

CHANGE IN CONDITIONS APPLICATION
 AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF GWINNETT COUNTY, GEORGIA

APPLICANT INFORMATION	APPLICANT OWNER INFORMATION*
NAME: <u>F.D. Associates Inc.</u>	NAME: <u>Home Depot USA, Inc</u>
ADDRESS: <u>1771 Industrial Rd</u>	ADDRESS: <u>2455 Paces Ferry Rd</u>
CITY: <u>Dorham</u>	CITY: <u>Atlanta</u>
STATE: <u>AL</u> ZIP: <u>36303</u>	STATE: <u>GA</u> ZIP: <u>30339</u>
PHONE: <u>334-836-1400 ex 148</u>	PHONE: <u>770-384-2108</u> ^{Kate} _{Peterson}
CONTACT PERSON: <u>Rosalyn Holderfield</u> PHONE: <u>334 836-1736</u>	
APPLICANT'S E-MAIL: <u>Rosalyn@fdassociatesinc.com</u>	

APPLICANT IS THE:

OWNER'S AGENT PROPERTY OWNER CONTRACT PURCHASER

PRESENT ZONING DISTRICT(S): C-2 PRIOR ZONING CASE: SUP-99-041

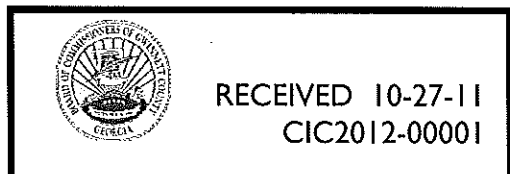
LAND DISTRICT(S): C LAND LOT(S): 208 ACREAGE: 14.28

ADDRESS OF PROPERTY: 3755 Shackelford Rd. Duluth

PROPOSED CHANGE IN CONDITIONS: Remove condition E. "no billboards shall be allowed"

RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT:
NO. OF LOTS/DWELLING UNITS: _____	NO. OF BUILDINGS/LOTS: <u>1</u>
DWELLING UNIT SIZE (Sq. Ft.): _____	TOTAL GROSS SQUARE FEET: <u>130,628</u>
GROSS DENSITY: _____	DENSITY: _____
NET DENSITY: _____	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED



LEGAL DESCRIPTION

TRACTS I, II, IIA, III

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN Land Lot 208, 6th District, Gwinnett County, Georgia, containing 14.28 Acres or 622,118 square feet in accordance with an ALTA/ASCM Land Title Survey for Home Depot, U.S.A. by Moore Bass Consulting, Inc., Wayne Alan Powers #2891, dated March 14, 2005, and being more particularly described as follows: TO FIND THE TRUE POINT OF BEGINNING commencing at the extended intersection of the southwest right of way of Liddell Lane (80' right of way) with the northwest right of way of Shackelford Road, also known as Berkshire Boulevard, also known as Lidell Way, (variable right of way) at a P/K nail placed;

Thence proceeding along said right of way South 60 degrees 35 minutes 34 seconds West, a distance of 195.79 feet, to a 1/2" rebar found, said rebar being the POINT OF BEGINNING;

Thence continue along said right of way South 60 degrees 35 minutes 34 seconds West, a distance of 438.40 feet, to a point;

Thence continue along said right of way South 29 degrees 52 minutes 02 seconds East, a distance of 10.01 feet; to a point;

Thence continue along said right of way South 60 degrees 35 minutes 34 seconds West, a distance of 246.30 feet, to a point in the centerline of an un-named creek, said point being known as Point "A" and said centerline being the property line;

Thence along the centerline of said creek, in a Northwesterly direction, a distance of +/- 789 feet, to a point at the centerline of said creek, said point being known as Point "B", being subtended by a survey tie line commencing at Point "A" and traversing to Point "B" the following courses and distances:

