

**PROPERTY INFORMATION**

<b>ADDRESS</b>	3499 and 3501 Bethany Bend
<b>DISTRICT, LAND LOT</b>	2/1 971 & 972
<b>OVERLAY DISTRICT</b>	State Route 9
<b>EXISTING ZONING</b>	TR (Townhouse Residential) & Senior Living Use Permit
<b>PROPOSED ZONING</b>	O-I (Office-Institutional) & Private School Use Permit
<b>ACRES</b>	5.021
<b>EXISTING USE</b>	Two single family residences
<b>PROPOSED USE</b>	Private school of 24,000 square feet with a total of 160 students and associated activity (outdoor) areas.

**PETITIONER ADDRESS** Sapient Minds LLC d/b/a Milton Montessori School  
3505 Bethany Bend  
Milton, GA 30004  
404-232-5227

**PROPERTY OWNER ADDRESS** Sapient Minds LLC  
3505 Bethany Bend  
Milton, GA 30004

**INTENT**

To rezone from TR (Townhouse Residential) with the revocation of a "Senior Living" Use Permit to O-I (Office-Institutional) with a "Private School" Use Permit of 24,000 square feet with a total of 160 students and associated activity (outdoor) areas with three concurrent variances:

- 1) To delete the 20' side setback along the south property line for 3501 Bethany Bend.
- 2) To delete the 10' landscape strip along the south property line of 3501 Bethany Bend.
- 3) To reduce the sidewalk width along Bethany Bend, within the City Right-of-Way from six feet to five feet.

**COMMUNITY DEVELOPMENT RECOMMENDATION – JULY 24, 2024**

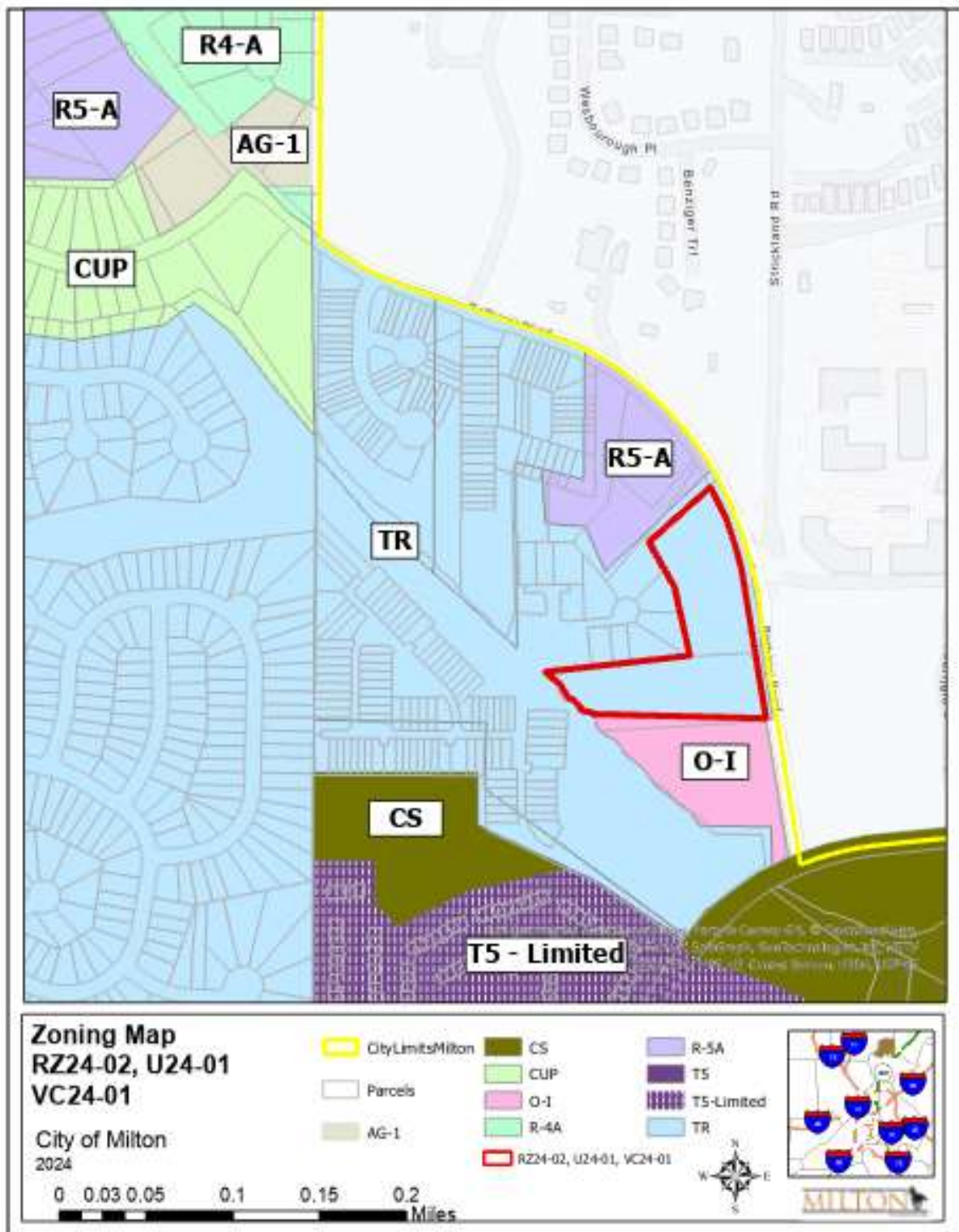
**RZ24-01 – APPROVAL CONDITIONAL  
U24-01 – APPROVAL CONDITIONAL  
VC24-01 Part 1– APPROVAL CONDITIONAL  
VC24-01 Part 2– APPROVAL CONDITIONAL  
VC24-01 Part 3– DENIAL**

