



REZONING APPLICATION ANALYSIS

ZONING CASE #: Z2016-34 **LEGISTAR:** 20161124

LANDOWNERS: **JE Cherokee Street, LLC**
300 Galleria Parkway
Suite 300
Atlanta, GA 30339

APPLICANT: **McWhirter Realty Partners, LLC**
300 Galleria Parkway
Suite 300
Atlanta, GA 30339

AGENT: **J. Kevin Moore, Esq.**
Moore, Ingram, Johnson, & Steele, LLP
326 Roswell Street
Marietta, GA 30060

PROPERTY ADDRESS: **732 Cherokee Street & 120 Lewis Drive**

PARCEL DESCRIPTION: **Dist 16, LL 1074, Parcels 0390 & 0500**

AREA: **1.358 acres** **COUNCIL WARD:** **4B**

EXISTING ZONING: **OI (Office Institutional)**

REQUEST: **NRC (Neighborhood Retail Commercial)**

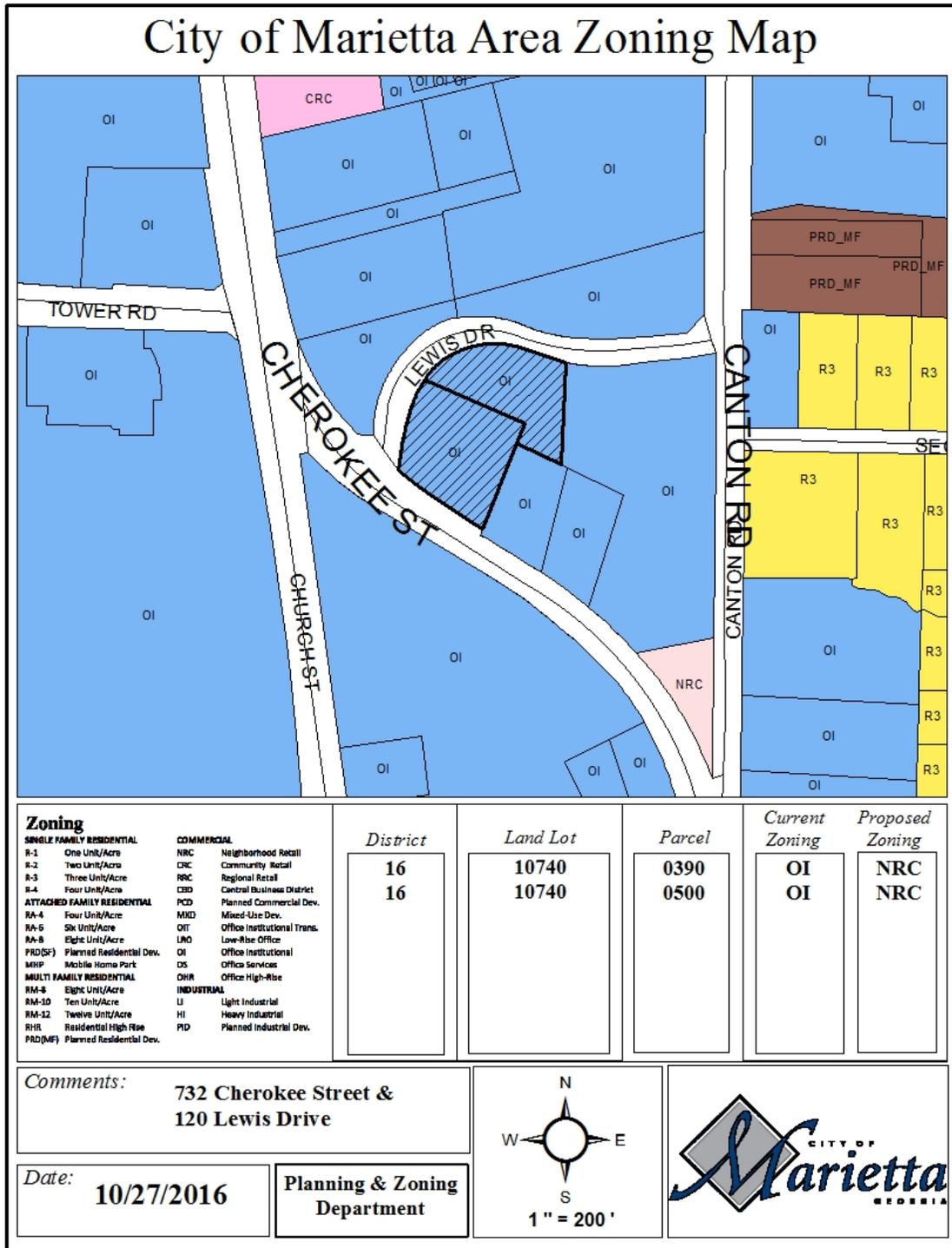
FUTURE LAND USE: **CSI (Community Service & Institutional)**

