

**A SUBSTITUTE ORDINANCE BY COUNCILMEMBER FELICIA MOORE**

**AN ORDINANCE TO REZONE CERTAIN PROPERTIES ALONG A PORTION OF THE HOWELL MILL ROAD CORRIDOR FROM C-1, C-1-C, C-2, C-2-C, I-1, AND I-1-C TO MRC-2-C (MIXED RESIDENTIAL COMMERCIAL – CONDITIONAL) IN WHICH TO IMPLEMENT VARIOUS PLANS AND STUDIES ALONG THE HOWELL MILL ROAD CORRIDOR.**

**WHEREAS**, the Berkeley Park Blueprints Plan was completed in 2004 in conjunction with the Georgia Conservancy and has been reviewed by the Office of Planning; and

**WHEREAS**, the Upper Westside LCI Update was adopted by the City Council July 18, 2005 and approved by the Mayor July 18, 2005; and

**WHEREAS**, the Atlanta BeltLine Master Plan: Subarea 8 was adopted by the City Council March 19, 2012; and approved by the Mayor March 28, 2012; and

**WHEREAS**, these plans provided various strategies and recommendations including the rezoning parcels along the Howell Mill Road corridor to Quality of Life zoning districts, including Mixed Residential Commercial (MRC) consistent with the recommendations set forth therein; and

**WHEREAS**, the Connect Atlanta Plan was adopted by the City of Atlanta by the City Council December 1, 2008; and approved by the Mayor December 9, 2008; and the Connect Atlanta Plan Progress Report was adopted by the City Council June 17, 2013 and approved by the Mayor June 26, 2013; and

**WHEREAS**, the Cycle Atlanta Plan has been reviewed by the Office of Planning which calls for improvements to the Howell Mill road corridor in part which can be supported by the rezoning of parcels along the Howell Mill Road corridor to the Mixed Residential Commercial (MRC) which provides for improved sidewalks, curbcut restrictions and bike provisions, among others; and

**WHEREAS**, Councilmember Felicia Moore and Neighborhood Planning Unit (NPU)-D in conjunction with the City's Office of Planning has held a series of meeting with residents, property owners and other stakeholders to develop specific strategies and recommendations to address land use, zoning, urban design, open space, transportation and the environment in order to promote quality growth and improve transportation while protecting adjacent existing residential neighborhoods; and

**WHEREAS**, the recommendations from the Berkeley Park Blueprints Plan, Upper Westside LCI Update, Atlanta BeltLine Master Plan: Subarea 8, Connect Atlanta Plan, Cycle Atlanta Plan and series of meetings should be implemented through the rezoning of the properties along the Howell Mill Road corridor; and

**WHEREAS**, the official zoning maps should be amended to include the properties within as described in this document and shown on Attachments "A and B."

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:**

SECTION 1: That the 1982 City of Atlanta Zoning Ordinance be amended and the official zoning maps established in connection therewith be changed to include the properties located along the Howell Mill Road corridor with the designations as shown on "Attachment 'A'" and "Attachment 'B'"

SECTION 2: This amendment is approved under the provisions of Section 16-02.003 of the City of Atlanta Zoning Ordinance, entitled "Conditional Zoning," as identified with the use of the suffix "C" after the district designation. The Director of the Office of Buildings shall issue building permits for the development of the properties with said "Conditional Zoning" designation only in compliance with the attached conditions. Any conditions hereby approved (including any conditional site plan) do not authorize the violation of any zoning district regulations.

