

Cond. Use



RZ #: 201402071

CV #:

CU #: 201402072

## ZONING APPLICATION

### TYPE OF REQUEST:

- ☐ Rezoning
- ☐ Concurrent Variance
- ☒ Conditional Use
- ☐ Text Amendment
- ☐ Other (Explain)

Present Zoning

C-2

Requested Zoning

C-2 mixed use per

Section 10.36

Proposed Use

mixed use

Total Acreage

1.322

### PROJECT

Creekview Village

Name of Project

Atlanta St.  
387 Roswell Road (Overland Drive)

Property Address/Location

417 1st 2nd Suite/Apt. # City State Zip Code

Land Lot

District

Section

Property ID

### APPLICANT/OWNER

Creekview Partners, LLC

Applicant

Company

3150 Overland Dr., Roswell, GA 30075

Mailing Address

678-461-9800 770-480-93613 678-461-9944 Suite/Apt. # City State Zip Code

Phone

Cell Phone

Fax Phone

E-mail

mjlober@gmail.com

### REPRESENTATIVE

Michael J. Lober, Lober, Dobson & Desai, LLC

Contact Name and Company (Owner's Agent or Attorney)

3150 Overland Drive, Roswell, GA 30075

Contact Mailing Address

678-461-9800 770-480-3613 678-461-9944 Suite/Apt. # City State Zip Code

Phone

Cell Phone

Fax Phone

E-mail

XXXX mjlober@gmail.com

I hereby certify that all information provided herein is true and correct

[Signature]

Date: 5/30/14

Applicant Signature: Property Owner or Owner's Representative

OFFICE USE

Fee: \$

☐ Cash

☐ Check #

☐ CC - Visa/ MC

Date:

☐ Approved

☐ Denied

By:

Date:

RECEIVED  
MAY 30 2014  
City of Roswell  
Community Development  
Dept.



## Analysis Requirements

**REZONING APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to criteria 1 through 6 pursuant to O.C.G.A. 36-67-3. Further, please complete **criteria 7 through 23**, as noted below.

**CONCURRENT VARIANCE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to **criteria 1 through 23**. Complete also the Concurrent Variance Justification, questions 1 – 7 at the end of this section.

**CONDITIONAL USE APPLICATIONS:** Please complete the Analysis Requirements questionnaire. Applicants are required to respond to **criteria 1 through 8; also 13, and 18 through 22**. **Criteria 9 through 12, and 14 through 17, and 23 are NOT required to be completed for a Conditional Use Application.**

1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

See attached.

2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.

See attached.

3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.

See attached.

4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

See attached.



5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element.

See attached.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

See attached.

An applicant for an amendment to the official zoning map may decline to provide any information related to criteria seven (7) through twenty-three (23) if he or she completes, signs, and notarizes the following statement:

*"I do not regard the information required by the City, or any portion thereof as indicated, as necessary or relevant to the City Council in their consideration of my application for rezoning. I stipulate that such information shall not be relevant to the City Council in their deliberations or to any court in its review of the decision on my application for rezoning."*

Owner of Property (Signature)

Date: 5 / 30 / 14

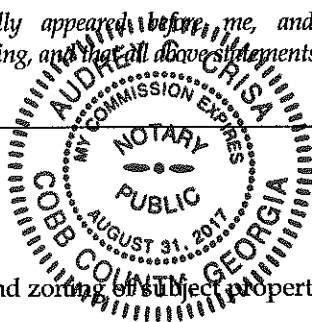
The above named individual personally appeared before me, and on oath states that he/she is the Michael Lohr for the foregoing, and that all above statements are true to the best of his/her knowledge.

Notary Public (Signature)

Date: 5 / 30 / 14

My Commission Expires:

Date: 8 / 31 / 17



7. An explanation of the existing uses and zoning of subject property.

See attached.

8. An explanation of the existing uses and zoning of nearby property.

See attached.



9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.

N/A

10. Whether the property can be used in accordance with the existing regulations.

N/A

11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.

N/A

12. The value of the property under the proposed zoning district and/or overlay district classification.

N/A

13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.

See attached.

14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.

N/A



15. The length of time the property has been vacant or unused as currently zoned.  
N/A

16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.

N/A

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

N/A

18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.

See attached.

19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

See attached.

20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

See Attached.



21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.

See attached.

22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

See attached.

23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

N/A

#### Concurrent Variance Justification If Required

An applicant requesting consideration of a Concurrent Variance to any provision of the Zoning Ordinance shall provide written justification that one or more of the following condition(s) exist:

1. There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape, topography that are not applicable to other lands or structures in the same district.
2. Any information whereby a literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the applicant's property is located.
3. Any information supporting that granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
4. Any information that the requested variance will be in harmony with the purpose of the intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. Any information that special circumstances are not the result of the actions of the applicant.
6. Any information that the variance request is the minimum variance that will make possible the proposed use of the land, building, or structure in the use district proposed.
7. Any information that the variance shall not permit a use of land, buildings, or structures, which is not permitted by right in the zoning district or overlay district involved.