REASON FOR REQUEST: **The applicant is requesting the rezoning of this property, with multiple variances, in order to construct a retail/restaurant building and parking lot.**

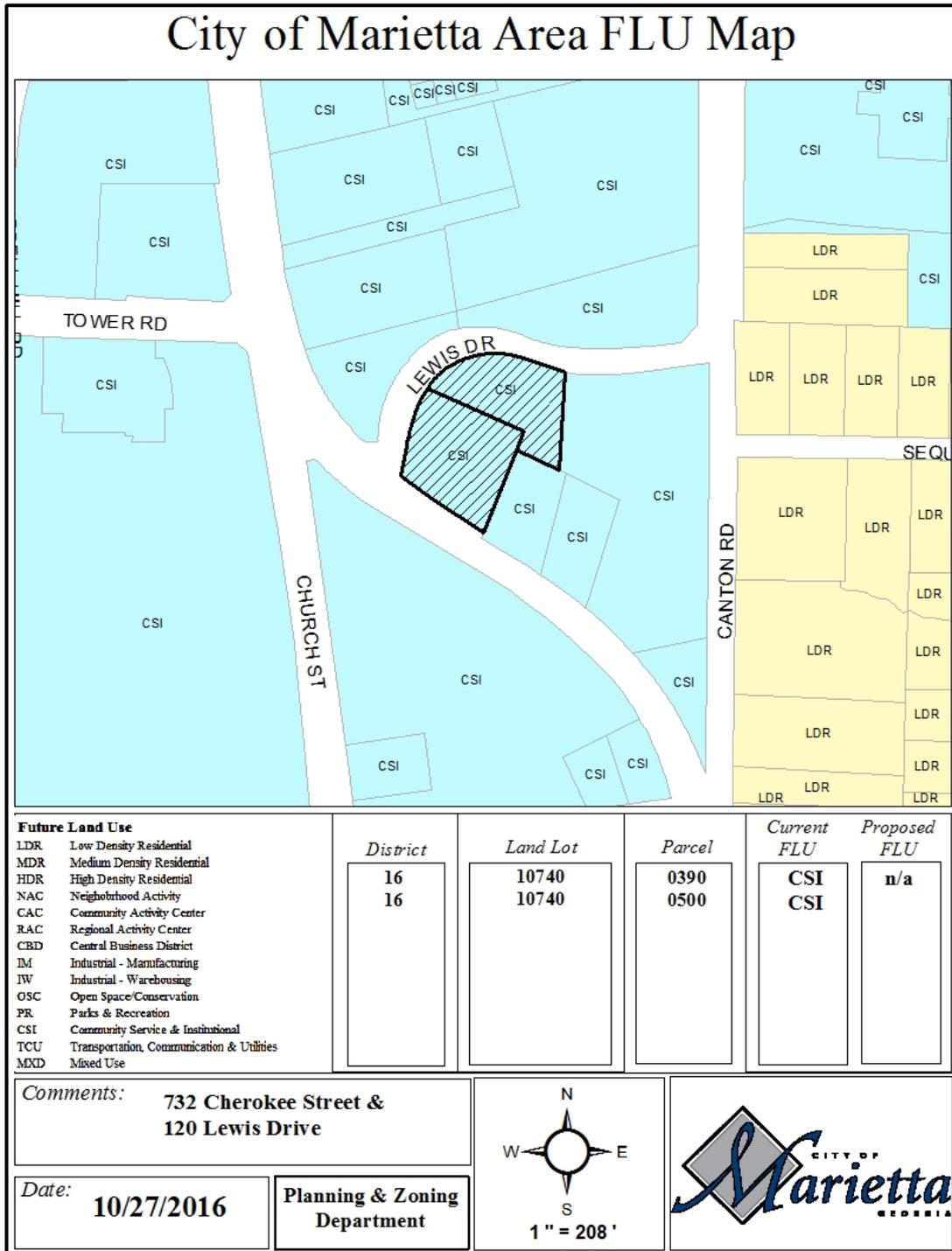
PLANNING COMMISSION HEARING: **Tuesday, December 6th, 2016 – 6:00 p.m.**

CITY COUNCIL HEARING: **Wednesday, December 14th, 2016 – 7:00 p.m.**

MAP



FLU MAP



PICTURES OF PROPERTY



Existing building at 732 Cherokee Street



Existing slab at 120 Lewis Drive



Existing Lewis Drive frontage



Existing Cherokee Street frontage

STAFF ANALYSIS

Location Compatibility

McWhirter Realty Partners, LLC, represented by J. Kevin Moore, is requesting the rezoning of 2.1 acres at the corner of Cherokee Street and Lewis Drive from OI with stipulations to NRC (Neighborhood Retail Commercial) in order to develop a retail/restaurant shopping center and parking lot. The subject property is surrounded on all sides by properties zoned OI and containing various offices and restaurants.

