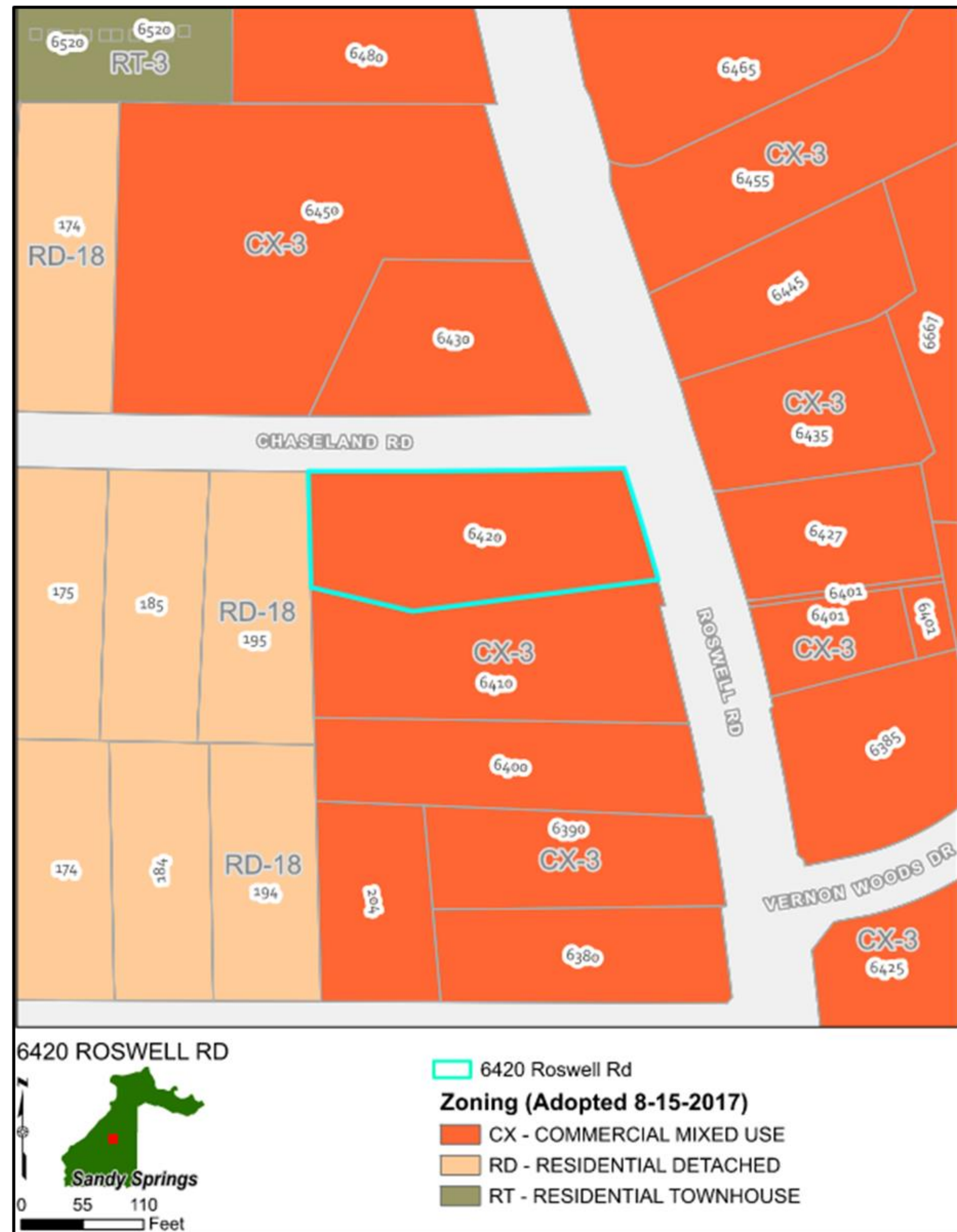
Recommendation

Planning Staff: Approval

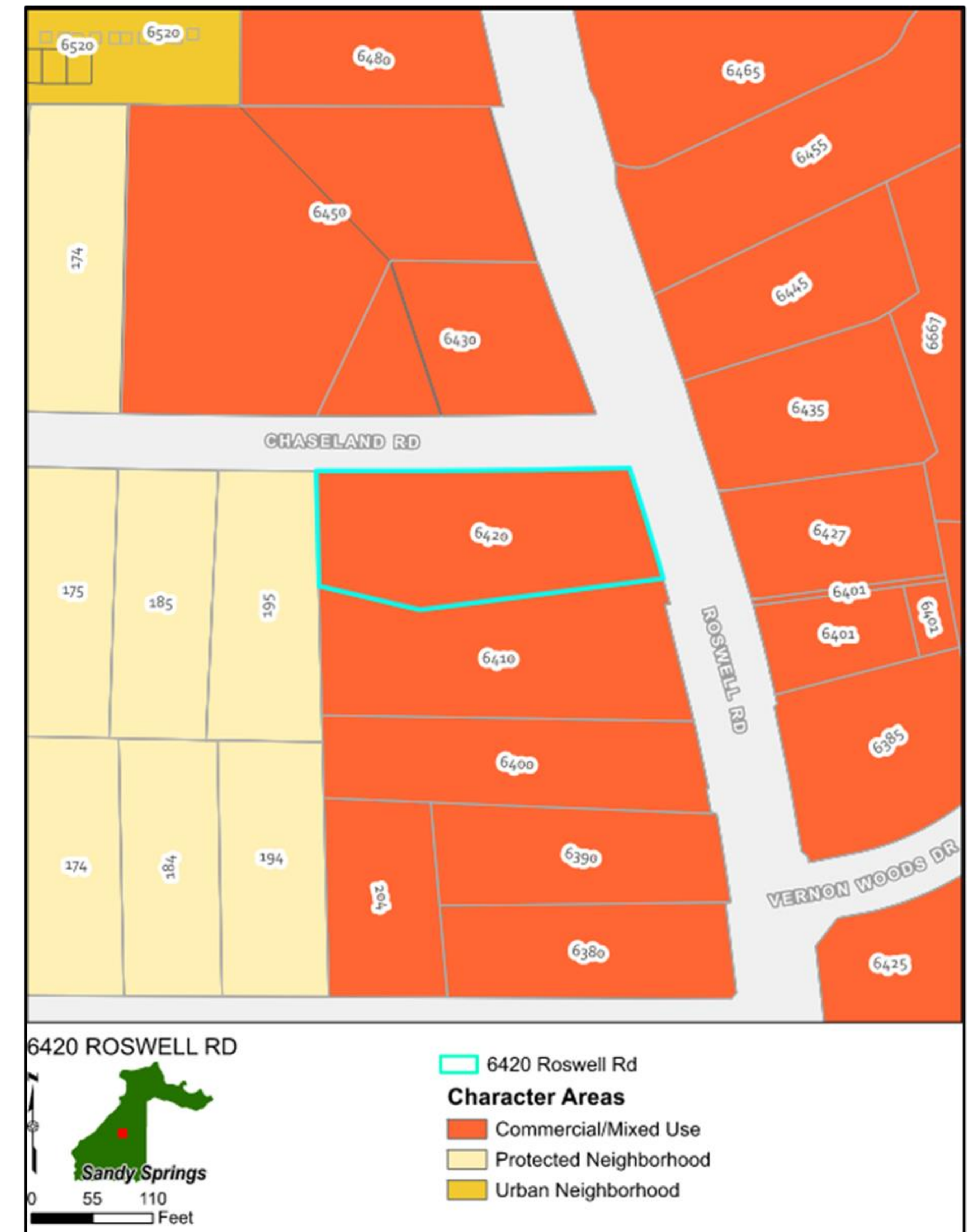
Request

Request for a Conditional Use Permit to allow for an accessory use, a drive-through facility in the CX-3 district at 6420 Roswell Road.

Zoning Map



Character Area Map



Aerial Image



Site Conditions

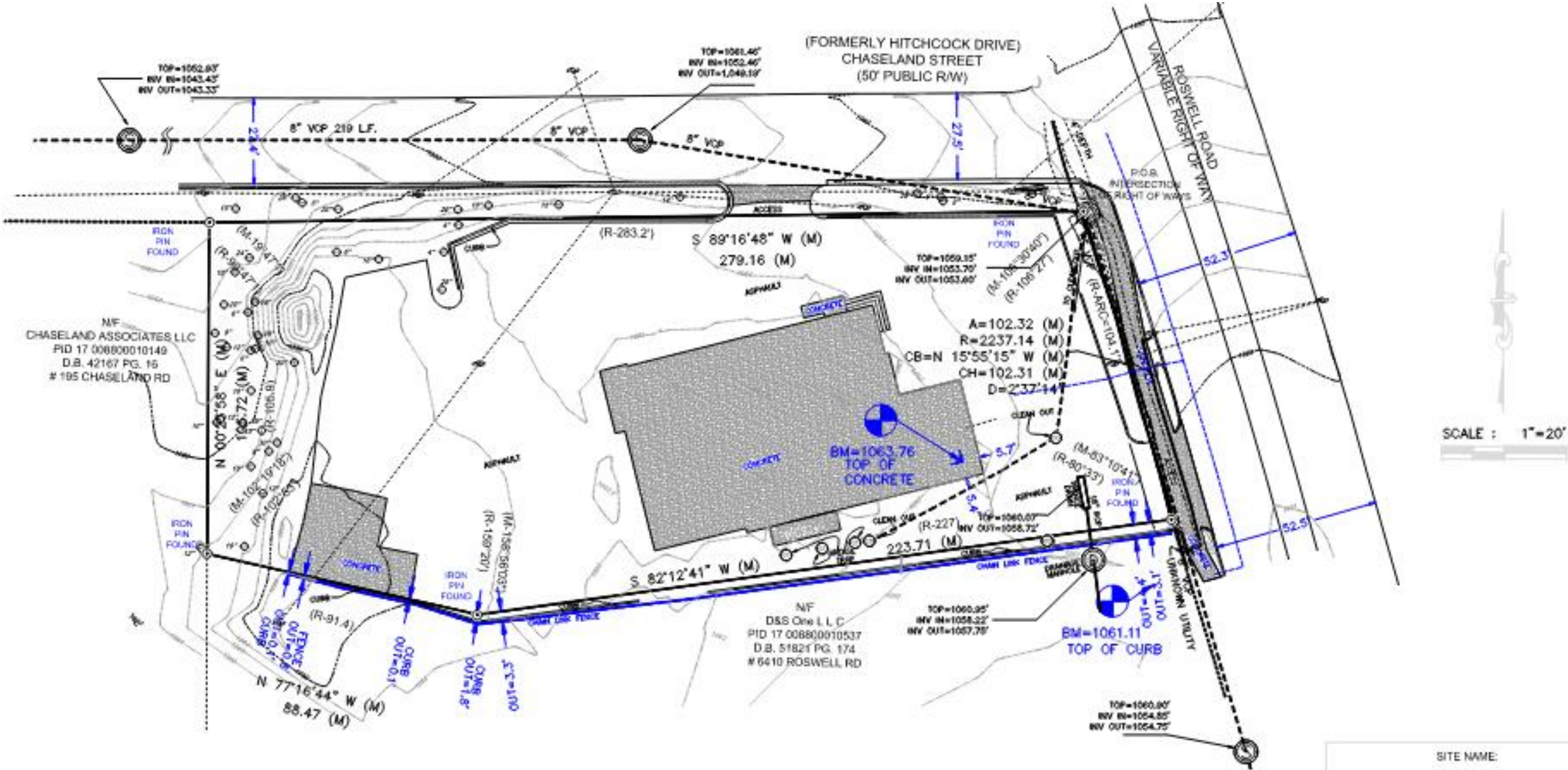


View of subject lot facing west

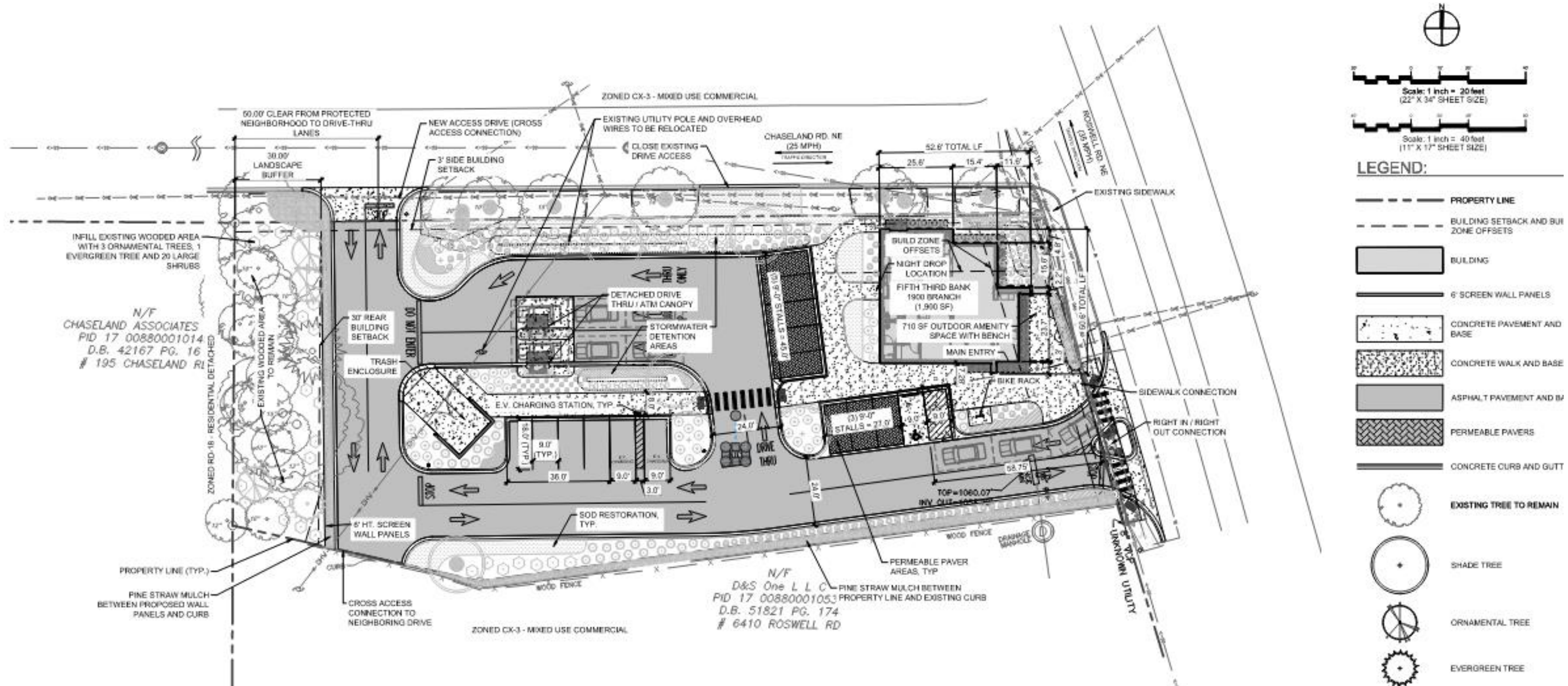


View of Chaseland Road to the East with subject property on the right (south)

Survey



Site Plan



Existing Development

- The 0.78-acre subject property zoned as CX-3 (commercial/mixed use – 3 stories maximum) is located along the west side of Roswell Road just south of Chaseland Road NE.
- The property currently sits vacant and has been since 2018. The parcel was last home to an adult entertainment establishment (Flashers).
- The vacant building was demolished after a fire left it in disrepair in 2020, leaving only the unsightly concrete pad. To the south of the parcel is a vacant former restaurant building (La Paz).
- To the west is the residential detached neighborhood, Whispering Pines.
- To the north and east are various commercial and retail uses including Sherwin Williams, Kudzu and Company, and Cubano's.