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024



# LOCATION MAP

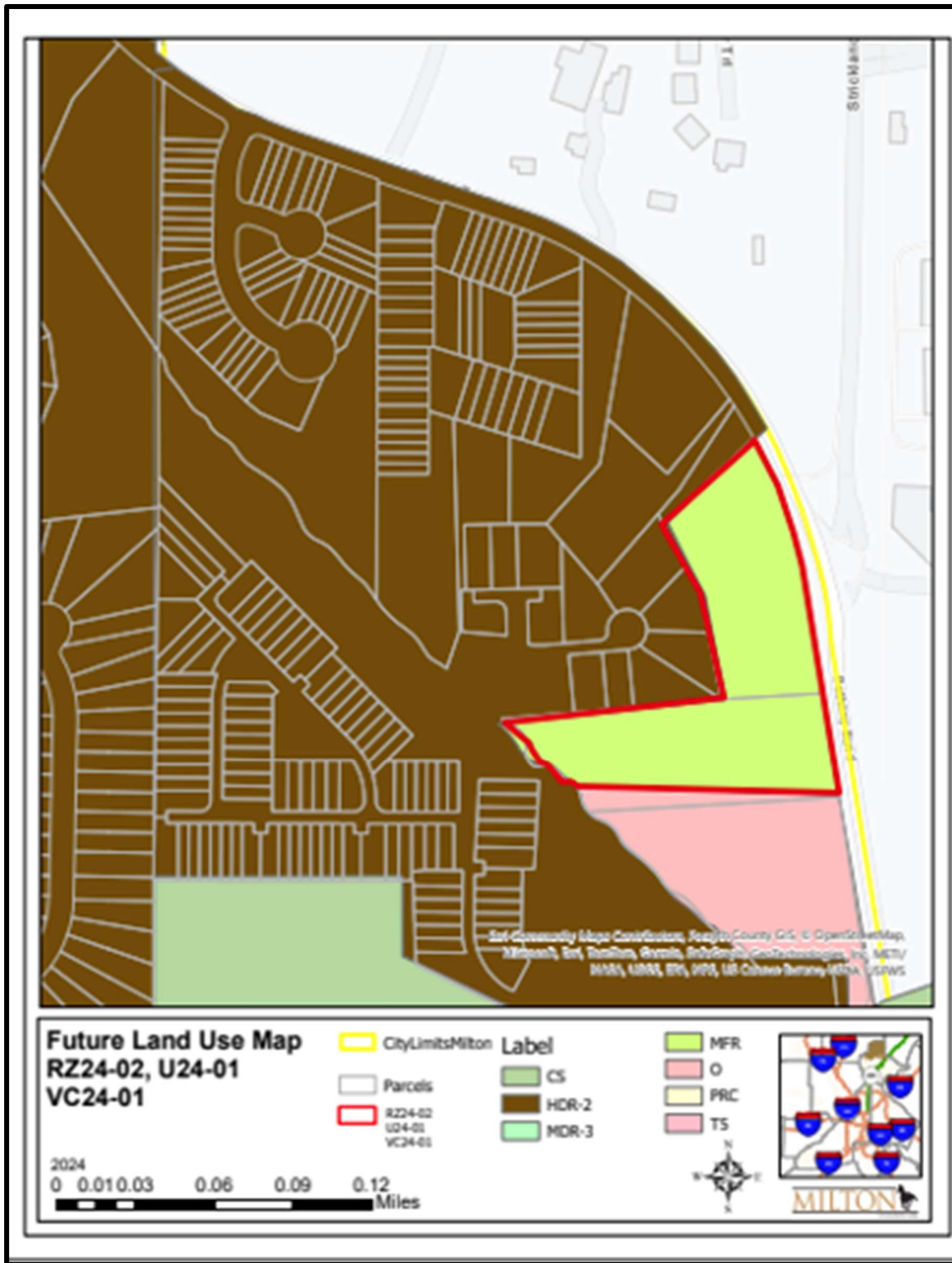
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## CURRENT ZONING MAP