Use Potential and Impacts

The proposal includes an 8,718 square foot building for retail/restaurant and 78 parking spaces. The building is shifted into the far western corner of the property where Lewis Drive meets Cherokee Street, presumably to provide an outdoor patio or plaza environment. This building orientation will require multiple variances because of its location. However, there are certain areas of the City where buildings are encouraged to be shifted towards the front of the property in order to accommodate pedestrians, improve aesthetics and locate parking areas to the rear of the property. The following variances would be necessary in order to implement the building placement as shown on the attached plan:

- Variance to reduce the front setback from 35' to 5' at the closest point.
- Variance to reduce the major side setback from 20' to 6' at the closest point.
- Variance to reduce the landscape strip along a portion of Cherokee Street to 2.'
- Variance to eliminate the landscape strip along portions of Lewis Drive and Cherokee Street
- Variance to reduce the landscape strip along Lewis Drive from 10' to 5'.

The intended retail/restaurant use would be a useful addition to the area, which is dominated by professional and medical offices and is a large employment center with very little commercial options. There should be no adverse impact on the surrounding properties or area. However, there are some potential issues on the site design that would require adjustment or variances:

- No opportunity for street trees along Cherokee Street, unless tree wells are cut into the patio area or planted in the right of way. However, planting in the right of way may create a sight distance issue for traffic turning from Lewis Drive onto Cherokee Street.
- Impervious surface area in NRC is limited to 70%. There is no information on the plan, but it appears to exceed 70%.
- Public Works typically asks for a 2' grass strip between the back of the curb and sidewalk. There is no grass strip shown on the plan.
- No more than 12 parking spaces in a row are allowed without a tree island (minimum 125 square feet). There are multiple rows that do not meet this requirement.

- Parking spaces are required, by code, to be 9’x20.’ The spaces on the plan are marked 9’x19.’
- If the dumpster will be shielded by a masonry enclosure, a variance will be necessary to allow it closer to the road than the principal building due to the unique frontage of the property.

The future land use classification of this area, and including these two parcels, is CSI (Community Service & Institutional). This classification is reserved for governmental and institutional uses oriented towards the provision of public, quasi-public, or non-profit services. The NRC is not a zoning category considered compatible with a future land use of CSI. However, low impact commercial uses like restaurants and shops, provided by NRC would be beneficial to supplement institutional uses that have large number of primarily daytime workers.

Environmental Impacts

Since this property has been previously developed, any new development will have to adhere to more current regulations for land development, especially regarding stormwater detention. Although the site will likely lose most of the existing trees on the property, the installation of stormwater controls could improve any detrimental impacts the site currently may have adjacent properties or the city’s storm system.

This site does not contain any wetlands, streams, or floodplain.

Economic Functionality

The buildings on 732 Cherokee Street have not been used in many years. Prior to their total vacancy, they were sparsely occupied. It is unclear whether the low occupancy rate was due to low demand for office space or condition of the available spaces. The twenty (20) unit apartment building on 120 Lewis Drive was vacated in 2012 after the City discovered multiple housing code violations. The building was demolished over the past summer (2016).

Infrastructure

The proposed site plan contains an excessive amount of parking for an 8,718 square foot retail/restaurant building. Using the city’s highest parking requirement (1 space / 175 square feet), only fifty (50) spaces are required. The plan shows seventy eight (78). Restaurant users typically want parking in excess to the minimum zoning code, however the additional spaces add to the impervious surface limit and potential tree density issues.



Department of Development Services
205 Lawrence Street
Marietta, Georgia 30060
Brian Binzer, Director

Although the Public Works Department did not have any comments on this proposal, stipulations from the rezoning in 2009 required the applicant to upgrade Lewis Drive and install a deceleration lane on Cherokee Street.

History of Property

In April of 2009 (Z2009-05) this property was rezoned from OI to OI with variances and stipulations in order to construct an office building and parking deck.

