



# COUNCIL AGENDA REPORT

**FROM:** Community Development Department  
Prepared by: Ken Patton

**CC:** City Clerk  
Public Information

**SUBJECT:** Deletion of requirement for donation of land to be utilized as a fire station location at Canton Place

**DATE:** November 18, 2016

## RECOMMENDATION

This zoning condition amendment did not go before the Planning Commission.

## REPORT-IN-BRIEF

This amendment has been filed by the City of Canton to delete the condition that requires the donation of a three (3) acre parcel of land in order to construct a fire station within the development known as Canton Place. Canton Place consists of property between SR 20 and SR 140 connected by Northside Cherokee Blvd. Canton Marketplace and the new Northside hospital are the two developments currently constructed or under construction.

Condition 9 of Master Plan MP0201-01, Condition 45 of case numbers AX0608-001/Z0608-002, AX0608-002/Z0608-003, AX0608-003/Z06-8-004 and Condition 9 of the Development Agreement between the City of Canton and Canton Marketplace LLC all pertain to the donation of land or payment in lieu of land donation. Copies of these documents are attached.

## DISCUSSION

## CONCURRENCES

## FISCAL IMPACT

## ALTERNATIVES

## Attachments

# City of Canton

May 8, 2007

Mr. Jeffery S. Fuqua  
The Sembler Company  
1450 S. Johnson Ferry Road  
Atlanta, Georgia 30319



Re: CASE AX0608-001 and CASE Z0608-002  
CASE AX0608-002 and CASE Z0608-003  
CASE AX0608-003 and CASE Z0608-004  
SPR0701-005

151 Elizabeth Street  
Canton, Georgia 30114

Dear Mr. Fuqua:

770 704 1500 phone  
770 704 1538 fax  
www.canton-georgia.com

The City of Canton Mayor and City Council heard the above referenced cases on May 3, 2007 and APPROVED those cases with the following conditions:

Cecil Pruett  
Mayor

Wade Buchanan  
Lester Cantrell  
Wally Fowler  
Amelia Rose  
Pat Tanner  
Jo Ellen Wilson  
City Council

William J. Werner  
City Manager

Diana G. Threewitt  
City Clerk

1. The site plan indicates nine out parcels east of Commerce Parkway. All of these specific out parcels show a finished floor elevation that is well below the grade elevation of S.R. 20. They range from 18 ft. to 10 ft. below S.R. 20. The developer shall increase the grade elevation for the out parcels so that the elevation for each out parcel is between 3 and 4 ft. of the S.R. 20 grade. Of the nine out parcels shown, the developer shall increase the grade elevation with the first out parcel contiguous to Commerce Parkway within 3 ft. of the grade elevation of S.R. 20. Seventy-five percent of the out parcels shall be within 3 ft. of grade of S.R. 20 and the remaining 25% shall not exceed 4 ft.
2. The site plan indicates a dedicated left-hand turn lane on Commerce Parkway for purposes of serving the loading docks on the rear of the big-box retailers at the south property line. This lane shall be void and all truck traffic servicing the retailers on the east side of Commerce Parkway shall use the service drive as shown intersecting at Brook Park Drive.
3. All ground signs serving the out parcels shall be no higher than five feet including a base of 18" to 24" and a copy area not to exceed 32 sq. ft.
4. The development sign for Canton Place shall not exceed 10ft. in height with a width not to exceed 25ft.
5. Signage for the shopping center containing the big-box retailers shall not exceed 10ft. in height with a width not to exceed 25ft. Said sign shall include no more than three tenants on the copy area of this sign. The copy area for each individual tenant shall not exceed a maximum of 15 sq. ft.

6. All wall signs whether on the front; side or rear of the buildings shall be approved by the Oversight Committee. All materials and size specifications shall be presented to the committee for review and approval prior to the issuance of a building permit. Signage on the rear of the buildings, if approved by the Oversight Committee shall not be illuminated.
7. All signage whether ground or wall, shall not contain any neon, flashing, or animated devices. Electronic or otherwise, change copy shall be prohibited.
8. The conditions assigned to the master plan of Canton Place called for the requirement of a full frontage lane running parallel to S.R. 20 and is to be installed at the time of land disturbance permit. Due to the impending construction of the ramp at I-575 at S.R. 20 and the widening of S.R. 20, the developer shall pay to the city the cost of the full frontage lane including the sidewalk, streetscape as called for in the Overlay District Standards, transit shelters and signage. Said amount shall be determined by the Mayor's staff at the time of Land Disturbance Permit and shall be paid to the city at the time of obtaining the Land Disturbance Permit.
9. The developer shall improve that portion of Northside Blvd. from the point of intersection at S.R. 20 and to the intersection common to the Northside Hospital entrance and which serves as the rear entrance to the shopping center. Said improvement shall include 4 lanes with a divided median with sidewalks on both sides of the roadway. Additionally, the developer shall install three separate seating amenities along Northside Blvd. as planned for Commerce Parkway. Exact placement shall be coordinated with the Mayor's staff prior to a permit for this roadway. No permits shall be issued for the west side of Commerce Parkway without the inclusion of the roadway plans and the dedication of the right-of-way of their portion of the roadway in its entirety.
10. Developer shall pay for the mast arms and traffic signals at the intersection of Northside Blvd. and S.R. 20. Payment shall be made at the time of the first land disturbance permit. The city shall install the signal and mast arms when warranted. The Mayor's staff shall establish the cost.
11. The two curb cuts indicated immediately at the intersection of S.R. 20 and Northside Blvd. and serving Tract B and the north side of Best Buy shall be removed.
12. All retaining walls shown on the site plan and any that may be added as a result of final engineering shall be installed with brick or smooth finish material (no CMU or painted block) and approved by the Oversight Committee. Should the developer choose to plant an evergreen plant



material on the face of the retaining walls, a decorative block finish instead of the smooth or brick material shall be permitted but shall be approved by the Oversight Committee prior to permitting and installation.

13. All retaining walls shall not contain any signage except for safety purposes (if necessary). Any such safety signs shall not include the name advertising any establishment on the premise or off site.
14. Developer shall pay for the traffic signals and mast arms at Commerce Parkway at S.R. 20. Said payment shall be made at the time of land disturbance permit. The city shall install the signal and mast arms when warranted. The cost shall be determined by the Mayor's staff at the time of Land Disturbance Permit.
15. Developer shall pay for the traffic signals and mast arms at Commerce Parkway and at the intersection serving the big box retailers. Said payment shall be made at the time of land disturbance permit. The city shall install the signal and mast arms when warranted. The cost shall be determined by the Mayor's staff at the time of Land Disturbance Permit.
16. In lieu of the required buffer as called for in the conditions of the Canton Place master plan, the developer shall install a brick wall at a minimum height of 15ft. along the back side of all buildings which include a loading dock for the respective centers. The wall shall screen that portion of the dock and length of the trucks using said docks for the contiguous properties. Storage of trucks for a period longer than the loading or unloading of goods (a maximum of 24 hours) shall be prohibited. Additionally, the developer shall include brick as the predominate material on any building contiguous to residentially used property.
17. Developer shall erect a brick wall parallel to the property lines shown for the Frances M. Herndon tract. Developer shall file with the Mayor's staff a plan showing the specifications of the private walls called for in the conditions. Wall shall be constructed at the time of construction of the service drive. Mayor's staff shall review and approve prior to any permit being issued for this east side of Commerce Parkway.
18. Outdoor sales/storage area as shown for the Target sales center shall be prohibited.
19. Outdoor sales/storage indicated for Lowes shall only be immediately adjacent to the principal building and shall not be permitted in the parking field. For purposes of permissible outdoor sales/storage, this shall include only seasonal plants and materials. The use of tractor-trailers anywhere on site as storage facilities shall be prohibited.



20. Developer shall provide in addition to the tree coverage shown on the landscape plan in the parking field for both centers east and west of Commerce Parkway the following: For every five spaces a 36 sq. ft. a planted island shall be installed to accept a flowering tree to be planted with a minimum of 3.5 to 4 inch caliper and a minimum height of 14ft. at the time of planting.
21. The master plan conditions assigned to Canton Place called for 25% open space. Due to the fact the developers have not agreed on the final location of the 25% open space, Sembler has purchased 10.5 acres within the development of Canton Place as their portion of open space. This open space offers no connectivity to the remaining open space nor does the plan afford an opportunity to access the property accept by foot, bike, or emergency vehicle. The developer shall be required to provide a minimum of five parking spaces on site.
22. In lieu of the overall open space plan as called for in the conditions of the Canton Place master plan and in that Sembler intends to provide their own open space in accordance to the city's established formula pursuant to the O-I zoning district regulations, the developer shall therefore provide 23.59 acres. The developer has already provided 10.5 acres of open space, which is already located within the master plan. Therefore an additional 13.09 acres of open space shall be required of the developer to satisfy the opens space requirement of 25% under the provision of the O-I zoning classification. Developer agrees to contribute to the city the cost necessary to purchase an additional 13.09 acres of land off-site in order to satisfy the opens space requirement of their respective tract. Developer wishes to contribute \$ 850,850 in order for the city to purchase land for purposes of open space. Payment shall be made on or before the issuance of the first land disturbance permit. Failure to pay shall revoke the approval by the Mayor and City Council and shall require reconsideration at a regularly scheduled Council hearing.
23. All buildings including the out parcels shown or planned for the site shall be predominately of brick material. All decorative split-face block is prohibited. Stucco, store front, or rock may be used but for accent purposes. Block, painted or finished, is prohibited throughout this development.
24. The developer shall provide areas within the parking field for grassed areas in order to break up the large mass of asphalt. The developer shall present to the Oversight Committee a plan to incorporate promenades/plazas, benches, fountains, and focal points that lend themselves to a more pedestrian-urban oriented environment. Public art in the form of sculptures shall also be introduced in the common areas and shall also be presented to the Oversight

Committee for approval. The developer shall include a minimum of eight (8) such sculptures for inclusion. Said sculptures shall be a minimum of five (5) feet tall. The City of Canton in partnership with Reinhardt College shall collaborate on the design of the sculpture and approval. The intent is to allow this public art in the form of sculptures to reflect the history of Canton. Said approval shall be made prior to the issuance of the first building permit. Plans reflecting this condition shall be included on the site plan for illustrative purposes and shall be filed with the Oversight Committee on or before April 30, 2007.