- 1) For all properties subject to this rezoning:
  - a. Prohibited primary and accessory uses:
    - i. Car washes as a primary use.
    - ii. Commercial greenhouses as a primary use.
    - iii. Dry-cleaning stores where any on-site treatment would occur.
    - iv. Eating and drinking establishments that would receive an alcohol license as a nightclub establishment.
    - v. New and used car sales, including other motorized vehicles such as mopeds and motorcycles.
    - vi. Mixed-use storage facilities.
    - vii. Mortuary and funeral homes.
    - viii. Park-for-hire surface parking lots.
    - ix. Telecommunication switchboards, power generators and other telecommunications relay equipment and rooms or floors housing them as a primary use.
    - x. Tattoo and body piercing establishments.
    - xi. Truck stops.
    - xii. Veterinary clinics (and similar animal care facilities) which are not entirely conducted within enclosed permanent structures.
    - xiii. Any establishment offering check cashing services pursuant to a license issued pursuant to Article 4A of Chapter 7 of the Official Code of Georgia or loan money to the public except for any state or federally chartered bank, trust company, credit union, savings and loan association, or savings bank with deposits that are federally insured.
    - xiv. Any pawnbroker establishment licensed by the City pursuant to City Code Chapter 122, Article III.
  - b. Hours of operation:
    - i. No use shall operate between the hours of 2:00 a.m. to 6:30 a.m. unless located 50 feet or more from any R-1 through R-5 classifications and such uses are either:
      1. Retail uses in combination with fuel dispensing; or
      2. Eating and drinking establishments serving breakfast; or
      3. Medical health facilities.
    - ii. No outdoor dining and/or any amplified sound shall be allowed to operate outside enclosed permanent structures between the hours 11:00 p.m. to 6:30 a.m.

- c. Transitional Uses: Where a lot in this district abuts or is within 100 feet of a lot in any R-1 through R-G, MR, RLC or PD-H district at the side or rear without an intervening paved improved street for vehicular purposes such lot shall not be used for a: drive-through service window or drive-in facility, car wash, service station, repair garage, or paint and body shop even where otherwise authorized.
  - d. Transitional Yards: Where a transitional yard is required per Sec. 16-34.009:
    - i. Any paving is prohibited in any portion of such 20 foot wide transitional yard unless providing shared access with one (1) or more adjoining properties in this same MRC-2-C district whereas such paved shared access shall be located at least 10 feet from such adjacent zoning district. Paved shared access shall not be construed to be for the purposes of parking, loading or servicing.
    - ii. For areas of such yard proposed as a landscape strip minimum 3.5" inch caliber evergreen trees shall be planted and spaced at a maximum of 15' on-center.
  - e. Shared Access: For any non-residential uses with one (1) or more adjoining properties in this same MRC-2-C district the property owner shall grant an perpetual vehicular access easement to each applicable adjoining property at a minimum 20 foot width. Such easement shall be recorded in the office of the superior court and referenced to deed book with a copy of such recorded easement provided to the Office of Planning. Upon the availability of access to driveways on the adjoining lot(s), the pavement (or other surface) shall be extended to the applicable adjoining property line(s).
  - f. Parking Reduction Opportunity: If perpetual shared vehicular access is provided as described in 1.e above (or similarly) such property owners shall be entitled up to a 10% reduction of minimum parking requirements.
  - g. Shared Parking: Off-site parking and shared parking shall be allowed within 600 feet of a primary use as measured by pedestrian walking distance from such off-site shared parking space(s) utilizing any of a combination of public sidewalks, crosswalks and pedestrian walkways to from such parking spaces to primary entry doors.
  - h. Fencing/Walls:
    - i. Barbed wire, razor wire, and uncoated chain link fencing shall be prohibited.
    - ii. No fencing or walls shall be allowed as a barrier to any exterior storm water management feature.
  - i. Residential useable open space:
    - i. A minimum of 10% of minimum useable open space requirements (USOR) shall be provided as uncovered, accessible and at finished grade.
    - ii. A maximum of one-half (50%) of any defined useable open space located at rooftop level(s) shall count toward meeting minimum useable open space requirements (USOR).
- 2) Northwest (Underwood Hills) Subarea : For all properties in the MRC-2-C designations located west of Howell Mill Road and north of Chattahoochee Avenue:
- a. Regulated Uses:
    - i. Fuel dispensing shall be limited to a total of two (2) such establishments.
    - ii. Automobile service stations and auto-focused retail establishments including sellers of parts and accessories, tires and rims, auto-detailing and auto-upholstery,

wholesalers and resellers, including those that do not offer repair services shall be limited to a total of three (3) such establishments.

