



Land Use Petition SUP-18-001

Date of Staff Recommendation Preparation: August 9, 2018

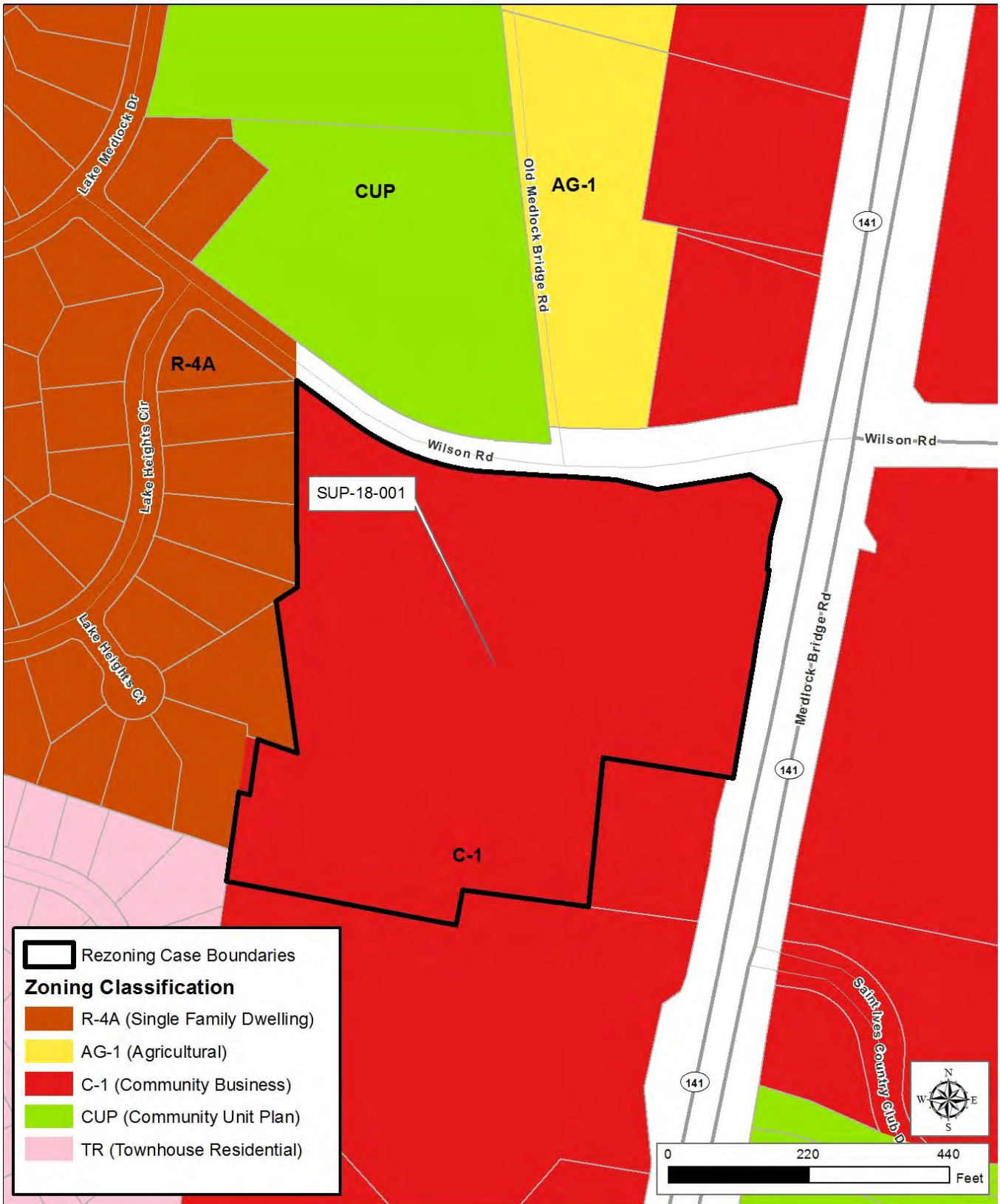
Date of Planning Commission Recommendation: October 2, 2018