25. The developer shall set aside land in between where the buildings separate in the shopping center west of Commerce Parkway in order to create a promenade for the center with focal points included such as a water fountain or outdoor sculpture with benches. Said promenade shall serve as a pedestrian corridor accessible from the future Northside Hospital which is directly south of the said center. The promenade shall extend to the retail boxes as shown as Petsmart/OfficeMax. Promenade shall be wide enough to accommodate pedestrians, benches, sculptures and/or amenities. Developer shall submit this plan for approval prior to the first land disturbance permit. Plans reflecting this condition shall be included on the site plan for illustrative purposes. The Oversight Committee shall review for final design approval.
26. The blue wedge shown on the Best Buys storefront is prohibited and shall be replaced with brick or stucco, within the percentage guidelines previously established in this list of conditions. Additionally, the blue background on the building located at the sidewall shall be prohibited
27. The setbacks from Commerce Parkway shall be a minimum of 35 ft. Landscape improvements and seating amenities as shown for Target on their side elevation shall be matched by the retailer on the immediate west side of Commerce Parkway (shown on site plan as Dick's Sporting Goods)
28. Along the building side of Target facing Commerce Parkway, the developer shall install storefront windows to lend the project to a more pedestrian-urban town center environment. Storefront windows shall be extended for the full length of the sidewall. An exhibit has been attached to these conditions reflecting this design. The same shall apply for Dick's Sporting Goods on the immediate west side of Commerce Parkway. (Should Dick's not occupy this space; this condition shall apply to the tenant that will occupy this space and any successors thereof.)
29. Curb cuts along S.R. 20 shall be limited so as not to impede the flow of traffic. The curb cut shown east of Commerce Parkway and located between outparcels I and J shall be right-in and right-out only.



30. A traffic signal with mast arms shall be required at the intersection and the curb cut shown between outparcel G and outparcel H.
31. Developer shall pay to the city the cost of said improvements at the time of the issuance of the first land disturbance permit. The Mayor's staff shall determine the cost.
32. The curb cut located along S.R. 20 between Northside Blvd. and Commerce Parkway shall be right-in right-out only.
33. The grade elevation shown at the west side of Commerce Parkway and south of S.R. 20 indicates a minimum of 66 ft. grade change from S.R. 20 to the finished floor elevation of the proposed Petsmart. The developer shall improve the grade change from the pin corner of said intersection to the retaining wall with multiple terraces and installing hardwood and evergreen trees at a minimum 4.5 to 5.5 inch caliper and a height at the time of planting at 16ft. In addition to the hardwood trees, the developer shall install an under story plant material which shall be coordinated with the City's Arborist. A more detailed landscape plan indicating the terracing of this tract shall be submitted to the Oversight Committee for final approval. Said plan shall be submitted prior to the issuance of the first land disturbance permit. Planting schedule shall be coordinated with the City's Arborist. Installation of said plant material shall be complete at the time of the first Certificate of Occupancy for this shopping center west of Commerce Parkway.
34. All retaining walls that require protective fencing due to their height shall be decorative. The Oversight Committee shall approve both the material and design. The developer shall submit this information for approval prior to the first land disturbance permit. Chain link fence is prohibited.
35. Developer shall produce all environmental permits necessary for the project and governed by any state or federal agency prior to the issuance of the first land disturbance permit.
36. Curb cut shown on the site plan dated April 2, 2007 and located on the backside of Target and entering Commerce Parkway shall be right-in right-out only. Said design shall be engineered to only allow for a right-in right-out curb cut and shall be further restricted to such a design by the permanent median shown on Commerce Parkway according to the site plan submitted. Target and Kohls shall use this curb cut as a secondary access. Primary access shall be the service drive as shown on the site plan that lines up with the intersection of Brook Park Drive. At all times, Lowes shall use this access from Brook Park Drive. Parking on the backside of these buildings shall be marked "Employee Parking". Any outdoor storage or display of



product is prohibited on the backside of these buildings. Further, any parking shown on the back side of the shopping center on the west side of the parkway shall also be marked "Employee Parking".

37. This project because of its location in the master plan and exposure to other pods that make up Canton Place has no back door in regards to shielding the buildings from full view by the public. In consideration of such, the developer shall provide design drawings as part of their site plan review that include a more finished look for the rear elevations of all buildings in the shopping centers both on the east as well as the west side of Commerce Parkway. Additionally, all roof mounts or HVAC units shall be screened architecturally from view of pedestrian and vehicle traffic.
38. All dumpsters shall be enclosed on three sides with a brick wall and decorative screen on the front of the dumpster.
39. Ground signs shall be permitted for the outparcels immediately west of Northside Blvd. and shall be located on their respective lots. Space for the development/monument sign shall be reserved for the master plan of Canton Place in combination with signage for Northside Hospital.
40. Developer shall install plant material for the retaining walls so as to introduce additional landscape material. Plant material will be presented to the Mayor's staff and City Arborist. Should the developer choose to install brick or a smooth finish for the retaining walls as previously conditioned, the plant material shall not be required for these materials.
41. Parking ratios for the shopping centers both on the west and east side of Commerce Parkway shall follow those as reflected on the site plan dated April 2, 2007 (no less than 4 spaces for 1,000 sq. ft.). All outparcels as shown on the site plan shall meet the minimum standards as set forth in the Parking Regulations of the City of Canton Zoning Ordinance.
42. Developer shall be permitted three curb cuts located at the three median breaks along S.R. 20. Said curb cuts are further shown on the Overall Site Plan dated April 2, 2007. The developer shall also be permitted two additional curb cuts that are limited to right-in and right-out only and are shown on the Overall Site Plan dated April 2, 2007. For those three separate curb cuts at the median breaks, the developer shall pay for the cost of the traffic signals and mast arms. Said payment shall be made at the time of issuance of the land disturbance permit for the project. The cost of the signals and mast arms shall be determined by the Mayor's staff. The City of Canton shall be responsible for the installation of the signals and mast arms when warranted.

43. Developer shall maintain all landscape materials, sidewalks, decorative lighting, and seating amenities within the city's rights-of-way. The developer shall also maintain on their property all promenades, sculptures, retaining walls, signage, and amenities in accordance with city standards.
44. Parking fields for all outparcels shall not exceed a five percent grade on the rear of the lots.
45. In accordance to the overall conditions as set forth in the original master plan approval of Canton Place, the developers were to provide an on-site fire station site. At this time, no such site has been agreed upon by the developers/owners of Canton Place, therefore Sembler shall contribute \$150,000 towards the city's purchase of a fire station site in order to serve this development. Payment shall be made on or before the issuance of the first land disturbance permit. Failure to pay shall void any approvals and will require reconsideration before the Mayor and City Council in a regularly scheduled hearing.
46. Developer shall install all plant material as so shown on the exhibit indicating the rear of the Target, Kohls, and Lowes buildings. Such landscape and materials shall be installed prior to the Certificate of Occupancy for each respective retailer.
47. Developer shall improve the side elevation of Dicks Sporting Goods in keeping with the improvements as shown for the side elevation of Target. Such improvements shall include, at a minimum, storefront windows, an amenity seating area, landscaping, and awnings.
48. The site plan indicates stamped concrete in order to create a brick pavers appearance. Said design shall be permitted but shall be maintained by the developer in perpetuity.
49. Developer shall follow the landscape plan as shown on the site plan dated April 2, 2007. As shown, trees shall be planted for every 10 parking spaces. Additionally, the developer shall also install a tree for every fifth space in order to reduce the massive parking field. Said tree to be planted at every fifth space shall be a Yoshino Cherry Tree and shall be a minimum of 3.5 to 4 inches in caliper and a height of 16ft. at the time of planning.
50. Developer shall pay city impact fees at the time of each building permit and shall include: Fire Safety, Parks and Recreation, Police, and Roads.
51. Developer shall enter into a development agreement with the City of Canton including all of the conditions set forth in this planning analysis including



any additional conditions that may be added by the Planning Commission and/or Mayor and City Council.

