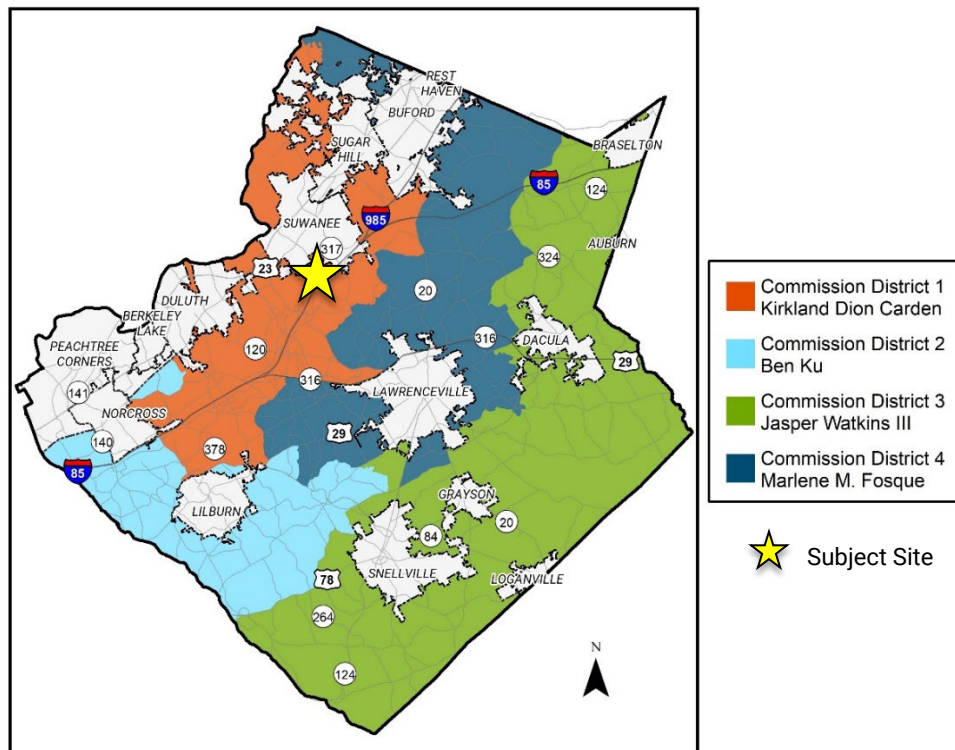




## PLANNING AND DEVELOPMENT DEPARTMENT CASE REPORT

**Case Number:** RZC2022-00020  
**Current Zoning:** R-100 (Single-Family Residence District)  
**Request:** Rezoning to C-2 (General Business District)  
**Address:** 3012 McGinnis Ferry Road  
**Map Number:** R7168 005  
**Site Area:** 0.78 acres  
**Square footage:** 5,000  
**Proposed Development:** Restaurant/Retail  
**Commission District:** District 1 – Commissioner Carden  
**Character Area:** Workplace Center

**Staff Recommendation:** APPROVAL WITH CONDITIONS



**Applicant:** David Barker  
1061 Lake Washington Drive  
Lawrenceville, GA 30043

**Owner:** William H. Irwin Trust  
Sherri Dixon - Executor  
9470 Cain Circle  
Gainesville, GA 30506

**Contact:** David Barker

**Contact Phone:** 404.713.9418

## Zoning History

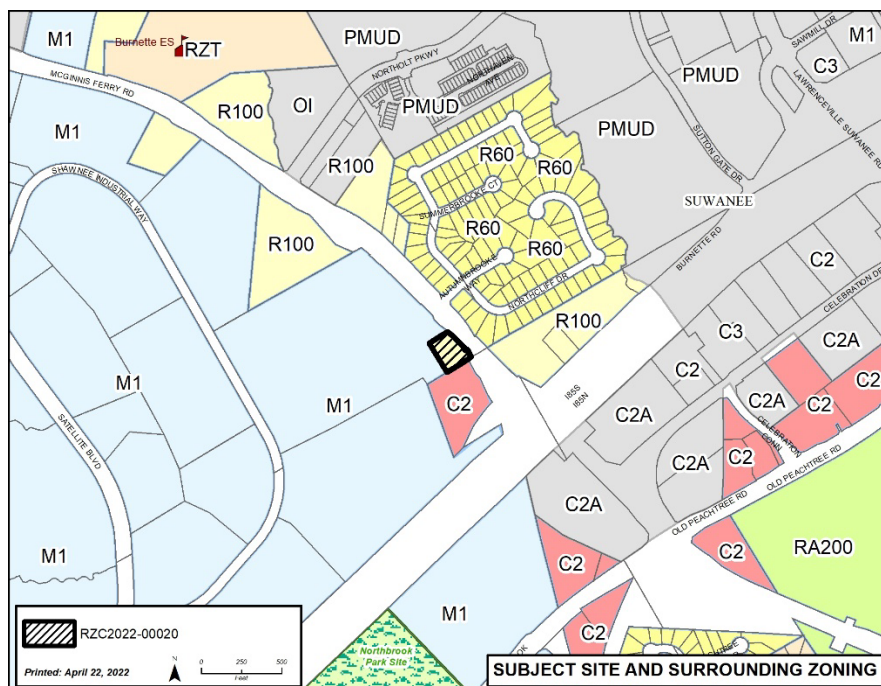
The subject property is zoned R-100 (Single-Family Residence District). No prior zoning requests are on record for this property.