Thence North 42 degrees 06 minutes 40 seconds West, a distance of 73.99 feet, to a point;
Thence North 21 degrees 12 minutes 53 seconds West, a distance of 61.19 feet, to a point;
Thence North 40 degrees 28 minutes 53 seconds West, a distance of 77.18 feet, to a point;
Thence North 22 degrees 31 minutes 45 seconds West, a distance of 186.97 feet, to a point;
Thence North 28 degrees 27 minutes 38 seconds West, a distance of 55.63 feet, to a point;
Thence North 38 degrees 23 minutes 37 seconds West, a distance of 34.52 feet, to a point;
Thence North 20 degrees 42 minutes 18 seconds West, a distance of 32.88 feet, to a point;
Thence North 32 degrees 21 minutes 06 seconds West, a distance of 73.85 feet, to a point;
Thence North 47 degrees 12 minutes 17 seconds West, a distance of 28.68 feet, to a point;
Thence North 35 degrees 05 minutes 38 seconds West, a distance of 104.60 feet, to a point;
Thence North 33 degrees 15 minutes 48 seconds West, a distance of 70.55 feet, to a point;

Thence leaving said centerline of creek North 62 degrees 26 minutes 31 seconds East, a distance of 159.08 feet, to a 1/2" rebar found;

Thence along an arc of a curve to the left, an arc length of 124.91 feet and a radius of 50.00 feet, said curve being subtended by a chord bearing North 80 degrees 52 minutes 37 seconds East, a distance of 94.87 feet to a point on the southerly right of way of East Liddell Road (variable right of way);

Thence proceeding along said right of way North 62 degrees 26 minutes 31 seconds East, a distance of 19.44 feet, to a point;

Thence continue along said right of way South 29 degrees 52 minutes 02 seconds East, a distance of 10.01 feet, to a point;

Thence North 62 degrees 26 minutes 31 seconds East, a distance of 225.51 feet, to a point;
Thence along an arc of a curve to the left, an arc length of 145.93 feet and a radius of 588.51 feet, said curve being subtended by a chord bearing North 55 degrees 20 minutes 18 seconds East, a distance of 145.56 feet to a point;

Thence North 48 degrees 14 minutes 05 seconds East, a distance of 25.25 feet, to a point;

Thence North 29 degrees 34 minutes 39 seconds West, a distance of 10.23 feet, to a point;

Thence North 48 degrees 14 minutes 05 seconds East, a distance of 120.66 feet, to a point;

Thence along an arc of a curve to the right, an arc length of 51.92 feet and a radius of 413.03 feet, said curve being subtended by a chord bearing North 51 degrees 50 minutes 10 seconds East, a distance of 51.89 feet to a 1/2" rebar found;

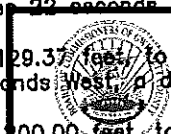
Thence South 77 degrees 52 minutes 44 seconds East, a distance of 68.55 feet, to a 1/2" rebar found on the westerly right of way of Liddell Lane (80' right of way);

Thence proceeding along said right of way South 31 degrees 18 minutes 22 seconds East, a distance of 414.14 feet, to a 1/2" rebar found;

Thence South 31 degrees 18 minutes 22 seconds East, a distance of 129.37 feet, to a point;

Thence leaving said right of way South 60 degrees 35 minutes 30 seconds West, a distance of 193.86 feet, to a point;

Thence South 30 degrees 45 minutes 07 seconds East, a distance of 200.00 feet, to a 1/2" rebar found, said rebar being the POINT OF BEGINNING.



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CHANGE IN CONDITIONS APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER.