52. The site plan includes a retail establishment called Petsmart. This retailer specializes in pet materials, goods, and supplies. Additionally, the retailer has an on-site veterinarian and pet groomer. Said uses shall be permitted as ancillary uses in conjunction with the principal use of a retail establishment for pet supplies, materials, and goods. In accordance with state and federal laws and the state and county health departments, the retailer shall be permitted to sell domestic pets from this establishment. Should Petsmart cease to operate in this development, all prescribed uses identified in this condition shall be permitted to successors operating this same type of retail pet business.
53. All outparcels for this development shall follow the prescribed building materials as called for in these conditions with brick being the predominate material. All decorative split-face block is prohibited. Stucco, store front, or rock may be used but for accent purposes. Block, painted or finished, is prohibited throughout this development. The Canton Oversight committee shall review all building elevations, materials list, signage, landscape plan, and traffic management for approval. A building permit for any outparcel shall not be granted until the Oversight Committee has approved the above-described plans.

The approval and conditions of this rezoning shall be made part of and recorded with any title change or request for any additional permits.

The location of the property, which we have on file, is located at 2402, 2372, 2286 and two more parcels along Cumming Highway located in Land Lots 266, 267 and 239, 14<sup>th</sup> District, 2<sup>nd</sup> Section, Cherokee County, Georgia and more particularly described in Map Book Page 14N23C, Parcels 37, 37A, 37C, 38 and 39. We show the present property owner to be The Sembler Company.

As a resident of the City of Canton you will have the following services available to you.

Police Department	(770) 720-4883
Fire Department	(770) 479-7287
Street Department	(770) 720-7674
Sanitation Service	(770) 704-1502
Water Department	(770) 704-1502
Building Department	(770) 704-1510
Planning and Zoning Department	(770) 704-1504
Business License/Property Tax Department	(770) 704-1537



The above noted departments are available to assist you as needed. Please note these numbers are administrative numbers. **ALL EMERGENCIES – DIAL 911.**

Some areas of the City are available for sewage connection. If you have any questions concerning sewage for your property, please call the Water Department at (770) 704-1502.

As a City resident you are eligible to vote in City elections. If you are registered to vote in Cherokee County, your name will automatically be moved over to the City's voting list. To register to vote, please call the Cherokee County Voter Registrar's Office at (770) 479-0407.

The approval and conditions of this annexation and rezoning shall be made part of and recorded with any title change or request for any additional permits.

All records and applications of your annexation have been forwarded to the State. Please let me know if you have any additional questions for my department.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Mullinix", followed by a large "X" mark.

Gary Mullinix

Planning and Zoning and Development Director

mrp

# City of Canton

December 21, 2004

Mr. William G. Hasty, Jr. and  
Mr. Garry Haygood  
P. O. Box 1818  
Canton, Georgia 30169



Dear Mr. Hasty and Mr. Haygood:

Re: Master Plan #MP0201-01 – Canton Place

**Department of  
Planning & Zoning**  
557 Riverstone Parkway  
Suite 140  
Canton, Georgia 30114

770 704-1500 phone  
770 479-1872 fax  
www.canton-georgia.com

Melissa R. Casteel  
Planner

The City of Canton Mayor and City Council heard the above referenced case on December 16, 2004 and APPROVED your master plan with the following conditions:

- (1) All submitted engineering/construction plans shall provide for the requirements of development as regulated by the City of Canton Code of Ordinances and/or as required by the following conditions. All required parking ratios and signage requirements shall meet the City of Canton Code of Ordinances,
- (2) Any increase to the total approved residential units or other substantial change to the Master Plan shall require prior approval of the Mayor and City Council. In the event that the transfer of densities within the Master Plan is desired, an application for such a Master Plan Amendment shall be made to the Department of Planning and Zoning. All application fees and procedures shall apply. Residential densities may be transferred between pods of the same land use administratively, as long as there is no increase to the total number of residential units approved for the subject Master Plan. Said administrative transfer shall be completed by notifying the Department of Planning and Zoning in writing, as well as, providing an updated Master Plan as required in condition #32 below,
- (3) Developer shall provide a transit plan for the subject development no more than 90 days following approval of the master plan. Developer shall provide for transit stops and/or shelters adjacent to the open space, commercial, and attached residential pods. Said plan shall include the extension of the existing city transit system, bus shelter locations, transit stops with benches and appropriate hardscape, as well as, the right-of-way which is necessary for installation of such facilities. All hardscape

components, as well as, transit stop furnishings shall follow those specifications as outlined in the City of Canton Overlay Zone Community Standards Ordinance. Said plan shall be submitted to the Department of Planning and Zoning for coordination and review of the Mayor's Staff,

- (4) With each submittal for a Land Disturbance Permit for each tract or pod, the Applicant shall submit an updated trip generation rate for the end user. Said update shall be submitted for review to the Department of Planning and Zoning and for coordination with the Mayor's Staff,
- (5) All proposed roadways shall be public,
- (6) No outside storage of any kind shall be permitted,
- (7) Developer shall provide streetscape within the development, including sidewalks on both sides of each street, landscape, park benches, and decorative lamp posts in accordance with the Canton Overlay Zone Community Standards Ordinance. A streetscape and lighting plan shall be submitted, for coordination and approval of the Department of Planning and Zoning, in conjunction with the submittal for each land disturbance permit,
  - a. All sidewalks within the residential pods and serving the commercial pod shall be provided at a minimum of five (5) feet in width with a three (3) foot minimum vegetative strip provided between the back of curb and the sidewalk,
  - b. Developer shall plant a minimum of one (1), 3 - 3 ½" caliper shade tree in each single-family detached front yard. Trees shall be chosen from the City of Canton Plant List,
- (8) Developer shall create and record, at the time of recording of the first final plat and protective covenants, a funded homeowner's association for the maintenance of the trails and all amenities and grounds owned in common and shall fund said association until at which time 75% of the units are occupied for residency. Evidence of recorded association shall be provided to the Department of Planning and Zoning prior to the issuance of the first Certificate of Occupancy,
- (9) Prior to issuance of the first Land Disturbance Permit, the Developer shall convey to the City of Canton property for the use of a fire station. Said property shall not be less than 3.0 acres, however the final size of said property is to be approved by the Canton Fire Chief. The city agrees to coordinate the architectural and site design work with the



developer to offer compatibility to the overall development of Canton Place. The City of Canton will provide impact fee credits as so provided in the Georgia Development Fee Act of 1990 as so described in the Canton Fire Safety Impact Fee Ordinance,

- (10) Applicant has met the City of Canton Public School Policy Requirement for open dialogue with the Cherokee County School Board regarding the potential impacts of the proposed development. The Developer wishes to contribute \$500 per residential unit in order to mitigate the impact of the proposed development. Payment shall be made for the total number of residential units in their entirety prior to issuance of the first Building Permit for the development,
- (11) As required by current City of Canton ordinances, a minimum 50' undisturbed vegetative buffer shall be provided between the subject development and all contiguous residentially zoned properties. All properties within the Canton Place Master Plan shall be subject to buffers between non-residential and residential land uses. These shall be applied as follows:
  - a. Commercial/Office/Institutional adjacent to Single-family residential: 50'
  - b. Commercial/Office/Institutional adjacent to Multi-family/Attached Single-Family residential: 25'
- (12) All utilities serving this development shall be provided by the City of Canton. All utilities shall be underground,
- (13) Developer shall dedicate additional right-of-way along the entirety of the property frontage of Highway 140/ Hickory Flat Highway, a minimum distance equal to 50' from the centerline of Highway 140/ Hickory Flat Highway. Said rights-of-way shall be deeded prior to issuance of the first Land Disturbance Permit,

Developer shall improve Highway 140/ Hickory Flat Highway along the entirety of the property frontage extents, a minimum distance equal to 26' from the existing center line of Highway 140/ Hickory Flat Highway plus curb and gutter,
- (14) Developer shall improve S.R. 20/ Cumming Highway in accordance with the approved TIP/ARC and Georgia Department of Transportation roadway improvements plans for S.R. 20. At a minimum, a full frontage lane shall be constructed in addition to the truck passing lane already planned for the S.R. 20 improvements.

Developer shall dedicate additional right-of-way along the entirety of the property frontage of Highway 20/ Cumming Highway, a minimum distance sufficient to provide for the proposed widening, a full frontage lane, and truck passing lane additions of Highway 20/ Cumming Highway. Said rights-of-way shall be deeded prior to issuance of the first Land Disturbance Permit,

- (15) The first phase of parkway construction shall be constructed at the following minimum specifications:
- a. Four (4) – 12' through lanes, divided,
  - b. Minimum 120' right-of-way. Said rights-of-way shall be deeded prior to issuance of the first Land Disturbance Permit.
  - c. 22' landscaped median including curb and gutter. Said median shall be designed and located as such that future additions of lanes to the parkway shall not impede upon the configuration of the median or cause removal of the median,
  - d. Pavement width, curb and gutter, and drainage as required by City of Canton regulations,

The through lanes and the landscaped median shall be constructed at the time of issuance of the first Land Disturbance Permit for the subject development,