- b. Density (FAR) maximum: Non-residential uses shall not exceed 1.0 times the net lot area for addresses 1678-1776 Howell Mill Road within this subarea.
  - c. Height Maximums: Where this MRC district adjoins a district in the R-1 through R-5 zoning classifications, regardless of any intervening street or parcel, building height shall be limited as follows: Any portion of a building or structure which is less than 60 feet to any R-1 through R-5 zoning classification shall be a maximum of 35 feet in height. Elsewhere, maximum building height shall be as follows:
    - i. For addresses 1782 – 1800 Howell Mill Road: If located 60 to 250 feet from any R-1 through R-5 classifications maximum building height shall be 115 feet in lieu of Sec. 16-34.027.2(b). Otherwise, the maximum building height shall be 150 feet.
    - ii. For addresses 1678 – 1776 Howell Mill Road: If located 60 to 150 feet from any R-1 through R-5 classifications maximum building height shall be 52 feet. Otherwise, the maximum building height shall be 80 feet.
  - d. Along Howell Mill Road frontage, the following shall apply:
    - i. Any habitable building shall be set back at least 20' feet from the property line;
    - ii. Uses within this Howell Mill Road frontage setback is limited to drive lanes, street curbing, street furniture and tree planting zones (and their allowed elements), bike lanes, clear sidewalks and/or landscaping only;
    - iii. Within such setback, and in lieu of Sec. 16-34.012, 16-36.012 and 16-36.013, as applicable, there shall be both a minimum 4' foot street furniture and tree planting zone and a minimum 6' clear sidewalk; and
    - iv. The area within such setback may be counted to meet usable open space and public space requirements.
- 3) Northeast Subarea: For all properties in the MRC-2-C designations east of Howell Mill Road and north of Bellemeade Avenue:
- a. Density (FAR) maximum: Non-residential uses shall not exceed 1.5 times the net lot area within this subarea.
  - b. Height Maximums: Where this MRC district adjoins a district in the R-1 through R-5 zoning classifications, regardless of any intervening street or parcel, building height shall be limited as follows: Any portion of a building or structure which is less than 60 feet to any R-1 through R-5 zoning classification shall be a maximum of 35 feet in height. Elsewhere, maximum building height shall be as follows:
    - i. For addresses 1761 – 1801 Howell Mill Road: Maximum building height shall be 115 feet.
    - ii. Elsewhere within this subarea: The maximum building height shall be 80 feet.
  - c. Along Howell Mill Road frontage, the following shall apply:
    - i. Any habitable building shall be set back at least 20' feet from the property line;
    - ii. Uses within this Howell Mill Road frontage setback is limited to drive lanes, street curbing, street furniture and tree planting zones (and their allowed elements), bike lanes, clear sidewalks and/or landscaping only;

- iii. Within such setback, and in lieu of Sec. 16-34.012, 16-36.012 and 16-36.013, as applicable, there shall be both a minimum 4' foot street furniture and tree planting zone and a minimum 6' clear sidewalk; and
  - iv. The area within such setback may be counted to meet usable open space and public space requirements.
- 4) Southwest Subarea: For all properties in the MRC-2-C designations west of Howell Mill Road and south of Chattahoochee Avenue:
- a. Regulated Uses:
    - i. Each non-residential establishment shall not exceed 12,000 square feet.
    - ii. Drive through and/or drive-in uses (whether primary or accessory) including fuel dispensing shall be prohibited.
  - b. Density (FAR) maximum: Non-residential uses shall not exceed 1.5 times the net lot area within this subarea.
  - c. Height Maximums: Maximum building height shall be 115 feet within this subarea.
  - d. Access Management: A maximum of one (1) two-way curb cut at a maximum 28' foot width or two (2) one-way curbcuts at a total maximum 28' foot width shall be allowed on Howell Mill Road per each parcel unless such parcel has access to another public right-of-way whereas only a maximum of one (1) one-way right egress only curb cut shall be allowed on Howell Mill Road.
  - e. Along Howell Mill Road frontage, the following shall apply:
    - i. Any habitable building shall be set back at least 15' feet from the property line;
    - ii. Uses within this Howell Mill Road frontage setback is limited to drive lanes, street curbing, street furniture and tree planting zones (and their allowed elements), bike lanes, clear sidewalks and/or landscaping only;
    - iii. Within such setback, and in lieu of Sec. 16-34.012, 16-36.012 and 16-36.013, as applicable, there shall be both a minimum 4' foot street furniture and tree planting zone and a minimum 6' clear sidewalk; and
    - iv. The area within such setback may be counted to meet usable open space and public space requirements.
- 5) Southeast (Berkeley Park) Subarea: For all properties in the MRC-2-C designations east of Howell Mill Road and south of Bellemeade Avenue:
- a. Regulated Uses:
    - i. Any non-residential establishment shall not exceed 12,000 square feet.
    - ii. Automobile service stations and auto-focused retail establishments including sellers of parts and accessories, tires and rims, auto-detailing and auto-upholstery, wholesalers and resellers, including those that do not offer repair services shall be limited to a total of three (3) such establishments.
    - iii. Fuel dispensing uses shall be prohibited.
    - iv. Uses with drive through and/or drive-in uses (whether primary or accessory) shall be limited to a total of two (2) such establishments, be separated by a public right-of-way and may include only one (1) bank or similar financial establishment and only one (1) eating and drinking establishment.
  - b. Density (FAR) maximums: Non-residential uses shall not exceed 1.0 times the net lot area within this subarea.