ANALYSIS & CONCLUSION

McWhirter Realty Partners, LLC, represented by J. Kevin Moore, is requesting the rezoning of 2.1 acres at the corner of Cherokee Street and Lewis Drive from OI with stipulations to NRC (Neighborhood Retail Commercial) in order to develop a retail/restaurant shopping center and parking lot. The subject property is surrounded on all sides by properties zoned OI and containing various offices and restaurants.

The proposal includes an 8,718 square foot building for retail/restaurant and 78 parking spaces. The building is shifted into the far western corner of the property where Lewis Drive meets Cherokee Street, presumably to provide an outdoor patio or plaza environment. This building orientation will require multiple variances because of its location. However, there are certain areas of the City where buildings are encouraged to be shifted towards the front of the property in order to accommodate pedestrians, improve aesthetics and locate parking areas to the rear of the property.

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6. Variance to allow dumpster closer to the road than the principal building.

Since this property has been previously developed, any new development will have to adhere to more current regulations for land development, especially regarding stormwater detention.

The future land use classification of this area, and including these two parcels, is CSI (Community Service & Institutional). This classification is reserved for governmental and institutional uses oriented towards the provision of public, quasi-public, or non-profit services. The NRC is not a zoning category considered compatible with a future land use of CSI. However, low impact commercial uses like restaurants and shops, provided by NRC would be beneficial to supplement institutional uses that have a large number of primarily daytime workers.

Prepared by: Shelly Binzer

Approved by: Rusty Roth



DATA APPENDIX

CITY OF MARIETTA - WATER

Is a water line adjacent to the property?	Yes
If not, how far is the closest water line?	N/A
Size of the water line?	6 inch and 8inch
Capacity of the water line?	Fire flow test may be needed
Approximate water usage by proposed use?	Not provided

CITY OF MARIETTA - SEWER

Is a sewer line adjacent to the property?	Yes
If not, how far is the closest sewer line?	N/A
Size of the sewer line?	10 inch
Capacity of the sewer line?	A.D.F Peak
Estimated waste generated by proposed development?	Not Provided
Treatment Plant Name?	Cobb County
Treatment Plant Capacity?	Cobb County
Future Plant Availability?	Cobb County



DATA APPENDIX CONTINUED

DRAINAGE AND ENVIRONMENTAL CONCERNS

Does flood plain exist on the property: _____

What percentage of the property is in the flood plain? _____

What is the drainage basin for the property? _____

Is there potential for the presence of wetlands as determined by the U.S. Environmental Protection Agency? _____

If so, is the use compatible with the possible presence of wetlands? _____

Do stream bank buffers exist on the parcel? _____

Are there other topographical concerns on the parcel? _____

Are there storm water issues related to the application? _____

Potential presence of endangered species in the area? _____

TRANSPORTATION

What is the road effected by the proposed change? _____

What is the classification of the road? _____

What is the traffic count for the road? _____

Estimated # of trips generated by the proposed development? _____

Estimated # of pass-by cars entering proposed development? _____

Do sidewalks exist in the area? _____

Transportation improvements in the area? _____

If yes, what are they? _____

ATTACHMENT TO APPLICATION FOR REZONING

Application No.: Z2016-34
Legistar No.: 20161124
P&Z No.: 16-588
Hearing Dates: December 6, 2016
December 14, 2016

Applicant: McWhirter Realty Partners, LLC
Property Owner: JE Cherokee Street, LLC

DESCRIPTION OF PROPOSED DEVELOPMENT/PROJECT

The property which is the subject of the Application for Rezoning by Applicant, McWhirter Realty Partners, LLC (hereinafter "Applicant"), and Property Owner, JE Cherokee Street, LLC (hereinafter "Property Owner"), consists of a total tract of 2.101 acres, more or less, and is located on the northeasterly side of Cherokee Street, and the easterly side of Lewis Drive (being more particularly known as 732 Cherokee Street and 120 Lewis Drive), Land Lot 1074, 16th District, 2nd Section, City of Marietta, Cobb County, Georgia (hereinafter collectively the "Property" or the "Subject Property"). The Rezoning Application seeks approval of a request to rezone the Subject Property from its existing Office Institutional zoning category to the Neighborhood Retail Commercial ("NRC") category. Applicant is seeking rezoning of the Subject Property to completely redevelop the Property for retail/restaurant use. Applicant will have all existing structures on the Property demolished. A new one-story structure, containing approximately 8,718 square feet, will be erected. The exterior façade will utilize varying materials; including, but not limited to, brick, stone, stacked stone, Cementous siding, and the like. Applicant further proposes to completely redesign and reconfigure the parking area to allow for an entrance only drive from Cherokee Street; as well as ingress and egress from Lewis Drive. This configuration will ease traffic flow into and out of the proposed retail and restaurant facility.