Proposed Development

- The applicants are seeking to allow a drive-through facility in the CX-district which is an allowed use under a Conditional Use Permit.
- The applicants request includes constructing a one story 1,900 square foot office facility, Fifth Third Bank, with two drive-through canopies.
- The proposal requires 671 square feet of outdoor amenity space, and the applicants are exceeding that with 710 square feet of space with bench.
- There are fourteen (14) proposed parking spaces with two stalls being outfitted with electric vehicle charging stations.
- The proposal's transitional buffer includes six (6) foot wall panels, a thirty (30) foot landscape buffer, a fifty (50) foot setback between the west residential property lines to the drive-through components that complies with the Sandy Springs Development Code.

Considerations:

- Use is allowed as a CUP in district
- Use complies with use standards
- Use is compatible with commercial uses
- Potential adverse impacts will be offset.
- City/other service providers able to maintain service

Goals of the Comprehensive Plan:

- Encourage active and human-scale pedestrian environment along Roswell Rd
- Manage land use transitions
- Walkability and mix of uses
- Improved streetscape on Roswell Rd

Analysis:

- Proposal would meet all CUP standards for the use in the district
- Staff believes any potential adverse impacts would be mitigated through conditions required in Code and additional conditions provided in the recommendation

Recommendation

Following review, and based on the findings, Staff recommends **Approval of Conditional Use Permit U23-0002**, to allow for a drive-through facility in the CX-3 district for 6420 Roswell Road.

1. That this Conditional Use Permit only be valid while permitting a drive-through as an accessory use to a bank as a principal use.
2. That the development of the site be done substantially similar to the site plan provided as an integral part of this application.



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P&Z STAFF REPORT

Planning Commission Meeting, October 18, 2023

Case: **U23-0002 – 6420 Roswell Road**
Staff Contact: Matthew Anspach (manspach@sandyspringsga.gov)
Report Date: October 12, 2023

REQUEST

Request for a Conditional Use Permit to allow for a drive-through facility in the CX-3 district at 6420 Roswell Road.

APPLICANT

Property Owner:	Petitioner:	Representative:
Evans/Roswell Properties	Fifth Third Bank c/o Dillard Sellers	Julie Sellars

SUMMARY

The Applicant requests a Conditional Use Permit to allow for a drive-through facility in the CX-3 district.

RECOMMENDATION

Department of Community Development

Staff recommends **Approval** of **Conditional Use Permit** U23-0002.

MATERIALS SUBMITTED AND REVIEWED

Materials:

1. Application, received July 28, 2023

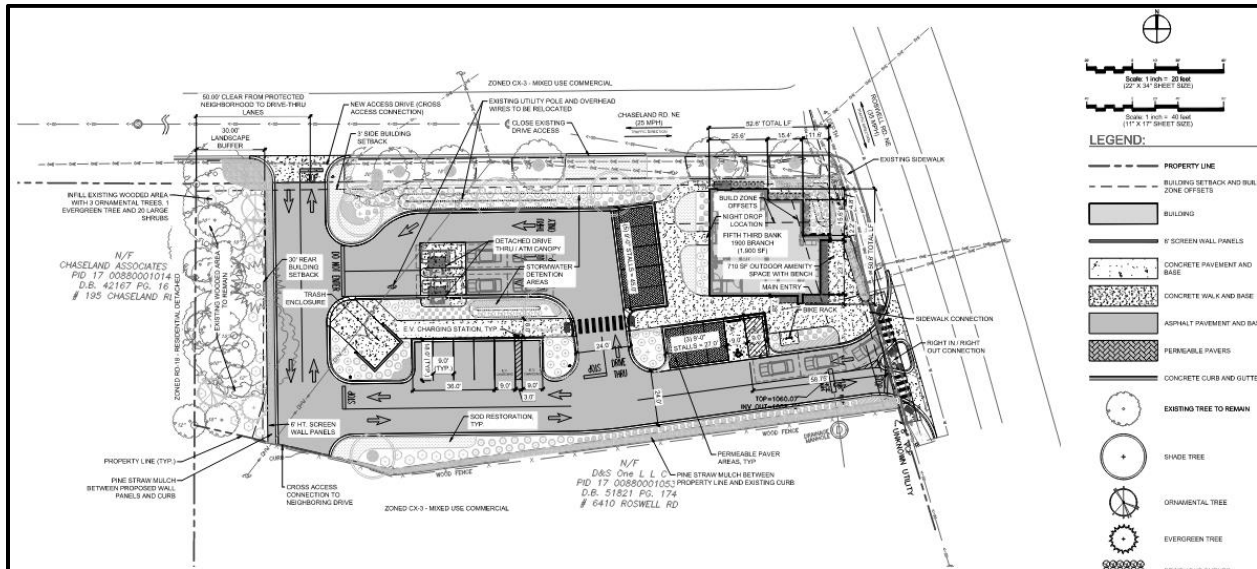
Plans:

1. "Alta/NSPS Land Title Survey," signed and sealed by John E. Lutz, Registered Land Surveyor; dated July 26, 2023; received July 28, 2023
2. "Site Plan" received July 28, 2023

PROPERTY INFORMATION	
Location:	6420 Roswell Road NE (Parcel # 17 008800010545)
Council District:	3 – Melissa Mular
Road frontage:	Approximately 105 feet of frontage on Roswell Road Approximately 285 feet of frontage on Chaseland Road
Acreage:	Approximately 0.78 acre
Current Zoning: Existing Land Use:	CX-3 (Commercial Mixed Use) Vacant
Previous Zoning Case/Cases:	Zoning 1968Z-0148, U07-012/CV07-025
Character Area:	Commercial/Mixed Use

PROCESS			
Initial Community Meeting (CMI): July 18, 2023	Second Community Meeting (CMII): August 23, 2023	Planning Commission Hearing: October 18, 2023	Mayor and City Council Hearing: December 20, 2023

SITE PLAN (received July 28, 2023) (full size Site Plan in Package)



EXISTING ZONING AND LAND USES OF PROPERTY IN THE VICINITY

Location relative to subject property	Zoning / Land use	Address(es)	Land area (acres) (approximate)
North	CX-3 (commercial/Mixed Use)/ Retail	6430 Roswell Road NE	0.68 acre
Northeast	CX-3 (commercial/Mixed Use)/ Restaurant	6445 Roswell Road NE	0.64 acre
Northeast	CX-3 (commercial/Mixed Use)/ Restaurant	6435 Roswell Road	0.53 acre
East	CX-3 (commercial/Mixed Use)/ Retail	6427 Roswell Road NE	0.42 acre
Southeast	CX-3 (commercial/Mixed Use)/ Retail	6401 Roswell Road	0.22 acre
South	CX-3 (commercial/Mixed Use)/ Vacant	6410 Roswell Road	0.62 acre
West	RD-18 (Residential Detached 18,000)/ Single Unit Detached	195 Chaseland Road	0.51 acre
PROPOSED DEVELOPMENT			
--	CX-3 (commercial/Mixed Use)/ Office	6420 Roswell Road NE	0.78 acre

EXISTING DEVELOPMENT

The 0.78-acre subject property is zoned CX-3 (Commercial Mixed Use – 3 stories maximum) and is located along the western side of Roswell Road, abutting Chaseland Road to the south. The property currently sits vacant and has been since 2018. The parcel was last home to an adult entertainment establishment (Flashers). However, the vacant building was demolished after a fire left it in disrepair in 2020, leaving only the unsightly concrete pad. The property is mostly covered with impervious surfaces such as asphalt and concrete. To the immediate south of the site is a vacant building, formerly home to the restaurant La Paz. To the west is the residential detached neighborhood of Whispering Pines. To the property's north is Chaseland Drive, abutted by various commercial uses including Sherwin Williams, Kudzu and Company, and Cubanitos. To the east, on Roswell Road are various restaurants and retail uses from Waffle House to a package store establishment.



View of Chaseland Road to the east, with the subject site to the right (south)



Image of the existing condition of the property looking east toward Roswell Road



View of subject property from Roswell Road facing west, southwest

PROPOSED DEVELOPMENT

The applicant (Fifth Third Bank) is proposing a development that includes a by-right, single-story 1,900 square foot office banking facility, with a drive-through. The proposal requires 671 square feet of outdoor amenity space, and the applicant is exceeding that with 710 square feet of space. There are fourteen proposed parking spaces including many pervious paver stalls, and 2 stalls outfitted for electric vehicle charging.

The concept also includes installation of a Protected Neighborhood Transition Wall and corresponding thirty-foot landscape buffer. A fifty-foot setback between the residential property line to the west from the drive-through components complies with the Sandy Springs Development Code (Sec. 7.8.3.B.1.).

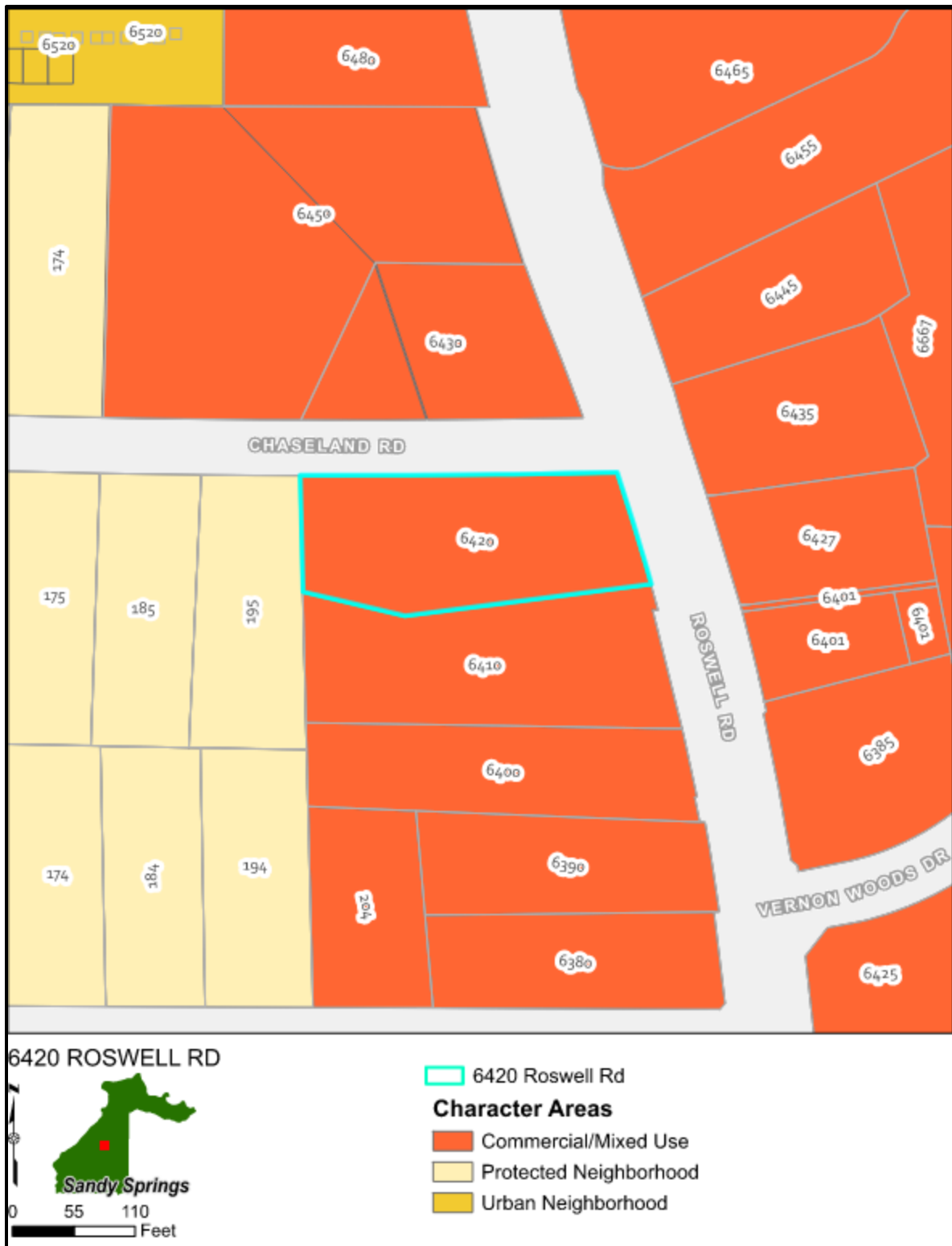
The drive-through system under consideration for a Conditional Use Permit is to the rear of the principle structure (bank facility) from the Roswell Road frontage, and to the side of the principle structure from the Chaseland Road frontage. The system includes one lane for the ATM, and one lane for the VAT system where patrons may send items to a teller via a tube which is primarily underground. Both lanes have a canopy at the point of transaction. The lanes, as shown on the provided site plan are accessed via the internal drive from the right-in/right-out Roswell Road entrance and exit onto the interparcel access drive at the western edge of the property.