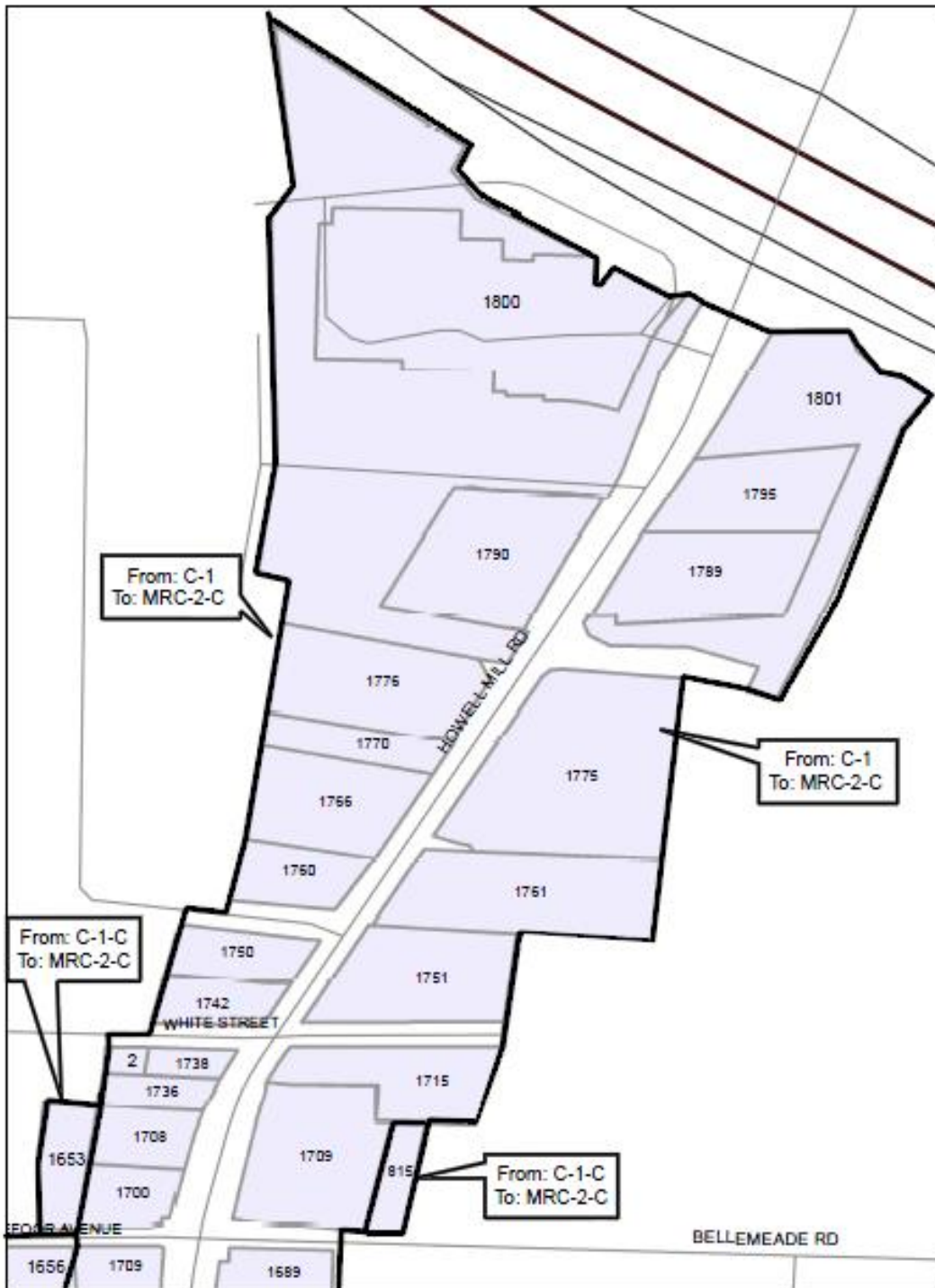
- c. Height Maximums: Any portion of a building or structure which is less than 60 feet to any R-1 through R-5 zoning classifications shall be a maximum of 35 feet in height. If located 60 to 150 feet from any R-1 through R-5 classifications maximum building height shall be 52 feet. Otherwise, the maximum building height shall be 80 feet elsewhere within this subarea.
  - d. Access Management: A maximum of one (1) two-way curb cut at a maximum 28' foot width or two (2) one-way curbcuts at a total maximum 28' foot width shall be allowed on Howell Mill Road per each parcel unless such parcel has access to another public right-of-way whereas only a maximum of one (1) one-way right egress only curb cut shall be allowed on Howell Mill Road.
  - e. Along Howell Mill Road frontage, the following shall apply:
    - i. Any habitable building shall be set back at least 15' feet from the property line;
    - ii. Uses within this Howell Mill Road frontage setback is limited to drive lanes, street curbing, street furniture and tree planting zones (and their allowed elements), bike lanes, clear sidewalks and/or landscaping only;
    - iii. Within such setback, and in lieu of Sec. 16-34.012, 16-36.012 and 16-36.013, as applicable, there shall be both a minimum 4' foot street furniture and tree planting zone and a minimum 6' clear sidewalk; and
    - iv. The area within such setback may be counted to meet usable open space and public space requirements.
- 6) Should any section or provision of this ordinance, or the application thereof to any person or circumstance, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this ordinance as a whole or any section thereof other than the section or provision, or application thereof, specifically declared to be invalid.