A detailed letter of agreeable zoning stipulations and conditions will be submitted on behalf of Applicant and Property Owner prior to the hearings before the Planning Commission and City Council.

Applicant is excited with the opportunity to redevelop the Subject Property. The proposed uses will provide a needed service to the businesses and residents within the area; as well as the City of Marietta. The project will meet, and exceed, the standards established by Applicant in prior projects in close proximity to the Subject Property; as well as all standards and ordinances established by the City for similar developments.

TO: Marietta Daily Journal

FROM: City of Marietta

RUN AD DATE: November 18, 2016

**CITY OF MARIETTA
PUBLIC NOTICE OF REZONINGS AND SPECIAL LAND USE PERMIT**

The City of Marietta hereby gives notice that a public hearing will be held on the following by the Planning Commission on **Tuesday, December 6, 2016, 6:00 P.M.**, City Hall, for a recommendation to the City Council at their meeting on **Wednesday, December 14, 2016, 7:00 p.m.**, City Hall, for a final decision to be made.

Z2016-34 [REZONING] MCWHIRTER REALTY PARTNERS, LLC is requesting the rezoning of approximately 1.3 acres located in Land Lot 1074, District 16, Parcels 0390 and 0500, 2nd Section, Marietta, Cobb County, Georgia, and being known as 732 Cherokee Street and 120 Lewis Drive from OI (Office Institutional) to NRC (Neighborhood Retail Commercial). Ward 4B.

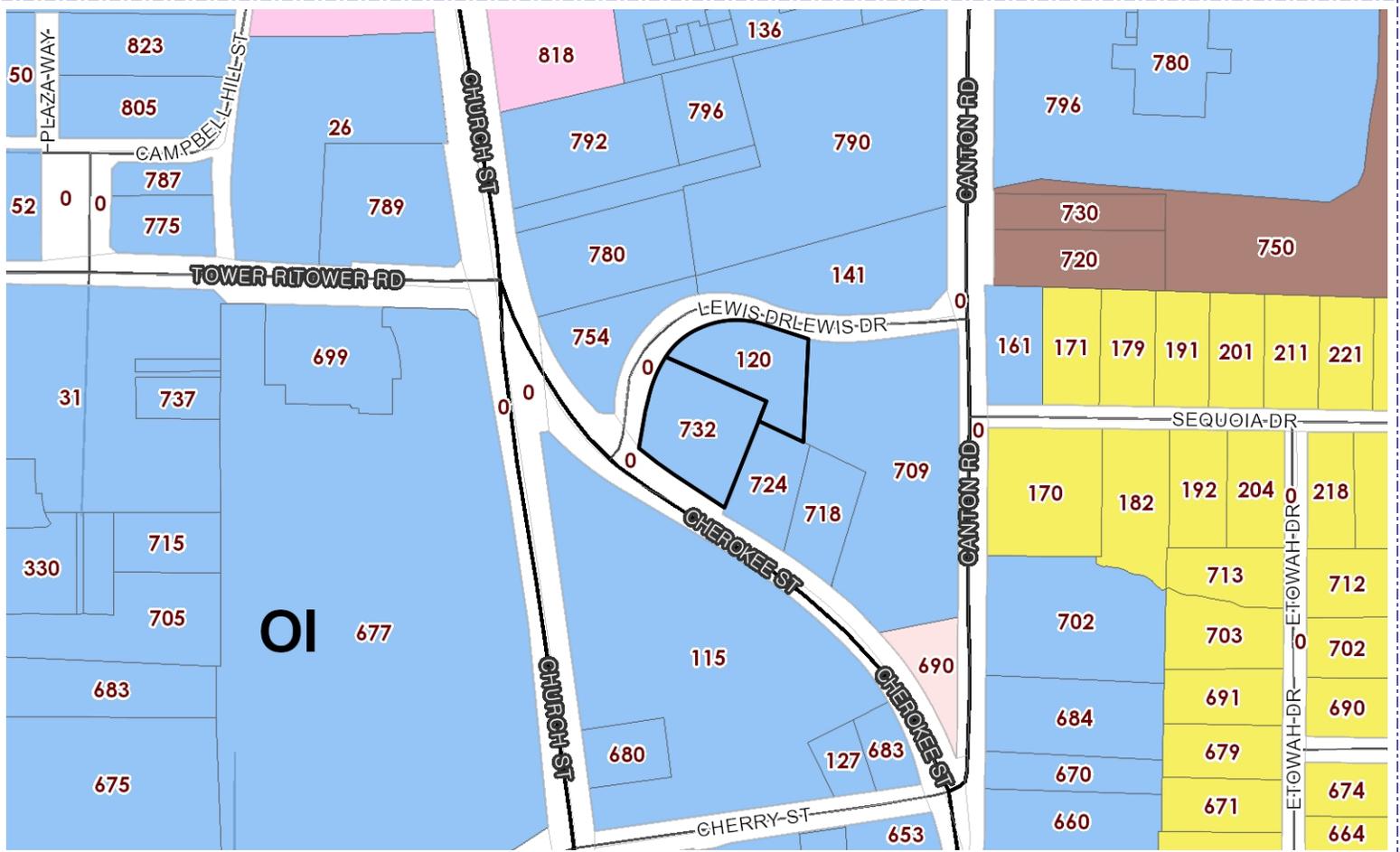
A description and plat of the property sought for the rezoning and future land use assignment are on file in the Planning and Zoning Office, City Hall, and is available for inspection between 8:00 A.M. and 5:00 P.M., Monday through Friday. Anyone wishing to attend may do so and be heard relative thereto.