- (16) Curb cuts shall promote shared drives in order to minimize traffic conflicts on the major development arterials. All curb cuts shall be limited and approved by the Department of Planning and Zoning. Out parcels shall share right-in, right-out curb cuts. Median breaks shall be submitted for review and approval of the City of Canton and the Georgia Department of Transportation jointly,
- (17) In accordance with O.C.G.A. 36-71-13, the developer shall enter into an agreement with the City of Canton to fund four (4) traffic signals in order to manage traffic generated by this development. A traffic signal shall be installed with left hand turn movement at the intersection of the proposed arterial parkway with Hwy. 20 and the proposed arterial parkway with Hwy. 140. Payment shall total no less than \$60,000 per signal. The remaining two (2) traffic signals shall be provided on the interior length of the arterial parkway. Payment for the required traffic signal shall be made to the City of Canton prior to submittal of the Land Disturbance Permit. The City of Canton shall install the subject signal when warranted,



- (18) Warrant of an additional traffic signal shall be considered at a second possible location on S.R. 20/ Cumming Highway. Determination of signal warrant shall be reviewed jointly by the City of Canton and the Georgia Department of Transportation. Payment for the required traffic signal shall be made to the City of Canton prior to submittal of the Land Disturbance Permit. Payment shall total no less than \$60,000 per signal. The City of Canton shall install the subject signal when warranted,
- (19) Exit 19 Interchange improvements shall be built in accordance with the Georgia Department of Transportation plans,
- (20) Office-Institutional zoned developments are required to provide a minimum of 25% gross acreage for open space. Developer shall provide a revise open space plan for the subject development, which meets this required 25% minimum, no more than 90 days following approval of the master plan. This open space may include site amenities packages, however, shall not include any detention ponds or facilities, easements or roadways. Open space shall be of such design and layout which can be used, enjoyed, and easily accessible by the residential units and non-residential uses within the master plan. Said plan shall be submitted to the Department of Planning and Zoning for coordination and review of the Mayor's Staff,
- (21) Any open space, access and/or easements to commonly owned property, or detention facilities, shall NOT be made part of any subdivided lot,
- (22) Developer shall provide a signage program for the subject development no more than 90 days following approval of the master plan. Developer shall provide signage designations for individual land uses, which meet the requirements of the City of Canton Sign Ordinance. Signage regulations shall be described for Development Identity signage to be located at the main entryways at S.R. 140 and S.R. 20, as well as, general examples of individual shopping center signs and residential development entry signs, and others as required. Said plan shall be submitted to the Department of Planning and Zoning for coordination and review,
- (23) An overall development trail plan shall be submitted with the first application for a land disturbance permit. Said plan shall indicate phasing of trail construction as it relates to completion of adjacent pods. A revised trail plan, indicating completed trail phases, shall be submitted with each subsequent submittal for a land disturbance permit. Any nature trails, which may be provided and considered as a component of the required trail network, shall be delineated with a

padded, organic material such as bark chips, aggregate base or other mulch, on the walking surface. The trail ways shall be maintained free of vegetation. All trails shall be marked at 200' intervals with universal trail coding. All trailheads shall be located at paved sidewalks. Developer shall file with the City of Canton a letter holding the city harmless for any trail or pathway outside of any public right-of-way or easement. Nature trails shall not make up greater than 20% of the overall trail network and are intended as alternative means of connectivity rather than the primary means. The City of Canton shall reserve the right to conduct periodic inspections to ensure compliance of this condition,

- (24) All regulations of the City of Canton Overlay Zone Community Standards Ordinance shall be provided for along the extents of the property frontage of S.R. 20/ Cumming Highway, S.R. 140/ Hickory Flat Highway, and the proposed Arterial Parkway. This is to include the following:
  - a. Sidewalks shall be provided at an eight (8) foot minimum width located four (4) feet from the back of the curb,
  - b. Roadway lights shall be Light Type B. Substitutions shall not be permitted,
- (25) A 150' buffer shall be provided along the extents of the property frontage of S.R. 140/ Hickory Flat Highway,
- (26) For those office-institutional and commercial uses bordering S.R. 20, the front setback from S.R. 20 may reduced to a 25' setback in the event that the site layout is designed with all parking located to the rear of the subject building. Verification is the parking layout shall be completed by the Department of Planning and Zoning at the time of review for a Land Disturbance Permit,
- (27) All lighting for this development, except that required by the Overlay Zone Community Standards Ordinance, shall have an interior orientation within the development. Any lighting, which shall be utilized for night time use of recreational facilities, shall be installed in such a manner as to direct omitted lighting away from residential areas. A complete photometric study shall be submitted, if the City deems necessary, with the engineering plans, as part of the Land Disturbance Permit application, for approval of the Department of Planning and Zoning,



- (28) Architectural elevation plans shall be submitted for all sides of the proposed structures within the residential, commercial, and mixed-use pods. Proposed facades shall conform to materials and architectural detailing consistently on all sides of the proposed structure. Elevation plans shall include specific detailing. Building materials shall be chosen from those listed in the Community Standards Ordinance. Vinyl shall not be permitted. All CMU shall be of finished material. No painted block shall be permitted. Building façade elevations, color palette, and material samples shall be submitted with the Building Permit submittal, for review and approval by the Oversight Committee. All elevations and building materials shall be approved by the Oversight Committee prior to issuance of each building permit. For the residential pods, a package of general unit plans and facades, along with color and material samples, may be submitted for each group of unit type,
- (29) All buildings located contiguous to S.R. 20/ Cumming Highway and S.R. 140/ Hickory Flat Highway shall have finished materials on all sides of the buildings. Acceptable materials shall be brick, horizontal wood or concrete siding, stucco or synthetic stucco. Vinyl and CMU shall not be permitted,
- (30) All roof top mechanical equipment shall be screened from all sides of each respective building.
- (31) All fencing designs, materials and locations shall be approved by the Department of Planning and Zoning prior to installation. Fencing designs, construction details and a materials list shall be provided with the construction plans for review of Land Disturbance package,
- (32) Any retaining walls required and found necessary shall be finished with material compatible (i.e., brick, stacked stone) with the construction materials and colors used in the overall development design. Detail of the proposed walls and a materials list shall be provided with the construction plans for review of Land Disturbance package,
- (33) Town homes shall be fee simple. As defined within the City of Canton Zoning Ordinance, *Fee simple* shall mean the owner is entitled to the entire property with unconditional power of disposition during his life and which descends to his or her heirs and legal representative upon his death intestate. Fee simple property shall include the building footprint and that encompassing a front and rear yard area.  
Town home Area regulations:  
a. There shall be no master meters permitted for utilities serving the town home developments,

- b. Public roadways shall not be gated,
- c. There shall be a minimum of 20' separation between runs of units, or as required by Fire Marshall.
- d. Minimum lot size shall be 3,300 SF,
- e. All private alleyways shall be constructed to no less than a 12' pavement width, in conjunction with a three (3) foot turf shoulder on either side for a total of eighteen (18) feet of dedicated alley way,
- f. Setbacks:

Front 20' from back of sidewalk (front loaded)/ 5' from back of sidewalk (rear loaded),  
 Side 20' building separation,  
 Rear 20'  
 Corner Side 10'

- (34) Detached, single-family homes shall be a minimum of 1,800 square feet in heated floor space. Town homes, and/or attached residential units, shall be a minimum of 1,100 square feet in heated floor space. Heated floor space shall not include attic, crawl space, garage or other unconditioned areas of the structure,
- (35) Apartment homes shall be permitted to be constructed on only one (1) pod within the Canton Place master plan. As conditioned below, these units may be placed on one of the following tracts: Tract 2 or Tract 3, but not both, may have up to 351 units. Tract 4 may have up to 141 units. Only one tract may be chosen for apartment units. Units shall not be transferable,
- (36) The property equaling a total of 414.3 acres, more or less, shall be developed as described in the Applicant's Letter of Intent or as conditioned below. The City of Canton zoning conditions shall supercede those submitted within the Applicant's Letter of Intent, unless otherwise stated. Those "Permitted uses" listed in the following conditions shall supercede those submitted within the Applicant's Letter of Intent, unless otherwise stated,

**North Tract : 298 +/- acres**

**Tract - 97.1 acres Total, to be subdivided in the following pods:**

No more than 25% of each out parcel in Tract 1: Pods A, B, and C shall be of retail use. For the purposes of this conditions *Retail* shall mean establishments providing personal services, entertainment (motion pictures; amusement or recreation services), and products to the general public. Shall include museums



and/or galleries with products for retail sale. Shall not include restaurants or financial institutions.