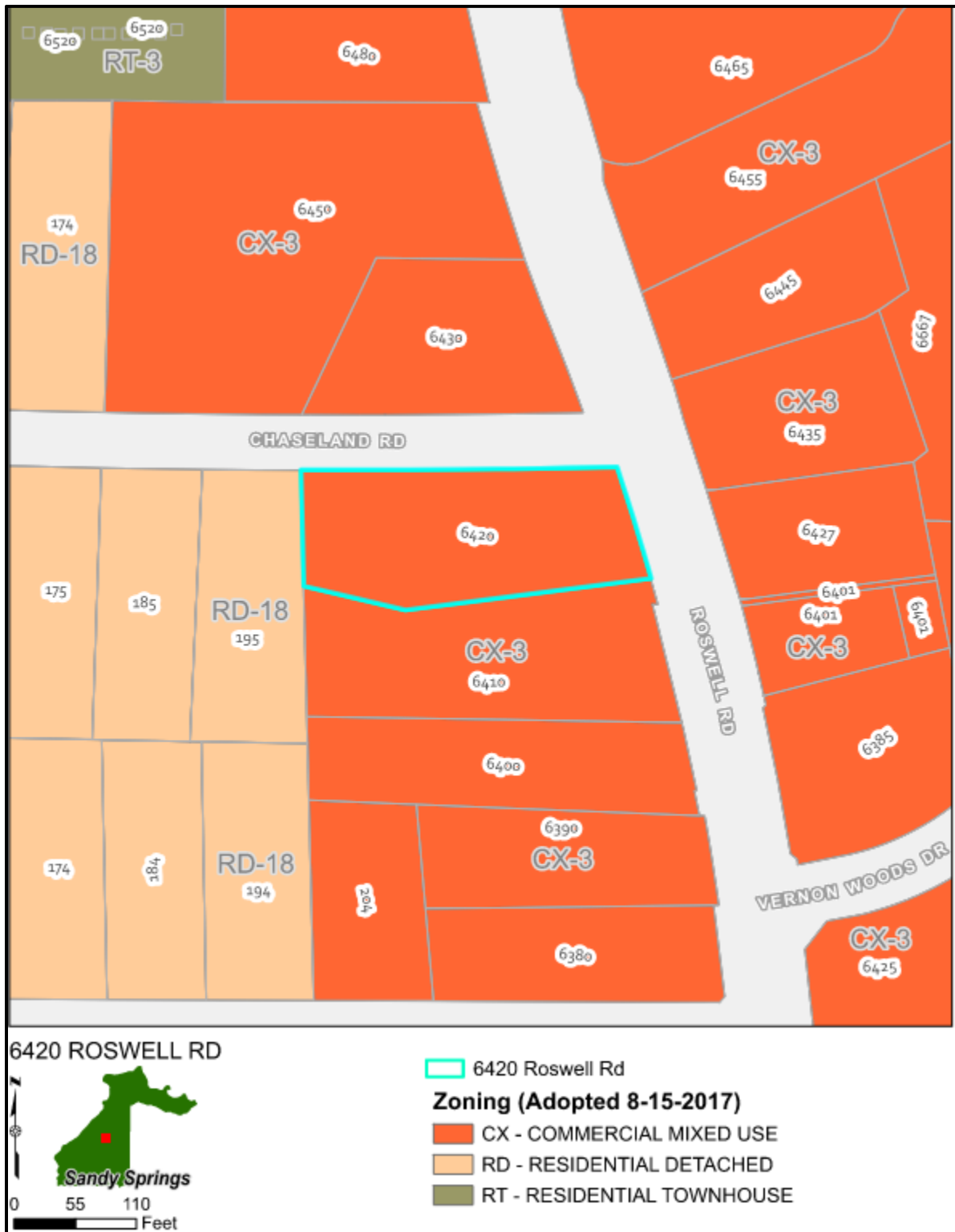
AERIAL IMAGE



CHARACTER AREA MAP



ZONING 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.

Finding: The proposed use, a drive-through facility is allowed in the Commercial Mixed Use (CX-) district via 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 variances based on the information provided. A drive-through facility is defined as, “a facility at which the customer is served while sitting in a vehicle, typically associated with drive-through restaurants, banks and pharmacies.” and has the following “Basic Use Standards”:

a. No drive – through window, lane or order box is allowed within 50 feet of a Protected Neighborhood or Urban Neighborhood district (measured from the residential lot line to the closest point of the drive – through lane).

The proposal demonstrates a distance of approximately 100 feet between the abutting residential property line to the proposed drive-through canopy and lane.

b. All drive – through areas, including but not limit to menu boards, stacking lanes, trash receptacles, ordering box, drive up windows, and other objects associated with the drive – through, must be located to the side or rear of the principal building. Drive – through windows and lanes may not be placed between a street (not including an alley) and the associated building.

This condition is met per the site plan provided. The proposed 1,900 square foot building is in the northeast portion of the parcel while the drive-through components, including, the two drive-through canopies and trash enclosure, are proposed to be located at the rear and side of the principal building.

c. Stacking requirements are in Sec. 8.1.9.

This requirement is met per the prescription found in Sec. 8.1.9.C.1.

An existing legal nonconforming drive-thru facility may be relocated, renovated and/or expanded within a same development, provided it is associated with a restaurant and located on the outparcel of a larger development. Any modification to a nonconforming drive-thru must be in accordance with the use standards listed above.

There is no existing drive-through facility on site. The subject lot is vacant without any principal or accessory structures.

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

Finding: The proposed use is compatible with adjacent uses. The neighboring parcels to the north, east, and south are zoned CX-3 and either vacant and formerly developed with commercial establishments or are currently developed with active commercial establishments. Along the property’s western extent is an RD-18 (residential detached, 18,000 square feet) lot of the Whispering Pines neighborhood developed with a single unit detached home. However, the required Neighborhood Transition Buffer elements will be installed according to the Development Code to help ensure an appropriate land use

transition. The proposal is compatible with the properties within the vicinity.

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

Finding: There are no known adverse impacts that will result from the proposed drive-through in the area. The potential impact to the residential neighborhood will be mitigated with the installation of the Neighborhood Transition Buffer. Additionally, a bank drive-through creates significantly less traffic than that of other types of drive-through supporting establishments such as fast-food restaurants.

The site plan complies with Development Code requirements concerning land use transition mitigation (Protect Neighborhood Transition Buffer), traffic mitigation (right-in/right-out for only ingress/egress via Roswell Road, north-south interparcel access drive off of Chaseland Road, connecting with east/west internal drive that together, entirely facilitate any drive-through traffic produced without impairing traffic flow on Roswell Road), provides for more outdoor respite in the form of ample Outdoor Amenity Space, environmental enhancements through abundant landscaping, enhance buffer, and pervious parking.

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: The city and other service providers will be able to provide sufficient public services to the site, as they did when the site was formerly an active commercial use.

COMMENTS FROM OTHER PARTIES

Sandy Springs Public Works & Transportation:

The drive connection to the neighboring parcel to the south should be documented with an easement. - Frontage improvements/sidewalk are required on Chaseland Road. -Roswell Road frontage be updated to current code. Roswell Road Access Management Plan improvements require 48.5 feet from centerline. -This parcel is adjacent to a segment of Roswell Road that ranked 3rd (out of 18) in terms of priority for access management treatments based on criteria heavily weighted on improving safety. Recommended access management treatments include a raised median, an increase in driveway spacing (by reducing the number of driveways and/or driveway consolidation), and provision of interparcel access. Interparcel access is critical to the success of improved access management on Roswell Road (meeting driveway spacing standards and implementation of a raised median) since interparcel access provides an alternative way to access to Roswell Road adjacent parcels.

Sandy Springs Transportation Engineer:

Proposed site appears consistent with Development Code Transportation Requirements. Minor modifications may be required during permitting. SITE WILL REQUIRE CORNER MITER AT CHASELAND/ROSWELL INTERSECTION DURING PERMITTING.

Sandy Springs City Engineer:

Engineering has not comment. Site Plan appears consistent with Development Code requirements for site design.

Sandy Springs Chief Environmental Compliance Officer:

No comment provided.

Sandy Springs Arborist:

There are Landmark and Protected Trees shown on the site plan and survey. The project will be required to adhere to Division 9.3 of the Development Code, which includes mitigating lost Landmark Trees and meeting the minimum canopy requirement of 40% for the property.

Sandy Springs Land Development:

Site Plan appears consistent with Development Code requirements for site design.

Sandy Springs Sustainability Manager:

If the project warrants two drive-through lanes, it presumes a lot of activity will occur without customers leaving their vehicles. Why then provide 14 parking spaces, almost double what is required by Code? This development is clearly car-oriented and does not fit with the goals of activating the streets for pedestrians.

Sandy Springs Building Official:

Not enough on this plan to do a building plan review. On ADA, extend sidewalk along Chaseland to new access drive at western end of site. On Roswell Road drive, use Type A1 drive; maintain grade of sidewalk across drive.

Sandy Springs Fire Marshal:

No comment provided.

Fulton County Schools:

No comment provided.

Fulton County Public Services and Utilities:

No comment provided.

PUBLIC PARTICIPATION

Community Meeting I

There were five (5) attendees at the Initial Community Meeting on July 18, 2023. Questions and topics discussed included ingress/egress, a previous site proposal, and landscaping and building materials.

Community Meeting II

There were three (3) attendees at the Second Community Meeting on August 23, 2023. Questions and topics discussed included traffic and the site plan layout.

Correspondence Received

No public comment was submitted in writing.

DEPARTMENT OF COMMUNITY DEVELOPMENT RECOMMENDATION

Following review, and based on the findings, Staff recommends **Approval** of **Conditional Use Permit** U23-0002, request for a Conditional Use Permit to allow for a drive-through facility at 6420 Roswell Road subject to the following conditions:

1. That this Conditional Use Permit only be valid while permitting a drive-through as an accessory use to a bank as a principal use.
2. That the development of the site be done substantially similar to the site plan provided as an integral part of this application.



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Case No.: **U23-0002**
Planner's initials: **LSW**

PROJECT INFORMATION SHEET

PROPERTY	Address(es): 6420 Roswell Rd, Sandy Springs, GA 30328	
	Parcel Tax ID(s): 17 008800010545	
	Total acreage: .781	Council District: 3
	Current zoning: CX-3	Current use: Vacant Lot
	Character Area: Commercial / Mixed Use	

APPLICATION	Purpose of the Application: Conditional Use - Drive Thru to support new bank branch	
	Check all that apply:	
	☐ Zoning Map Amendment (Rezoning)	☒ Conditional Use Permit
	Detailed request:	
	Applicant requests CUP approval for a new bank location with a drive thru	
	Petitioner: Fifth Third Bank c/o Dillard Sellers	
Petitioner's address:		
1776 Peachtree Street, Suite 415-South, Atlanta, GA 30309		
Phone: [REDACTED]		
Email: jsellers@dillardsellers.com		

OWNER	Property owner: Evans/Roswell Properties LLC	
	Owner's address:	
	97562 Pirates Point Rd, Yulee, FL 32097	
	Phone: [REDACTED]	Email: [REDACTED]
	Signature (authorizing initiation of the process): <i>Jodi Howard</i>	
<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: 6/21/2023	Anticipated Application date: 7/28/2023
CMI date, time, and location: July 18, 2023 at City Hall 6:00pm	
ADDITIONAL INFORMATION NEEDED:	
SUBMITTAL ITEMS WAIVED BY DIRECTOR:	



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Case No.: **U23-0002**
Planner's initials: **LSW**

APPLICATION FORM

APPLICATION	Purpose of the Application:
	Conditional Use - Drive Thru to support new bank branch
	Check all that apply:
	☐ Zoning Map Amendment (Rezoning) ☒ Conditional Use Permit
	Detailed request:
	Applicant seeks a conditional use permit to develop a bank location at the Property

COMMUNITY MEETING I REPORT	Date and location of CMI: 7.18.23 at City Hall	
	Beginning time: 6:00	End time: 7:00
	Summary of concerns discussed:	
	Traffic and access questions were discussed	
	Desire for nice landscaping was expressed	
	Does the Application address the concerns discussed at the CMI? ☒ Yes ☐ No	
	Explain:	
	Applicant will continue to work with staff and community regarding access into the Property	

- TO BE FILLED OUT BY P&Z STAFF -

Application date:	Tentative Planning Commission date:
CMII date and time:	Tentative Mayor and City Council date:
OFFICIAL REQUEST (FOR PUBLICATION):	

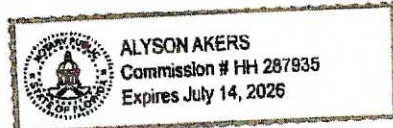


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AUTHORIZATION FORM – PART I

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: Evans/Roswell Properties LLC	Sworn and subscribed before me this <u>14</u> th day of <u>July</u> 20 <u>23</u> Notary public: <u>[Signature]</u> Seal:  Commission expires:
Address: 97562 Pirates Point Road	
City, State, Zip Code: Yulee, FL 32097	
Email address: [Redacted]	
Phone number: [Redacted]	
Owner's signature: <u>[Signature]</u>	

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 (attach a copy of the contract); or ☒ He/she has an option to purchase the subject property (attach a copy of the contract); or ☐ He/she has an estate of years which permits the Applicant to apply (attach a copy of the lease)	
Applicant's name: <u>Jennifer Hume</u>	Sworn and subscribed before me this <u>25</u> th day of <u>JULY</u> 20 <u>23</u> Notary public: <u>[Signature]</u>  My Commission Expires:
Company name: Fifth Third Bank	
Address: c/o Dillard Sellers 1776 Peachtree Street, Suite 415-S	
City, State, Zip Code: Atlanta, GA 30309	
Email address: jsellers@dillardsellers.com	
Phone number: [Redacted]	
Applicant's signature: <u>[Signature]</u>	

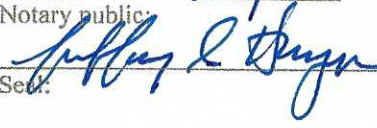


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AUTHORIZATION FORM – PART II

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:	Julie Sellers
Company:	Dillard Sellers
Address:	1776 Peachtree Street #415-S
City, State, Zip Code:	Atlanta, GA 30309
Email address:	jsellers@dillardsellers.com
Phone number:	[REDACTED]
Agent's signature:	
Applicant's signature:	

Sworn and subscribed before me this
<u>24th</u> day of <u>July</u> 20 <u>23</u>
Notary public:

Set:
Jeffrey S. Haymore NOTARY PUBLIC Cobb County State of Georgia My Comm. Expires 07/26/2025
Commission expires: <u>7/26/2025</u>



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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:

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: 	Date: 7.24.2023
Signature: Jeff Wagner VP-Real Estate Manager	

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



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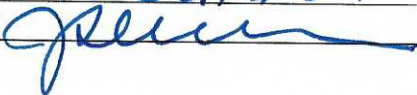
DISCLOSURE OF CONTRIBUTION FORM

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:

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: Julie Sellers / Dillard Sellers	
Signature: 	Date: 7/24/23

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:

Evans/Roswell Properties, 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:	Jodi Downs
Signature:	Jodi Downs
Date:	14 July 2023

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

Letter of Intent and Conditional Use Analysis

City of Sandy Springs

Applicant:

Fifth Third Bank
c/o Dillard Sellers

Property:

6420 Roswell Road
Sandy Springs, Georgia 30328

Acreage:

+/- 0.78

Parcel ID: 17 008800010545

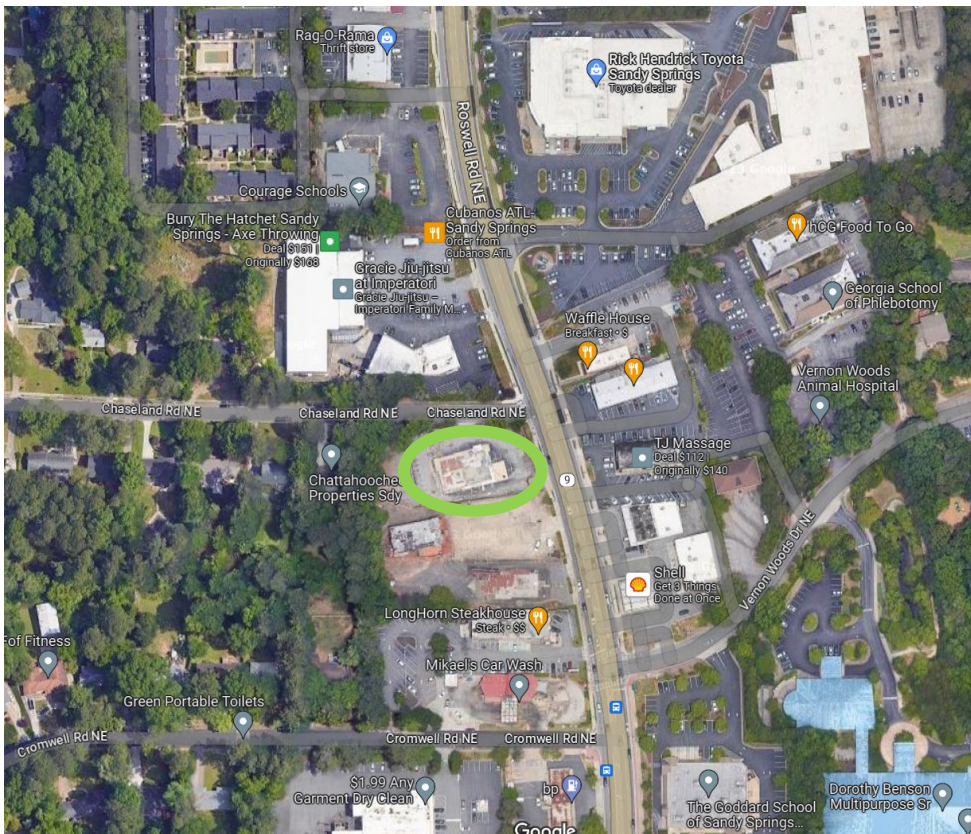
Submitted for Applicant by:

Julie L. Sellers
DILLARD SELLERS
1776 Peachtree Street NW, Suite 415-S
Atlanta, Georgia 30309
(404) 665-12422
jsellers@dillardsellers.com

Introduction

Applicant, Fifth Third Bank, requests approval of this application for a conditional use permit to develop a new bank location at 6420 Roswell Road, Sandy Springs, Georgia (the “Property”) to include a drive thru. The Property is zoned CX-3 (Commercial Mixed Use). A bank is included within the definition of “Office”, a permitted use in the CX-3 zoning district. *See*, Div. 7.5.8 and Div 7.2. However, a drive through facility as an accessory use in CX-3 requires approval of a conditional use permit. *See*, Div. 7.2.