For additional information please call the Planning and Zoning Office (770) 794-5669.

Accessibility to Meetings: If you believe you may need the City/BLW to provide special accommodations in order to attend/or participate in any of the above meetings, please call Mr. Patrick Henley, ADA Coordinator, at 770-794-5558 (voice) or 770-794-5560 (TDD) no later than 48 hours before the date of the above meeting.

City of Marietta
205 Lawrence Street
Marietta, Georgia 30060

Rezoning



Address	Parcel Number	Acreage	Ward	Zoning	FLU
732 CHEROKEE ST	16107400390	0.751	4B	OI	CSI
120 LEWIS DR	16107400500	0.609	4B	OI	CSI

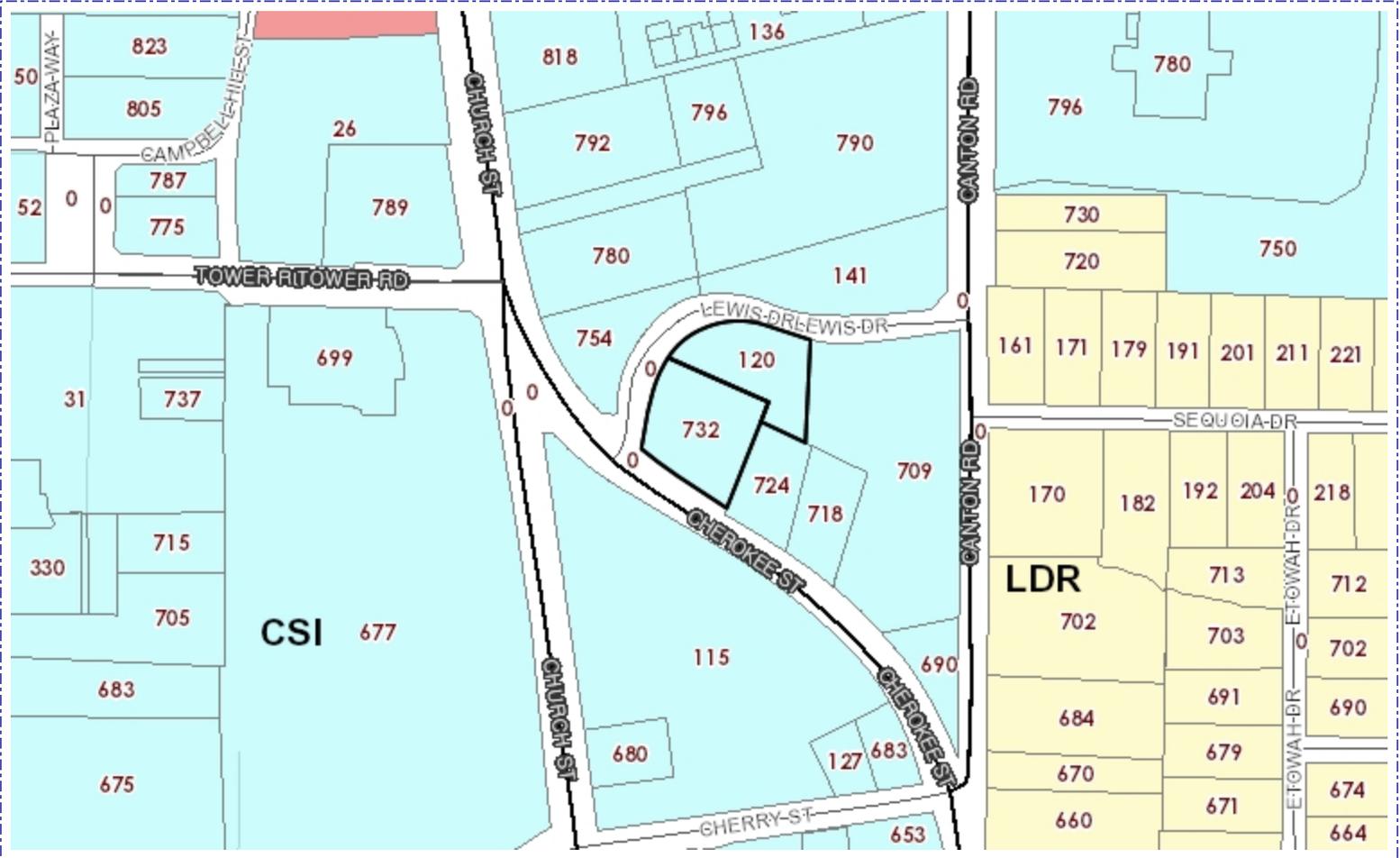
Property Owner:	JE Cherokee Street, LLC	
Applicant:	McWhirter Realty Partners, LLC	
Proposed Zoning:	NRC	
Agent:	J. Kevin Moore, Esq.	
Proposed Use:		
Planning Commission Date:	12/06/2016	
City Council Hearing Date:	12/14/2016	Case Number: Z2016-34

