

# GOVERNMENT OF THE CITY OF SOUTH FULTON

ODIE DONALD II  
CITY MANAGER



SHAYLA REED  
INTERIM DIRECTOR  
COMMUNITY DEVELOPMENT SERVICES

## MEMORANDUM

**TO:** City of South Fulton Mayor & Council  
**FROM:** Planning & Zoning Division  
**SUBJECT:** **Z18-004 for 1180 Utoy Springs Road SW**  
**MEETING:** July 24, 2018

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Tom Daniel of Omni Consulting Services Inc. seeks to rezone the parcel at 1180 Utoy Springs Road from **MIX with conditions (Mixed Use District)** to **C-1 (Community Business District)**.

### **STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS**

5/15/18: PLANNING COMMISSION RECOMMENDED DENIAL

6/26/18: MAYOR & COUNCIL DEFERRED REQUEST

cc: Mark Massey, City Clerk

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**APPLICATION INFORMATION**

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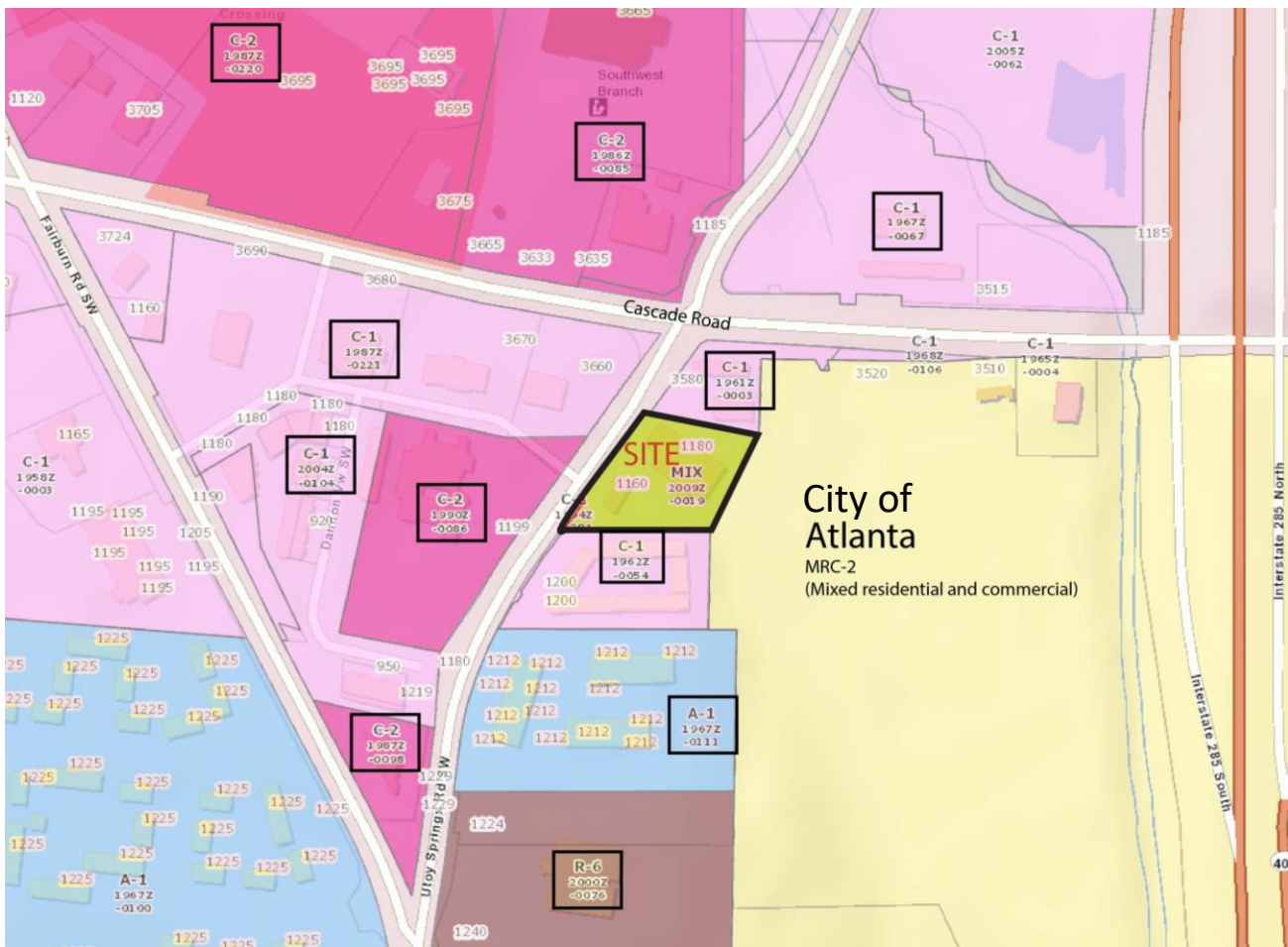
Applicant Information:	Tim Daniels Omni Consulting Services Inc. 2108 Delta Way Tallahassee, Florida 32303
Status of Applicant:	The applicant intends to purchase the property.
City Council District(s):	1
Parcel ID Number:	14F0010 LLO632
Area of Property:	The property is composed of approximately 1.028 acres.
Current/Past Use of the Property:	The property currently has two vacant buildings.
Prior Zoning Cases/History:	The subject site was part of a larger land area's rezoning case, the remainder of which has since annexed into the City of Atlanta: <b>Z09-019</b> , request to rezone from R-3 (Single-Family Dwelling District), C-1 (Community Business District), and C-2 (Commercial District) to MIX (Mix-Use District) – <b>APPROVED</b>
Surrounding Zoning:	<u>North:</u> C-1 (Community Business District)  <u>East:</u> <i>City of Atlanta</i> MRC-2 (Mixed Residential and Commercial)  <u>South:</u> <ul style="list-style-type: none"><li>• C-1 (Community Business District)</li><li>• A-1 (Apartment Dwelling District)</li></ul> <u>West:</u> <ul style="list-style-type: none"><li>• C-2 (Commercial District)</li><li>• C-1 (Community Business District)</li></ul>
2035 Future Land Use Designation:	Regional Live-Work
Compatibility with Fulton County 2035 Comprehensive Plan:	The proposed C-1 zoning is consistent with the existing Regional Live-Work land use designation which includes MIX, C-1, C-2, O-I, and SH as its compatible zoning classifications.
Overlay District:	Cascade