The Property is at the corner of Roswell Road and Chaseland Street. Nearby commercial uses include a paint store, restaurants, vape shop, liquor store, and gas station. The Property is circled in green below:



Street view from Roswell Road:



Development Details

Fifth Third Bank ranks in the top 15 of the largest banks in the US with roots dating back 165 years. Today, Fifth Third is expanding its presence in Georgia and selected the Property as the location to service clients in Sandy Springs. The banking use is an ideal way to activate this vacant parcel while being an attractive and quiet neighbor to the area residents.

As reflected in the submitted site plan, the bank is a modest sized (1,900 sq. ft), one-story building. The architecture is light and airy with extensive glass windows and light-colored brick exterior. Landscaping will enhance the aesthetic appearance along both Roswell Road and Chaseland Street. The 14 parking spaces are adequate to provide for the employees and customers. When designing the site, care was taken to comply with the City's development regulations and avoid the need for variances. The hours of operation for the lobby and drive-thru are typically Monday – Thursday 9:00 a.m. -5:00 p.m., Friday 9:00 a.m. – 6:00 p.m., and Saturday 9:00 a.m. - noon. Customers will enjoy the opportunity to conduct business in a relaxed atmosphere similar to a coffee shop. The drive-thru windows are needed to provide for customers who need to transact business from their cars for a variety of reasons.

The design of the site includes the 50-foot transition from the rear property line with a 30-foot landscaped buffer. This area provides adequate separation from the residentially zoned parcels adjacent on Chaseland Street. The Roswell Road access is right in, right out restricted access. The access from Chaseland Street is located to reduce any potential for traffic congestion.

The development of the Property for bank use is an appropriate neighbor for the residential uses nearby. The bank is a low intensity use with no noise or smells. The lack of commercial deliveries that are common with other commercial uses is an additional benefit to the surrounding residents. The landscaping and amenity space will enhance the pedestrian experience and activate this vacant corner.

Conditional Use Analysis Criteria

- 1. The use is allowed as a Conditional Use in the respective zoning district (see Div. 7.2).**
Yes, the bank use is authorized in the CX-3 zoning district by right and the accessory use of a drive-thru facility requires the conditional use permit.
- 2. The use complies with the applicable specific use standard listed in Article, if any, without the granting of any Variance.**
Yes, the site plan reflects a design that complies with the standards, including Sec 7.8.3 for Drive-Thru Facilities, without granting a variance.
- 3. The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation, and operating characteristics.**
Yes, the banking drive-thru facility is compatible with the adjacent uses. Along Roswell Road there are more intensive commercial uses from a traffic, noise, smell, and delivery standpoint. The scale of the drive-thru facility is modest with two lanes and operating hours that end by 5:00 most days. This quiet use is an ideal neighbor to be in close proximity to nearby residential uses.

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

The banking drive-thru facility will not create any adverse impacts. In light of the other commercial uses allowed by right at the Property, the banking use with a drive-thru is far less impactful on the surrounding area.

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

The City and service providers are able to provide sufficient services for the bank with the accessory drive-thru facility. Based on the proposed use of the Property, water, police, fire and emergency medical services will all be less than other types of allowable commercial uses at the Property.

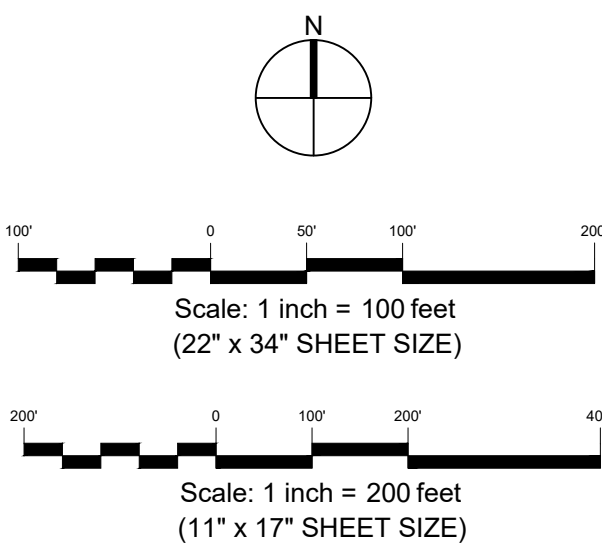
Conclusion

For the foregoing reasons, Fifth Third Bank respectfully requests that the City of Sandy Springs approve the Conditional Use Permit. If there are any questions about this request, please do not hesitate to contact me at 404-665-1242 or jsellers@dillardsellers.com



1 SITE MAP

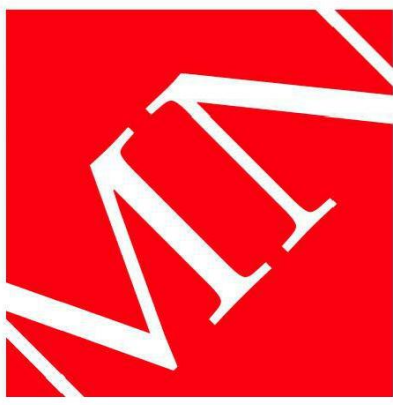
SEE GRAPHIC SCALE



LEGEND:

- PROPERTY LINE
- EXISTING BUILDING
- FLOOD ZONE (ALSO SEE FEMA MAP)
- 400' LIMIT FROM SUBJECT PROPERTY
- EXISTING FENCE

NOTE:
SEE SITE PLAN AND SITE
DATA TABLE ON L1.0 FOR
ADDITIONAL INFORMATION



MOODY•NOLAN
BARLOW MOTORS BUILDING
40 W. CENTRAL PKWY • FIRST FL
CINCINNATI, OH 45202
PHONE: (513) 914-5835



5TH/3RD BANK SANDY SPRINGS

6420 ROSWELL ROAD
SANDY SPRINGS, GEORGIA 30328

for

FIFTH THIRD BANK

PROGRESS
DRAWING
NOT FOR
CONSTRUCTION

#	DATE	CHANGE DESCRIPTION

DRAWING TITLE: SITE MAP

07/26/2023

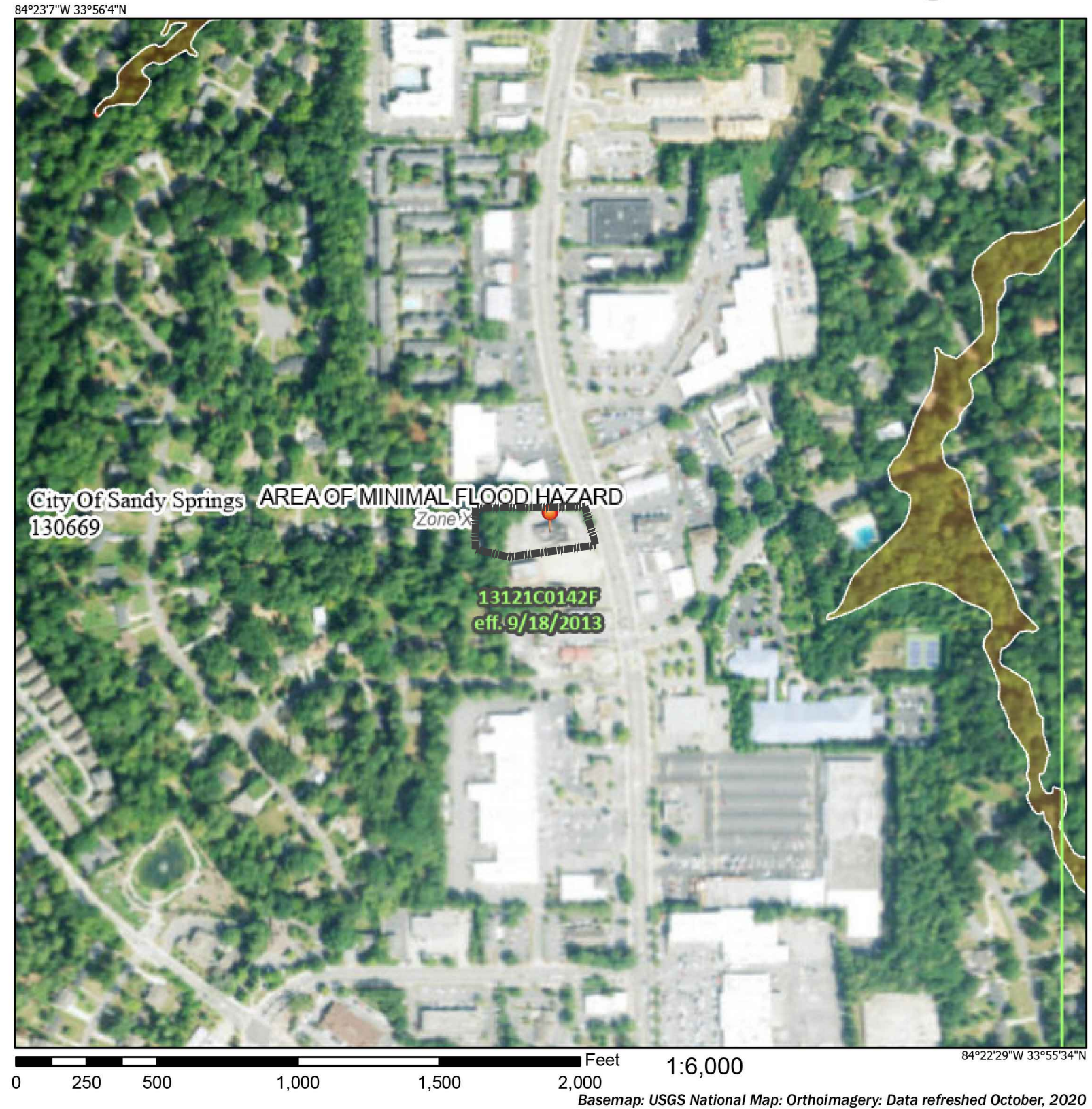
DRAWN BY: KS / CM / MB CHECKED BY: KG / JH

MOODY NOLAN PROJECT #: 22071.14

L0.0

Conditional Use Permit Submittal

National Flood Hazard Layer FIRMette



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

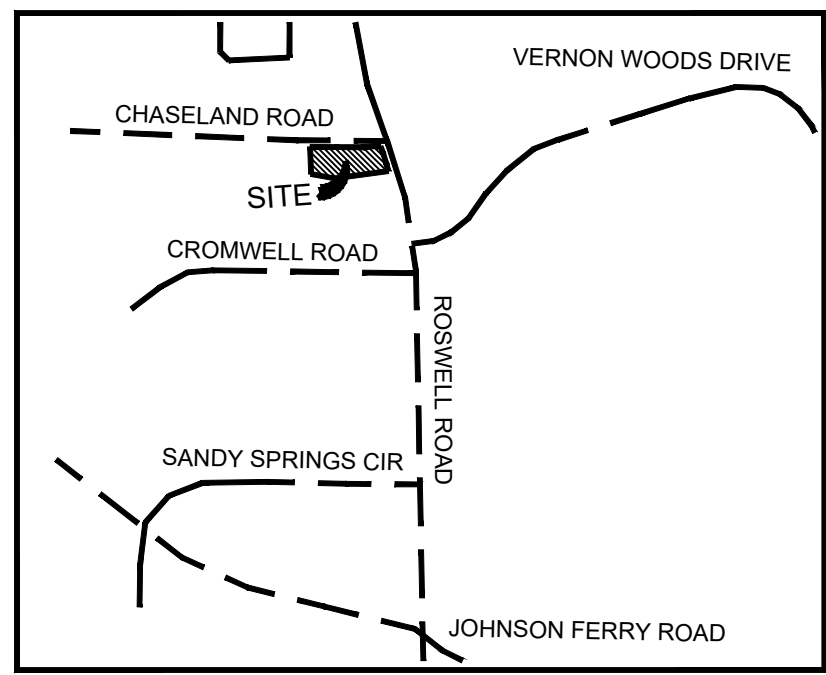
- SPECIAL FLOOD HAZARD AREAS**
 - Without Base Flood Elevation (BFE) Zone V, VE, AR
 - With BFE or Depth Zone AE, AO, AH, VE, AR
 - Regulatory Floodway
- OTHER AREAS OF FLOOD HAZARD**
 - 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
 - Future Conditions 1% Annual Chance Flood Hazard Zone X
 - Area with Reduced Flood Risk due to Levee. See Notes. Zone X
 - Area with Flood Risk due to Levee Zone D
- OTHER AREAS**
 - NO SCREEN Area of Minimal Flood Hazard Zone X
 - Effective LOMRs
 - Area of Undetermined Flood Hazard Zone D
- GENERAL STRUCTURES**
 - Channel, Culvert, or Storm Sewer
 - Levee, Dike, or Floodwall
- OTHER FEATURES**
 - Cross Sections with 1% Annual Chance Water Surface Elevation
 - Coastal Transect
 - Base Flood Elevation Line (BFE)
 - Limit of Study
 - Jurisdiction Boundary
 - Coastal Transect Baseline
 - Profile Baseline
 - Hydrographic Feature
- MAP PANELS**
 - Digital Data Available
 - No Digital Data Available
 - Unmapped

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 12/6/2022 at 2:37 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

SITE MAP N.T.S.