Attachment 'A'				
ID #	Tax Pin	Address	Current Zoning	Proposed Zoning
1	17 01520004022	901 CHATTAHOOCHEE AVE NW	I-1/C-1	MRC-2-C
2	17 01520010028	0 HOWELL MILL RD	C-2	MRC-2-C
3	17 01520009018	1512 HOWELL MILL ROAD	C-2-C	MRC-2-C
4	17 01520009028	1516 HOWELL MILL RD NW #1	C-2-C	MRC-2-C
5	17 01520009029	1516 HOWELL MILL RD NW #2	C-2-C	MRC-2-C
6	17 01520009030	1516 HOWELL MILL RD NW #3	C-2-C	MRC-2-C
7	17 01520009031	1516 HOWELL MILL RD NW #4	C-2-C	MRC-2-C
8	17 01520009032	1516 HOWELL MILL RD NW #5	C-2-C	MRC-2-C
9	17 01520009033	1516 HOWELL MILL RD NW #6	C-2-C	MRC-2-C
10	17 01520009034	1516 HOWELL MILL RD NW #7	C-2-C	MRC-2-C
11	17 01520009035	1516 HOWELL MILL RD NW #8	C-2-C	MRC-2-C
12	17 01520009036	1516 HOWELL MILL RD NW #9	C-2-C	MRC-2-C
13	17 01520009037	1516 HOWELL MILL RD NW #10	C-2-C	MRC-2-C
14	17 01520009038	1516 HOWELL MILL RD NW #11	C-2-C	MRC-2-C
15	17 01520009039	1516 HOWELL MILL RD NW #12	C-2-C	MRC-2-C
16	17 01520009040	1516 HOWELL MILL RD NW #13	C-2-C	MRC-2-C
17	17 01520009041	1516 HOWELL MILL RD NW #14	C-2-C	MRC-2-C
18	17 01520009042	1516 HOWELL MILL RD NW #15	C-2-C	MRC-2-C
19	17 01520009043	1516 HOWELL MILL RD NW #16	C-2-C	MRC-2-C
20	17 01520009044	1516 HOWELL MILL RD NW(#17)	C-2-C	MRC-2-C
21	17 01520009045	1516 HOWELL MILL RD NW #18	C-2-C	MRC-2-C
22	17 01520009046	1516 HOWELL MILL RD NW #19	C-2-C	MRC-2-C
23	17 01520009047	1516 HOWELL MILL RD NW #20	C-2-C	MRC-2-C
24	17 01520009014	1522 HOWELL MILL RD NW	C-2	MRC-2-C
25	17 01520010002	1523 HOWELL MILL RD NW	C-1	MRC-2-C
26	17 01520009007	1526 HOWELL MILL RD NW	C-2	MRC-2-C
27	17 01520009006	1528 HOWELL MILL RD NW	C-2	MRC-2-C
28	17 01520009005	1530 HOWELL MILL RD NW	C-2	MRC-2-C
29	17 01520008059	1531 HOWELL MILL RD NW	C-1	MRC-2-C
30	17 01520009004	1532 HOWELL MILL RD NW	C-2	MRC-2-C
31	17 01520009027	1572 HOWELL MILL RD NW	C-2	MRC-2-C
32	17 01520008060	1583 HOWELL MILL RD NW	C-1	MRC-2-C
33	17 01520004042	1586 HOWELL MILL RD NW	I-1/I-1-C	MRC-2-C
34	17 01520008068	1587 HOWELL MILL RD NW	C-1	MRC-2-C
35	17 01520005029	1599 HOWELL MILL RD NW	C-1	MRC-2-C
36	17 01520004044	1604 HOWELL MILL RD NW	C-2	MRC-2-C
37	17 01520005027	1605 HOWELL MILL RD NW	C-1	MRC-2-C
38	17 01520005025	1663 HOWELL MILL RD NW	C-1	MRC-2-C