**Public Utilities:** Water service is provided to the site by City of Atlanta. Sewer service is available to the site by Fulton County. Any extension of sewer service is the responsibility of the developer.

**Public Services:** Police and fire services are available to the site by the City of South Fulton.

**Transportation:** Street: Utoy Springs Rd  
Public Transit: MARTA bus route 71 is available on Cascade Road approximately 150 feet from the site.  
Bike/Pedestrian Access: Sidewalks are available on Utoy Springs Road.

**Parking Required (Restaurants):** 29 spaces (10 spaces per 1,000 square feet)  
**Parking Proposed:** 36 spaces  
**Loading Required:** Proposed square footage does not meet minimum threshold that requires loading spaces.



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## **PUBLIC PARTICIPATION**

The applicant held their own public meeting April 30, 2018, 6-7 p.m., at the Fulton County Public Library Southwest Branch at 3665 Cascade Rd. Sixteen members of public attended to express concern on traffic. The applicant projects that some traffic will be diverted to Burger King when customers choose Burger King over the nearby McDonalds or Chick-fil-A, among others, and they described a visual traffic study performed during lunch hour. The applicant also reports that local residents who use Utoy Springs Rd daily reported to them that traffic is not a problem and encouraged the redevelopment of the property into a Burger King.

Five members of the public attended the Staff-hosted Community Zoning Information Meeting.

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## **STAFF COMMENTS**

### Engineering:

- The South Utoy Creek FEMA-Designated Special Flood Hazard Area encroaches into the subject property. Based on the FEMA FIS Profile for South Utoy Creek, the 100-year Base Flood Elevation is 811.50' (NAVD 1988) at the subject property. The proposed building finished floor shall be at least 3' above the Base Flood Elevation, and the site shall be developed so that dumpsters or similar refuse or recycling containers and dumpster pad drains will be elevated above the Base Flood Elevation.
- If proposed development will involve filling and compensatory flood storage (cut) for placement of fill in the floodplain or includes a placing a proposed structure, such as a dumpster pad screening wall, in the flood plain, a Variance to Zoning Resolution 4.24.5 will be required before proposal would be eligible for permitting. Should proposal require Variance to 4.24.5, and should Variance be granted, development shall otherwise comply with all aspects of the Floodplain Management Ordinance (Zoning Resolution 4.24).
- Should it be necessary to dedicate right of way to provide required street improvements, new right of way boundary shall be at least 10.5 feet behind back of curb and shall encompass sidewalk. Any required landscape strips, building setbacks, etc. along Utoy Springs Rd shall be measured from new right of way.