## Existing Site Condition

The subject site is a 0.78-acre property located on the south side of McGinnis Ferry Road, west of Interstate 85. The property is developed with a single-family residence and a driveway. The site slopes down approximately 20 feet from east to west. Sidewalks exist along both sides of McGinnis Ferry Road. A retaining wall is located along McGinnis Ferry Road within the right of way. The nearest Gwinnett County Transit stop is 4.1 miles from the site.

## Surrounding Use and Zoning

The subject site is surrounded by light industrial and residential uses, as well as a commercial property with a single-family home. The industrial development Shawnee Ridge is located to the north and west of the site. To the north and east across McGinnis Ferry Road are a single-family detached residential subdivision and single-family lots. The following is a summary of surrounding uses and zoning:



Location	Land Use	Zoning	Density
Proposed	Restaurant/Retail	C-2	N/A
North	Single-Family Residential	R-60	3.21 units per acre
East	Single-Family Residential	R-100	0.32 units per acre
South	Single-Family Residential	C-2	0.38 units per acre
West	Light Industrial	M-1	N/A

## Project Summary

The applicant requests rezoning of a 0.78-acre property zoned R-100 to C-2 for a restaurant/retail development, including:

- A one-story 5,000 square-foot commercial building located on the northern side of the property.
- Access provided via a right-in/right-out entrance from McGinnis Ferry Road.
- Future interparcel access with the adjacent parcel to the south which is a proposed future convenience store with fuel pumps (RZC2016-00016).
- A parking lot containing 25 parking spaces with a dumpster pad and enclosure located along the western property line.
- A stormwater management facility shared with the adjacent parcel to the east and located on the adjacent parcel.
- No building elevations or renderings were provided by the applicant.

## Zoning and Development Standards

The applicant is requesting a rezoning to C-2 (General Business District). The following is a summary of applicable development standards from the Unified Development Ordinance (UDO):

Standard	Required	Proposed	Meets Standard?
Building Height	Maximum 35'	<35	YES
Front Yard Setback	Minimum 15'	>15'	YES
Side Yard Setback	Minimum 10'	10'	YES
Rear Yard Setback	Minimum 30'	>30'	YES
Off-Street Parking	Minimum: 10 spaces Maximum: 25 spaces	25 spaces	YES
Landscape Strip	Minimum 10' along right of way <sup>1</sup>	10'	YES

## Internal and External Agency Review

In addition to these Development Standards, the applicant must meet all other UDO requirements related to infrastructure improvements. Internal and External agency review comments are attached (Exhibit D). Standard site and infrastructure improvements will also be required related to transportation, stormwater, water, and sewer utilities. Recommended improvements not already required by the UDO have been added as staff recommended conditions.

<sup>1</sup> Note: Five-foot landscape strips shown along the sides and rear property lines are not standard requirements of the UDO.

## Staff Analysis

**Rezoning Request Analysis:** According to the UDO, if a proposed amendment is for the rezoning of property and involves a change in zoning classification, the Department shall evaluate the request and make a recommendation with respect to the standards governing exercise of zoning power as defined in Section 270-20.5. After this evaluation, staff makes the following findings based on the standards from the UDO:

**A. Whether a proposed zoning will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The site is surrounded by light industrial office warehouses and a single-family home on commercially zoned property along the south side of McGinnis Ferry Road, as well as a single-family residential subdivision and individual single-family residential lots along the north and east sides. The requested C-2 zoning is suitable considering the adjacent property to the south with the same zoning classification and the light industrial properties to the west. The adjacent residential home site is planned to be a future convenience store with fuel pumps associated with the subject request. Moreover, commercial zoning is appropriate near Interstate 85.