Maximum building height: 45' (including any w/ parapet)

**Pod A: 7.8 acres maximum**

Density: Maximum 6,500 SF per acre

Minimum lot size of subdivisions with Pod A: one (1) acre

Setbacks: Front 65' from S.R. 20  
Side 10'  
Rear 15'  
Corner Side 15'

**Permitted Uses:**

1. Associations (clubs, lodges, special events facilities)
2. Day Care facility (child and/or adult)
3. Maximum of one (1) convenience center with gas pumps :
  - i. Center shall be constructed of brick on all elevations,
  - ii. Such use shall not be located at the pin corners of the intersection of the arterial parkway and S.R. 20/ Cumming Highway,
  - iii. Development of this use shall require conceptual and final review of the proposed site plan, building architecture, building materials and colors, and including all landscaping,
4. Professional or business office
5. Restaurants without a drive-thru

**Pod B: 4.7 acres maximum**

Density: Maximum 10,000 SF per acre

Minimum lot size of subdivisions with Pod B: one (1) acre

Setbacks: Front 65' from S.R. 20 and arterial Parkway  
Side 10'  
Rear 15'  
Corner Side 15'

**Permitted Uses:**

1. Pin corners of Pod B at the intersection with the arterial parkway shall be limited to professional office uses, financial institutions, or medical related facilities,
2. Restaurants without a drive-thru,

**Pod C: 5.05 acres maximum**

Density: Maximum 6,500 SF per acre

Minimum lot size of subdivisions with Pod C: one (1) acre

Setbacks: Front 65' from S.R. 20  
Side 10'  
Rear 15'  
Corner side 15'

**Permitted Uses:**

1. Associations (clubs, lodges, special events facilities),
2. Dental/medical offices,
3. Daycare (child/adult),
4. Financial Institutions,
5. Professional offices,
6. Professional services including dry cleaners, hair salon,
7. Restaurant without a drive-thru,  
There shall be no more than one (1) restaurant with a drive-thru.  
Menu boards shall not be visible from the road, in which the  
restaurant's front façade faces,
8. Retail in pharmaceutical sales and related merchandise,

**Pod D:** West side of parkway maximum 41.35 acres  
East side of parkway maximum 30.3 acres

Density: Maximum 10,000 SF per acre

Setbacks: Front 65' from Parkway  
Side 10'  
Rear 15'  
Corner side 15'

**Permitted uses:**

1. Artisan studio,
2. Associations (clubs, lodges, or special events facilities)
3. Financial institutions
4. Hotel (Shall be limited to 200 rooms maximum for each hotel)
5. Medical facilities and labs
6. Medical and dental offices,
7. Retail Establishments
8. Restaurants
  - a. There shall be no more than four (4) restaurants with a drive-thru. Menu boards shall not be visible from the road in which the restaurants front façade faces,
9. Professional offices,
10. Sales offices

**Tract 2: 23.4 acres maximum**

Density: Maximum 6,410 SF per acre Office –or- 15 upa (351 apartments) Multi-family –or- 6.0 upa Single-family Attached

Office:



Minimum lot size: 30,000 SF  
Maximum Building Height: 10 stories or 150'  
Setbacks: Front 65' from Parkway  
Side 10'  
Rear 15'  
Corner side 15'

Residential attached:

Minimum lot size: 10 acres (if developed in combination with office)

Residential detached:

33% side entry garage, 33% rear entry garage, 34% front entry garage

Minimum lot size per unit: 20,000 SF

Maximum Building Height: 2.5 stories or 40'

Setbacks: Front 30'  
Side 10': 20' from side entry garages  
Rear 35'  
Corner side 15'

Permitted uses:

1. Artisan Studio
2. Assisted living
3. Associations (clubs, lodges, special events facilities)
4. Auditorium
5. Bakery (Shall be of a retail nature and shall be contained within an office building)
6. Bed/Breakfast Inn Broadcasting Studio
7. Church, Synagogue
8. Clinic (public/private)
9. Day Care (child/adult)
10. Dry cleaning (Shall be contained within an office building)
11. Governmental Use
12. Hair Salon
13. Hotel (Shall be limited to 200 rooms maximum for each hotel)
14. Kennel (enclosed – no outdoor housing of animals permitted)
15. Laboratory (research)
16. Medical and/or Dental offices/clinics/outpatient services
17. Nursing Home
18. Parking lot/deck
19. Park/Playground/Recreation areas serving residential development
20. Professional offices
21. Retail (All retail shall be contained within an office building which shall be the principal use)
22. Residential, Single-family detached
23. Residential, multi-family attached

- a. Should multifamily units be developed on this site, it shall be limited to 351 units and shall not be transferable to Tract 3.
  - b. If multifamily is developed on Tract 2 at 351 units max or less, there shall be no development permitted of multifamily units on Tract 3.
  - c. Access to Key Road shall only be permitted for single family detached units and shall be temporary and not permanent. Permanent access shall be provided at the parkway. Should this project develop prior to the parkway being constructed, then at the time of parkway construction, the developer at their cost, shall construct an access to the parkway.
  - d. At the time of LDP, the developer shall bond that access to the parkway.
  - e. Any temporary use of Key Road shall be reviewed and approved by Cherokee County and any repair and improvements shall be coordinated with the County and adhered to and bonded by the developer.
- 24. Residential, two family attached (fee simple town homes)
  - 25. Restaurants without a drive-thru
  - 26. Vet clinic
  - 27. Vocational/trade school

**Tract 3: 44.7 acres minimum**

Density: Single-family detached at 1.59 upa = 70 units max. –Or- Multifamily attached at 7.85 upa = 351 apartments max. –Or- Office at 6,500 SF per acre max. –Or- 6.0 upa Single-family Attached

**Single-family detached residential:**

Minimum lot size: Minimum lot size 8,000 SF; Average lot size 12,500 SF

Minimum lot width at front building line: 70' / 35' at cul-de-sac

Maximum Building Height: 2.5 stories or 40'

Setbacks: Front 30'  
Side 5'  
Rear 35'  
Corner side 15'

No individual lot for single-family detached shall have direct access or curb cut onto the arterial parkway. All single-family detached lots shall be served by an internal street originating from the arterial parkway.

It is understood that due to topographic constraints that not all units may be constructed with side entry garages. However, it is encouraged that a proportionate mixture of lots be constructed with side entry garages. At



the time of issuance of a plan for a Land Disturbance Permit for this pod, an overall plan shall be submitted for review and coordination with the Department of Planning and Zoning which shows the location of lot types, front entry versus side entry.

**Multi-family attached residential:**

Minimum lot size: 44.7 acres

Maximum Building Height: 3 stories or 45'

Density: Maximum 7.85 units per acre

Setbacks: Front 65' from Parkway/ 25' from all others  
Side 15'  
Rear 30'  
Corner side 20'

Should multifamily units be developed on this site, it shall be limited to 351 units and shall not be transferable to Tract 2.

If multifamily is developed on Tract 3 at 351 units max or less, there shall be no development permitted of multifamily units on Tract 2.

**Office:**

Minimum lot size: 30,000 SF

Maximum Building Height: 10 stories or 150'

Setbacks: Front 65' from Parkway  
Side 10'  
Rear 15'  
Corner side 15'

**Permitted uses:**

1. Bed and Breakfast (Limited to a maximum of 15,000 SF)
2. Church, Synagogue
3. Country Club
4. Park and Playground
5. Private recreation areas in combination with residential development
6. Professional/Medical offices
7. Residential single-family detached
8. Residential multi-family attached
  - a. Should multi-family be developed on this tract, the multi-family approved for Tract 2 is deleted. Only one multi-family development shall be permitted on either Tract 2 or Tract 3.
9. Residential, two family attached (fee simple town homes)

**Tract 4: 9.4 acres minimum**

Density: Multi-family attached at 15 upa = 141 apartments max. -Or- Office at 6,500 SF per acre = 45,000 SF max.

Tract 4 shall be permitted to either develop as office use or as Multi-family Attached residential in order to respond to the marketplace. Should it develop Multi-family Attached residential, a maximum density of 15/acre shall be permitted or no more than 141 Multi-family Attached residential units. In the event the 141 apartment units are constructed on this site, the permitted 351 apartment units shall not be permitted on any pod.

Office:

Minimum lot size: 30,000 SF

Maximum Building Height: 10 stories or 150'

Setbacks: Front 65' from Parkway/ 25' from all others  
Side 10'  
Rear 10'  
Corner side 15'

Multi-family attached residential:

Minimum lot size: 9.4 acres

Maximum Building Height: 2.5 stories or 40'

Setbacks: Front 65' from Parkway/ 25' from all others  
Side 15'  
Rear 30'  
Corner side 20'

Permitted Uses:

1. Artisan Studio
2. Assisted living facility/Nursing Home
3. Associations (clubs, lodges, special events facilities)
4. Auditorium
5. Bakery (Maximum 5,000 SF)
6. Bed and Breakfast (15,000 SF maximum)
7. Church, Synagogue
8. Clinic
9. Financial Institutions
10. Governmental Use
11. Hotel (Shall be limited to 200 rooms maximum for each hotel)
12. Kennel (enclosed – no outdoor housing of animals permitted)
13. Laboratory (research)
14. Medical or Dental offices/clinics
15. Park/Playground
16. Private recreation in combination with multi-family residential
17. Professional offices
18. Residential multi-family attached
19. Retail (Shall be contained within an office building)
20. Retirement/Age restricted home
21. Spa
22. Vet clinic

23. Vocational/trade school

**Tract 5: 51.2 acres minimum**

Density: 3,550 SF per acre = 181,753 SF max.

Office:

Minimum lot size: 30,000 SF

Maximum Building Height: 10 stories or 150'

Setbacks: Front 65' from Parkway

Permitted uses:

1. Artisan Studio
2. Assisted living
3. Associations (clubs, lodges, special events facilities)
4. Auditorium
5. Bakery (Shall be of a retail nature and shall be contained within an office building) (Maximum 5,000 SF)
6. Bed/Breakfast Inn
7. Broadcasting Studio
8. Church, Synagogue
9. Clinic (public/private)
10. Day Care (child/adult)
11. Dry cleaning (Shall be contained within an office building)
12. Governmental Use
13. Hair Salon
14. Hotel (Shall be limited to 200 rooms maximum for each hotel)
15. Kennel (enclosed – no outdoor housing of animals permitted)
16. Laboratory (research)
17. Medical and/or Dental offices/clinics/outpatient services
18. Park/Playground/Recreation areas serving residential development
19. Parking lot/deck
20. Professional offices
21. Restaurants without a drive-thru
22. Retail (All retail shall be contained within an office building which shall be the principal use)
23. Vet clinic
24. Vocational/trade school

**Tract 6: 54.8 acres minimum**

Density: Maximum 18,250 SF per acre = 1.0 million SF maximum –or- Retirement Community at 3 upa maximum

Minimum lot size: 30,000 SF

Maximum Building Height: 15 stories or 225'

Setbacks:

Front: 65'



Side: 15'  
Rear: 25'  
Corner side: 15'

All uses submitted within Applicant's Letter of Intent shall be permitted for Tract 6.