FOR CLERK OF COURT



Commercial Real Estate
Due Diligence Management
3465 South Arlington Rd Suite E#183
Akron, OH 44312
330.294.1077
www.amnational.net

PRESS CTRL &
CLICK HERE
TO REQUEST
A QUOTE

ALTA/NSPS Land Title Survey

6420 ROSWELL ROAD
SANDY SPRINGS GA
30328
COUNTY OF FULTON

Fifth Third Bank, National Association, a federally chartered institution; National Title Insurance of New York, INC.;
M. Clare McMahon MCHANE & BOWIE, PLC
; and American National, LLC);

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 6a, 6b, 7a, 7b, 7c, 8, 9, 10, 11a, 11b, 13, 14, 16, 17, 19, 20 of Table A thereof. The fieldwork was completed on May 16, 2023.
Date of Plat or Map: JUNE 10, 2023

Surveyor's signature
John E Lutz RPLS# 3097 and
seal with Registration/License Number
Jutz@ALTASurveyPro.com

Network reference # 20230282



SURVEY NOTES:

- All iron pins are 1/2" Rebar unless otherwise noted.
- Equipment used: GEOMAX ZOOM 90 TOTAL STATION and GEOMAX ZENITH 60
- GPS DATA was collected using DUAL Frequency receiver, Real-time kinematic positioning (Base Rover)
- This plat has been calculated for closure and is found accurate within one foot in 1,157,853 feet.
- This plat subject to all easements public and private.
- This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries.
- The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, NOR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. 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.

LSF001378

Legal Description

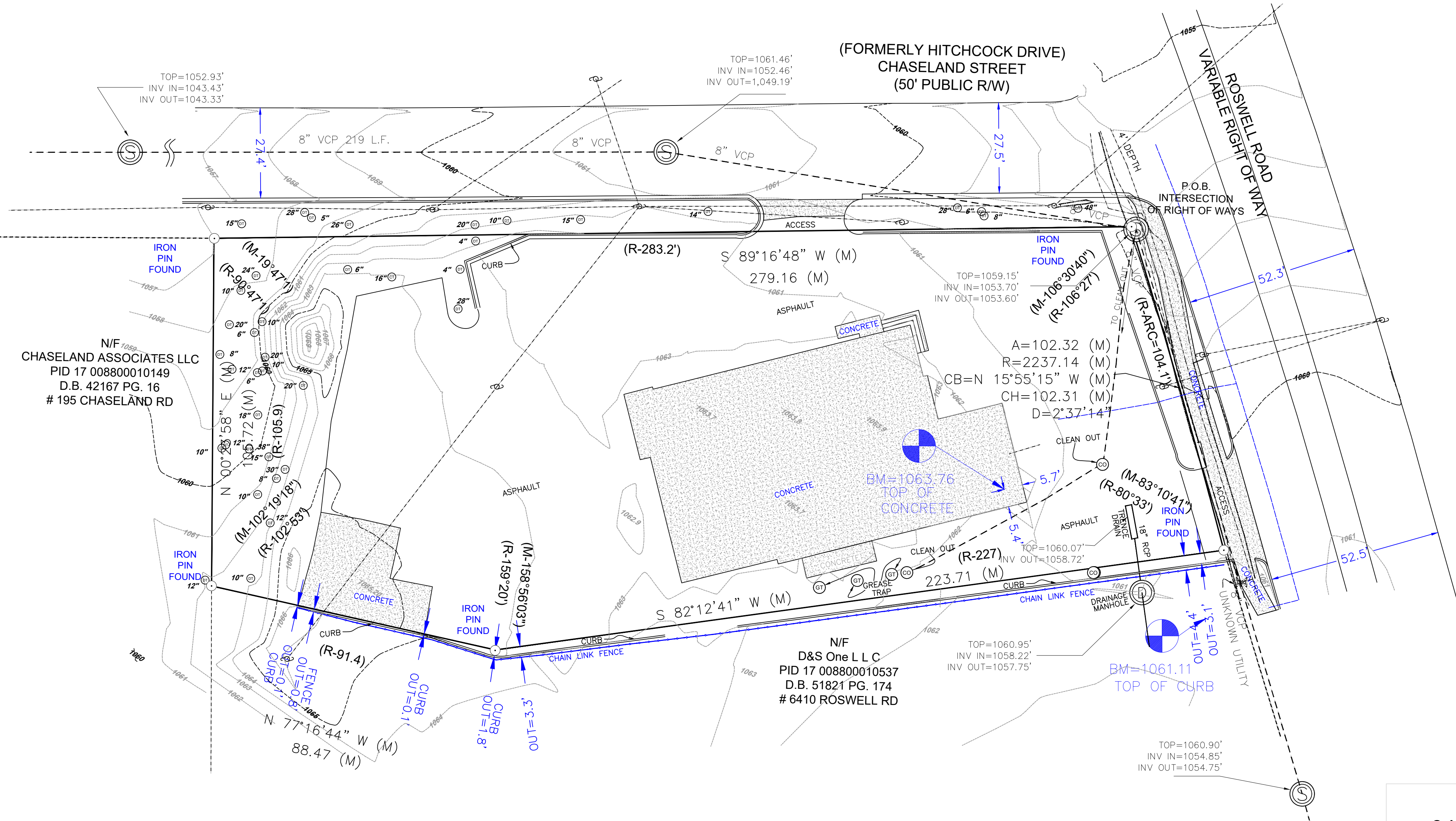
All that tract and parcel of land bring and being in Land Lot 88 of the 17th District of Fulton County, Georgia as per plat recorded in Plat Book 94, Page 106, Fulton County Records, and being more particularly described as follows:

BEGINNING at an iron pin at the intersection formed by the south side of Chaseland Street, the same having a 50 foot right of way, with the southwest side of Roswell Road, the same having a 65 foot right of way, running thence westerly along the south side of Chaseland Street 283.2 feet to an iron pin, thence southerly forming an interior angle of 90 degrees 47 minutes with the last mentioned course 105.9 feet to an iron pin; thence southeasterly forming an interior angle of 102 degrees 53 minutes with the last mentioned course 91.1 feet to an iron pin; thence northeasterly forming an interior angle of 159 degrees 20 minutes with the last mentioned course 227 feet to an iron pin on the southwest side of Roswell Road, running thence northwesterly along the southwest side of Roswell Road an arc distance of 104.1 feet to an iron pin and the point of beginning, being more fully shown on plat of survey for Charles Gary Evans, made by Alvin E. Vaughn, Registered Land Surveyor dated January 9, 1986.

LESS AND EXCEPT from the above described property that portion of the property conveyed by that certain Order and Judgment - City of Sandy Springs, Georgia, A Municipal Corporation vs. The hereinafter described lands and rights in lands, Charles Gary Evans c/o/a C. Gary Evans; o/a/a Gary Evans; 6420 Roswell Road, Inc.; et al, being Civil Action File No. 2013 CV 228248, dated March 13, 2013, filed for record January 20, 2015 at 12:39 p.m., recorded in Deed Book 54550, Page 696, Records of Fulton County, Georgia.

Deed book 54550, Pagee 696 references "City of Sandy Springs Project No T-0012" (Not legible in title commitment)

The described property is the same property as insured in the title commitment, BY NATIONAL TITLE INSURANCE OF NEW YORK, INC., commitment number 2-42382 and the effective date February 8, 2023 at 5:00 p.m.



Surveyor's Notes:

1. No observable evidence of earth moving work, building construction or building additions within recent months.
2. No observable evidence of changes in street right of way lines completed, and available from the controlling jurisdiction and no observable evidence of recent street or sidewalk construction or repairs.
3. Property has physical access to chaseland street, a public right of way and Roswell road a public right of way.
4. All statements within the certification, and other references located elsewhere hereon, related to: utilities, improvements, structures, buildings, party walls, parking, easements, servitudes, and encroachments, are based solely on above ground, visible evidence, unless another source of information is specifically referenced hereon.
5. In regards to ALTA Table A Item 11(a), underground utilities located by above ground structures and locations provided by: Underground Detective, dated 4/26/23. Surveyor make no guarantee this survey shows all such utilities in the area.
6. There is no visible evidence of cemeteries on the subject property at the time of survey.
7. Basis of bearings: Georgia State Plane Coordinates, North Zone.
8. There were no wetland markers observed at time of survey.
9. DATUM = NAVD88
10. Total = 33,560 SF, 0.77043 AC

COA# LSF001378

SURVEYORS CERTIFICATION

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated herein. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, NOR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. 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.

DATE OF PLAT 07/27/2023

John E. Lutz R.L.S. SEAL #3097

John E. Lutz

07/06/2023

Legend of Symbols & Abbreviations

LEGEND:

- Property Corner
- IPF = Iron Pin Found
- IPS = Iron Pin Set 1/2" RB
- Bollard
- SS manhole
- SS Cleanout
- Water Valve
- Fire Hydrant
- Power Pole
- Electric Transformer
- Wood Fence line
- Chainlink Fence line
- Property line
- ROW line
- Easement line
- Gas line
- Sewer line
- Overhead Power line
- Underground Power line
- UGT = Underground Telephone
- Water line
- Treeline
- Concrete
- Building

Encroachment Statement

NO OBSERVABLE ENCROACHMENT

SITE NAME:

6420 Roswell Road,
Sandy Springs, GA
30328

SITE ADDRESS:
6420 ROSWELL ROAD
SANDY SPRINGS GA, 30328



DRAWN BY: SDS
APPROVED BY: JEL
DATE DRAWN: 06/08/23
JOB NO: 2305006

ALTA/NSPS LAND TITLE SURVEY

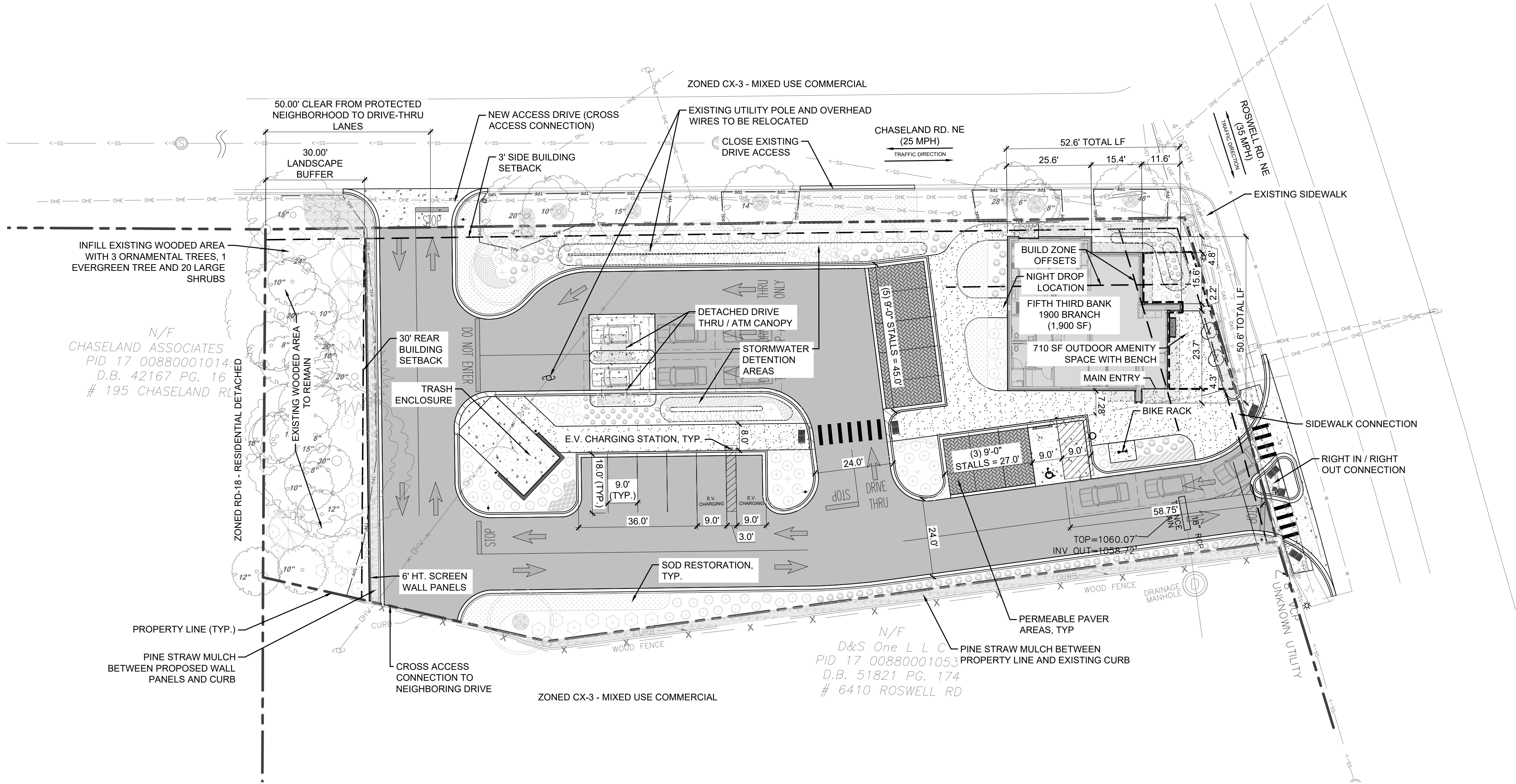
This survey prepared in accordance with the "2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys" (Effective February 23, 2021)

REV.	DESCRIPTION	BY	DATE
0	PRELIM	SDS	05/12/23
1	COMMENTS	JEL	06/12/23
2	COMMENTS-CLIENT	JEL	07/05/23

SHEET NUMBER:

REVISION:

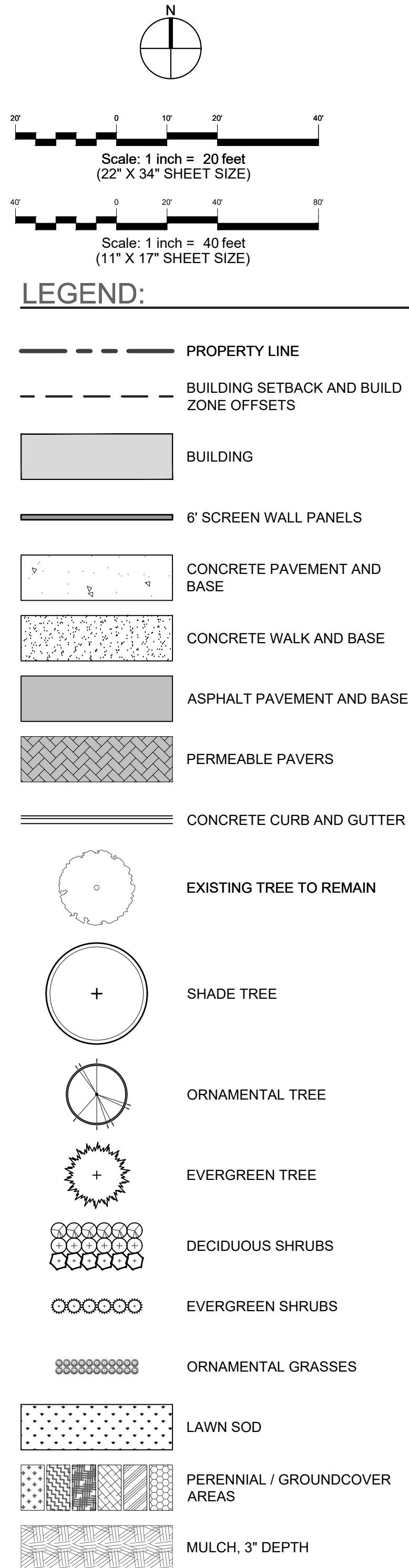
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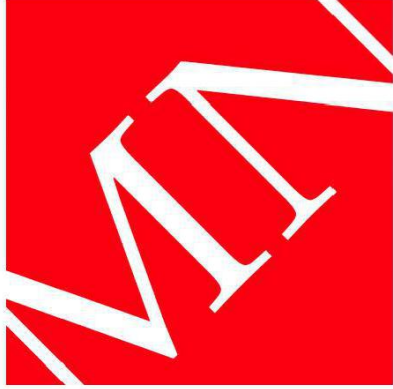