**B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property.**

The zoning change would not impact the existing use and usability of adjacent or nearby properties. The adjacent property has a C-2 zoning classification, and a divided roadway separates the subject property from the single-family residential subdivision across McGinnis Ferry Road.

**C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned.**

The property has a reasonable economic use as currently zoned.

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

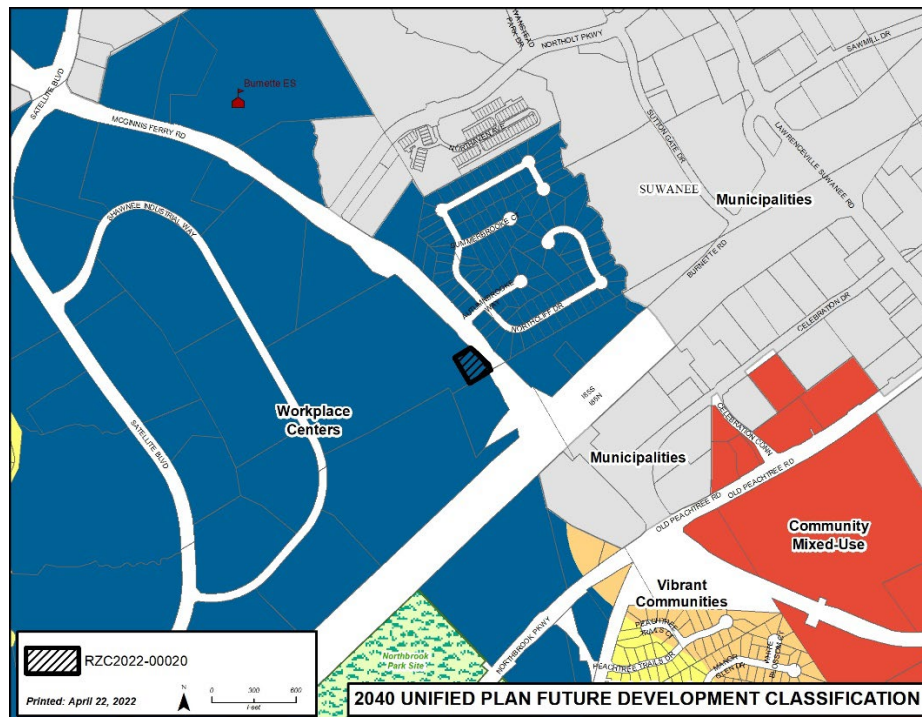
Impacts on public facilities would be anticipated in the form of traffic, utility demand, and stormwater runoff; however, appropriate conditions, site development requirements, and planning would mitigate these impacts. No impact is anticipated on school enrollment. Agency review comments related to any potential improvements concerning this rezoning request are attached (Exhibit D).

**E. Whether the proposed rezoning is in conformity with the policy and intent of the Unified Plan and Future Development Map.**

The 2040 Unified Plan Future Development Map indicates the subject property lies within the Workplace Center Character Area. This designation encourages service employment and includes areas containing office parks, industrial parks, and freight-oriented and logistics uses. Whereas the proposed small-scale restaurant and retail development would not directly support the goals of the Workplace Center Character Area, this designation does not expressly



discourage this type of use. In addition, the size of the subject parcel limits its use for these recommended uses.



**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 rezoning.**

The subject property's location offers supporting grounds for approval of the proposed rezoning. The property is near the site of a planned on-ramp to Interstate 85 southbound from McGinnis Ferry Road. The new interchange renders the current single-family residential zoning inappropriate and a commercial zoning for retail uses more suitable. Additional commercially zoned properties are located across Interstate 85 along McGinnis Ferry Road.

### Staff Recommendation

Based on the staff's evaluation of the request and the standards governing exercise of zoning power, the Department of Planning and Development recommends **APPROVAL WITH CONDITIONS** of the rezoning request.

Approval as C-2 (General Business District), subject to the following conditions:

1. The proposed development shall be constructed in general conformance with Exhibit B: Site Plan dated received April 6, 2022, with revisions required by conditions and the Unified Development Ordinance, subject to the review and approval of the Department of Planning and Development.
2. All buildings shall comply with Architectural Design Category 3.