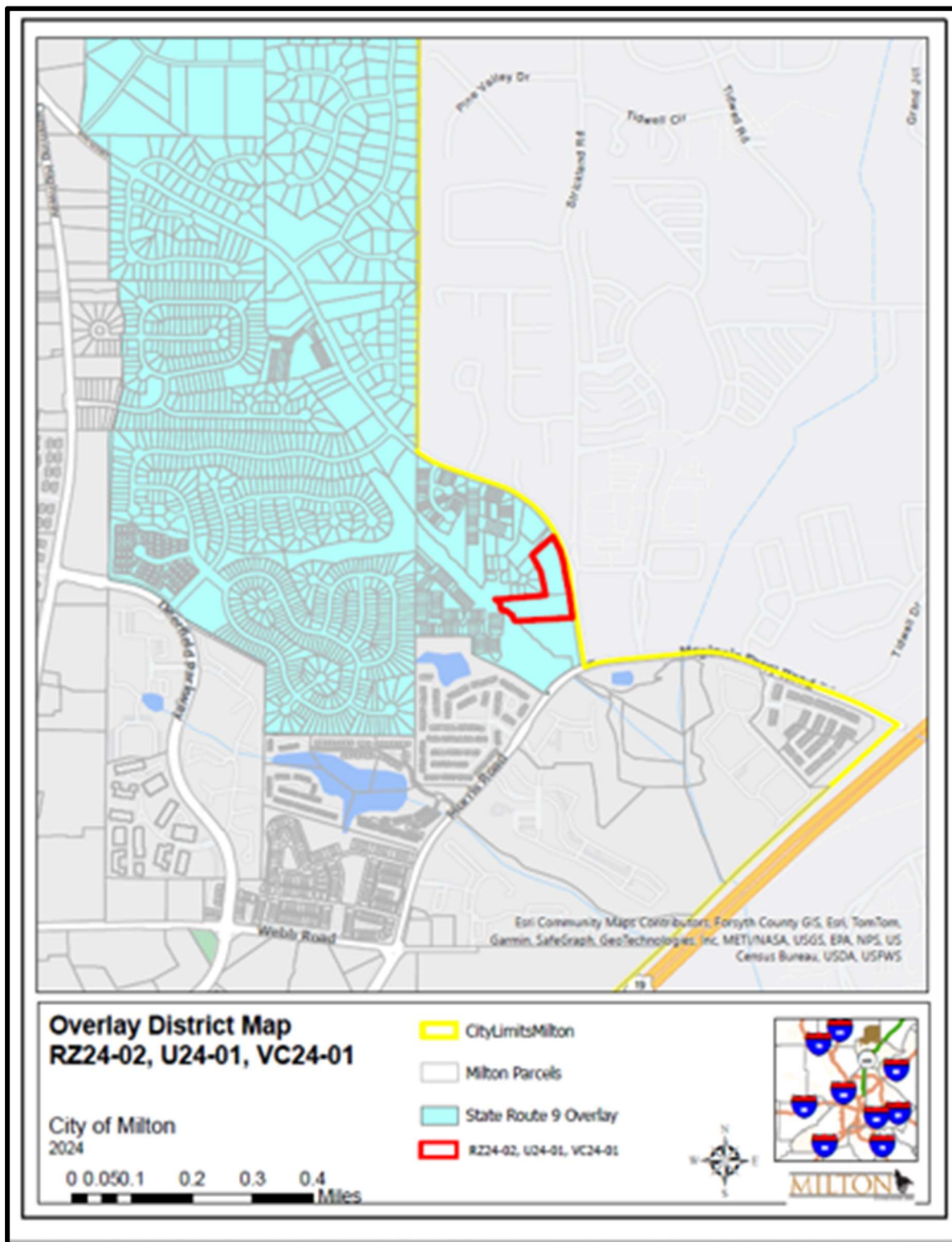
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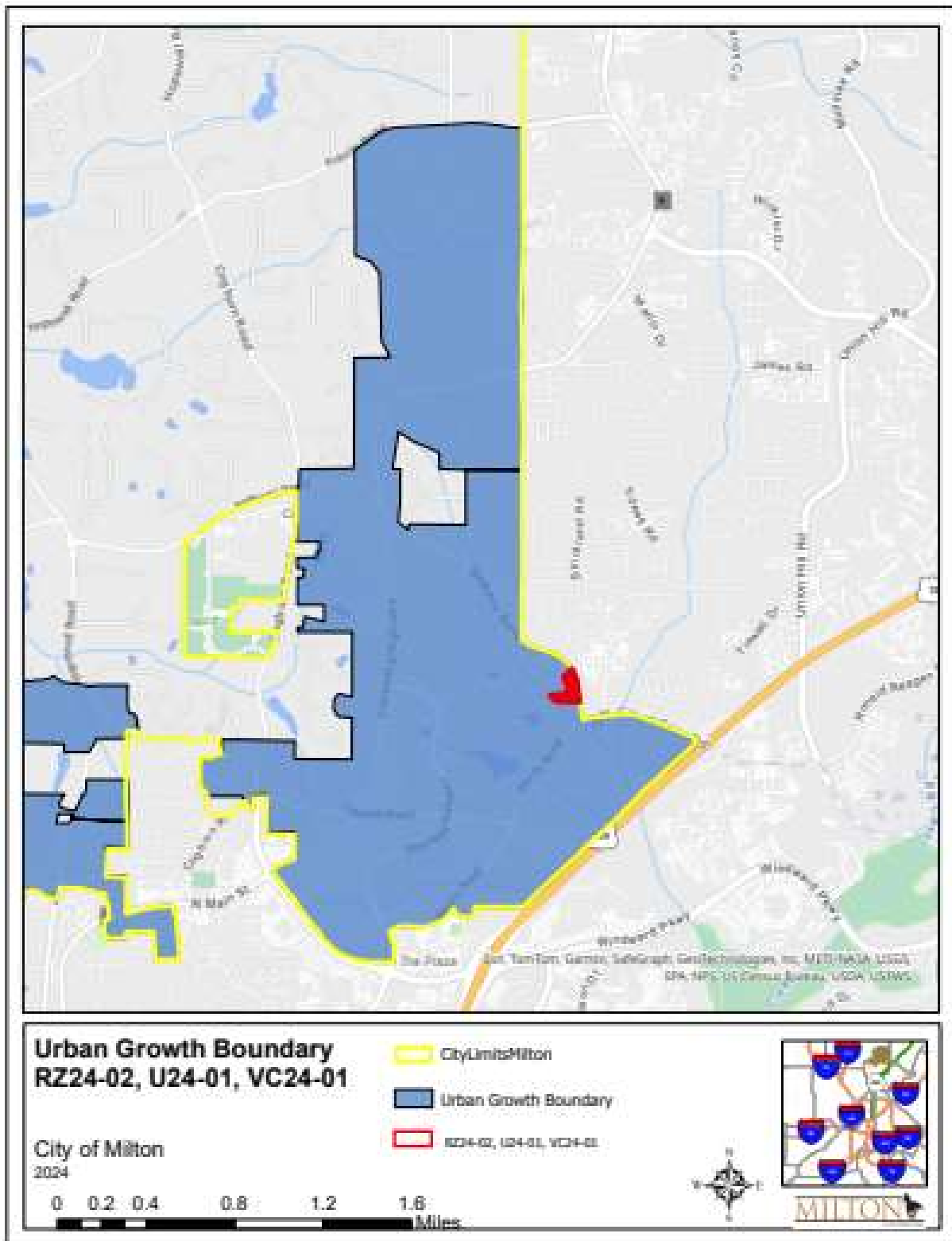
## 2040 COMPREHENSIVE PLAN - FUTURE LAND USE MAP

Prepared by the Community Development Department for the  
 Planning Commission Meeting on July 24, 2024