### Application Signature Page

Please complete this **Applicant Signature Page** for ALL applications. **READ CAREFULLY BEFORE SIGNING.**

- I understand that failure to supply all required information (per the relevant Applicant Checklists and requirements of the *Roswell Zoning Ordinance*) will result in REJECTION OF THE APPLICATION.
- I understand that preliminary approval of my design plan does not authorize final approval of my zoning or signage request. I agree to arrange sign permitting separately, after approval is obtained.
- I understand that representation associated with this application on behalf of the property owner, project coordinator, potential property owner, agent or such other representative shall be binding.
- I have read the provisions of the Georgia Code Section 36-67A-3 as required regarding Campaign Disclosures. My signed Campaign Disclosure Statement is included with this Application (required for rezoning only).
- I understand that due to a sewer allocation system controlled by Fulton County, sewerage capacity may not be available. I agree to arrange sewer service separately from this application. The method of sewage disposal that is planned for this property is: Check one:  
☐ Sanitary Sewer  
☐ Septic Tank

*I respectfully petition that this property be considered as described in this application*

From Use District: C-2 To Use District: C-2

Wherefore, applicant prays that the procedures incident to the presentation of this petition be taken, and the property be considered accordingly. Additionally, applicant further acknowledges and fully understands all above statements made by the City of Roswell.

#### PROPERTY OWNER SIGNATURE (REQUIRED FOR ALL APPLICATIONS)

Creekview Partners, LLC

*I hereby certify that all information provided herein is true and correct.*

Owner of Property (Signature)

3150 Overland Drive, Roswell, GA 30075

Street Address, City, State, Zip

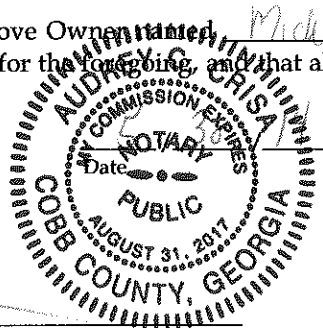
Date

Phone

#### NOTARY

Personally appeared before me the above Owner named Michael Lober who on oath says that he/she is the Applicant for the foregoing, and that all the above statements are true to the best of his/her knowledge.

Notary Public (Signature)



Date Commission Expires

#### ATTORNEY/ AGENT (IF APPLICABLE)

Attorney/ Agent (Signature)

Lober, Dobson & Desai, LLC

Street Address, City, State, Zip 3150 Overland, Drive  
Roswell, GA 30075

Date

Phone



### Campaign Disclosure Ordinance

Please read the law and complete the **Campaign Disclosure Statement** on the following page if you are requesting a **Rezoning, Concurrent Variance, or Conditional Use**.

GA Citation/Title

GA Code 36-67A-3, Disclosure of campaign contributions

\*38069 Code, 36-67A-3

### CODE OF GEORGIA TITLE 36. LOCAL GOVERNMENT PROVISIONS APPLICABLE TO COUNTIES AND MUNICIPAL CORPORATIONS CHAPTER 67A. CONFLICT OF INTEREST IN ZONING ACTIONS (Current through 2000 General Assembly)

#### 36-67A-3 Disclosure of campaign contributions.

- a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more to a local government official who will consider the application, it shall be the duty of the applicant to file a disclosure report with the governing authority of the respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- b) The disclosures required by subsection (a) of this Code section shall be filed within ten days after the application for the rezoning action is first filed.
- c) When any opponent of a rezoning action has made, within two years immediately preceding the filing of the rezoning action being opposed, campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application, it shall be the duty of the opponent to file a disclosure with the governing authority respective local government showing:
  - 1) The name and official position of the local government official to whom the campaign contribution was made; and
  - 2) The dollar amount and description of each campaign contribution made by the opponent to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution.
- d) The disclosure required by subsection (c) of this Code section shall be filed at least five calendar days prior to the first hearing by the local government of any of its agencies on the rezoning application.

(Code 1981, 36-67A-3, enacted by Ga. L. 1986, p. 1269, 1; Ga. L. 1991, p. 1365, 1; Ga. L. 1993, p. 91, 36.)  
*Official Code of Georgia Annotated Copyright 1982 - 2000 State of Georgia.*





# APPLICANT CAMPAIGN DISCLOSURE STATEMENT

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Roswell City Council or a member of the City of Roswell Planning Commission?

☐ YES

☒ NO

Creekview Partners, LLC

5/31/14  
Date

Applicant/Owner of Property (Signature)

3150 Overland Drive, Roswell, GA 30075

Street Address, City, State, Zip

If the answer is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount
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Planning & Zoning Director Acceptance Stamp

- ☐ Rezoning
- ☐ Concurrent Variance
- ☒ Conditional Use

RECEIVED BY THE CITY OF ROSWELL  
ZONING OFFICE May 30, 2014  
Date

APPROVED FOR INITIATION OF A ZONING  
AMENDMENT TO THE ROWELL ZONING  
ORDINANCE AND ZONING MAP BY THE  
ZONING DIRECTOR.