3. No temporary tents, temporary canopies, temporary banners, temporary streamers, or temporary roping decorated with flags, tinsel, or other similar materials shall be displayed, hung, or strung on the site, except within 60 days of grand opening and during special events which shall occur no more than twice per calendar year, and last no longer than seven days each.
4. All grassed areas shall be sodded.
5. The developer shall coordinate with the proposed future interchange of McGinnis Ferry Road and Interstate 85 and make any needed improvements and right of way dedications.
6. An access easement shall be granted and recorded with the property located at 2894 McGinnis Ferry Road (R7152 270), prior to the issuance of a building permit.
7. A direct pedestrian connection from the building entrance shall be provided to the sidewalk along McGinnis Ferry Road, subject to the review and approval of the Department of Planning and Development.
8. The façade of the building oriented toward McGinnis Ferry Road shall be treated architecturally as a front façade, subject to the review and approval of the Department of Planning and Development.

**Exhibits:**

- A. Site Visit Photos
- B. Site Plan
- C. Letter of Intent and Applicant's Response to Standards
- D. Internal and External Agency Review Comments
- E. Maps



## Exhibit A: Site Visit Photos



**Existing single-family home**



**Area of proposed retail**





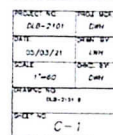
**Property line with adjacent proposed convenience store with fuel pumps**

**Exhibit B: Site Plan**

**[attached]**







**Exhibit C: Letter of Intent and Applicant's Response to Standards**

**[attached]**



RECEIVED

April 20, 2022

April 6, 2022

**VIA EMAIL**

Gwinnett County  
Department of Planning and Development  
446 West Crogan Street  
Lawrenceville, Ga 30046

**RE: Letter of Intent in Support of Rezoning for the Trust of William Howard Erwin and Thelma S. Erwin (the "Applicant") for the property located at 3012 McGinnis Ferry Road (the "Property")**

Gwinnett County Planning and Development Department:

The Applicant submits this Rezoning Application and Letter of Intent on behalf of the Applicant and Ms. Sherri Dixon, Executor of the Applicants Trust for the rezoning of the property known as 3012 McGinnis Ferry Road (the Property), being approximately .80 acres for commercial development consistent with those uses in the immediate area.

**I. REQUEST FOR REZONING**

The Property is currently zoned for single family residential, which is no longer a viable or appropriate use. The Property is now located at a planned interchange at McGinnis Ferry and I-85, is adjacent to a similar property with the requested zoning designation and is adjacent to an office/warehouse use. The Property is the subject of a planned transportation project which includes the addition of an entrance ramp from McGinnis Ferry onto I-85 southbound.

The Gwinnett County Unified Plan identifies similar properties as appropriate locations for the intended use of the Property. The application for rezoning to C-2 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the immediate vicinity, and alternate uses are not suitable given its location and surrounding uses, and the addition of the planned interchange.

The Subject parcel is adjacent to and will be consolidated with the adjacent parcel located at 2984 McGinnis Ferry Road, already zoned C-2 per Case Number RZC2016-00016. The consolidation of the two parcels will allow highest and best use of the two parcels. Attached with this application is a site plan showing both parcels and a potential use. Note the stormwater detention for both sites is shown in this site plan and is located on the 2984 parcel.

Sidewalks along the McGinnis Ferry frontage of both properties are existing and in place, subject to any modifications as required by Department of Transportation construction of the southbound entrance ramp construction.

Use of the property will be consistent with the Workplace Centers Character Area.

**II. CONSTITUTIONAL OBJECTIONS**

The portions of the Gwinnett County Unified Development Ordinance (the "UDO") which classify or condition the Property into any more or less intensive zoning classification and/or zoning condition other

than as requested by the Applicant are and would be unconstitutional in that they would destroy the Applicants property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to approve the Applicants request, so as to permit a feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property I violation for Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution.

### III. CONCLUSION

The Applicant respectfully requests that the Gwinnett County Board of Commissioner, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, to allow the Applicant a viable, quality, and economic use of the Property. The Applicant and its representatives welcome the opportunity to meet with Staff, Planning Commission and Board of Commissioners to answer any questions.

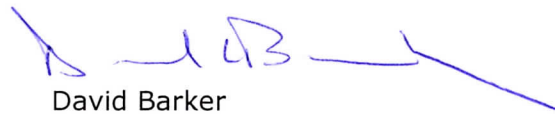
Respectfully submitted this 6<sup>th</sup> day of April, 2022.