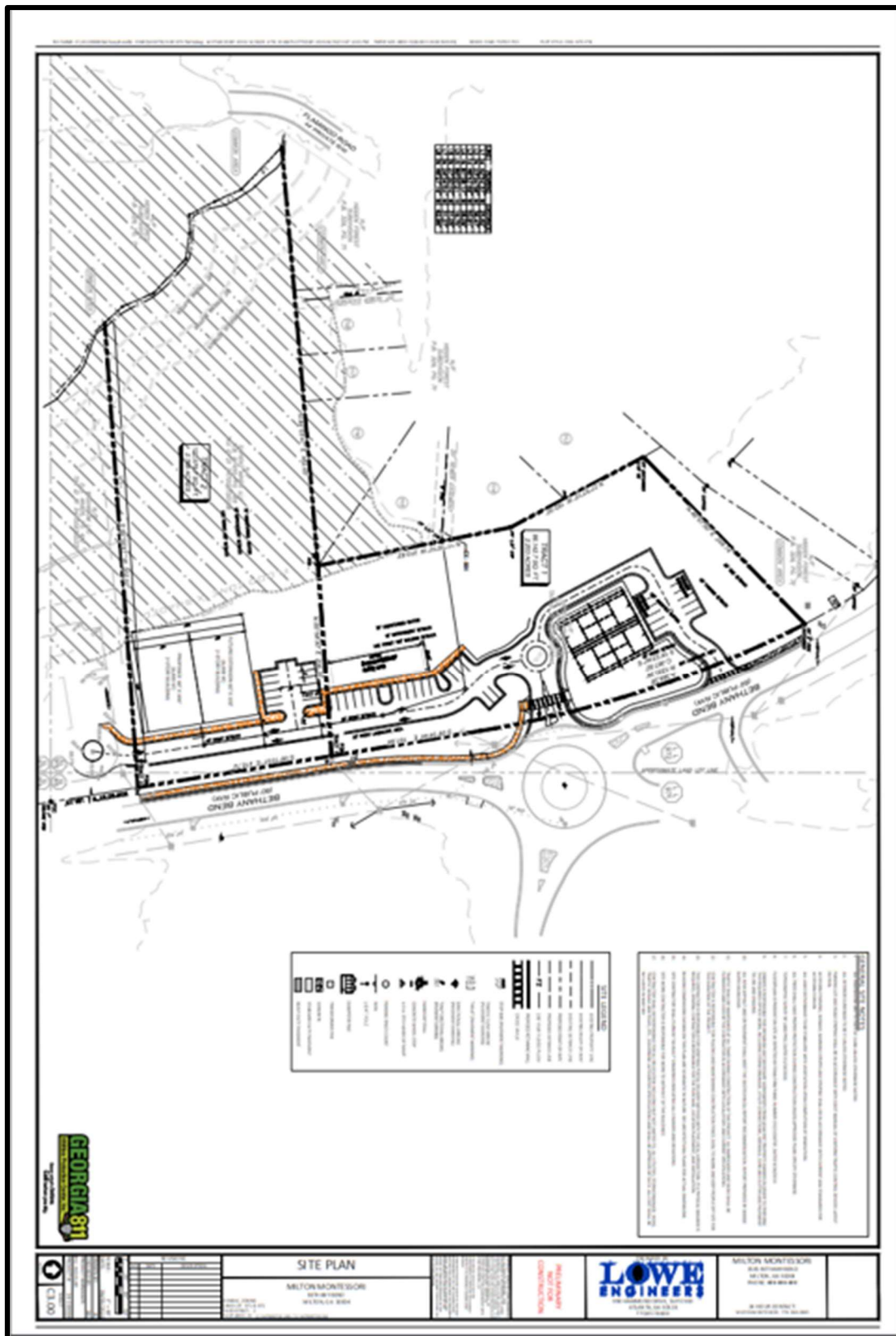
## HIGHWAY 9 OVERLAY DISTRICT

Prepared by the Community Development Department for the  
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## URBAN GROWTH BOUNDARY MAP

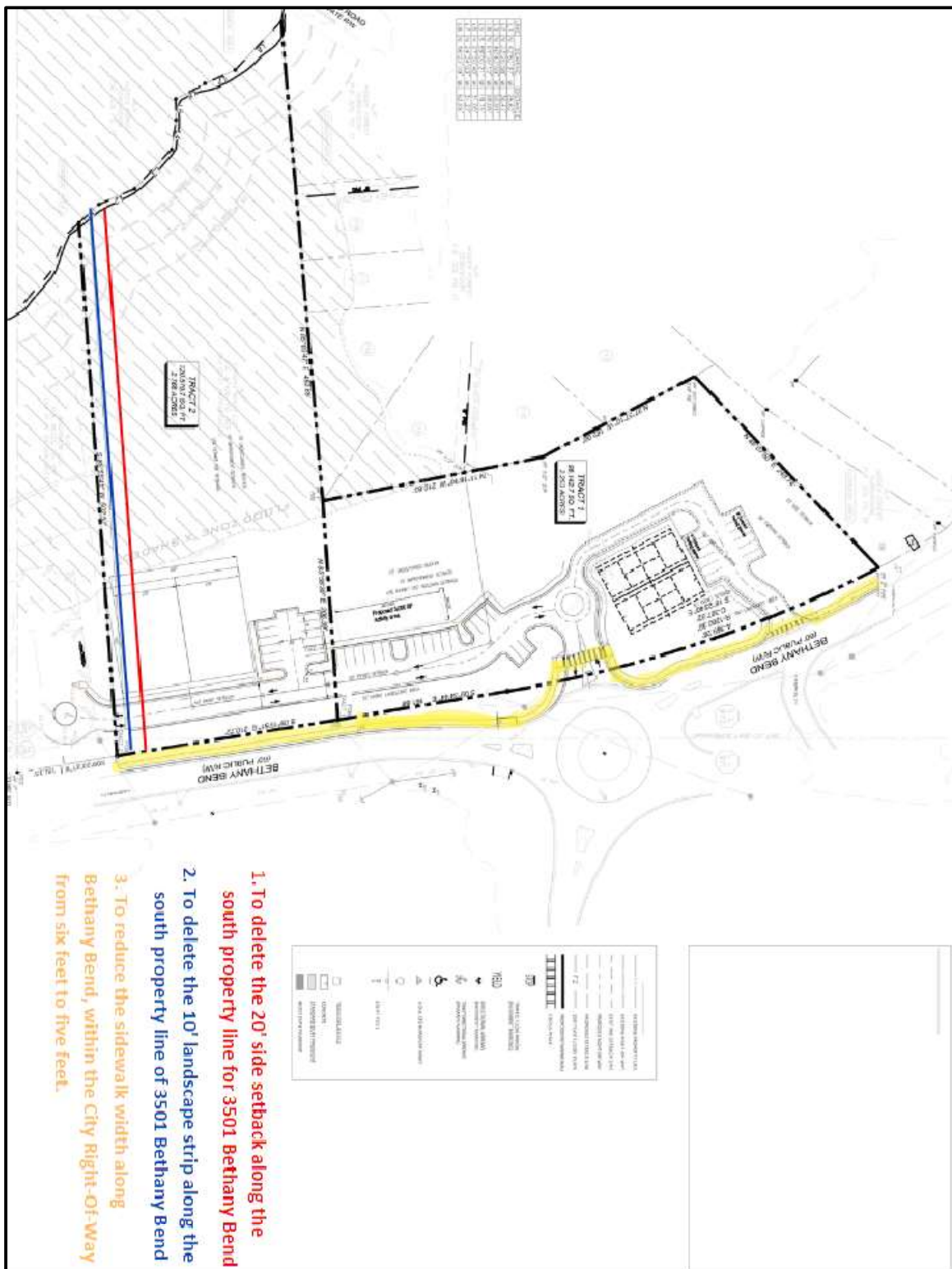
Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024



## REVISED SITE PLAN SUBMITTED ON JUNE 28, 2024

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024





### SITE PLAN SHOWING VARIANCE LOCATIONS

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024







## PROJECT RENDERINGS

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024





**LOOKING INTO THE SITE FROM BETHANY BEND**

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024





**LOOKING AT THE SITE FACING NORTH ON BETHANY BEND**



**LOOKING AT THE SITE FROM BETHANY BEND**

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024





**EXISTING SCHOOL TO THE SOUTH OF THE SITE**



**STRUCTURE ON SITE**

Prepared by the Community Development Department for the  
Planning Commission Meeting on July 24, 2024

## **SUBJECT SITE AND BACKGROUND:**

The subject site contains 5.021 acres. It is developed with two single family residences that will be demolished for the proposed development. The applicant has already received a Certificate of Appropriateness from the Design Review Board (DRB) for the demolition of the buildings on the site and is currently in the permitting process for the demolition permit.