The following addition shall be made to listed permitted use J. Tower:

Tower use shall be related to hospital facilities and/or hospital use only.

No commercial free-standing tower shall be permitted.

**Tract 7: 7.4 acres minimum**

Density: Maximum 6,216 SF per acre = 45,998 SF maximum

Office:

Minimum lot size: 30,000 SF

Maximum Building Height: 10 stories or 150'

Setbacks: Front 65' from Parkway/ 20' from all others  
Side 10'  
Rear 25'  
Corner side 15'

Permitted Uses:

1. Artisan Studio
2. Associations (clubs, lodges, special events facilities)
3. Auditorium
4. Bakery (Maximum 5,000 SF)
5. Bed and Breakfast (15,000 SF maximum)
6. Financial Institutions
7. Church, Synagogue
8. Clinic
9. Governmental Use
10. Hotel (Shall be limited to 200 rooms maximum for each hotel)
11. Kennel (enclosed – no outdoor housing of animals permitted)
12. Laboratory (research)
13. Medical or Dental offices/clinics
14. Park/Playground
15. Professional offices
16. Retail (Shall be contained within an office building)
17. Spa
18. Vet clinic
19. Vocational/trade school

**South Tract- 116.3 +/- acres**

**Pod A: 22.1 acres minimum**

Density: 6,221 SF per acre = 137,498 SF maximum

Setbacks: Front 65' from Parkway  
Rear 25'

Permitted uses:

1. Associations (clubs, lodges, special events facilities)
2. Clinic
3. Financial Institutions
4. Hotel (Shall be limited to 200 rooms maximum for each hotel)
5. Medical or Dental offices/clinics
6. Medical Laboratory (research)
7. Parking lot/ Parking deck
8. Professional offices
9. Retail (Shall be contained within an office building)
10. Restaurant without a drive thru
11. Vocational/trade/academic school

**Pod B: 8.4 acres minimum**

Density: 6,201 SF per acre = 52,090 SF maximum

Setbacks: Front 65' from Parkway/ 50' from all others  
Rear 25'

Permitted uses:

12. Associations (clubs, lodges, special events facilities)
13. Clinic
14. Financial Institutions
15. Hotel (Shall be limited to 200 rooms maximum for each hotel)
16. Medical or Dental offices/clinics
17. Medical Laboratory (research)
18. Parking lot/ Parking deck
19. Professional offices
20. Restaurant without a drive thru
21. Retail (Shall be contained within an office building)
22. Vocational/trade/academic school

**Pod C: 13.5 acres minimum**

The density of Pod C shall be 8.34 units per acre only in the event that all units are provide with rear entry garages accessed by an alleyway.

In the event 100% rear entry garages may not be provided, the maximum density shall be 6.0 units per acre.

**Pod D: 32.1 acres minimum**

The density of Pod D shall be 4.0 units per acre in the event the total number of units is provided in the following percentages with the specified type of entry configuration:

33% side entry, 33% rear entry, 34% front,

In the event this distribution of entry types is not achievable, the density of Pod D shall not exceed 3.0 units per acre.

There shall be no development entrance to this Pod located on S.R. 140,

Setbacks: Front 20'  
Side 10'  
Rear 25'  
Corner side 15'

For the purposes of this condition *shed* shall mean tool or garden/pool shed.

**Pod E: 7.6 acres minimum**

Density: 6,224 SF per acre = 47,304 SF maximum

Permitted uses shall include those listed in the Applicant's Letter of Intent except that restaurants shall not be permitted with drive-thrus.

**Pod F: 2.0 acres minimum = 12,246 SF maximum**

Density: 6,123 SF per acre

Setbacks: Front 65' from Parkway

Permitted uses:

1. Day Care (child/adult)
2. medical/dental offices/clinic
3. Professional office
4. Restaurant without a drive-thru

**Pod G: 10.0 acres minimum**

Density: 6,212 SF per acre = 62,160 SF maximum

Setbacks: Front 65' from Parkway

Permitted uses:

1. Associations
2. Clinics
3. Financial Institutions
4. Hotel (Shall be limited to 200 rooms maximum for each hotel)
5. Medical Laboratory
6. Medical Office
7. Professional Office
8. Parking lot/parking deck
9. Research facilities



10. Restaurant without a drive-thru
11. Retail establishment (Shall not exceed 30% of Pod G)

**Pod H: 10.6 acres minimum**

Density: 6,234 SF per acre = 66,076 SF maximum

Minimum lot size: 1.0 acre

Setbacks: Front 65' from Parkway  
Others as listed in Letter of Intent

There shall be no curb cuts permitted to access this pod from S.R. 140,

**Permitted uses:**

1. Clinic
2. Dental/Medical office
3. Financial Institutions
4. Professional office
5. Restaurant without a drive-thru/Cafe
6. Restaurant with a drive-thru
  - a. There shall be no more than one (1) restaurant with a drive-thru. Menu boards shall not be visible from the road in which the restaurant's front façade faces,
7. Retail

**Pod I: 10.0 acres minimum (Parkway)**

There shall be no exemption of tree protection requirements for Pod I.

- (37) All permitted restaurants with a drive-thru shall be required to be located no less than 1000' from the right-of-way of the arterial parkway,
- (38) Developer shall provide an overall Master Plan, meeting the requirements of the above conditions, to the Department of Planning and Zoning for review and approval prior to the first submittal for plat or permit from the City of Canton. Said Master Plan shall be updated with each subsequent submittal for permit of each pod. One copy shall be included within the plan sets for permitting and three (3) single copies shall be submitted to the Department of Planning and Zoning,
- (39) Unless otherwise noted, all required site amenities, components, etc. shall be shown on the site plan in conjunction with submittal for a Land Disturbance Permit. Unless otherwise noted, all above conditions shall be installed and/or completed prior to issuance of the first Certificate of Occupancy. Verification of this installation and/or completion shall be performed by the Department of Planning and Zoning. An inspection

shall be scheduled with the Department of Planning and Zoning by the property Owner, or his/her representative.

- (40) Those pods/tracts containing commercially oriented end users shall be subject to site plan review by the City of Canton Planning Commission. Said site plan shall be submitted to the Department of Planning and Zoning for review and approval by the City of Canton Planning Commission prior to submittal and/or issuance of the land disturbance permit associated with each pod,

The approval and conditions of this master plan shall be made part of and recorded with any title change or request for any additional permits.

If you require additional information pertaining to this matter, please feel free to contact me at 770-704-1505.

Sincerely,



Melissa R. Casteel  
Planning and Zoning Official

MRC:mrp

DILLARD AND GALLOWAY LLC  
3500 LENOX ROAD NE  
STE 760  
ATLANTA, GA 30326

STATE OF GEORGIA  
CITY OF CANTON

Deed Book **9798 Pg 349**  
Filed and Recorded 8/22/2007 2:12:00 PM  
28-2007-042021

Patty Baker  
Clerk of Superior Court Cherokee Cty, GA

### DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT, made and entered into this 14<sup>th</sup> day of August, 2007, by and between the CITY OF CANTON, GEORGIA, a municipal corporation chartered under the laws of the State of Georgia (hereinafter "City") and CANTON MARKETPLACE, LCC, the owner of the property described in Exhibit "A" incorporated herein by reference (hereinafter "Owner" or "Developer").

### PREAMBLE

WHEREAS, Developer is the owner of that certain property described in Exhibit "A" attached hereto and made a part hereof, which consists of approximately 99.30 acres located at the southeastern corner of the intersection of SR-20 (Cumming Highway) and Interstate 575 in Land Lots 266 and 267 in District 14, Section 2 ("Canton Marketplace"); and

WHEREAS, Canton Marketplace is part of a larger, master-planned development (MP0201-01) (hereinafter "Canton Place") that was approved by the Canton City Council on December 16, 2004 for a mixture of uses, including medical, retail, office, residential, and open space; and

WHEREAS, the Canton Place master-planned development was approved by the Canton City Council subject to forty (40) conditions (hereinafter 2004 Conditions). See copy of approved legislation with conditions attached hereto as Exhibit "B"; and

WHEREAS, on January 22, 2007, Developer sought site plan approval of Tract 1 of what is referred to in the 2004 legislation as the North Tract of the Canton Place development; and

WHEREAS, on April 16, 2007, the Planning Commission recommended approval of a new site plan with 53 conditions (hereinafter "2007 Conditions"), a copy of the approved conditions attached hereto as Exhibit "C"; and

WHEREAS, prior to said Planning Commission approval, the Oversight Committee approved said site plan and all exhibits (hereinafter "2007 Condition Exhibits"); and

WHEREAS, on May 3, 2007, the Canton City Council voted to approve Developer's site plan approval request for Tract 1 of Canton Marketplace; and



WHEREAS, the City Council's approval of the Developer's site plan submittal was subject to the 2007 Conditions, most of which are specific to the Canton Marketplace development; and

WHEREAS, 2007 Condition 51 requires that the Developer enter into a Development Agreement with the City of Canton; and

WHEREAS, the Developer desires, through this Development Agreement, to clarify the applicability (or lack thereof) of the 2004 Conditions which were part of the 2004 site plan approval for Canton Marketplace; and

WHEREAS, the Developer further desires to expound upon the fifty-three (53) 2007 conditions that were part of the Canton Marketplace site plan approval; and

WHEREAS, it is the desire of all parties to receive assurances from the other that certain essential events will occur in order to facilitate the development of Canton Marketplace, to ensure that the Canton Marketplace Property will be developed according to the zoning requirements of the City, and according to the terms of this Agreement; and

WHEREAS, it is the desire of the parties hereto to coordinate and to cooperate with one another in such efforts; and

NOW, THEREFORE, for and in consideration of the covenants and agreements hereinafter stated and for the sum of ONE and 00/100 DOLLAR (\$1.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.