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

**RECEIVED**

April 20, 2022

D. L. Barker & Associates, Inc.



David Barker  
Principal

**REZONING APPLICANT'S RESPONSE**

**STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER**

PURSUANT TO REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE, 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:

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

SEE ATTACHED

- (B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

- (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 REZONING:

SEE ATTACHED



RESPONSES IN SUPPORT OF REZONING (3012 MCGINNIS FERRY ROAD)

- A) WHETHER THE REQUESTED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes. The requested C-2 zoning, and commercial use is consistent with the nearby uses and provides an appropriate use given the property's location at the future development of the McGinnis Ferry I-85 interchange, adjacent to an existing industrial office park and McGinnis Ferry, a major mixed-use and commercial thoroughfare.

- B) WHETHER THE REQUESTED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OF USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. Nearby properties consist of similar or more intense commercial and industrial uses. The rezoning request is compatible with the next and only adjacent property on McGinnis Ferry Road.

- C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the property's locations and adjacent uses, and the imminent construction of the decel lanes and entrance ramp to I-85 southbound, the subject property does not have reasonable economic use as currently zoned and conditioned. It has remained vacant.

- D) WHETHER THE REQUESTED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AND EXCESSIVE OR BURDENSOME USE OF THE EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. The subject property is located in an area with access to public water and sewer, and direct access to major thoroughfares, highway and interstate. The proposed use is consistent with the Unified Plan which supports similar uses in this corridor. The proposed development will not cause excessive use of existing streets, transportation facilities, utilities, or schools.

- E) WHETHER THE REQUESTED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. The 2030 Unified Plan identifies the subject property location as appropriate for non-residential uses.

- F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE REQUESTED REZONING.

Yes. The application for rezoning to C-2 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the vicinity.

**Exhibit D: Internal and External Agency Review Comments**

**[attached]**



Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE

<b>TRC Meeting Date:</b>		5.18.22	
Department/Agency Name:		Transportation	
Reviewer Name:		Brent Hodges	
Reviewer Title:		Construction Manager 1	
Reviewer Email Address:		<a href="mailto:Brent.Hodges@gwinnettcounty.com">Brent.Hodges@gwinnettcounty.com</a>	
Case Number:		RZC2022-00020	
Case Address:		3012 McGinnis Ferry Road	
<b>Comments:</b>		<input checked="" type="checkbox"/> <b>X</b>	<input type="checkbox"/> <b>YES</b>
		<input type="checkbox"/>	<input type="checkbox"/> <b>NO</b>
1	McGinnis Ferry Road is a major arterial. ADT = 13,787.		
2	4.1 miles to nearest transit facility (#2334860) located at North Brown Road and Sugarloaf Parkway.		
3	Prior to the issuance of a Development Permit, a sight distance certification shall be provided.		
4	Standard deceleration lanes with appropriate taper and adequate right-of-way will be required. The developer shall be limited to one curb cut.		
5	Design entrance as a right-in/right-out due to center median.		
6	The degree of your impact on traffic signal and/ or communications facilities is uncertain at this time. Show and label existing traffic signal and ATMS infrastructure on the Utility Plan sheet.		
7			
<b>Recommended Zoning Conditions:</b>		<input checked="" type="checkbox"/> <b>X</b>	<input type="checkbox"/> <b>YES</b>
		<input type="checkbox"/>	<input type="checkbox"/> <b>NO</b>
1	Developer shall coordinate with the proposed future interchange of McGinnis Ferry Road and I-85 and make any needed improvements and right-of-way dedications.		
2			
3			
4			
5			
6			
7			

**Note:** Attach additional pages, if needed

*Revised 7/26/2021*



Department of Planning and Development  
TECHNICAL REVIEW COMMITTEE

<b>TRC Meeting Date:</b>		Wednesday, May 18, 2022		
Department/Agency Name:		DWR		
Reviewer Name:		Mike Pappas		
Reviewer Title:		GIS Planning Manager		
Reviewer Email Address:		<a href="mailto:Michael.Pappas@gwinnettcountry.com">Michael.Pappas@gwinnettcountry.com</a>		
Case Number:		RZC2022-00020		
Case Address:		3012 McGinnis Ferry Road		
<b>Comments:</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>1</b>	Water: The development may connect to a 12-inch water main located on the northeast right-of-way of McGinnis Ferry Road.			
<b>2</b>	Sewer: A Sewer Capacity Certification is required to confirm capacity.			
<b>3</b>	Sewer: Pending available sewer capacity, the development may be able to connect to an existing 8-inch sanitary sewer main located approximately 1,100 feet west on parcel 7168 056.			
<b>4</b>	Sewer: An easement will be required to access this sewer.			
<b>5</b>				
<b>6</b>				
<b>7</b>				
<b>Recommended Zoning Conditions:</b>		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>1</b>				
<b>2</b>				
<b>3</b>				
<b>4</b>				
<b>5</b>				
<b>6</b>				
<b>7</b>				