The subject site is zoned TR (Townhouse Residential) and was granted a "Senior Living" Use Permit in RZ08-08/U08-04/VC08-04 in August of 2008. This request included a rezoning from AG-1 (Agricultural) to TR (Townhouse Residential) and a "Use Permit" for senior housing to develop 98 residential units at a density of 19.84 units per acre. This use permit would be revoked with the approval of the Use Permit for the Private School.

In 2018, the subject site was part of an attempted rezoning including 3501, 3499, 3495, 3485 and 3475 Bethany Bend. This request was to rezone from TR (Townhouse Residential) and Ag-1 (Agricultural) to TR to develop 54 residential units (condominium) at a density of 6.38 units per acre and a 3-part concurrent variance. This request was denied at the April 22, 2019 City Council Meeting.

The applicant currently owns and operates the Milton Montessori School on the parcel to the south of the subject site. The Montessori School was first opened under Fulton County under the RZ03-152 rezoning case. This allowed the school to open in the small home on site for 23 students.

Although not part of this application, the applicant purchased the adjacent property (3503 Bethany Bend) in 2015 and underwent a Rezoning, Use Permit and Concurrent Variance (RZ15-14, U15-04, VC15-03) which permitted the expansion of the school into a new 6,000 square foot building and increased enrollment to 150.

The school again expanded in 2018 at the 3503 Bethany Bend site with another Rezoning, Use Permit and Concurrent Variance (RZ18-06, U18-01, VC18-01) to increase the total square footage to 9,500 square feet.

In order to further expand the school, the applicant is requesting a rezoning from Townhome Residential (TR) and the revocation of the Senior Living Use Permit to Office and Institutional (O-I) with a Use Permit for a Private School to develop a private school with 24,000 square feet with a total of 160 students and associated activity (outside) areas.

## SITE PLAN ANALYSIS

Based on the applicant's revised site plan submitted to the Community Development Department on June 28, 2024, Staff offers the following considerations:

### **DEVELOPMENT STANDARDS – SEC. 5.1.1. OFFICE AND INSTITUTIONAL (O-I)**

<b>Development Standards</b>	<b>Proposed Development</b>
No minimum lot width.	The proposed development meets this requirement.
Minimum lot frontage shall be 100 ft.	The proposed development meets this requirement.
No minimum lot area.	Proposed development meets this requirement.
Lot coverage shall be a maximum of 70%.	Proposed minimum lot frontages meet or exceed requirement of 20 feet.
Principal Building Setbacks: (1) Minimum front yard: 40 feet.  (2) Minimum side yard (interior): 20 feet  (3) Minimum rear yard: 25 feet	(1) Proposed front yard is 40 feet.  (2) Proposed development does not meet this requirement – See Part 1 of the Concurrent Variances below.  (3) Proposed rear yard is greater than 25 feet.
Accessory structures may be located in rear or side yards but must not be located within a minimum yard.	No accessory structures indicated on proposed site plan.
Maximum building height shall be 4 stories/60 feet.	Proposed building is 2 stories and 21' to the roof eave.
There is no minimum heated floor area.	Proposed development is 24,000 square feet of heated floor area and meets this requirement.



**USE PERMIT STANDARDS – SEC. 8.4.1.G. SCHOOL, PRIVATE (K-12)**

<b>Development Standards</b>	<b>Proposed Development</b>
Minimum lot size is one acre.	The proposed development is 5.021 acres.
For sites on more than 4 acres, a 75-foot-wide undisturbed buffer or alternative screening design, with a 10-foot improvement setback, must be located adjacent to agricultural/T2 districts and property zoned, used, or developed for residential uses.	The proposed development meets this requirement.
To make buffers seem natural, an equal mix of four species must be used, except when alternative screening is used.	The proposed development meets this requirement.
When alternative screening is used, the buffer must provide as much or more year-round visual screening as the otherwise required buffer would. The alternative screening must also be planted as required by the City Arborist.	The proposed development meets this requirement.
Buildings, and refuse areas must not be located within 100 feet of agricultural/T2 districts and property zoned, used, or developed for residential uses.	The proposed development meets this requirement.
Active outdoor recreation areas must not be located within 100 feet of an adjoining property zoned, used, or developed for residential uses. Recreational fields, such as playing fields, that are accessory to the school do not require a separate use permit.	The proposed outdoor recreation areas meet this requirement.
Day care facilities in association with the school do not require a separate use permit.	There is no proposed day care facilities associated with this development.
Parking areas must not be located within 50 feet of agricultural/T2	The proposed development meets this requirement.

districts and property zoned, used, or developed for residential uses.	
Student drop-off and vehicular turnaround facilities are required on the site so that vehicles may reenter the public street in a forward manner.	The proposed development meets this requirement.
Permitted curb cut access must not be from a local street.	The proposed development meets this requirement.

### **DEVELOPMENT STANDARDS – SEC. 6.2. STATE ROUTE 9 OVERLAY**

Non-residential development are required to meet the State Route 9 Overlay District standards within Article 6.2 of the Unified Development Code. The site plan indicates compliance with these standards with the exception of parts 2 and 3 of the concurrent variances discussed below. These standards are the 10' landscape strip which is required along the property line (Milton UDC Article 6.2.3.B) and the 6-foot requirement for the sidewalk along Bethany Bend (Milton UDC Article 6.2.6.A).

### **ENVIRONMENTAL SITE ANALYSIS**

The Environmental Site Analysis (ESA) report is sufficient and satisfies the requirement of Article 12.3.3.B.1. The proposed site does contain a stream and associated floodplains, which will not be impacted by the development due to the buffers. The site does not contain wetlands, steep slopes, historical sites or sensitive plant and animal species.