SITE DATA	
Site Address	6420 Roswell Rd. NE
Building Area	1,900 SF (6%)
Site Area	33,561 SF or 0.77 Acres
Existing Use	Commercial
Proposed Use	Bank with Drive Through
Zoning	CX-3 Commercial Mixed Use (Corridor and Node District)
Zoning (North, East and South)	CX-3 Commercial Mixed Use
Zoning (West)	RD-18 Residential Detached (Protected Neighborhood District)
Roswell Rd. / Georgia Route 9	GDOT Jurisdiction
Chaseland Rd.	Sandy Springs
Wetlands	No observable wetlands on site
Proposed Streets	No proposed streets on site
State Waters	No State Waters and associated buffers on site
Community Wastewater Facilities	No community wastewater facilities on site including septic fields
Parking Data	1 Stall per 300 SF of gross floor area. 1,900 SF / 300 = 6.3 Stalls required. Stalls of Excess of required to be permeable.
Parking Requirements	14 Stalls (Includes 2 EV stalls) + 1 ADA (8 stalls exceeding requirement are permeable)
Parking Provided	8%
Parking Space Size	9'x18' (90 degree with 24' drive aisle) Up to 15% of req. stalls can be compact (8'x16')
Parking Setback Required	20' primary street and 10' side street
Parking Setback Provided	39' primary street and 10' side street

Site Requirements	
Lot coverage*	85% max.
* 100% credit for permeable pavers	
Lot coverage proposed (excludes permeable paver areas)	22,087 SF / 33,561 SF = 66% proposed (10,071 SF landscape area + 1,173 permeable paver area = 11944 SF permeable area)
Outdoor Amenity Space (OAS) Requirement	Requires 2% of lot area - 33561 SF = 671 SF required, 50% of OAS must be landscaped and 1 seat per 500 SF required.
Outdoor Amenity Space Requirement	710 SF OAS provided near main entry, 60% of OAS landscape (425 SF) and (1) 6' bench provides seating for 3.
Detention Requirements	Property is subject to Georgia Stormwater Management Manual; stormwater detention and volume control (BMPs) are required.
Detention / Volume Control Provided	Flood Zone
Detention / Volume Control Provided	Zone X
Building Requirements	
Build to Zone	3' min/ 20' max. (Primary and side)
% of building façade in primary street build-to zone	80%
% Provided	82% (41.5' of 50.6' overall facade)
% of building façade in side street build-to zone	40%
% Provided	78% (41.0' of 52.6' overall facade)
Building Setback - Primary (East) and Side (North) Street	3'
Building Setback - Side (South)	0'
Building Setback - Rear (West)	30' for protected neighborhood transitions over 200' lot depth
Building Height	1 Story

Landscape Requirements	
Neighborhood Transition Buffers	30' deep with a 6' wall 25' from property line (no fence allowed), (8) 6' evergreens, (6) 2' understory and and (30) 3' shrubs per 100' of buffer. Site has 105' of buffer. (Required - Wall with 8 evergreen, 6 understory and 30 shrubs.)
Neighborhood Transition Buffer Landscape Provided	Existing 30' wooded area along west property line to remain as buffer. Proposed 6' wall proposed 31' from property line to save existing landscape buffer to remain.





MOODY•NOLAN
BARLOW MOTORS BUILDING
40 W. CENTRAL PKWY • FIRST FL
CINCINNATI, OH 45202
PHONE: (513) 914-5835



TERRA
ENGINEERING LTD.
225 W Ohio Street - Suite 400, Chicago, IL 60654
(773) 312-467-0123 | (773) 312-467-0220



FIFTH THIRD BANK

5TH/3RD BANK SANDY SPRINGS

6420 ROSWELL ROAD
SANDY SPRINGS, GEORGIA 30328

for
FIFTH THIRD BANK

PROGRESS
DRAWING
NOT FOR
CONSTRUCTION

#	DATE	CHANGE DESCRIPTION

DRAWING TITLE:

SITE PLAN

07/26/2023

DRAWN BY: KS / CM / MB CHECKED BY: KG / JH

MOODY NOLAN PROJECT #: 22071.14

L1.0

Conditional Use Permit Submittal









First Community Meeting
Applicant—Fifth Third Bank
Meeting Summary
July 18, 2023 – 6:00 PM Start Time

Application and Requests

- Applicant seeks to develop branch bank.
- Applicant requests a conditional use permit to operate a drive thru for the bank use on the subject property. Commercial bank use permitted by-right in the existing CX-3 zoning.

Meeting Summary and Attendee Concerns

Location: In Person: Sandy Springs City Hall, 1 Galambos Way, Sandy Springs, GA 30328
Virtual: Zoom Videoconference

Start Time: Presentation commenced at 6:00 PM

Attendees: Three members of the community; four members of the applicant team, including Julie Sellers, Baxter Russell, Jeffrey Wagner, and Mara Betti; LaQuita Williams, city planner also present. Sign in log included.

Applicant team made a presentation discussing the subject property, company and brand, proposed development and use, site plan, and design features of the bank with drive thru. Presentation included information, images, and documents available via presentation boards.

Applicant team opened the meeting for attendees to comment, ask questions, and express concerns. Applicant also provided contact information for any follow-up questions. No follow-up questions have been received.

Question/Concern 1: Clarification and explanation of ingress/egress on property and curb-cut on Chaseland Road? Concern with Chaseland Road curb cut, increased traffic volumes, additional traffic through residential neighborhood.

Response: Applicant discussed and explained traffic patterns, ingress/egress, need for curb-cut on Chaseland Road. Applicant discussed potential commercial use traffic relative to low-impact bank use traffic. Applicant will continue to explore Chaseland Road curb cut and related data including traffic volumes, etc.

Question/Concern 2: Understand neighborhood issues with previous automotive use proposal for subject property?

Response: Applicant discussed previous automotive use application, including differences and distinguishing factors between prior application and Fifth Third's proposal.

Question/Concern 3: Clarification on site landscaping and building materials?

Response: Applicant discussed plans for high-quality landscaping and building materials.

Location: **City Hall**
Date: **7.18.23 at 6:00 p.m.**

Case U23-0002
6420 Roswell Road

[illegible]

**Second Community Meeting
Applicant—Fifth Third Bank
Attendance Sheet & Meeting Summary
August 23, 2023 – 6:00 PM Start Time**

Application and Requests

- Applicant seeks to develop branch bank.
- Applicant requests a conditional use permit to operate a drive thru for the bank use on the subject property. Commercial bank use permitted by-right in the existing CX-3 zoning.

Meeting Summary and Attendee Concerns

Location: In Person: Sandy Springs City Hall, 1 Galambos Way, Sandy Springs, GA 30328
 Virtual: Zoom Videoconference

Start Time: Presentation commenced at 6:05 PM

Attendees: Three members of the community, including Alan Andrew with his mother and Ronda Smith with the Sandy Springs Council of Neighborhoods.

Applicant team made a presentation discussing the subject property, proposed development and use, site plan, and design features of the bank with drive thru. Presentation included information, images, and documents available via presentation boards and images on-screen.

Applicant team opened the meeting for attendees to comment, ask questions, and express concerns. Applicant also provided contact information for any follow-up questions. No follow-up questions have been received.

Question/Concern 1: Clarification on site landscaping, buffering and supplemental plantings in buffer area.

Response: Applicant explained design of updated landscaping and landscape strips around the bank building and site. Buffer space at rear of site will be maintained, providing supplemental plantings in buffer if required. Applicant will maintain clear, unobstructed sight lines at points of ingress and egress.

Question/Concern 2: Does Fifth-Third operate any bank branches without drive thrus?

Response: Applicant explained company's operations regarding drive-thrus. The only branches without drive thrus are legacy branches and some branches in urban, downtown locations. All suburban branches such as this proposed bank have drive thrus. Branches without drive thrus do not perform as well as branches with drive thrus.

Question/Concern 3: How do customers or potential customers know the bank offers a welcoming environment?

Response: Applicant discussed design of branch and building to be welcoming from street level, reflecting many characteristics of retail stores to attract customers. Additionally, bank growth and reputation play a crucial role in attracting new customers as the bank builds and grows its network.

Question/Concern 4: Clarification on the general community concern of additional traffic to the site?

Response: Applicant discussed that any improvement and development of the property will add traffic. However, Applicant's proposed use with the drive thru will create much lower traffic volumes than many of the uses permitted by-right. The bank is a very low impact use generating low traffic volumes. Additionally, continued growth of the bank brand will not change the scope of operations at this site or branch.

REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement ("**Agreement**") is made and entered into as of the Effective Date, by and between EVANS/ROSWELL PROPERTIES LLC, a Georgia limited liability company ("**Seller**"), and FIFTH THIRD BANK, NATIONAL ASSOCIATION, a federally chartered institution ("**Buyer**") The "**Effective Date**" of this Agreement shall be the date that this Agreement has been fully executed by Buyer and Seller.

RECITALS

A. Seller owns the real estate commonly known as 6420 Roswell Road, Sandy Springs Georgia, which property is approximately shown on **Exhibit A**, attached hereto and made a part hereof, together with all improvements located thereon and all rights and appurtenances (the "**Property**"); and

B. Seller wishes to sell and Buyer desires to buy the Property on the terms and conditions herein.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Agreement to Buy and Sell.** Seller agrees to sell to Buyer, and Buyer agrees to buy, on the terms and conditions of this Agreement.

2. **Purchase Price.** The purchase price for the Property [REDACTED] (the "**Purchase Price**"), payable at Closing (defined in Section 9.1), subject to adjustments and prorations set forth herein, by immediately available funds. Within five (5) business days after the Effective Date, Buyer shall deposit Ten Thousand Dollars (\$10,000) (the "**Earnest Money**") with Calloway Title and Escrow, 4170 Ashford Dunwoody Rd., Suite 525, Atlanta, Georgia 30319 (the "**Title Company**"), Attention: Amanda Calloway (amandac@titlelaw.com) and/or Kyle Levstek (kylel@titlelaw.com). The Earnest Money shall be held in escrow by the Title Company and applied to the Purchase Prices at Closing or promptly disbursed pursuant to this Agreement.

3. **Property Information.** Within five (5) business days after the Effective Date, Seller shall provide to Buyer, to the extent Seller has actual possession thereof, existing title policies or commitments, surveys, engineering data, environmental studies or reports, zoning variances and land use or special use permits (the "**Property Information**"). Seller makes no representations or warranties as to the completeness or accuracy of any of the Property Information.

4. **Title Evidence.**

4.1. During the Inspection Period (defined in Section 5.1), Buyer shall obtain, at its expense, a staked survey of the Property. Such survey shall be prepared in accordance with the ALTA minimum survey standards and contain the certification and other matters required by such standards and, if the legal description differs from the description conveyed to Seller, the legal description prepared by the surveyor may be used, at Buyer's option, in a quit claim deed delivered to Buyer at Closing (which shall be in addition to and not in lieu of the limited warranty deed required under Section 9.2(a)).

4.2. Within five (5) business days after the Effective Date, Seller shall order from Title Company, a commitment for an ALTA owner's policy of title insurance for the Property with standard

exceptions deleted, in the amount of the Purchase Price (the **"Title Commitment"**). Buyer shall have until the date that is seventy-five (75) days after the Effective Date to give Seller written notice (an **"Objection Notice"**) of any objections to title and any matter disclosed on any survey (**"Title Objections"**) otherwise Buyer shall be deemed to have accepted the condition of title as disclosed by the Title Commitment. If Seller, at its option, fails to remove any Title Objections within five (5) days after receipt of an Objection Notice (with Seller having no obligation to cure or remove any such Title Objections and with a failure by Seller to respond to Buyer's Title Objections within such 5 day period being deemed an election by Seller to not cure or remove any Title Objections), then Buyer, at its option, may terminate this Agreement (and upon such termination the Earnest Money shall be refunded to Buyer) by written notice delivered to Seller on or before the expiration of the Inspection Period. Upon termination of this Agreement pursuant to this section, each party shall be relieved of its obligations under this Agreement to the other party. If Buyer does not provide a written termination notice by the expiration of the Inspection Period, then Buyer shall be deemed to have waived all such Title Objections. Notwithstanding anything herein to the contrary, Seller (without notice or objection from Buyer) shall discharge on or before Closing any monetary liens created voluntarily by Seller which encumber the Property.

4.3. If Buyer delivers a Satisfaction Notice in accordance with Section 6.2, Buyer may, from time to time, cause the Title Company to issue an updated Title Commitment (**"Updated Commitment"**). Buyer shall have five (5) days after receipt of an Updated Commitment to deliver an Objection Notice for any new exceptions shown on the Updated Commitment which did not appear in the Title Commitment (**"New Objections"**). If Seller, at its option, fails to remove any New Objections within seven (7) days from receipt of an Objection Notice, then Buyer, at its option, may terminate this Agreement (and be refunded the Earnest Money) by written notice to Seller within three (3) business days after the end of Seller's seven (7)-day cure period. If the Closing Date would otherwise occur sooner, it shall automatically be extended to the date that is fifteen (15) business days after written notice to Seller of any New Objections.

4.4. At Closing, Seller shall provide the Title Company with an owner's affidavit and gap indemnity reasonably acceptable to Seller and the Title Company which shall be sufficient for the Title Company to issue its Title Policy without the standard exceptions which can be removed by receipt of an owner's affidavit and to insure the "gap". The exceptions listed on schedule B-II of the marked-up title commitment or Schedule B of the Title Policy shall be the **"Permitted Exceptions"**.