The foregoing recitals are incorporated into this instrument.

2.

**Applicability of Canton Place 2004 Master Plan Conditions  
to Canton Marketplace**

With regard to the applicability of the forty (40) 2004 Conditions to Tract 1 of the Canton Marketplace development, the parties agree that those 2004 Conditions shall apply to Canton Marketplace only to the extent identified in the table below:

Condition	2004 Master Plan Conditions for Canton Place Overall Development	Applicability of Canton Place 2004 Master Plan Conditions to Canton Marketplace ("CMP")
1	Compliance with City of Canton Code of Ordinances.	Applicable, except to the extent that the site plan shown as 2007 Condition Exhibit T conflicts with such requirements, in which case the site plan shall control (regarding parking, buffers, density, etc.); Refer to 2007 Condition 41
2	Increase in residential units or substantial changes to the Master Plan shall be approved by Mayor and Council.	Not applicable unless there is a substantial change to the Canton Marketplace Site Plan.
3	Provide transit plan within 90 days of Master Plan approval.	Developer shall be allowed to comply with this condition independent of the other developers in the Canton Place overall Master Plan and obtain an LDP.
4	The Applicant shall submit an updated trip generation rate with each submittal for an LDP for each tract or pod.	Applicable.
5	All proposed roadways shall be public.	Only Hospital Boulevard and Commerce Parkway shall be public.
6	No outside storage of any kind shall be permitted.	Outdoor Sales, Storage, and Display shall be in accordance with Paragraph 5 below as shown on the attached Exhibit D.
7	Provide streetscape and lighting plan with LDP submittal.	Developer shall be allowed to comply with this condition independent of the other developers in the Canton Place overall Master Plan and obtain an LDP.
8	Create Homeowners Association before the issuance of the first CO	Not applicable to Canton Marketplace.
9	Provide fire station property conveyance	At or prior to the issuance of an LDP, the Developer shall contribute \$150,000 toward the City's purchase of a fire

		station to serve this development. Developer shall be allowed to comply with this condition independent of the other developers in the Canton Place overall Master Plan and obtain an LDP. Refer to 2007 Condition 45.
10	Payment of \$500 per residential unit in order to mitigate the impact of the proposed development.	Not applicable to Canton Marketplace.
11	Minimum 50' undisturbed vegetative buffer shall be provided between the subject development and all contiguous residentially zoned properties.	In light of the architectural, landscaping, hardscaping, and screen wall requirements per 2007 Conditions 16, 17, 23, and 46, the 50' buffer requirement is no longer required and reduced to zero feet with regard to the Keystone property to the south, the Herndon property to the east, and the Flint property to the east and is controlled by the site plan shown as 2007 Condition Exhibit T. With regard to 2007 Conditions 16 and 17, City acknowledges that upon the grading and finishing of the site, a 10' brick wall, rather than a 15' brick wall, may satisfy the screening requirement, and therefore can be changed to allow for a 10' high brick wall.
12	All utilities serving this development shall be provided by the City of Canton. All utilities shall be underground.	Applicable.
13	Highway 140 right-of-way improvements, deeded before LDP issuance.	Not applicable to Canton Marketplace.
14	SR-20 right-of-way improvements, deeded before LDP issuance.	This condition requires a full frontage lane running parallel to SR-20 to be installed at the time of LDP. The City recognizes the impending construction of the ramp at I-



		575 at SR-20 and the widening of SR-20. The developer shall pay the City the cost of the full frontage lane, including the sidewalk, streetscape, transit shelters and signage. The amount paid to the City for the full frontage lane shall be the incremental cost beyond that incurred by the Developer in conjunction with its current design. If DOT does not approve the full frontage lane, the City shall reimburse the Developer the incremental amount paid. Refer to 2007 Condition 8.
15	Parkway construction before LDP issuance.	Eliminate condition.
16	Curb cuts and median breaks shall be submitted for review and approval of the City of Canton and the Georgia Department of Transportation.	SR-20 curb cuts are subject to DOT approval with city coordination as shown and set forth in 2007 Conditions 29, 32, 36, 42 and the site plan shown as 2007 Condition Exhibit T.
17	Agreement to fund 4 traffic signals, no less than \$60,000 each and paid before LDP submittal.	This condition has been modified by 2007 Conditions 10, 14, 15, 31 and 42. 2007 Condition 42 provides for four (4) full access curb cuts on SR-20 and two (2) right-in/right-out curb cuts. This satisfies the 2004 Condition 17.
18	Additional traffic signal, paid before LDP submittal.	Not applicable. See condition 17 above.
19	I -575 Exit 19 improvements shall be built in accordance with the Georgia Department of Transportation plans.	Applicable.
20	Provide 25% open space; open space plan within 90 days of Master Plan approval.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP. The

		Open Space Plan shall be controlled by 2007 Conditions 21 and 22, including an \$851,500 off-site open space contribution (\$65,000 per acre for 13.1 acres).
21	Any open space, access and/or easements to commonly owned property, or detention facilities, shall NOT be made part of any subdivided lot.	Applicable.
22	Developer shall provide a signage program to the Department of Planning and Zoning for the subject development no more than 90 days following approval of the master plan.	Signage is set forth on 2007 Condition Exhibit A and has been approved by the Oversight Committee and is controlled by 2007 Conditions 3, 4, 5 and 6.
23	Submit development trail plan with LDP application.	The Developer shall be permitted to integrate its trail plan into the master plan trail plan at the time that the master plan trail plan is available.
24	Sidewalks and roadway lights in accordance with the Overlay Zone Community Standards Ordinance.	The required sidewalk width is a minimum of 6' per the Overlay Zone Community Standards Ordinance (OZCSO). The City shall establish a separate escrow account for those funds paid by the Developer for street lighting and sidewalks on SR-20 per 2007 Condition 8. Said funds shall be used for construction of lighting and sidewalks to the extent that DOT does not construct the same in accordance with the City of Canton requirements.
25	A 150' buffer shall be provided along the extents of the property frontage of SR 140/ Hickory Flat Highway.	Not applicable.
26	SR-20 25' setback, parking verification by the City by LDP review.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP.

27	Site lighting, photometric study submitted with LDP.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP.
28	Architectural elevations submitted with building permit.	Oversight Committee review occurred during the site plan approval process with the Planning Commission and City Council as set forth on 2007 Condition Exhibits A - T, and therefore it is not necessary to repeat the review before the Building Permit issuance. Notwithstanding the foregoing, any material changes to the architectural elevations approved at the 4/16/07 Planning Commission must be approved by the Oversight Committee.
29	Building material specifications.	Applicable.
30	Rooftop screens.	All roofmounts shall be screened architecturally from view of pedestrian and vehicle traffic.
31	Fencing information shall be submitted as part of the LDP.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP.
32	Retaining wall information shall be submitted as part of the LDP.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP.
33	Town homes shall be fee simple.	Not applicable
34	Residential area requirements.	Not applicable
35	Apartment home locations.	Not applicable
36	Zoning and uses described.	Controlled by 2007 Condition 41 and the site plan shown as 2007 Condition Exhibit T.
37	All permitted restaurants with a drive-thru shall be required to be located no less than 1000' from the right-of-way of the arterial parkway.	Applicable.



38	Developer shall provide an overall Master Plan, meeting the requirements of the above conditions, to the Department of Planning and Zoning for review and approval prior to the first submittal for plat or permit from the City of Canton. Said Master Plan shall be updated with each subsequent submittal for permit of each pod	Applicable. The Developer has already submitted an overall Master Plan, which has been reviewed and approved by the City.
39	Site amenity shown on site plan for LDP submittal. All conditions completed before CO issuance.	The Developer shall be allowed to comply with this condition independent of the other developers in the Master Plan and obtain an LDP.
40	Commercial tracts subject to site plan review before LDP submittal.	Applicable. The Developer has already submitted a site plan, which has been reviewed and approved by the City.

3.

### **Clarification of Conditions for Canton Marketplace Site Plan Approval**

Where the following conditions conflict with those set forth in Exhibit "C," the following conditions shall control:

4.