### **ARBORIST COMMENTS**

Before the issuance of the Land Disturbance Permit, the site plan will need to demonstrate how the proposed plan meets the Tree Ordinance.

### **CITY OF MILTON FIRE MARSHAL**

No comments for this rezoning and use application. Fire codes, local ordinances, and ADA standards will be applied after final approval of this application and upon submittal of the official Land Disturbance Permit (LDP) and Plat.

### **STORMWATER**

The Preliminary Hydrology Study has provided sufficient information to verify the proposed improvement can be developed. Further stormwater will be reviewed when the Land Disturbance Permit is applied for and reviewed.

#### PUBLIC WORKS DEPARTMENT

A detailed signing and striping plan for all 3 access points is required at Land Disturbance Permitting and will be reviewed by Milton Public Works. Design for proposed access at the existing Bethany/Strickland roundabout shall follow state (Georgia DOT roundabout design guide) and federal (NCHRP 1043) guidance. Work in Forsyth County shall be reviewed by Forsyth County coordinated by Milton staff.

The traffic analysis was completed assuming a max number of students of 300. This will be the capacity of the school for all properties, both current and future, if this request is approved.

Development shall construct a 12-foot graded and grassed shoulder along Bethany Bend along entire frontage north of the existing driveway to accommodate future operational and safety improvements for pedestrians along Bethany Bend constructed by a future City TSPLOST project.

#### CITY OF MILTON SEWER MAP AND URBAN GROWTH BOUNDARY

Per the City of Milton Sewer Map this site is within the sanitary sewer limits and is able to be provided with sewer. The site also falls within the urban Growth Boundary, meaning the extension of the sewer is permitted to this property.

#### FULTON COUNTY SEWER AND WATER

WATER: Anticipated water demand is 100 gallons per day/1,000 sq. ft (existing and proposed) Milton Montessori School building that will serve 160 students at the Milton Montessori School x 12,00 square feet (phase 1) = **1,200 gallons per day.**

#### SEWER:

Basin: **Big Creek**

Treatment Plant: **Big Creek**

Anticipated sewer demand: **1,080 gallons per day**

There are two sanitary sewer manholes on adjacent properties that can service this location. The developer will be responsible for running the sewer line from existing Fulton County maintained sanitary sewer manholes to this location as well as obtaining any needed sewer easements.

#### FORSYTH COUNTY REVIEW:

Forsyth County has no objection to the proposed rezoning to O-I (Office Institutional) with a Use Permit for a private school at 3499 and 3501 Bethany Bend.

## PUBLIC INVOLVEMENT

On June 26, 2024 the applicant and a representative from Lowe Engineering, the engineer on the project, were present at the Community Zoning Information Meeting (CZIM) held at the Milton City Hall. There were no residents in attendance for this agenda item.

## PUBLIC PARTICIPATION REPORT

The applicant submitted their report to the Community Development Department on July 17, 2024. There were no residents who attended the Public Participation Meeting held on July 16, 2024 at the Milton Montessori School, located at 3505 Bethany Bend.

## **CITY OF MILTON DESIGN REVIEW BOARD COURTESY REVIEW – JULY 9, 2024**

### Comments from the Board:

The Design Review Board discussed the proposal and had the following recommendations.

Recommended the applicant create a site plan which shows both properties, including the current Milton Montessori School.

Recommended Part 3 of the Concurrent Variance not be approved in favor of the Public Works requested 10-foot wide multi-use path. The board believed this would be better for continuity between parcels. (Since the DRB meeting, the Public Works Department has changed their requirements to have the applicant just prepare the site for the new 10-foot wide multi-use path.

### Public Comment at the Design Review Board:

No members of the public gave public comment at the Design Review Board Meeting.



**STANDARDS OF REVIEW:**

(Article 12.3.3.2.c) Planning Staff shall, with respect to each zoning application, investigate and make a recommendation with respect to factors 1 through 7, below, as well as any other factors it may find relevant.

**1. Whether or not the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby Property?**

The proposed private school is consistent with other developments in the area. To the immediate south is the Milton Montessori School, which is currently owned and operated by the applicant. To the west is Hidden Forrest Subdivision developed with primarily townhomes and some single family detached homes at a density of 4.99 units per acre. Spring Valley Townhomes to the northwest is developed at 7.86 units per acre; Windcrest Park Townhomes further to the northwest is developed at 6.76 units per acre. To the east within Forsyth County is a mixed-use development zoned MPD containing apartments, single family homes and future commercial. It is Staff's opinion that the proposed use is suitable with adjacent and nearby developments and zonings if approved with Staff's recommended conditions.

**Existing Uses and Zoning of Nearby Property**

<b>Location</b>	<b>Parcel / Zoning Petition</b>	<b>Zoning / Name</b>	<b>Approved Density/Min. Heated Floor Area</b>
East (Forsyth County)	<b>1</b> ZA3282	MPD (Master Plan Development) Deerfield Township	164 acres with no more than 983 residential units and 250,000 square feet of commercial area with 1,000 parking spaces
North	<b>2</b> RZ23-10	R-5A Single Family Home Development (LDP under Review)	4.14 units/acre 13 Single Family Homes
Northwest	<b>3</b> Z99-136	TR (Townhouse Residential) Conditional Spring Valley	7.86 units/acre 2 stories 1,200 sq. ft.

Further Northwest	<b>4</b> RZ97-115	TR (Townhouse Residential) Conditional Windcrest Park	6.76 units/acre 1,500 sq. ft.
South	<b>5</b> RZ18-06/ U18-01	O-I (Office-Institutional) Conditional and Use Permit for Private School Milton Montessori School	3,287 sq. ft./acre Existing structure and new 9,500 sq. ft. building
South and West	<b>6</b> RZ02-105	TR (Townhouse Residential) Conditional Hidden Forest	4.99 units/acre 1,500 sq. ft. attached 2,000 sq. ft. detached
Further South	<b>7</b>	T-5 Limited Fairview Townhomes	6.25/acre
Further South	<b>8</b>	T-5 Limited IMT Deerfield	12 units/acre 3 stories



## EXISTING USES LOCATION MAP

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Planning Commission Meeting on July 24, 2024

**2. Whether or not the proposal will adversely affect the existing use or usability of adjacent or nearby property?**

It is Staff's opinion that the proposal will not adversely affect the existing use or usability of the adjacent properties if approved with the Recommended Conditions. The proposed development is compatible with the adjacent use to the south and is similar to other uses in the area.