Attachment 'A'				
ID #	Tax Pin	Address	Current Zoning	Proposed Zoning
39	17 01520005024	1667 HOWELL MILL RD NW	C-1	MRC-2-C
40	17 01520004004	1668 HOWELL MILL RD NW	C-2	MRC-2-C
41	17 01520005004	1671 HOWELL MILL RD NW	C-1	MRC-2-C
42	17 01520004035	1678 HOWELL MILL RD NW	C-1	MRC-2-C
43	17 01520005003	1685 HOWELL MILL RD NW	C-1	MRC-2-C
44	17 01520005056	1689 HOWELL MILL RD NW	C-1	MRC-2-C
45	17 01520004045	1690 HOWELL MILL RD NW	C-1	MRC-2-C
46	17 01520002028	1700 HOWELL MILL RD NW	C-1	MRC-2-C
47	17 01520002027	1708 HOWELL MILL RD NW	C-1	MRC-2-C
48	17 01520003023	1709 HOWELL MILL RD NW	C-1	MRC-2-C
49	17 0152 LL042	1715 HOWELL MILL RD NW	C-1	MRC-2-C
50	17 01520002013	1736 HOWELL MILL RD NW	C-1	MRC-2-C
51	17 01520002012	1738 HOWELL MILL RD NW	C-1	MRC-2-C
52	18 01520002011	1742 HOWELL MILL RD NW	C-1	MRC-2-C
53	17 01520002009	1750 HOWELL MILL RD NW	C-1	MRC-2-C
54	17 0152 LL039	1751 HOWELL MILL RD NW	C-1	MRC-2-C
55	17 01520001055	1760 HOWELL MILL RD NW	C-1	MRC-2-C
56	17 0152 LL007	1761 HOWELL MILL RD NW	C-1	MRC-2-C
57	17 01520001069	1766 HOWELL MILL RD NW	C-1	MRC-2-C
58	17 01520001051	1770 HOWELL MILL RD NW	C-1	MRC-2-C
59	17 0152 LL005	1775 HOWELL MILL RD NW	C-1	MRC-2-C
60	17 01520001070	1776 HOWELL MILL RD NW	C-1	MRC-2-C
61	17 0152 LL034	1789 HOWELL MILL RD NW	C-1	MRC-2-C
62	17 01520001081	1790 HOWELL MILL RD NW	C-1	MRC-2-C
63	17 0152 LL033	1795 HOWELL MILL RD NW	C-1	MRC-2-C
64	17 01520001091	1800 HOWELL MILL RD NW	C-2	MRC-2-C
65	17 01520012024	1801 HOWELL MILL RD NW	C-1	MRC-2-C
66	17 01520003007	815 BELLEMEADE AVE NW	C-1-C	MRC-2-C
67	17 01520002029	1653 DEFOOR AVE	C-1-C	MRC-2-C
68	17 01520004038	1656 DEFOOR AVE	I-1/C-1	MRC-2-C
69	17 01520002026	2 WHITE ST	C-1	MRC-2-C



### Attachment 'B' North



### Attachment 'B'

South