2007 Condition 36 is further clarified to permit a right-in/right-out only curb cut onto Commerce Parkway as reflected in 2007 Condition Exhibit T. The language limiting Lowe's access to Brooke Park Drive applies only to service truck traffic. Condition 2 is no longer necessary due to the deletion of the median break on Commerce Parkway as reflected in 2007 Condition Exhibit T.

5.

2007 Conditions 19 and 36 are hereby further clarified to specifically permit 1) a maximum of two pine-straw trailers which may be located in the outside storage area between Kohl's and Lowe's, 2) the containers used to house used appliances located in the outdoor storage area behind the screen wall adjacent to the loading dock as shown on Exhibit "D," and 3) seasonal materials such as lawnmowers and BBQ grills on the front sidewalk, and building materials such as bags of sand, concrete, and drywall under the front canopy. These outside

storage and display items shall be arranged in compliance with the NFPA Life Safety Code. Furthermore, while 2007 Condition 19 limits outdoor sales/storage to be immediately adjacent to the principal building, it is clarified that this includes the areas shown on Exhibit "D" as outdoor sales/storage between the Lowe's Garden Center and the Kohl's buildings and further clarified to include that area immediately behind the brick wall which screens the loading dock.

6.

2007 Condition 48, which refers to sidewalks that will be "maintained in perpetuity," shall mean that all sidewalks shall be maintained by the then-current owner of the shopping center for the life of the shopping center. This responsibility will be recorded with the deed of Canton Marketplace, and the City of Canton is hereby released from this maintenance obligation.

7.

2007 Condition 52 shall be further clarified to specifically allow training and adoption as part of the Petsmart operation. Thus, in addition to veterinarian services and pet grooming, training and adoption of pets shall also be considered ancillary uses in conjunction with the principal use of retail establishment for pet supplies, materials, and goods.

8.

This Development Agreement constitutes the sole and entire agreement between the parties hereto, is intended to be a contract as well as a covenant running with the Property, and no promises, inducements or representations or amendments hereto shall be effective unless reduced to writing and signed by all parties hereto.

9.

The undersigned parties to this Development Agreement warrant that they are authorized to enter into and execute this Development Agreement.

10.

This Agreement and Declaration pertains to property located in Georgia and shall be construed in accordance with the laws of Georgia.

11.

In the event that any part of this instrument is declared invalid or void by a court of competent jurisdiction, such decisions shall not alter or affect the validity of the remaining portions of this instrument, and such remaining portions shall be deemed in full force and effect. This instrument shall be construed to allow maximum duration and enforceability.

12.

The Developer shall cause this instrument to be duly executed in recordable form and recorded in the real property records of Cherokee County, Georgia so that it is binding upon and runs with the Property.

13.

All warranted traffic lights on SR-20 and the traffic light at the entrance to the shopping center from Commerce Parkway shall be installed within 120 days of DOT approval. Notwithstanding the last sentence, the traffic lights at SR-20 and Commerce Parkway and SR-20 and Brooke Park Drive will be installed by the City by December 1, 2008. Further, those traffic lights located outside of the purview of DOT approval but which are on-site serving Canton Marketplace shall be installed by the City within 120 days after they are warranted by the City. The City's obligation is contingent upon a) the sufficient level of completion of the roadway improvements necessary to allow installation and b) Developer's compliance with the 2007 Conditions requiring traffic signal funding. If the City fails to install any of said signals as called for herein, with the exception of the signals at SR-20 and Commerce Parkway and SR-20 and Brooke Park Drive, the funds paid by the Developer to the City may be refunded to the Developer if the City cannot cure or remedy the reason for delay within 90 days, and the Developer shall have rights to install said signals within 90 days of the City's failure to cure or remedy the delay. Should the City fail to install the signal at SR-20 and Commerce Parkway and SR-20 and Brooke Park Drive, the funds paid by the Developer to the City shall be refunded to the Developer, and the Developer shall have the right to install said signal within 90 days from December 1, 2008.

14.

The City will provide, through its best efforts, off-site sanitary sewer to the east side of I-575 by March 31, 2008. In the event that the City has not provided the off-site sanitary sewer east of I-575 by March 31, 2008, or in the event that the City has not graded the parkway from SR-20 to Canton Creek by January 1, 2008 per Section 16 of this agreement, the Developer shall be entitled to pump and haul the sanitary sewer at its expense. If the Developer is forced to pump and haul the sanitary sewer due to the City not providing sanitary sewer per this Section, or because Commerce Parkway has not been graded in accordance with paragraph 16 below, the



City will not restrict issuance of a Certificate of Occupancy (CO), if lack of said sewer or failure to grade Commerce Parkway is the only reason for non-issuance.

15.

The City will provide, through its best efforts, off-site water to the property by March 31, 2008.

16.

The City shall grade the parkway from SR-20 to Canton Creek by March 31, 2008. The Developer shall pave the parkway from Section 0+00 to Sta. 26+00 for impact fee credits. Developer is entitled to a) construction access across the parkway for purposes of sitework construction on both sides of the parkway, and b) a grading easement with use of the excess dirt within the parkway right-of-way dedicated to the City by Developer. The failure of the City to comply with this paragraph as set forth herein shall not restrict issuance of a Certificate of Occupancy (CO), if said parkway incompleteness is the only reason for non-issuance of the CO. If there is no access to Canton Marketplace through any public right-of-ways, and the City must enter Canton Marketplace for public safety/emergency purposes, the City is not liable for damages to private property.

17.

2007 Condition 43 requires that Developer maintain the landscaping, lighting, sidewalks and seating amenities within the City-owned right-of-ways. It is expressly understood and agreed that a) the right-of-way provided by the Hospital and others is excluded from this maintenance requirement so that Developer's only maintenance requirement is for right-of-ways dedicated by Developer as shown in Exhibit "E," and b) the roadway inside the sidewalks, including the medians are excluded from this maintenance requirement.

18.

The terms of this Development Agreement may not be changed, modified, waived, discharged or terminated orally, but only by an instrument or instruments in writing, properly executed and delivered by all of the parties hereto. Time is of the essence in this Agreement. All of the provisions of this Agreement are hereby made binding upon the personal representatives, heirs, successors and assigns of the parties hereto. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement and that the usual rule of construction to

the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year first above written.

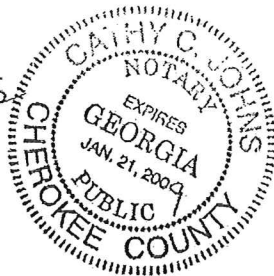
Signed, sealed and delivered  
presence of:

THE CITY OF CANTON,  
a municipal corporation,

*Wb Hasty*  
Unofficial witness

By: *Cecil Pruet*  
Name: CECIL PRUET  
Title: MAYOR, CITY OF CANTON

*Cathy C. Johns*  
Notary Public  
Commission Expiration Date:



Signed, sealed and delivered  
presence of:

CANTON MARKETPLACE, LLC,  
a Georgia limited liability company

By: Sembler Family Partnership #36, L.P.,  
a Florida limited Partnership, I its manager

By: Sembler Retail, Inc., a Florida  
corporation, its general partner

J. Leebetter  
Unofficial witness

By: [Signature]  
Name: Jeff Fuqua  
Title: Vice President/Assistant Secretary

Candice Creighton Townsend  
Notary Public

Commission Expiration Date: August 1, 2009

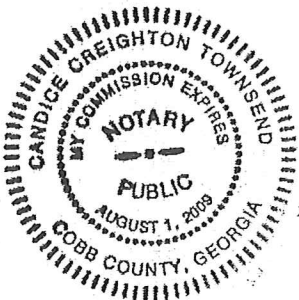




EXHIBIT "A"

Legal Description of Property

**Resolution #**

**AMENDMENT TO APPROVED CONDITIONS FOR CANTON PLACE**

Applicant: City of Canton

A Resolution approving the deletion of a certain condition as it pertains to the development commonly known as Canton Place:

**THE DEVELOPMENT COMMONLY KNOWN AS CANTON PLACE** located between sections of SR 20 and SR 140, the state routes being connected by Northside Cherokee Boulevard;

**WHEREAS**, it is hereby found and determined that with the consolidation of the Cherokee County Fire Department and City of Canton Fire Department the requirement of a land donation or payment in lieu of is no longer needed;

**WHEREAS**, a public hearing was held on December 15, 2016 to delete all requirements of approval which pertained to the required land donation for a fire station or payment in lieu of;

**NOW THEREFORE**, be it resolved that the Mayor and City Council of the City of Canton does hereby APPROVE the deletion of Condition 9 of Master Plan MP0201-01, and Condition 45 of Cases AX0608-001/Z0608-002, AX0608-002/Z0608-003, AX0608-003/Z0608-004 and Condition 9 of the Development Agreement between the City of Canton and Canton Marketplace LLC

**BE IT SO RESOLVED** on this the 15<sup>th</sup> day December, 2016

\_\_\_\_\_  
Gene Hobgood, Mayor

Attest: \_\_\_\_\_  
Susan C. Stanton, City Clerk

Approved as to Form and Content:

\_\_\_\_\_  
Robert M. Dyer, City Attorney

Adopted by Council: December 15, 2016

Approved by Mayor: \_\_\_\_\_

Veto by Mayor: \_\_\_\_\_

Second Vote by Council: \_\_\_\_\_

Effective Date: \_\_\_\_\_