PROJECT LOCATION:	6000 Medlock Bridge Parkway, Suite F-100
DISTRICT/SECTION/LAND LOT(S):	1 st District, 1 st Section, Land Lot 326 and 303
ACREAGE:	10.83 acres
EXISTING ZONING	C-1 (Community Business District)
FUTURE DEVELOPMENT MAP DESIGNATION:	Character Area 9: Medlock Bridge Road Corridor
APPLICANT:	Denisha “Daphne” Johnson 6000 Medlock Bridge Parkway, Suite F-100 Johns Creek, GA 30022 404-617-9478
OWNER:	Medlock Shopping Center, LLC 50 Glenlake Parkway NE Atlanta, GA 30328
PROPOSED DEVELOPMENT:	Special Use Permit to allow for an entertainment venue (live music, comedy show, banquet/catering, etc.)
STAFF RECOMMENDATION:	Approval with Conditions

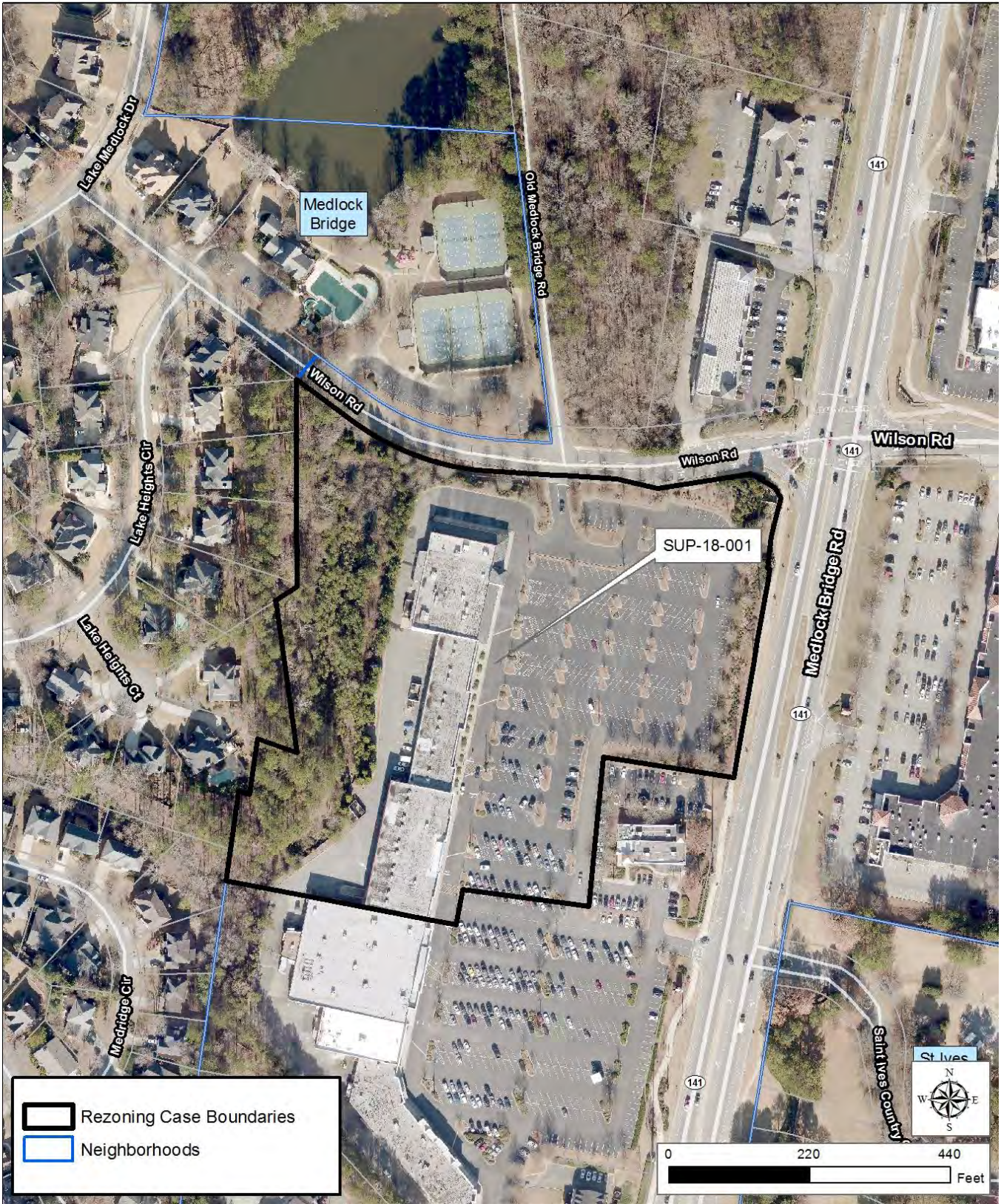
Community Development



Zoning Map



Aerial Map



PROJECT OVERVIEW

The Applicant is requesting a Special Use Permit (SUP) to allow for an entertainment venue on a 10.83-acre property at 6000 Medlock Bridge Parkway. The property is currently zoned C-1 (Community Business) Conditional, and would not require a rezoning, as an entertainment venue is permitted in a C-1 district with a SUP.

The subject property is located at the southwest quadrant of the intersection of Medlock Bridge Road and Wilson Road, in the existing Medlock Bridge Shopping Center. The subject property is bordered by a single-family residential subdivision (Medlock Bridge) to the west, by Wilson Road to the north, by Medlock Bridge Road to the east, and by the rest of the Medlock Bridge Shopping Center to the south.

The Applicant has rented Suite F-100 at the north end of the shopping center. The Applicant wishes to open a smokehouse barbecue restaurant with entertainment venue components, including live music, comedy shows, sit-down weddings, and corporate dinner parties and retreats. The Letter of Intent states that the hours of operation would be 11 a.m. to 11 p.m., Sunday through Wednesday, and 11 a.m. to 2 a.m., Thursday to Saturday. The site plan shows that to the left is a full-service event space with a built-in stage, and to the right is a sit-down restaurant. The Applicant will not expand the footprint of the existing facility.