Environmental: The applicant shall connect the proposed development to public water and sanitary sewer available to the site. Smoking is not permitted on the premises at any time per Fulton County Code Chapter 24 Article III. Since the property is near residential uses, the developer shall restrict hours of operation to the extent of what already exists in the area, however this includes both a Shell service station and McDonalds, both of which are open 24 hours per day. Based upon the information submitted, Fulton County Board of Health does not anticipate any adverse impacts to the health of humans or the environment as a result of approving the proposed rezoning of the property from MIX to C-1 to allow for the construction of the proposed food service establishment so long as there will not be significant traffic issues leading to environmental conditions that could negatively affect health.

Public Works: There is one sanitary sewer manhole in existence along the western property boundary today that can service this project.

Transportation: The developer shall add both a left-turn and right-turn lane into the development.

MARTA: The site is currently served by a sheltered stop at the corner of Cascade Rd and Utoy Spring Rd.

Fulton County Schools: Reviewed; no comments

Fire: None provided

Legal: None provided

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## **ZONING IMPACT ANALYSIS**

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

The subject property is proposed to be rezoned to C-1 (Community Business District). The adjacent properties to the north and south are within this same zoning district. The property across the street from the subject site is also zoned C-1, along with C-2 (Commercial District). To the east, the property abuts the City of Atlanta MRC-2 district which is designated for both residential and commercial development. The proposed zoning district eliminates an existing case of spot zoning.

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

The proposed commercial use will not adversely affect the surrounding properties as all adjacent parcels are also commercially zoned.

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

The current zoning of the site, MIX (Mixed-Use District), was part of a larger rezoning case created for a large mixed-use development. The remainder of the land involved in this rezoning case has since been annexed into the City of Atlanta, so the site plan of the mixed-use development proposed in 2009 has become obsolete. Thus, the current zoning does not exemplify reasonable economic use.

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

The site is part of a major commercial node for the City of South Fulton at an intersection with Interstate 285, as exemplified by the Comprehensive Plan's designation of the area as Regional Live-Work. The developer must employ proper vehicular alignment, striping, and stop signs to cooperate with traffic flow, as designated on the site plan submitted March 27, 2018.

### **5. Whether the zoning proposal is in conformity with the policies and intent of the land use plan;**

The Fulton County 2035 Comprehensive Plan's Future Land Use Map designates the area as "Regional Live-Work" which includes MIX, C-1, C-2, O-I, an SH as its compatible zoning classifications. Thus, the proposal is in direct conformance with the Comprehensive Plan.

**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 zoning proposal; and**

The current zoning of the site, MIX (Mixed-Use District), was part of a larger rezoning case created for a large mixed-use development. The remainder of the land involved in this rezoning case has since been annexed into the City of Atlanta, so the site plan of the mixed-use development proposed in 2009 has become obsolete. This site has now become a case of spot zoning due to the annexation. A rezoning to the same zoning district already in the area eliminate this case of spot zoning.

**7. Whether the zoning proposal will permit a use which can be considered environmentally adverse to the natural resources, environment and citizens of City of South Fulton.**

The Environmental Site Assessment submitted by the applicant provides that there are no adverse environmental effects projected by the site's proposed development.

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**PLANNER'S RECOMMENDATION**

The properties surrounding the site are similarly zoned C-1 and C-2 (Community Business District and Commercial District, respectively), and the proposed zoning district is in conformance with the Comprehensive Plan. The existing zoning, MIX with conditions (Mixed-Use District) has become obsolete due to the annexation of the remaining land within the rezoning case into the City of Atlanta, and leaves the subject site as a case of spot zoning. Based upon the findings and conclusions herein, **Staff recommends APPROVAL of the request to rezone the property from MIX with conditions (Mixed-Use District) to C-1 (Community Business District) with the following conditions:**

- 1. The developer shall abide by the site plan received by the City of South Fulton on March 27, 2018. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Resolution and these conditions prior to the approval of a Land Disturbance Permit. Any major deviation from this site plan is subject to approval by the Community Development Services Director or designee.**
- 2. The developer shall add both a left-turn and right-turn lane into the development. Should it be necessary to dedicate right of way to provide required street improvements, new right of way boundary shall be at least 10.5 feet behind back of curb and shall encompass sidewalk. Any required landscape strips, building setbacks, etc. along Utoy Springs Rd shall be measured from new right-of-way.**
- 3. The site shall be developed so that dumpsters or similar refuse or recycling containers and dumpster pad drains are elevated above the Base Flood Elevation.**

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**PLANNING COMMISSION RECOMMENDATION**

DENIAL at the May 15, 2018 meeting

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**REVIEWED BY:**

Dana Gray