5. Due Diligence Investigation.

5.1. Buyer shall have from the Effective Date through (and including) the date that is ninety (90) days after the Effective Date (the **"Inspection Period"**), to complete all inspections and examinations of the Property (including, without limitation, any physical, geotechnical and/or environmental inspections, and any investigation as to the availability of utilities sufficient for Buyer's intended use) as Buyer deems necessary or desirable. Buyer shall have the right to extend the Inspection Period for an additional thirty (30) days, by written notice to Seller before the expiration of the Inspection Period. Buyer shall conduct its inspections in a manner not to unreasonably disrupt the operation of the Property. Buyer's access to, and inspections of, the Property shall be at Buyer's sole risk and expense and Seller shall have no responsibility therefor. Buyer shall repair any loss or damage to the Property caused by the acts or omissions of Buyer or its consultants in connection with its inspections. Buyer shall indemnify, defend, and hold Seller harmless from and against any and all fines, penalties, liabilities,

damages, costs, and losses, including reasonable attorney's fees actually incurred, to the extent arising out of, attributable to or resulting from the claims of any party for death, injury, or damage to property resulting from Buyer's activities on the Property, except to the extent arising solely from Seller's gross negligence or willful misconduct. The provisions of this Section 5.1 shall survive the Closing or termination of this Agreement.

5.2. During the Inspection Period, Buyer (at its expense) may obtain a Phase I Environmental Assessment of the Property. If the Phase I Environmental Assessment identifies any recognized environmental conditions or if otherwise recommended by Buyer's environmental consultants, Buyer, at its cost, after receiving the written approval of Seller with respect to the scope of Buyer's investigations (which approval shall not be unreasonably withheld, conditioned, or delayed), may proceed with a Phase II Environmental Assessment and/or such other environmental investigation recommended by Buyer's environmental consultants. Before Closing, Buyer shall keep copies of all environmental reports obtained by Buyer confidential and shall not disclose such reports or the results thereof except to Buyer's employees, agents, and other authorized representatives and to Buyer's attorneys and consultants unless required by law and/or reasonably required for Buyer to establish Buyer's eligibility for any innocent purchaser or similar defenses.

6. During the Inspection Period, provided Buyer shall submit to Seller any applications for the following items for Seller's review coincident with or prior to submission (and provided Seller's prior written approval shall be required with respect to any change in the zoning status of the Property (i.e., rezoning)), Buyer shall have the right to pursue any permits, licenses, approvals, and inducements from such federal, state, county and city governmental agencies, utilities, and other authorities as Buyer may determine necessary for its prospective use of the Property as a bank with drive through facilities and ATM facilities, and signage acceptable to Buyer in its sole discretion (collectively, "**Governmental Approvals**"), provided in no event shall any such Government Approvals bind Seller to undertake any work or incur any cost in the event Buyer fails to acquire the Property. Governmental Approvals shall include, without limitation, (i) zoning and land use approvals, (ii) site plan approvals, (iii) sign approvals, and (iv) approvals from the appropriate federal and state banking regulatory agencies required for Buyer to operate a retail banking center on the Property. Seller shall diligently and reasonably cooperate with and join in any requests and applications as Buyer shall reasonably request in connection with Buyer's Governmental Approvals; provided, however, that Seller shall not be required to incur any expenses in connection therewith. Notwithstanding anything herein to the contrary, Buyer's obligation to purchase the Property is contingent (the "**Governmental Approvals Contingency**") upon Buyer obtaining, or in Buyer's business discretion, determining that it will be able to obtain, all necessary Governmental Approvals on terms and conditions acceptable to Buyer.

6.1. Buyer's obligation to consummate the transaction contemplated by this Agreement is conditioned upon Buyer obtaining approval of this transaction from its Finance Committee during the Inspection Period. This condition shall be deemed waived by Buyer if it fails to terminate this Agreement during the Inspection Period.

6.2. During the Inspection Period, Buyer, at its sole option and discretion, may provide to Seller written notice (the "**Satisfaction Notice**") pursuant to which all contingencies of this Agreement (excluding Seller's performance and the Governmental Approvals Contingency) shall be deemed waived. At any time before the expiration of the Inspection Period, Buyer may terminate this Agreement for any

reason or no reason by delivering written notice to Seller (a **"Termination Notice"**). If Buyer (in its discretion) delivers a Termination Notice or fails to give a Satisfaction Notice before the expiration of the Inspection Period, Buyer shall deliver to Seller copies of all environmental reports, geotechnical reports, surveys, and title commitments obtained by Buyer to the extent requested by Seller (all at no cost to Seller) (collectively, **"DD Materials"**), the Earnest Money shall be immediately returned to Buyer, this Agreement shall terminate, and neither party shall have any further obligation to the other except as otherwise set forth herein.

6.3. If Buyer delivers a Satisfaction Notice before the end of the Inspection Period, then Buyer shall have an additional period of ninety (90) days thereafter (the **"Governmental Approvals Period"**) to pursue its Governmental Approvals. If at any time before the expiration of the Governmental Approvals Period Buyer determines that it will not be able to obtain any Governmental Approvals on terms and conditions acceptable to Buyer, then Buyer may terminate this Agreement by delivering a Termination Notice to Seller, whereupon Buyer shall deliver to Seller copies of all DD Materials to the extent requested by Seller (all at no cost to Seller), the Earnest Money shall be immediately returned to Buyer, this Agreement shall terminate, and neither party shall have any further obligation to the other except as otherwise set forth herein.

6.4. If the Governmental Approvals Contingency is satisfied and/or waived by Buyer during the Governmental Approvals Period, then Buyer shall promptly provide Seller with written notice of the same (a **"Notice to Proceed"**), and the parties shall proceed to Closing. If Buyer delivers a Termination Notice or fails to give a Notice to Proceed before the expiration of the Governmental Approvals Period, Buyer shall deliver to Seller copies of all DD Materials to the extent requested by Seller (all at no cost to Seller), the Earnest Money shall be immediately returned to Buyer, this Agreement shall terminate, and neither party shall have any further obligation to the other except as otherwise set forth herein.

6.5. If Buyer delivers a Notice to Proceed, the Earnest Money shall become non-refundable to Buyer except in the event of a subsequent default by Seller under this Agreement or as otherwise expressly provided herein.

7. **Taxes and Assessments.** All special assessments which are a lien upon the Property on or before the Closing Date shall be paid in full by Seller, without proration. If ad valorem taxes for the year of Closing have not been established as of the Closing Date, Seller and Buyer agree to prorate ad valorem taxes based upon estimated taxes for the preceding year and if the actual taxes differ from such estimate, Seller and Buyer agree to adjust the proration upon the request by either party. Any such adjustment payment shall be made within fifteen (15) days after notification by either party that such adjustment is necessary. This paragraph shall survive the Closing.

8. **Representation and Warranties.** Seller represents, warrants, and covenants to Buyer as follows:

8.1. Seller is the owner of the Property and has the full right, title, power, and authority to enter into this Agreement and to consummate the sale of the Property.

8.2. To Seller's actual knowledge, no litigation or other proceeding is pending or threatened with respect to Seller or the Property.

8.3. Seller has not received written notice of any existing or proposed special assessments, impact fees, or other charges related to the Property, and to Seller's actual knowledge, there are no existing special assessments, impact fees, or other charges related to the Property.

8.4. The person executing this Agreement has been fully authorized and empowered to bind Seller.

8.5. There is no oral or written lease agreement or contract in any way affecting or related to the Property which could affect the Property other than as disclosed as a Permitted Exception.

8.6. To Seller's actual knowledge with Seller having taking no independent investigation or inquiry, there are no underground storage tanks (including without limitation, tanks such as those used to contain heating oil that may be exempt from regulation under RCRA or corresponding state laws or regulations) located on the Property.

8.7. Seller has received no written notification related to any pending, ongoing or unresolved administrative or enforcement actions, investigations, compliance orders, claims, demands, actions or other litigation, based on environmental laws and regulations or otherwise related to the presence of any Hazardous Substance in, on or transported from the Property or other environmental condition of the Property brought by governmental authorities or other persons or entities. The term Hazardous Substance shall have the same meaning and definition as set forth in the Comprehensive Environmental Response Compensation and Liability Act as amended, 42 U.S.C. §6901 et seq., and regulations promulgated thereunder (collectively "**CERCLA**") and any corresponding state or local law or regulation, provided, however that as used herein the term Hazardous Substance shall also include: (a) any Pollutant or Contaminant as those terms are defined by CERCLA; (b) any Solid Waste or Hazardous Constituent as those terms are defined by, or as otherwise identified by, the Resource Conservation and Recovery Act as amended, 42 U.S.C. §6901 et seq., or regulations promulgated thereunder (collectively "**RCRA**") and any other applicable state or local law or regulation; (c) crude oil, petroleum, and fractions or distillates thereof; (d) any other material, substance or chemical defined, characterized or regulated as toxic or hazardous under any applicable law, regulation, ordinance, directive or ruling; and (e) any infectious waste or medical waste as defined by any applicable federal or state laws or regulations.

8.8. Neither Seller nor any person or entity that directly or indirectly owns any interest in Seller or any of its officers, directors, or managing members is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including Executive Order 13224 (the "**Executive Order**") signed on September 24, 2001, and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action. Seller's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, or the regulations or orders promulgated thereunder (as amended from time to time, the "**Money Laundering Act**"). So long as this Agreement is in full force and effect, Seller shall comply with the Executive Order and with the Money Laundering Act.

8.9. After the Effective Date, Seller shall not willingly create any new liens or encumbrances over all or any part of the Property or any interest thereon which will not be released at or before Closing, without the prior written consent of Buyer.

All representation warranties and covenants by Seller have been relied upon as material inducements for entering into this Agreement by Buyer and shall survive the Closing for a period of nine (9) months.

9. **Closing.**

9.1. Closing for this transaction (the "**Closing**") shall occur as an escrow closing through office of the Title Company at 10:00 a.m. on the date (the "**Closing Date**") that is thirty (30) days after the delivery of Buyer's Notice to Proceed, or such other time and location mutually agreed upon by Buyer and Seller. At Closing, Seller shall pay the following: (i) all documentary transfer taxes levied by state or local authorities in connection with the transfer of title; and (ii) one-half (1/2) the cost of the escrow fee charged by the Title Company, not to exceed \$750.00. At Closing, Buyer shall pay the following: (i) cost of recording the limited warranty deed; and (ii) one-half (1/2) the cost of the escrow fee charged by the Title Company, and (iii) the cost for each of the Title Commitment and the premium for the Title Policy. Except as otherwise provided herein, each party hereto agrees to bear its own expenses, including but not limited to, attorneys' and advisors' fees.

9.2. At the Closing, Seller shall deliver or cause to be delivered to Buyer the following items:

(a) A limited warranty deed in recordable form acceptable to Buyer and Title Company conveying fee simple marketable title to the Property to Buyer subject only to the lien for real estate taxes and assessments, both general and special, not yet due and payable as of the Closing Date, all matters that would be shown on a current and accurate survey of the Property, and the Permitted Exceptions. The limited warranty deed shall convey, without warranty, (i) all available land division rights relating to the Property, (ii) all of Seller's rights, title, and interest, if any, (including any rights of adverse possession and prescriptive easements) in the streets, drives, or roadways (whether public, private, abandoned, or vacated) located adjacent to the Property, and (iii) all of Seller's rights, title and interest, if any, in and to all of the oil, gas and other minerals in and under and that may be produced from the Property.

(b) Any commercially reasonable owner's affidavit and gap indemnity required by the Title Company to remove the standard or general exceptions, which can be removed by an owner's affidavit from the Title Policy and to insure the "gap".

(c) A non-foreign status affidavit executed by Seller.

(d) A closing statement executed by Seller setting forth the prorations and adjustments required by this Agreement or otherwise agreed to by Buyer and Seller.

(e) A certificate containing the information necessary to complete a 1099 S Form.

(f) Evidence of authority to execute the closing documents required of Seller hereunder and enter into this Agreement.

9.3. At the Closing, Buyer shall deliver or cause to be delivered to Seller the following items:

(a) The Purchase Price.

(b) A closing statement executed by Buyer setting forth the prorations and adjustments required by this Agreement or otherwise agreed to by Buyer and Seller.

9.4. The parties shall execute and deliver any other documents reasonably required to consummate the transaction described herein and to cause the Title Policy to be issued and delivered to the Buyer; provided, however, that such documents do not have the effect of amending this Agreement or modifying the parties' obligations under this Agreement.

9.5. Exclusive possession of the Property will be delivered to Buyer on the Closing Date.

10. **Closing Conditions.**

10.1. Buyer's obligation to close the transaction contemplated by this Agreement, in addition to all other conditions provided in this Agreement, is also subject to the satisfaction of the following conditions precedent:

(a) The Title Company shall be prepared to issue to Buyer a marked-up Title Commitment, binding the Title Company to issue its owner's policy of title insurance (the "**Title Policy**") as approved by Buyer in accordance with Sections 4.2 and 4.3 or as otherwise modified by Title Company and approved by Buyer; provided, however, that Buyer shall have paid the premium for the Title Policy and undertaken all other actions of Buyer necessary to satisfy those requirements listed in Schedule B-I of the Title Commitment for which Buyer is responsible.

(b) Seller shall have executed and delivered into escrow and to Buyer all of the documents required to be delivered by Seller pursuant to this Agreement.

(c) All of the representations, warranties and covenants of Seller in this Agreement shall have been materially true and correct when made and as of the Closing Date.

10.2. If any of the conditions in Section 10.1 is not satisfied on the Closing Date, as evidenced by written notice from Buyer, then Buyer may extend the Closing Date for up to five (5) business days to attempt to satisfy any unsatisfied condition. If after this extension the condition is still not satisfied, then Buyer may either: (i) waive such condition by written notice to Seller and proceed to Closing, or (ii) if Buyer fails to waive such condition, then this Agreement shall automatically terminate and the Earnest Money shall be refunded to Buyer. Upon such termination, neither party shall thereafter be under any further liability or obligation to the other party hereunder, except as otherwise set forth in this Agreement unless the failure of such conditions is attributable to a Seller default.

11. **Default.** If Buyer defaults under this Agreement and such default continues for seven (7) days after written notice from Seller (except that no notice shall be required if Buyer's default is a failure to close), then Seller may terminate this Agreement and retain the Earnest Money as liquidated damages and as its sole and exclusive remedy, the parties agreeing that actual damages to Seller would be difficult, if not impossible, to ascertain. If Seller defaults in the performance of its obligations under this Agreement and such default continues for seven (7) days after written notice from Buyer (except that no notice shall be required if Seller's default is a failure to close), the Earnest Money shall be returned to Buyer, and as Buyer's sole remedies at law or in equity, Buyer shall have the right to either (i) terminate this Agreement, or (ii) seek specific performance of this Agreement provided any such action for specific performance is

filed within sixty (60) days after Seller's receipt of written notice of the alleged default. In no event shall either party be liable for consequential or punitive damages of any kind or nature; provided, additionally, in no event shall Seller be liable for actual or any other damages of any kind or nature. **Buyer and Seller each hereby knowingly and voluntarily waives the right to a jury trial in any action, proceeding, or permissive counterclaim involving any matters whatsoever arising out of or in any way connected with the Property or this Agreement.**

12. **Casualty.** If before the Closing there shall occur damage to the Property caused by fire or other casualty which would have a material effect on Buyer's ability, or the cost, to develop the Property and/or Buyer's intended use of the Property as determined by Buyer in its business judgment, Seller shall immediately give notice to Buyer, and Buyer may elect to: (i) terminate this Agreement by a written notice to Seller within ten (10) days after receipt of notice of such damage, in which case the Earnest Money shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement; or (ii) proceed with the Closing as provided herein with no abatement or adjustment to the Purchase Price. If Buyer fails to deliver to Seller a written termination notice within ten (10) days after Buyer receives notice of such damage, then Buyer shall be deemed to have elected to proceed to Closing under clause (ii) of the preceding sentence.