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

The subject site may have a reasonable use currently zoned TR (Townhome Residential) with a Senior Living Use Permit for townhome residential.

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

The proposed development may have some impact on existing streets and transportation facilities. The roundabout to the south of the entrance of the project will help ameliorate the increase in traffic in and out of the subject site. The proposed site plan demonstrates the ability for stacking for school drop-off and pick-up and the transportation study has been reviewed by the City Transportation Engineer.

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

**Future Land Use 2040 Plan:** Multi-Family Residential (MFR) 12 units per acre or more

**Proposed use/density:** O-I (Office Institutional) with a Private School

Although the future land use plan calls for Multi-Family Residential (MFR), the proposed use of the private school is a less intensive use than the previously approved Senior Living Use Permit. In addition, this proposed use is an extension of the existing school to the south and provides an appropriate transition to the residential uses to the north. Lastly, the Future Land Use Map shows Office-Institutional Zoning immediately to the South of the subject site.



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

The property immediately to the south is owned and operated by the applicant as the Milton Montessori school. This use is compatible with the use of the subject property. Second, there is a mixed-use development under construction on the east side of Bethany Bend in Forsyth County which includes apartments, single family homes, and future commercial uses directly across the street from the site. The property to the north was recently approved for rezoning to R5-A with 13 single family homes. In addition, there is a roundabout directly adjacent to the development which can allow for the flow of traffic through the area. The new interchange of GA-400 at McGinnis Ferry is being constructed just to the east of the subject property. Lastly, most of the subject property is within a floodplain, limiting its practical use for other potential uses. Therefore, it is Staff's opinion that these changed conditions affect the use and development of the property which supports the recommended approval of the proposed rezoning.

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

The proposed use may not be environmentally adverse to the natural resources, environment and citizens of the City due to the required development regulations as it pertains to stormwater facilities and tree recompense and landscape requirements.

### **USE PERMIT CONSIDERATIONS**

In the interest of the public health, safety and welfare, the Mayor and City Council may exercise limited discretion in evaluating the site proposed for a use that requires a Use Permit. In exercising such discretion pertaining to the subject use, the Mayor and City Council shall consider each of the following as outlined in Article 12.5.2.E of the Unified Development Code: Use Permit Considerations. Staff has reviewed said items pertaining to the subject use, and, offers the following comments:

- 1. Whether the proposed use is consistent with the land use or economic development plans adopted by the Mayor and City Council:**

The proposed development is located in the Multi-Family Residential (MFR) land use category on the City of Milton Future Land Use 2040 Plan. Although the proposed zoning and use is less intensive than the previously approved Senior Living Use Permit, this use is an extension of the existing school to the south and provides an appropriate transition to the residential uses to the north. A private school would also provide valuable community facilities and local jobs.
- 2. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed:**

The subject site is compatible with the adjacent and nearby land uses and zoning: the Milton Montessori School operating to the South of the subject property, residential development ranging from 4.99 units per acre (Hidden Forest) to 12 units per acre (The Preserve at Deerfield). In addition, although it is not in the City of Milton, directly to the east is a high intensity mixed use development in Forsyth County which will directly impact these properties.
- 3. Whether the proposed use may violate local, state and/or federal statutes, ordinances or regulations governing land development:**

The proposed use does not appear to violate any ordinances or regulations governing land development if the concurrent variances are approved.
- 4. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining streets:**

The proposed use's effect on the traffic flow, vehicular, pedestrian, along adjoining streets should be mitigated with the location of the entrances and per the submitted traffic study.
- 5. The location and number of off-street parking spaces:**

The off-street parking is located on the side of the proposed buildings which is the appropriate location as required by the State Route 9 Overlay District. Below is a table indicating the required and provided number of parking spaces for the site.

	2 parking spaces per classroom	# of Parking Spaces
Proposed Private School	14 classrooms = 28 parking spaces	28
Extra Provided Parking in Phase 1	3	3
<b>Total Required</b>		<b>28</b>
<b>Total Provided</b>		<b>31</b>

**\*Existing School to the South has a total of 28 parking spaces**

The proposed needs to include landscape islands for every 6 parking spaces and at the end of each parking bay.

**6. The amount and location of open space:**

The large amount of floodplain and the required setback for a Private School provide a large amount of open space as well as provide adjacent residential uses protection from the school use.

**7. Protective screening:**

There is a large amount of protective screening to the west adjacent to the Hidden Forest Subdivision. A perennial stream is located along the western property line which requires a 50-foot undisturbed buffer and 25-foot non-improvement setback.

**8. Hours and manner of operation:**

Monday – Friday 7:30 am – 7:30 pm

It is Staff's opinion that the above-mentioned hours and days of operation are reasonable for the proposed use and will be included in the Recommended Conditions.

**9. Outdoor lighting:**

The applicant has not indicated any additional lighting on the site. If lighting is proposed, it must comply with the Highway 9 Overlay District pursuant to Article 6.2.7 of the Milton Unified Development Code.

**10. Ingress and egress to the property.**

The site plan indicates a one way in and a one way out from the roundabout through the current Montessori School lot and out the existing exit for ingress and egress to the property. This allows the student drop off and vehicular stacking to be provided so that flow of traffic to remains forward in motion which is required

## **CONCURRENT VARIANCE REQUESTS**

A variance must be based upon credible evidence submitted at a public hearing compliance with 1 through 4 of the following:

- (1) Relief, if granted, would not offend the spirit or intent of this zoning ordinance.
- (2) There are such extraordinary and exceptional situation or conditions pertaining to the particular piece of property that the literal or strict application of this zoning ordinance would create an unnecessary hardship due to size, shape or topography or other extraordinary and exceptional situations or conditions not caused by the variance applicant.
- (3) Relief, if granted would not cause a substantial detriment to the public good and surrounding properties.
- (4) That the public safety, health and welfare are secured and that substantial justice is done.

Part 1: To delete the 20' side setback along the south property line for 3501 Bethany Bend. (Milton Unified Development Code - Article 5.1.4.B)

The applicant is requesting the above-described concurrent variance to delete the 20' side setback along the south property line for 3501 Bethany Bend. The applicant owns the property directly adjacent to the south property line (3505 Bethany Bend) and is currently operating the Milton Montessori School on the property. The intent of this request for relief is to allow the building to be placed outside of the Use Permit required buffers (100 feet from residential uses) and outside of the floodplain on the property. The proposed deleted side setback is on the side owned and operated as part of the proposed use, a private school. The two properties are proposed to essentially function as one. Based upon these facts, Staff's recommendation is that if this request is granted, it would not offend the spirit or intent of this zoning ordinance.