PURSUANT TO SECTION 1702 OF THE 1985 ZONING RESOLUTION, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY: *PLEASE SEE ATTACHMENT*

(A) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

(B) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

(C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

(D) WHETHER THE PROPOSED CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

(E) WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

(F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE PROPOSED CHANGE IN CONDITIONS:





*Builders of
Identification
Solutions*

1771 Industrial Road
Dothan, AL 36303
Phone: 334-836-1400
Fax: 334-836-1401

October 25, 2011

Department of Planning & Development
Planning Division
446 West Crogan Street, Suite 250
Lawrenceville, GA 30046

RE: **Standard Governing the Exercise of the Zoning Power**
Change in Conditions to SUP-99-041
The Home Depot, Inc
3755 Shackleford Road
Duluth, GA

- A. The proposed change in conditions will permit a use that is suitable in view of the use and development of adjacent and nearby property: Yes, the proposed change, removing the “billboard” restriction will allow The Home Depot the same advantages as adjacent and nearby properties. Oversized signs are allowed for the adjacent and nearby properties – which are primarily commercial C2/C3 and manufacturing M1/M2 districts.
- B. The proposed change in conditions will adversely affect the existing use or usability of adjacent or nearby property: No, we will be afforded the same advantages as the adjacent or nearby properties as noted above.
- C. The property to be affected by a proposed change in conditions has reasonable economic use as currently zoned: The current zone of the property, with the removal of the “billboard” restriction, will allow reasonable use of the property.
- D. The proposed change in conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools: No, the change in condition removing the “billboard” restriction should not have any adverse impact on the current conditions.
- E. The proposed change in conditions is in conformity with the policy and intent of the land use plan: Yes
- F. Are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed change in conditions: The proposed change in condition removing the “billboard” restriction will allow us pursue a Tall Structure Permit application request.



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October 25, 2011

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RE: Letter of Intent
Change in Conditions to SUP-99-041
The Home Depot, Inc
3755 Shackleford Road
Duluth, GA

The Change in Condition application is requested to *remove* item E - No billboards shall be allowed from the approved Special Use Application dated May 25, 1999 – item number SUP-99-041 (copy attached).

The reason for this request is to allow The Home Depot the ability to proceed with a Tall Structure Permit application request for a proposed 361 sq. ft. cabinet at 120 feet above grade for visibility to Interstate 85.

The Home Depot property is located east of the northbound lane of I-85 and is tucked behind several businesses south of Pleasant Hill Road. Although the store is adjacent to I-85 it does not have adequate exposure to I-85 that is vital to its continued success.

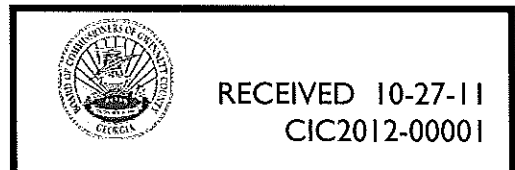
The Home Depot in Duluth is one of the original stores and weathered years of market extremes. The current conditions have forced The Home Depot to re-evaluate all its stores and their profitability. The Home Depot feels strongly that this store can once again be successful and profitable and weather these economic conditions again with proper exposure and visibility to Interstate 85.

The surrounding area – both east and west of interstate 85 – are primarily made up of Commercial (C2/C3) or Manufacturing (M1/M2) Zoning Districts which allow the “Oversized Sign” that we are requesting; consequently, causing no detriment to the existing adjacent or nearby properties.

Thank you for your consideration and I respectfully ask that you grant our change in condition request removing item E “no-billboards shall be allowed” from SUP-99-41.

Sincerely,

Rosalyn Holderfield
ID Associates, Inc.
Representative for The Home Depot, Inc



Ground Lessee's

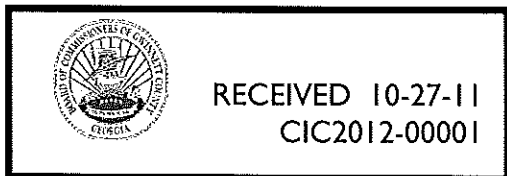
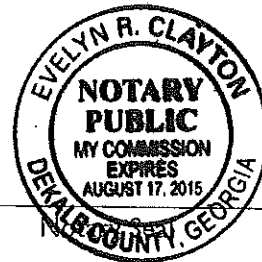
CHANGE IN CONDITIONS PROPERTY OWNER'S CERTIFICATION

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

Jennifer M. Evans _____ *10/18/2011*
Signature of Property Owner _____ Date
Ground Lessee