Zoning Symbols

- Railroads
- City Limits
- Cobb County Pockets
- NA
- R1 - Single Family Residential (1 unit/acre)
- R2 - Single Family Residential (2 units/acre)
- R3 - Single Family Residential (3 units/acre)
- R4 - Single Family Residential (4 units/acre)
- RA4 - Single Family Residential - Attached
- RA6 - Single Family Residential - Attached
- RA8 - Single Family Residential - Attached
- MHP - Mobile Home Park
- PRD-SF - Planned Residential Dev. Single Family
- RM8 - Multi Family Residential (8 units/acre)
- RM10 - Multi Family Residential (10 units/acre)
- RM12 - Multi Family Residential (12 units/acre)
- RHR - Residential High Rise
- PRD-MF - Planned Residential Dev Multi Family
- NRC - Neighborhood Retail Commercial
- CRC - Community Retail Commercial
- RRC - Regional Retail Commercial
- PCD - Planned Commercial Development
- LI - Light Industrial
- HI - Heavy Industrial
- PID - Planned Industrial Development
- MXD - Mixed Use Development
- CBD - Central Business District
- OIT - Office Institutional Transitional
- LRO - Low Rise Office
- OI - Office Institutional
- OS - Office Services
- OHR - Office High Rise

City of Marietta Planning & Zoning

Future Land Use



Address	Parcel Number	Acreage	Ward	Zoning	FLU
732 CHEROKEE ST	16107400390	0.751	4B	OI	CSI
120 LEWIS DR	16107400500	0.609	4B	OI	CSI

Planning Commission Hearing Date:	12/06/2016
City Council Hearing Date:	12/14/2016
Future Land Use:	CSI
Case Number:	
Comments:	

Future Land Use Symbols

- Railroads
- City Limits
- Cobb County Pockets
- RAC - Regional Activity Center
- CAC - Community Activity Center
- NAC - Neighborhood Activity Center
- CBD - Central Business District
- MXD - Mixed Use Development
- CSI - Community Service and Institutional
- HDR - High Density Residential
- MDR - Medium Density Residential
- LDR - Low Density Residential
- OSC - Open Space / Conservation
- PR - Parks / Recreation
- IW - Industrial Warehousing
- IM - Industrial Manufacturing
- TCU - Transportation and Utilities

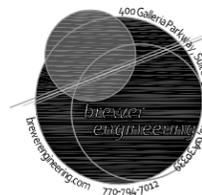


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732 CHEROKEE ST	16107400390	0.751	4B	OI	CSI
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Property Owner:	JE Cherokee Street, LLC
Applicant:	McWhirter Realty Partners, LLC
City Council Hearing Date:	12/14/2016
Planning Commission Hearing Date:	12/06/2016
BZA Hearing Date:	Case Number: Z2016-34
Comments:	

Legend

- Railroads
- City Limits
- Cobb County Pockets



REVISIONS

NO.	DATE	DESCRIPTION

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Owner / Developer
McWhirter Realty Partners, LLC
 300 Galleria Parkway
 Suite 300
 Atlanta, GA 30339
 770-955-2000