**Note:** Attach additional pages, if needed

*Revised 7/26/2021*



## **Exhibit E: Maps**

**[attached]**





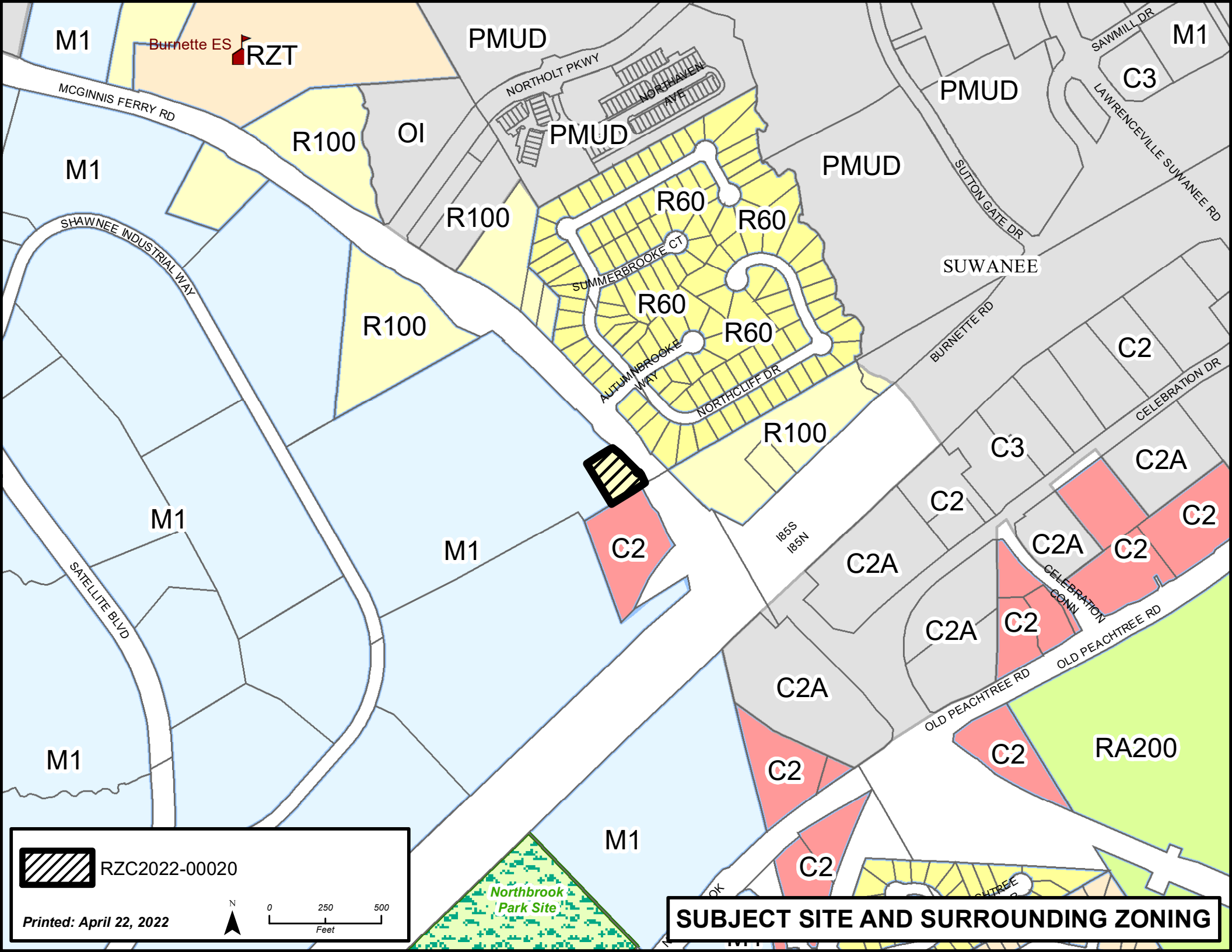
RZC2022-00020