The subject property has a large portion of floodplain along the back half of the property, which creates a circumstance in which the building needs to be pushed towards the side setback, as no buildings can be constructed in the floodplain. The southern parcel is particularly impacted by the floodplain. The northern most subject parcel is narrow and odd shaped. The Use Permit requirements, of a 100 feet setback from adjacent residential uses, also has caused the building to be proposed where it is currently proposed. Therefore, it is Staff's recommendation that because of these facts, there are extraordinary and exceptional situations or conditions pertaining to this piece of property that

the literal or strict application of the zoning ordinance creates an unnecessary hardship due to size, shape, and the floodplain not caused by the applicant. Relief would not cause a substantial detriment to the public good and surrounding properties and that the public safety, health and welfare are secure and substantial justice is done if approved with the following conditions as the impacted property is owned and operated by the applicant with the same use. Therefore, Staff recommends **APPROVAL CONDITIONAL of VC24-01 Part 1.**

Part 2: To delete the 10' landscape strip along the south property line of 3501 Bethany Bend. (Milton Unified Development Code – Article 6.2.3.B)

The applicant is requesting the above-described concurrent variance to delete the 10' landscape strip along the south property line of 3501 Bethany Bend. The applicant owns the property directly adjacent to the south property line and is currently operating the Milton Montessori School on the property. The intent of this request is to allow the building to be placed outside of the Use Permit required buffers (100 feet from residential uses) and outside of the floodplain on the property. The proposed deleted landscape strip is on the side owned and operated as part of the proposed use, a private school. The existing school at 3505 Bethany Bend has a landscape strip surrounding their current parking lot along the northern property line. Based upon these facts, Staff's recommendation is that if this request is granted, it would not offend the spirit or intent of this zoning ordinance.

The subject property has a large portion of floodplain along the back half of the property, which creates a circumstance in which the building needs to be pushed towards the southern property line, as no buildings can be constructed in the floodplain. The southern parcel is particularly impacted by the floodplain. The northern most subject parcel is narrow and odd shaped. The Use Permit requirements, of a 100 feet setback from adjacent residential uses, also has caused the building to be proposed where it is currently proposed. Therefore, it is Staff's recommendation that because of these facts, there are extraordinary and exceptional situations or conditions pertaining to this piece of property that the literal or strict application of the zoning ordinance creates an unnecessary hardship due to size, shape, and the floodplain not caused by the applicant. Relief would not cause a substantial detriment to the public good and surrounding properties and that the public safety, health and welfare are secure and substantial justice is done if approved with the following conditions as the impacted property is owned and operated by the applicant with the same use. Therefore, Staff recommends **APPROVAL CONDITIONAL of VC24-01 Part 2.**



Part 3: To reduce the sidewalk width along Bethany Bend, within the City Right-of-Way from six feet to five feet. Milton Unified Development Code – Article 6.2.6.A)

The applicant is requesting the above-described concurrent variance to reduce the sidewalk width along Bethany Bend, within the City Right-of-Way from six feet to five feet. The proposed sidewalk is over 800 feet in length stretching from the current Milton Montessori School property line at 3505 Bethany Bend to the northern end of the subject parcels. The intent of the ordinance is to provide sidewalk connections for pedestrians and to further build out Milton's trail system

The applicant has not demonstrated the following considerations:

(2) There are such extraordinary and exceptional situation or conditions pertaining to the particular piece of property that the literal or strict application of this zoning ordinance would create an unnecessary hardship due to size, shape or topography or other extraordinary and exceptional situations or conditions not caused by the variance applicant.

Milton Public Works department identifies this sidewalk as part of the Milton Capital Project Plan, which is expected to begin construction in 2025. This includes a 10' wide multi-use path. As such, the City has identified the opportunity for the applicant to prepare and grade the property for the multi-use path in the right of way and turn the project over to the City for the construction of the multi-use path. This path would supersede the 6' sidewalk and per the Public Works Department Comments, the site plan showing the grading and land prep for the ten-foot multiuse path would need to be shown on the LDP plans prior to its approval and issuance.

Therefore, Staff recommends **DENIAL of VC24-01 Part 3.**

## CONCLUSION

The proposed private school, if developed with the recommended conditions, is an extension of the neighboring zoning and provides an appropriate transition between the school and the high density residential surrounding the area while providing valuable community facilities and economic stimulus. Therefore, Staff recommends **APPROVAL CONDITIONAL of RZ24-02, U24-01, and VC24-01** to rezone from TR (Townhome Residential) with the revocation of the Senior Living Use Permit to O-I (Office Institutional) with a "Private School" Use Permit.

## RECOMMENDED CONDITIONS

If this petition is approved by the Mayor and City Council, it should be O-I (Office-Institutional) CONDITIONAL and a Use Permit for a Private School (8.4.1.G) subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Mayor and City Council.

- 1) To the owner's agreement to restrict the use of the subject property as follows:
  - a) Restrict the use of the subject property to a private school and associated accessory structures and uses.
  - b) Restrict the number of students to 160.
- 2) To the owner's agreement to abide by the following:
  - a) Substantial compliance with the revised Site Plan submitted to the Community Development Department on June 28, 2024, and whereby the exact layout of the project may contain minor deviations approved by the Community Development Director provided the deviations remain consistent with the purpose and intent of the Council's approval of the rezoning. Notwithstanding the contents of the site plan, the project must meet or exceed the requirements of the Zoning Ordinance, all other applicable city ordinances, and these conditions. The site plan may be revised with the approval of the Community Development Director in order to comply with city codes and zoning conditions. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
- 3) To the owner's agreement to the following site development considerations:
  - a) To delete the 20' side setback along the south property line for 3501 Bethany Bend. (Part 1 of VC24-01)
  - b) To delete the 10' landscape strip along the south property line of 3501 Bethany Bend. (Part 2 of VC24-02)
- 4) To the owner's agreement to abide by the following requirements, dedication, and improvements:

- a) In lieu of sidewalk, developer shall construct a 12-foot graded and grassed shoulder along Bethany Bend along entire frontage north of the existing driveway to accommodate future operational and safety improvements for pedestrians along Bethany Bend constructed by a future City TSPLOST project.