13. **Condemnation.** If before Closing, any authority having the right of eminent domain shall commence negotiations with Seller, or commence legal action for temporary or permanent taking or acquiring of all or any part of the Property, Seller shall immediately give notice to Buyer, and Buyer may elect to: (i) terminate this Agreement by a written notice to Seller within ten (10) days after receipt of notice of such condemnation, in which case the Earnest Money shall be promptly returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement; or (ii) proceed with Closing without any abatement or adjustment in the Purchase Price, in which event Seller shall unconditionally assign its rights in the condemnation award to Buyer (or Buyer shall receive the condemnation award from Seller if it has already been paid to Seller prior to Closing). If Buyer fails to deliver to Seller a written termination notice within ten (10) days after Buyer receives notice of such condemnation, then Buyer shall be deemed to have elected to proceed to Closing under clause (ii) of the preceding sentence.

14. **Brokerage Commissions.** Each party represents to the other that it has not contacted, contracted with or entered into any agreement with any real estate broker or agent in connection with the sale of the Property, other than CBRE, Inc., who represents the Buyer in this transaction ("**Buyer's Broker**"), and that it has not taken any action which might result in any other real estate brokers, finders or other commissions ("**Other Commissions**") being due or payable in connection with this transaction. At Closing, solely in the event the transaction shall actually close and the Purchase Price shall be paid to Seller, Seller shall pay Buyer's Broker a commission of four percent (4%) of the Purchase Price. No commission shall be owed by Seller in the event the Closing does not occur for any reason, including, without limitation, a default by either Seller or Buyer under this Agreement. Each party agrees that it shall indemnify and save harmless the other from and against all costs, claims, expenses, or damages including reasonable attorney's fees resulting from or related to any Other Commissions alleged to be due as a result of such party's actions.

15. **Notices.** Any notice or demand to be given to or served upon any party in connection with this Agreement shall be in writing and shall be (i) delivered through the United States mail, postage

prepaid, certified or registered, return receipt requested; (ii) delivered through a nationally recognized overnight delivery service, such as FedEx, which provides proof of delivery; or (iii) delivered by electronic means provided that the same day, copies are also deposited for delivery in the manner provided in clause (ii). Notices shall be deemed received and effective on the earlier of (a) the date actually received, (b) one (1) business day after deposit with overnight courier, (c) three (3) business days after being placed in the United States Mail as aforesaid, and (d) the date of electronic transmission if transmitted before 6:00 p.m., on a business day, and on the next business day if transmitted after 6:00 p.m., or on a non-business day. Such notices shall be given to the parties hereto at the following addresses:

Fifth Third Bank
38 Fountain Square Plaza
MD 10903K
Cincinnati, Ohio 45263
Attn: SVP Enterprise Workplace Services

Evans/Roswell Properties LLC
97562 Pirates Point Road
Yulee, FL 32097
Attn: Jodi Downs

Fifth Third Bank
38 Fountain Square Plaza
MD 10909F
Cincinnati, Ohio 45263
Attn: Associate General Counsel – EWS

With a copy to:
Clifford A. Barshay, Esq.
Schreeder, Wheeler & Flint, LLP
1100 Peachtree Street, NE, Suite 800
Atlanta, Georgia 30309

With a copy to:
McShane & Bowie, PLC
99 Monroe Avenue NW, Suite 1100
Grand Rapids, Michigan 49503
Attn: Aaron M. Smith

16. **Exclusivity.** Seller represents and warrants that with respect to all land adjoining the Property owned and/or controlled by Seller and/or the principals of Seller that Seller will not allow or permit another financial institution (including but not limited to banks, savings and loans, trust companies and ATM's, stock brokerages, mortgage loan origination companies/brokerages), to acquire or locate on any such adjoining land for a period of fifteen (15) years from the Closing Date. Seller agrees to cause the foregoing restriction to run with such adjoining land and Seller agrees to execute or cause to be executed all necessary documents to place this restriction of record as an encumbrance upon such adjoining land.

17. **Buyer's Like Kind Exchange.** Seller agrees to cooperate with Buyer's like kind exchange of real property pursuant to Section 1031 of the Internal Revenue Code and its corresponding regulations, by accepting the assignment of Buyer's rights under this Agreement to a qualified intermediary and by accepting the Purchase Price, or any portion thereof, for the Property from a party designated by Buyer, and by conveying the Property to such party or as directed by such party, provided that Seller shall have no obligation to incur any additional expense or liability. Seller further agrees to execute an assignment of this Agreement which acknowledges that such party designated by Buyer is acting as the purchaser of the Property and to execute such other documents as are reasonably requested by Buyer to effect Buyer's like kind exchange. Buyer agrees to pay any closing costs attributable solely to Buyer's exchange. Seller shall not be required to take title to any other real property to facilitate the Section 1031 exchange.

18. **Seller's Like Kind Exchange.** Buyer agrees to cooperate with Seller's like kind exchange of real property pursuant to Section 1031 of the Internal Revenue Code and its corresponding regulations, by accepting the assignment of Seller's rights under this Agreement to a qualified intermediary and by accepting the Purchase Price, or any portion thereof, for the Property from a party designated by Seller, and by conveying the Property to such party or as directed by such party, provided that Buyer shall have no obligation to incur any additional expense or liability. Buyer further agrees to execute an assignment of this Agreement which acknowledges that such party designated by Seller is acting as the seller of the Property and to execute such other documents as are reasonably requested by Seller to effect Seller's like kind exchange. Seller agrees to pay any closing costs attributable solely to Seller's exchange. Buyer shall not be required to take title to any other real property to facilitate the Section 1031 exchange.

19. Miscellaneous.

19.1. This Agreement shall inure to the benefit of and bind the parties hereto and their successors, heirs, and assigns.

19.2. This Agreement shall constitute the entire Agreement between the parties.

19.3. This Agreement shall be governed by the laws of the state in which the Property is located.

19.4. This Agreement may be amended or supplemented only by a written instrument signed by both parties hereto.

19.5. This Agreement may be executed in counterparts and by facsimile or electronic media and all such executed counterparts, taken together, shall constitute one (1) instrument and each executed counterpart shall be deemed an original Agreement.

19.6. The recitals above are incorporated into this Agreement by reference. The captions or paragraph headings are for the convenience and ease of reference only and shall not be construed to limit or alter the terms of this Agreement.

19.7. Time is of the essence for all terms and conditions of this Agreement. If a date for performance falls on a Saturday, Sunday or holiday, the date for performance shall be extended to the next business day. The term "**business day**" means each of the days Monday through Friday, excluding bank holidays. All references to times of day shall be to local time in Atlanta, Georgia.

19.8. EXCEPT FOR SELLER'S REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT AND/OR IN ANY OTHER DOCUMENT DELIVERED BY SELLER PURSUANT TO SECTION 9 OF THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF TITLE IN THE WARRANTY DEED (COLLECTIVELY, THE "AFFIRMATIVE REPRESENTATIONS AND WARRANTIES"). BUYER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN THE AFFIRMATIVE REPRESENTATIONS AND WARRANTIES), OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER OR ANY TENANT MAY CONDUCT THEREON, (D) THE COMPLIANCE

OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY, OR (H) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS, ORDERS OR REQUIREMENTS, INCLUDING THE EXISTENCE IN OR ON THE PROPERTY OF HAZARDOUS SUBSTANCES. ADDITIONALLY, EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NO PERSON ACTING ON BEHALF OF SELLER (OTHER THAN SELLER) IS AUTHORIZED TO MAKE, AND NO SUCH REPRESENTATION, WARRANTY, AGREEMENT, GUARANTY, STATEMENT OR PROMISE IF ANY, MADE BY ANY PERSON ACTING ON BEHALF OF SELLER (OTHER THAN SELLER) SHALL BE VALID OR BINDING UPON SELLER UNLESS EXPRESSLY SET FORTH HEREIN. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND THE AFFIRMATIVE REPRESENTATIONS AND WARRANTIES AND NOT ON ANY OTHER INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT (OTHER THAN THE AFFIRMATIVE REPRESENTATIONS AND WARRANTIES) ANY THIRD-PARTY PREPARED INFORMATION PROVIDED OR TO BE PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT SELLER HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY, TRUTHFULNESS OR COMPLETENESS OF SUCH INFORMATION. BUYER FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS," "WHERE IS" CONDITION AND BASIS WITH ALL FAULTS. IT IS UNDERSTOOD AND AGREED THAT THE PURCHASE PRICE HAS BEEN ADJUSTED BY PRIOR NEGOTIATION TO REFLECT THAT ALL OF THE PROPERTY IS SOLD BY SELLER AND PURCHASED BY BUYER SUBJECT TO THE FOREGOING. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE EACH CLOSING OR ANY TERMINATION OF THIS AGREEMENT.

19.9. Limitation of Liability. No present or future partner, director, officer, shareholder, employee, advisor, agent, attorney of or in Seller shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into by Seller under or in connection with the provisions of this Agreement, or any amendment or amendments to any of the foregoing made at any time or times, heretofore or hereafter. If Buyer, with actual knowledge of any material breach of or inaccuracy in any representation or warranty of Seller made in this Agreement, nonetheless elects to proceed to Closing, then, upon the consummation of Closing, Buyer shall be deemed to have waived the breach or inaccuracy in question and shall have no claim against Seller with respect thereto to the extent of such breach or inaccuracy. As used in this paragraph, Buyer's knowledge means to then current, actual conscious knowledge, as opposed to imputed or constructive knowledge, of Jeffrey Wagner (Seller's Vice President and Regional Director of Enterprise Workplace Services) without inquiry or investigation, and not any other representatives, or employees of Buyer. The provisions of this paragraph shall survive each Closing under of this Agreement.

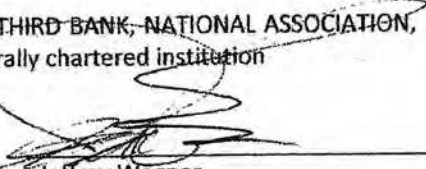
20. Offer To Purchase. This Agreement is considered an offer by Buyer to Seller. This offer shall expire at 5:00 p.m. on February 14, 2023, unless one copy of this Agreement fully executed by Seller has been delivered to Buyer.

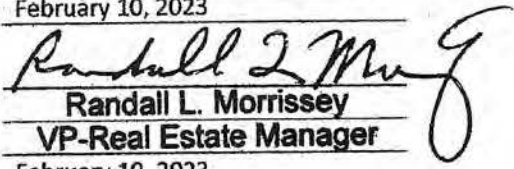
[Signatures appear on the following page(s)]

The parties have executed this Agreement as of the date first written above.

BUYER:

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
a federally chartered institution

By: 
Name: Jeffrey Wagner
Title: Vice President
Date: February 10, 2023

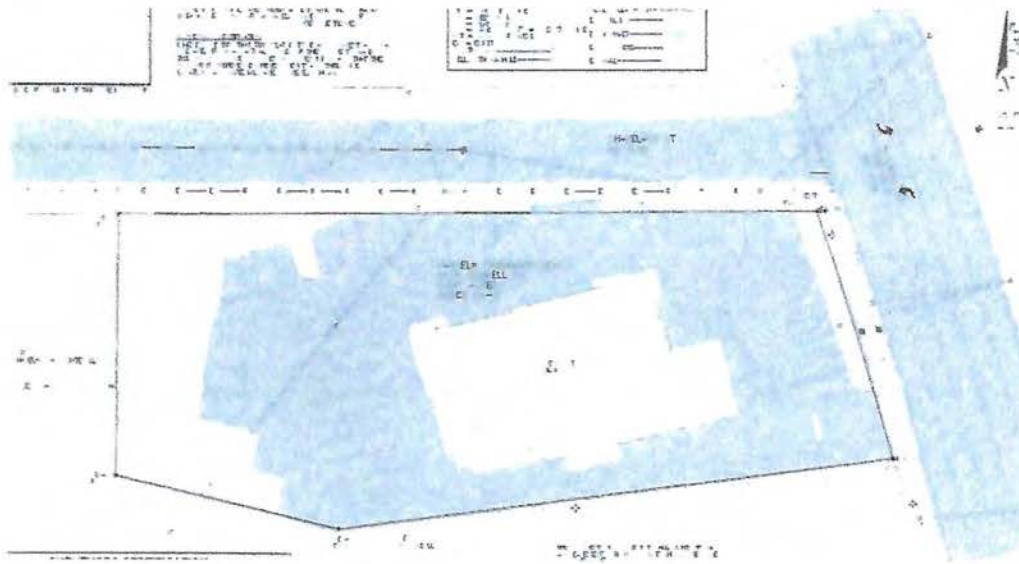
And by: 
Name: Randall L. Morrissey
Title: VP-Real Estate Manager
Date: February 10, 2023

SELLER:

EVANS/ROSWELL PROPERTIES LLC, a Georgia
limited liability company

By: 
Name: Jodi Downs
Title: President
Date: 2-10-23

EXHIBIT A



771040_8

Anspach, Matthew

From: Sandy Springs GIS
Sent: Friday, October 6, 2023 3:00 PM
To: Planning and Zoning Public Comments
Subject: There Is A New Comment For Zoning Case U23-0002

Case ID: U23-0002

Time Submitted: 20231006184919.355000

Citizen Name: Ronda A Smith

Citizen Email: [REDACTED]@org

Citizen Phone:

Citizen Address: 76 Long Island Place

Comment: As the very first gateway property within the City Springs Master Plan study area this property has a unique opportunity to become a welcoming commercial entity that does not perpetuate the autocentric nature of Roswell Road with the installation of a drive thru. The over-arching goal of the Master plan is to transition from auto-centric to a true walkable city center. The Roswell Road small area plan coupled with the City Springs Master Plan public realm improvements for the streetscape ask for a focus on enhancing the pedestrian and bicycle experience with features like lighting, sidewalk, buffers, and street trees to create a more walkable environment. The addition of a drive thru at this key gateway to the City Springs district conflicts with this goal of improving the public realm by maintaining a focus on vehicular access. An additional drive thru on Roswell Road does not support the continuing effort to reduce the number of uses dependent upon drive-thrus as a key component of a uses business model. If approved this drive through entitlement can be applied to any use that may be developed at 6420 Roswell Rd thus creating the permanence of the auto centric nature of this property. The adverse impact of this permanence cannot possibly be mitigated or offset. Once a drive-thru is approved it's existence and grandfathering from the proposed use, should that use even be executed per this application, to any other use constitutes a condition and impact to the protected neighborhood to the east that can never be effectively mitigated or offset. For the above reasons Sandy Springs Council of Neighborhoods asks that Community Development staff deny the Conditional Use Permit application for the drive through at 6420 Roswell Rd.

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