Printed: April 22, 2022



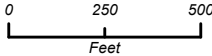
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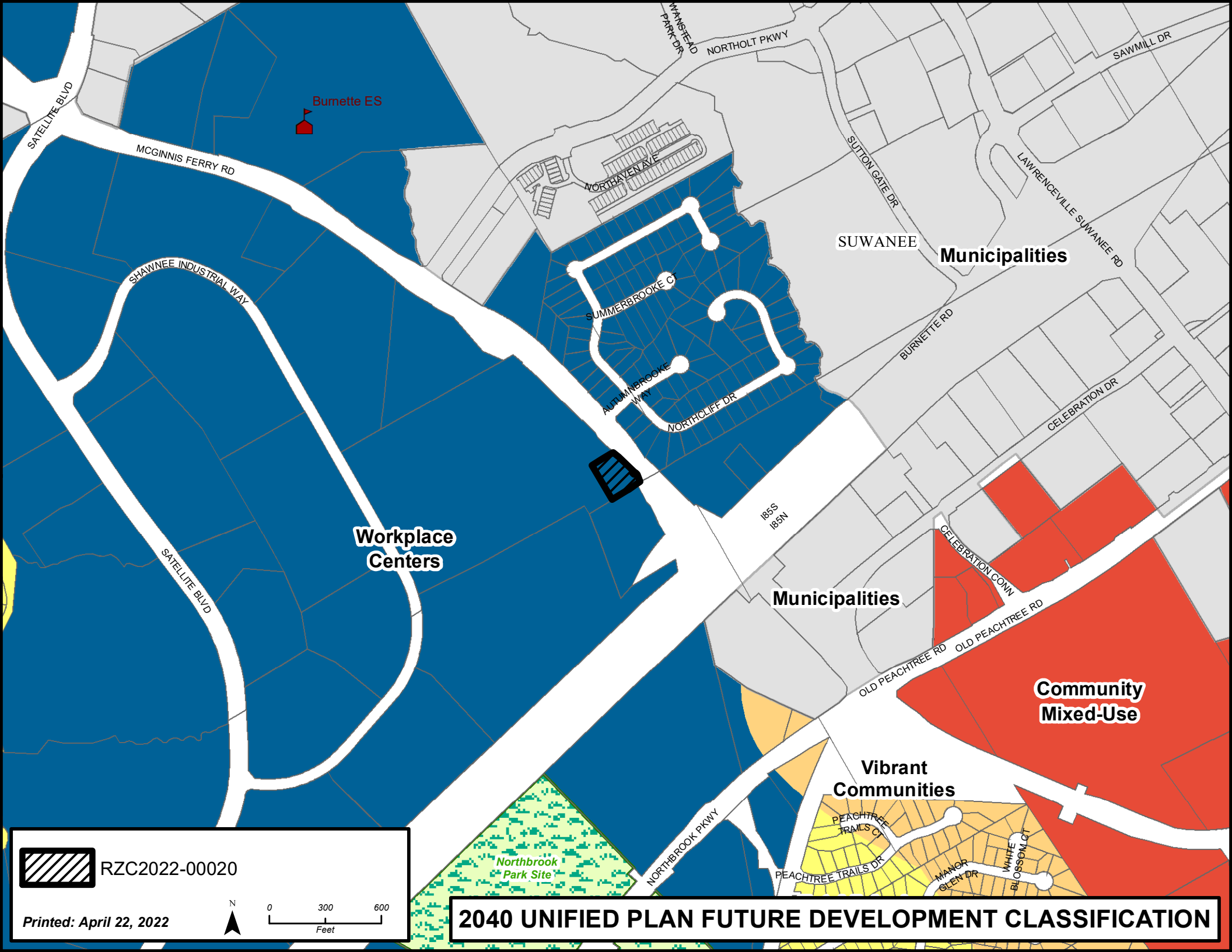