The subject property is currently zoned C-1 Conditional per the approved rezoning case 1989Z-0078. The 1989 case provided for “retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a maximum density of 9,332 gross square feet of total floor area per acre zoned or a total floor area of 183,650 gross square feet, whichever is less, but excluding fast food restaurants, service stations, commercial amusements and billboards.” The subject property also went through four administrative zoning modifications (M-90-008, M-90-023, M-92-040, M-92-006), but none changed the allowable and prohibited uses. The Future Development Map in the 2008 Comprehensive Land Use Plan (CLUP) shows that the property is located within Character Area 9: “Medlock Bridge Road Corridor.”

A neighborhood meeting was held for this application on Wednesday, August 8, 2018 at the Municipal Court. Nine citizens were in attendance. Several concerns were raised about the project, including how to consistently ensure compliance with the city’s nuisance ordinance regarding sound levels at the facility, and their effects on neighboring residences.

STANDARDS OF REVIEW – SPECIAL USE PERMIT

1. Whether the proposed use is consistent with the Comprehensive Land Use Plan and/or Economic Development Revitalization plans adopted by the Mayor and City Council;

The subject property is located in Character Area 9: “Medlock Bridge Road Corridor” on the Future Development Map in the CLUP. The CLUP states that “over the next twenty years, the City envisions the corridor evolving from a sprawling strip commercial corridor to Johns Creek’s premier boulevard,” and, “[o]ver time, this corridor will be the most intensive commercial/residential corridor in the city.” The vision for this Character Area calls for a mix of commercial, office, residential and institutional uses.

In the Johns Creek Strategic Economic Development Plan (SEDP) 2016-2021, citizens identified the lack of “evening entertainment and meeting places” as one of the weaknesses in the city’s economy. The SEDP acknowledges the community’s desire for a “sense of place,” which includes cultural and entertainment amenities, and under Strategy 5.5.1, it provides for “the development of destination entertainment and destination retail.”

The proposed uses would be consistent with the CLUP and SEDP, as long as development proceeds and the facility operates in such a way as to be in harmony with the use of adjacent and nearby properties.