Jennifer M. Evans, Attorney, Home Depot U.S.A., Inc.
Type or Print Name and Title

Evelyn R. Clayton _____ *10/18/11*
Signature of Notary Public _____ Date



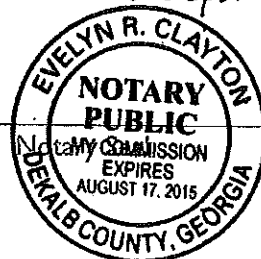
CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS

The undersigned below, making application for a change in conditions, has complied with the Official Code of Georgia Section 36-67A-1, et. seq. Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Roselyn Holderfield 10/25/11 Roselyn Holderfield, Representative
 Signature of Applicant's Representative Date Type of Print Name and Title

Jennifer M. Evans 10/18/11 Jennifer M. Evans, Attorney
 Signature of Applicant's Attorney or Representative Date Type of Print Name and Title
 Home Depot U.S.A., Inc.

Evelyn R. Clayton 10/18/11
 Signature of Notary Public Date



DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

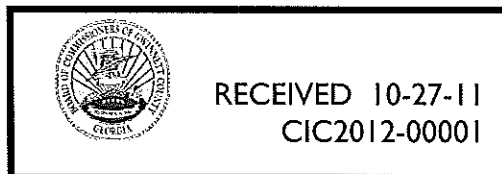
Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YES NO Jennifer M. Evans, Attorney for Home Depot U.S.A., Inc.
 Your Name

If the answer is yes, please complete the following section:

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

Attach additional sheets if necessary to disclose or describe all contributions.



**VERIFICATION OF CURRENT PAID PROPERTY TAXES
FOR CHANGE IN CONDITIONS**

THE UNDERSIGNED CERTIFIES THAT ALL GWINNETT COUNTY PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION FOR REZONING BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

*** NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER:
(Map Reference Number)

6 - 208 - 79
District Land Lot Parcel

Katy Broughton
Signature of Applicant

10-12-11
Date

Katy Broughton
Type or Print Name and Title

Manager, Property Tax

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Bill Joyce
NAME

TSA
TITLE

10/27/11
DATE

**GWINNETT COUNTY
TAX COMMISSIONER**



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FOR CHANGE IN CONDITIONS**

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*** NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER:
(Map Reference Number)

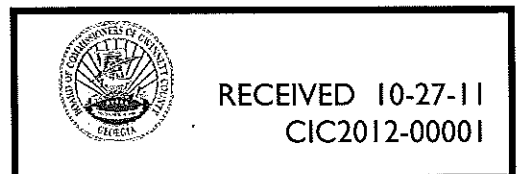
6 - 208 - 51
District Land Lot Parcel

E. Broughton 10.12.11
Signature of Applicant Date
Katy Broughton Manager, Property Tax
Type or Print Name and Title

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Bill Tores TSA
NAME TITLE
10/27/11
DATE
**GWINNETT COUNTY
TAX COMMISSIONER**



**VERIFICATION OF CURRENT PAID PROPERTY TAXES
FOR CHANGE IN CONDITIONS**

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PARCEL I.D. NUMBER:
(Map Reference Number)

6 - 208 - 3 & 3B
District Land Lot Parcel

K Broughton
Signature of Applicant

10-12-11
Date

Katy Broughton Manager, Property Tax
Type or Print Name and Title

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Bill Toyn
NAME

TSA
TITLE

10/27/11
DATE

**GWINNETT COUNTY
TAX COMMISSIONER**



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**VERIFICATION OF CURRENT PAID PROPERTY TAXES
FOR CHANGE IN CONDITIONS**

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*** NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER:
(Map Reference Number)

6 - 208 - 2
District Land Lot Parcel

Katy Broughton
Signature of Applicant

10-12-11
Date

Katy Broughton Manager, Property Tax
Type or Print Name and Title

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Bill Jones
NAME

TSA
TITLE

10/27/11
DATE

**GWINNETT COUNTY
TAX COMMISSIONER**