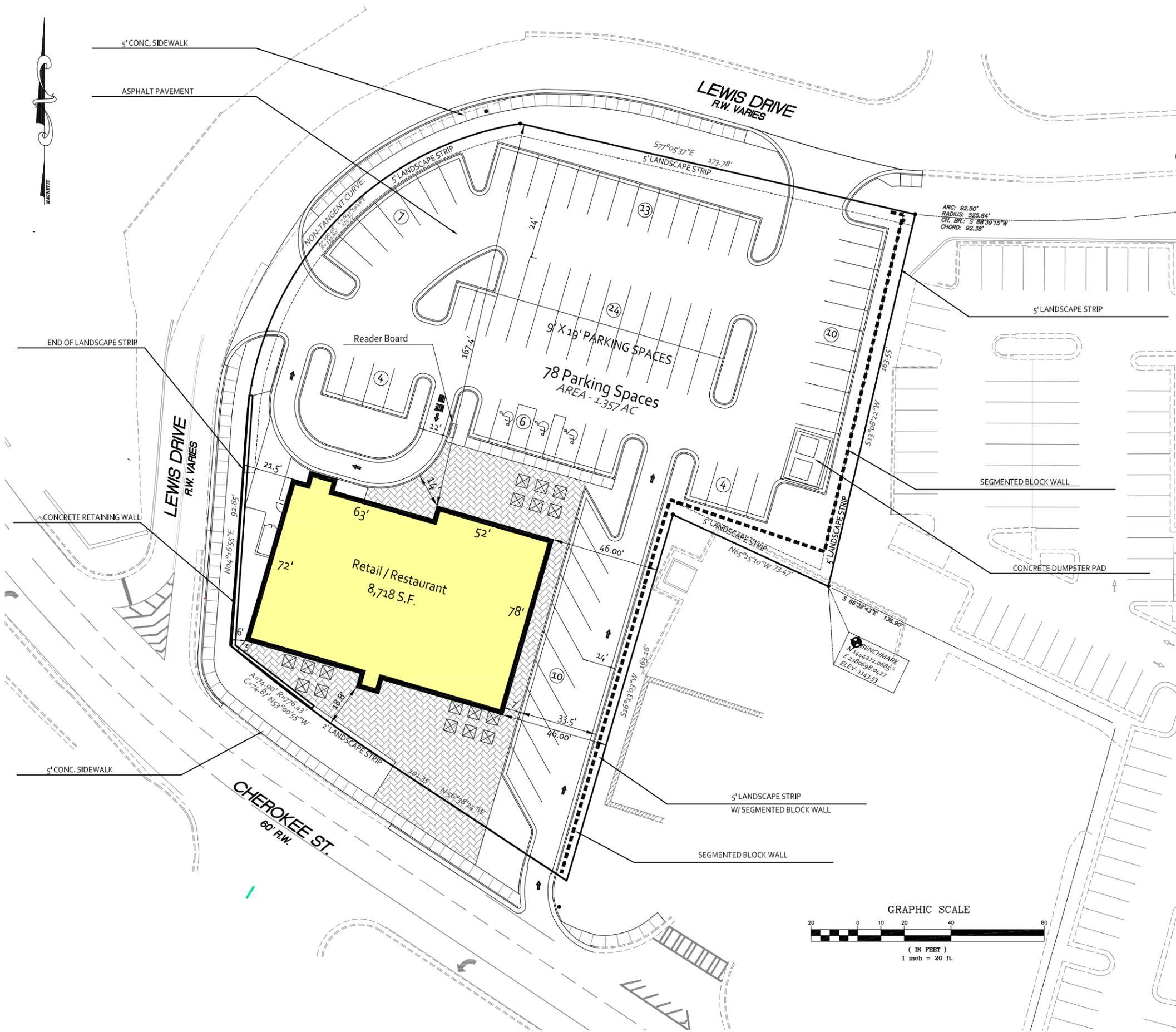
Kennestone Retail Shops
 732 Cherokee Street
 LL 1074 - 16th Dist. - 2nd Section
 City of Marietta, Georgia

PROJECT NO.:
16019

DATE:
10-19-16

SHEET TITLE:
Site Plan

SHEET NO.:
RZ-1



- RETAIL SHOPS**
1. Total square footage of shops - 8,718
 2. Parking shown 78 spaces.
 3. Current Zoning: OI (Ordinance # 7304 with stipulations.)
 4. Detention to be provided by underground piping system.