2. Compatibility with land uses and zoning districts in the vicinity of the property for which the use permit is proposed;

The surrounding land uses and zoning are as follows:

Adjacent & Surrounding Properties	Land Use	Zoning (Petition Number)
Adjacent: North	Single-Family Residential Subdivision (Medlock Bridge)	CUP Conditional (1992Z-0086)
Adjacent: North	Vacant	AG-1
Adjacent: North	Commercial Shopping Center	C-1 Conditional (1999Z-0089)
Adjacent: West	Single-Family Residential Subdivision (Medlock Bridge)	R-4A Conditional (1991Z-0056)
Adjacent: Southwest	Single-Family Residential Subdivision (Medlock Bridge)	TR (1987Z-0184)
Adjacent: South	Commercial Shopping Center	C-1 Conditional (1989Z-0078)
Adjacent: East	Commercial Shopping Center	C-1 (1990Z-0005)
Adjacent: East	Single-Family Residential Subdivision (St. Ives)	CUP Conditional (1991Z-0057)

The subject property is bordered by a single-family residential subdivision (Medlock Bridge) to the west, by Wilson Road to the north, by Medlock Bridge Road to the east, and by the rest of the Medlock Bridge Shopping Center to the south. Situated across Wilson Road is a commercial shopping center, as well as the recreational amenity area of the Medlock Bridge subdivision. Situated across Medlock Bridge Road is another commercial shopping center as well as the St. Ives subdivision. With proper conditions to mitigate the potential noise impact, the entertainment venue would not only be compatible with adjacent and nearby land uses, but also supports many residential subdivisions in the city as a gathering place for the community.

3. Whether the proposed use may violate Local, State and/or Federal statutes, ordinances or regulations governing land development;

Under Section 19.4.17(1) of the City’s Zoning Ordinance, there are two standards for an “entertainment venue”:

- 1) No indoor entertainment venue using amplified sound shall be permitted unless the entertainment venue submits an acoustical analysis, noise attenuation plan or similar study completed by an acoustics professional that confirms all noise decibel levels (dBA and dBC) will be completely contained within the entertainment venue space.
- 2) All entertainment venues must comply with the Specific Noise Nuisance section, related to Music and Amplified Sound, in the City’s Nuisance Ordinance.

Under Section 30-20 (a)(1)(2)(3) of the City’s Nuisance Ordinance,

- 1) No property owner, tenant or an agent or employee of a property owner shall employ any device or instrument at an entertainment venue that creates, or amplifies sound to generate any sound for the purpose of communication or entertainment that is plainly audible at a receiving residential property, including but not limited to: any loudspeaker; bullhorn, amplifier; public address system; musical instrument; radio; or device that plays recorded music.
- 2) At the sole discretion of a law enforcement officer or code enforcement officer and as an alternative to making a determination of whether a sound is plainly audible, the following shall apply: A sound pressure level (SPL) reading may be taken at the receiving residential property according to the sound measurement procedures contained herein. In no instance shall the SPL from any entertainment venue music or amplified sound source exceed the following absolute limits except as prescribed herein:

Receiving Property Category	Daytime: 7:01 AM—11 PM		Nighttime: 11:01 PM—7 AM	
	dBA	dBC	dBA	dBC
Residential	55	60	40	50

Provided however, that under no circumstance shall the existence of this SPL standard prevent a violation being found if the sound is plainly audible as set forth in Section 30-20(a)(1).

- 3) In cases where the receiving residential property background sound levels dBA or dBC exceed the levels in table 1, in no instance shall the sound pressure level from any entertainment venue amplified sound source exceed the receiving residential property background sound level, except as prescribed herein.

The Applicant has hired Sound Proof Atlanta, LLC to soundproof the entire facility, with work to include: installation of barriers and insulation above the drop ceiling; installation of sound proofing materials throughout the facility; installation of a barrier designed to block unwanted airborne noise; decoupling of the drywall from underlying studs to minimize structure-borne sound.

The applicant has conducted two sound pressure tests: one on 8/17 between 12:30 p.m. and 2:00 p.m. for dBA data collection, and another one on 8/19 after 11 p.m. for dBA and dBC data collection. The sound pressure level (SPL) report for the 8/17 testing shows that the SPL outside the rear of the entertainment venue (50 feet¹ from sound system and 500 feet² from sound system) will not add more than 2 dBA when music or pink noise is amplified through the venue’s installed audio system at a maximum SPL of

¹ Behind Suite F-100

² In Lake Height Court cul-de-sac

100 dBA, and provided the rear doors remain closed. The SPL report for the 8/19 testing shows that the SPL outside the rear of the entertainment venue (400 feet³ from sound system and 500 feet from sound system) will not add more than 2 dBA or dBC when music or pink noise is amplified through the venue's installed audio system at a maximum SPL of 100 dBA. It should be noted that the natural background SPL levels in the 8/19 testing exceeded the allowed legal amount, but the SPL report shows that the changes in SPL are in compliance with the Nuisance Ordinance. Sound studies⁴ have shown that changes in noise level of less than 3 dBA are barely noticeable to the human ear.