Bradford D. Downell  
Zoning Director

TIME: 11:55am DATE: 7-11-14

THIS APPLICATION SHALL BE CONSIDERED  
AND MAY BE REFERRED TO AS REZONING  
PETITION NUMBER \_\_\_\_\_

CU 2014 02072

## Analysis Requirement Responses

### Creekview Partners, LLC Conditional Use Request pursuant to 10.36

#### 1. Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

Multifamily dwellings and small commercial (offices, restaurants, etc.) are prevalent in the nearby area. The subject property is in close proximity to numerous other townhome and condominium communities and is immediately adjacent to a condominium community. On the east side of South Atlanta Street there are no single family homes south of the Roswell Square all the way to the city limits. Where the commercial use is proposed in the front of the project, the commercial use would be next to other similar commercial uses.

The existing inconsistent zoning classifications constitute, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this project would constitute a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process Clause of the Fourteenth Amendment of the United States Constitution and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. The Applicant further respectfully submits that the City of Roswell cannot lawfully impose more restrictive standards upon the development of the property than presently exists as to do so not only would constitute a taking of the property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution. Moreover, in the event of opposition to the proposed rezoning, the Applicant submits that opponents do not have standing to assert opposition and can prove no special damages as per the specially aggrieved citizen test.

#### 2. Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.

The proposal will not adversely affect the existing use or usability of adjacent or nearby property. The property immediately to the South is a fully developed condominium complex. To the east is national park land. The property to the west is currently C-1 or C-2 and under the UDC shall be DR or DX. Immediately to the north is relatively unbuildable land in a gulley.

Further, in the immediate vicinity, all of the buildings fronting South Atlanta Street are used commercially.

#### 3. Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.

The property is currently.

#### 4. Whether the proposal will result in a use which would or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

The proposal would not cause an excessive or burdensome use. The property is currently zoned for the construction of 35 units and this proposal would actually be fewer units than the current zoning permits.

#### 5. Whether the proposal is in conformity with the policy intent of the Comprehensive Plan including land use element.

The policy intent is for residential and mixed use in this area. Specifically, the Comprehensive Plan (page 42) lists townhomes, apartments and condominiums as desired uses, as well as mixed use.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.

The demand for housing in the historic district supports this proposal. Further, the addition of a pocket park which could be used by pedestrians on South Atlanta Street would encourage walkability.

7. An explanation of the existing uses and zoning of subject property.

The subject property is zoned C-2 The property is currently vacant.

8. An explanation of the existing uses and zoning of nearby property.

Most of the nearby property fronts South Atlanta Street and is zoned C-2 or C-1. The property immediately to the south is a condominium complex.

9. An explanation of the existing value of the property under the existing zoning and/or overlay district classification.

N/A

10. Whether the property can be used in accordance with the existing regulations.

N/A

11. The extent to which the property value of the subject property is diminished by the existing zoning district and/or overlay district classification.

N/A

12. The value of the property under the proposed zoning district and/or overlay district classification.

N/A

13. The suitability of the subject property under the existing zoning district and/or district classification for the proposed use.

A mixed use proposal is in keeping with the development already existing in the area and the goals set forth in the comprehensive land plan.

14. The suitability of the subject property under the proposed zoning district and/or overlay district classification.

N/A

15. The length of time the property has been vacant or unused as currently zoned.

N/A

16. A description of all efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district and/or overlay district.

N/A

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

N/A

18. Possible effects of a change in zoning or overlay district map, or change in use, on the character of a zoning district.

This proposal will be in keeping with the character and intent of the nearby zoning and overlay district.

19. Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.

This proposal will enhance the value of the adjacent property by helping to create a village concept. The intent is the subject property will be part of a master declaration encompassing the existing condominiums to the south and the proposed mixed use to the east in order to enhance the entire 8 acres originally envisioned to be one large community.

20. The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

The impact on the environment should be less than a purely commercial use.

21. The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme, with due consideration given as to whether or not the proposed change will help to carry out the purposes of these zoning regulations.

The use more closely resembles the purposes of the zoning regulation and the comprehensive land plan. This proposed use is specifically set forth in the HR district presumably to encourage the same.

22. The consideration of the preservation of the integrity of residential neighborhoods shall be considered to carry great weight. In those instances in which property fronts on a major thoroughfare and also adjoins an established residential neighborhood, the factor of preservation of the residential area shall be considered to carry great weight.

This proposal helps preserve the integrity of the residential character. The commercial in the very front and the pocket park will help "screen" the residential property behind it.

23. The amount of undeveloped land in the general area affected which has the same zoning or overlay district classification as the map change requested.

N/A