Therefore, the proposed entertainment venue meets the SUP requirements.

4. The effect of the proposed use on traffic flow, vehicular and pedestrian, along adjoining street;

Traffic impact of commercial use is determined by the square footage of the commercial space. Since the entertainment venue would be located within an existing structure and the Applicant will not expand the footprint of the existing structure, staff doesn't foresee additional impact on either vehicular or pedestrian traffic flows on adjoining streets.

5. The location and number of off street parking spaces;

The entertainment venue would be located within an existing structure in an existing shopping center. Under Zoning Ordinance Section 18.2, a shopping center under 15,000 sq. ft. requires a minimum of one parking space per 200 sq. ft. Since the Applicant will not expand the footprint of the existing structure, no more parking spaces will be needed for the proposed entertainment venue.

6. The amount and location of open space;

The entertainment venue would be located within an existing structure in an existing shopping center. No new open space is required or proposed.

7. Protective screening;

The entertainment venue would be located within an existing shopping center, and would be buffered by existing buffers and landscape strips on the property.

8. Hours and manner of operation;

The entertainment venue would be open Monday through Sunday. The proposed hours of operation are 11 a.m. to 11 p.m., Sunday through Wednesday, and 11 a.m. to 2 a.m., Thursday to Saturday.

9. Outdoor lighting;

The Applicant will provide patio lighting at the outdoor dining area, which is situated on a covered patio near the front entrance to the building. Any proposed outdoor lighting will be required to comply with Section 4.9: Night Sky Ordinance of the City's Zoning Ordinance.

10. Ingress and Egress to the property;

The entertainment venue would be located within an existing shopping center with three access points from Medlock Bridge Road, Medlock Bridge Parkway, and Wilson Road, respectively. Although the shopping center is subdivided into multiple parcels, all three access points serve the common parking lot shared by all suites.

³ On Lake Heights Circle behind the venue.

⁴ Studies include: Bolt, Beranek and Newman, Inc., Fundamentals and Abatement of Highway Traffic Noise, Report No. PB-222-703. Prepared for Federal Highway Administration, June 1973; City Environmental Quality Review Technical Manual.

DEPARTMENT COMMENTS

WATER AND SEWER

WATER:

Anticipated water demand: 15 gallons per day (GPD) per 15 square feet (restaurant and entertainment venue) x 17,851 sq. ft. = 17,851 GPD.

The project is within the Fulton County Government water service jurisdiction. There is an 8-inch waterline along the south side of Wilson Road that can service this location.

SEWER:

Basin: Johns Creek

Treatment Plant: Johns Creek

Anticipated sewer demand: 16,065 GPD

There are two sewer manholes within the property boundary of the 10.832-acre tract (60000 Medlock Bridge Parkway) (Sewer manholes #SMJC3009960 and #SMJC3009650) along a 10-inch sanitary sewer line in land lots 303, 326, district 101 that can service this project.

Comments: This information does not guarantee that adequate sewer capacity is available at this time or will be available upon application of permits. Please contact the Department of Public Works for more information.

HEALTH AND WELLNESS

Environmental Health Services (EHS):

1. The Fulton County Board of Health will require that the owner/developer connect the proposed development to public water and public sanitary sewer which are available to the site.
2. Since this proposed development constitutes a premise where people work and/or congregate, onsite sanitary facilities will be mandatory prior to use or occupancy.
3. This development must comply with the Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article III – Smoke free Air. If persons under the age 18 are to be served, smoking will not be allowed on the premises at any time.
4. Since this proposed development is a food service establishment, as defined in Fulton County Code of Ordinances and Code of Resolutions, Chapter 34 – Health and Sanitation, Article V – Food Service, the owner must submit kitchen plans for review and approval by this department before issuance of a building permit and beginning construction. The owner must obtain a food service permit prior to opening.
5. This department is requiring that plans indicating the number and location of outside refuse containers along with typical details of the pad and approach area for the refuse containers be submitted for review and approval.

Environmental Justice (EJ):

1. The Fulton County Board of Health does not anticipate any adverse impacts to the health of humans or the environment by allowing the special use permit to allow for the proposed food service establishment.

ANALYSIS

The Applicant is requesting a SUP to allow for an entertainment venue on a 10.83-acre, commercially-zoned property, at 6000 Medlock Bridge Parkway. The subject property is surrounded by a mixture of commercial and residential uses. The subject property is bordered by a single-family residential subdivision (Medlock Bridge) to the west, by Wilson Road to the north, by Medlock Bridge Road to the east, and by the rest of the Medlock Bridge Shopping Center to the south. Situated across Wilson Road is a commercial shopping center, as well as the recreational amenity area of the Medlock Bridge subdivision. Situated across Medlock Bridge Road is another commercial shopping center as well as the St. Ives subdivision. With proper conditions to mitigate the potential noise impact, the entertainment venue should be compatible with adjacent and nearby land uses, and supports many residential subdivisions in the city as a gathering place for the community.

The subject property is located in Character Area 9: “Medlock Bridge Road Corridor” on the Future Development Map in the Comprehensive Land Use Plan (CLUP). The vision for this Character Area calls for a mix of commercial, office, residential and institutional uses. In the Johns Creek Strategic Economic Development Plan (SEDP) 2016-2021, the lack of “evening entertainment and meeting places” was identified as one of the weaknesses in the city’s economy. The SEDP also recommends “the development of destination entertainment and destination retail.” The proposed uses would be consistent with the CLUP and SEDP, as long as development proceeds and the facility operates in such a way as to be in harmony with the use of adjacent and nearby properties.

The applicant has conducted two sound pressure tests: one on 8/17 between 12:30 p.m. and 2:00 p.m. for dBA data collection, and another one on 8/19 after 11 p.m. for dBA and dBC data collection. The sound pressure level (SPL) report for the 8/17 testing shows that the SPL outside the rear of the entertainment venue (50 feet from sound system and 500 feet from sound system) will not add more than 2 dBA when music or pink noise is amplified through the venue’s installed audio system at a maximum SPL of 100 dBA, and provided the rear doors remain closed. The SPL report for the 8/19 testing shows that the SPL outside the rear of the entertainment venue (400 feet from sound system and 500 feet from sound system) will not add more than 2 dBA or dBC when music or pink noise is amplified through the venue’s installed audio system at a maximum SPL of 100 dBA. It should be noted that the natural background SPL levels in the 8/19 testing exceeded the allowed legal amount, but the SPL report shows that the changes in SPL are in compliance with the Nuisance Ordinance. Sound studies have shown that changes in noise level of less than 3 dBA are barely noticeable to the human ear. Therefore, the proposed entertainment venue meets the SUP requirements.

In conclusion, the proposed entertainment venue is consistent with the overall goals and policies of the Medlock Bridge Road Corridor, and is compatible with adjacent and nearby land uses. It also meets the use permit standards listed in Section 19.4.17(1) of the City’s Zoning Ordinance. Therefore, the Department of Community Development recommends APPROVAL of Land Use Petition SUP-18-001, WITH CONDITIONS.

STAFF RECOMMENDATION

Based upon the findings and conclusions herein, Staff recommends **APPROVAL** of Land Use Petition **SUP-18-001, with the following conditions:**

1. The entertainment venue owner shall hire an audio engineer to set up sound pressure level (SPL) limiters for the entire audio system to not exceed 100 dBA, and maintain this limit at all times of audio system operation.
2. The hours of operation should be 11 a.m. to 11 p.m., Sunday through Wednesday, and 11 a.m. to 2 a.m., Thursday to Saturday.

PLANNING COMMISSION RECOMMENDATION

Based upon the findings and conclusions herein, at its October 2, 2018 public hearing, the Planning Commission recommended **APPROVAL** of Special Use Permit **SUP-18-001**, with staff conditions:

1. The entertainment venue owner shall hire an audio engineer to set up sound pressure level (SPL) limiters for the entire audio system to not exceed 100 dBA, and maintain this limit at all times of audio system operation.
2. The hours of operation should be 11 a.m. to 11 p.m., Sunday through Wednesday, and 11 a.m. to 2 a.m., Thursday to Saturday.