RZC2022-00020

Printed: April 22, 2022

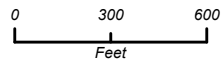


**SUBJECT SITE AND SURROUNDING ZONING**



RZC2022-00020

Printed: April 22, 2022



## 2040 UNIFIED PLAN FUTURE DEVELOPMENT CLASSIFICATION

# **REZONING APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF GWINNETT COUNTY, GA.

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>David Barker</u>	NAME: <u>WILLIAM H. IRWIN TRUST</u> <u>Sherri Dixon - Executor</u>
ADDRESS: <u>10601 Lake Washington Dr</u>	ADDRESS: <u>9470 Caw Circle</u>
CITY: <u>Lawrenceville</u>	CITY: <u>Gainesville,</u>
STATE: <u>GA</u> ZIP: <u>30043</u>	STATE: <u>GA</u> ZIP: <u>30506</u>
PHONE: <u>404.713.9418</u>	PHONE: <u>770.539.1997</u>
EMAIL: <u>dlbarkerassociates@gmail.com</u>	EMAIL: <u>4sherri.dixon@gmail.com</u>
CONTACT PERSON: <u>David Barker</u> PHONE: <u>404.713.9418</u>	
CONTACT'S E-MAIL: <u>dlbarkerassociates@gmail.com</u>	
<p align="center"><b>APPLICANT IS THE:</b></p> <p> <input checked="" type="checkbox"/> OWNER'S AGENT           <input type="checkbox"/> PROPERTY OWNER           <input type="checkbox"/> CONTRACT PURCHASER         </p>	
PRESENT ZONING DISTRICT(S): <u>R-100</u> REQUESTED ZONING DISTRICT: <u>C-2</u>	
PARCEL NUMBER(S): <u>7 168 005</u> ACREAGE: <u>.777</u>	
ADDRESS OF PROPERTY: <u>3012 McGinnis Ferry Rd</u>	
PROPOSED DEVELOPMENT: <u>Restaurant / Retail</u>	

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units _____	No. of Buildings/Lots: <u>1</u>
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. <u>Approx 5,000 sq ft.</u> <del>1,000 sq ft.</del>
Gross Density: _____	Density: <u>N/A</u>
Net Density: _____	

**PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED**



### REZONING APPLICANT'S RESPONSE

#### STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENTS OF THE UNIFIED DEVELOPMENT ORDINANCE, 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:

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

SEE ATTACHED

- (B) WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

- (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 REZONING:

SEE ATTACHED

RESPONSES IN SUPPORT OF REZONING (3012 MCGINNIS FERRY ROAD)

- A) WHETHER THE REQUESTED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

Yes. The requested C-2 zoning, and commercial use is consistent with the nearby uses and provides an appropriate use given the property's location at the future development of the McGinnis Ferry I-85 interchange, adjacent to an existing industrial office park and McGinnis Ferry, a major mixed-use and commercial thoroughfare.

- B) WHETHER THE REQUESTED REZONING WILL ADVERSELY AFFECT THE EXISTING USE OF USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No. Nearby properties consist of similar or more intense commercial and industrial uses. The rezoning request is compatible with the next and only adjacent property on McGinnis Ferry Road.

- C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the property's locations and adjacent uses, and the imminent construction of the decel lanes and entrance ramp to I-85 southbound, the subject property does not have reasonable economic use as currently zoned and conditioned. It has remained vacant.

- D) WHETHER THE REQUESTED REZONING WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AND EXCESSIVE OR BURDENSOME USE OF THE EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. The subject property is located in an area with access to public water and sewer, and direct access to major thoroughfares, highway and interstate. The proposed use is consistent with the Unified Plan which supports similar uses in this corridor. The proposed development will not cause excessive use of existing streets, transportation facilities, utilities, or schools.

- E) WHETHER THE REQUESTED REZONING IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. The 2030 Unified Plan identifies the subject property location as appropriate for non-residential uses.

- F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE REQUESTED REZONING.

Yes. The application for rezoning to C-2 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the vicinity.



WINNETT COUNTY  
PLANNING AND DEVELOPMENT

RECEIVED

April 20, 2022

## D.L. Barker & Associates

1061 Lake Washington Dr.

Lawrenceville, GA 30043

404.713.9418

[dlbarkerassociates@gmail.com](mailto:dlbarkerassociates@gmail.com)

April 6, 2022

### VIA EMAIL

Gwinnett County  
Department of Planning and Development  
446 West Crogan Street  
Lawrenceville, Ga 30046

**RE: Letter of Intent in Support of Rezoning for the Trust of William Howard Erwin and Thelma S. Erwin (the "Applicant") for the property located at 3012 McGinnis Ferry Road (the "Property")**

Gwinnett County Planning and Development Department:

The Applicant submits this Rezoning Application and Letter of Intent on behalf of the Applicant and Ms. Sherri Dixon, Executor of the Applicants Trust for the rezoning of the property known as 3012 McGinnis Ferry Road (the Property), being approximately .80 acres for commercial development consistent with those uses in the immediate area.

#### I. REQUEST FOR REZONING

The Property is currently zoned for single family residential, which is no longer a viable or appropriate use. The Property is now located at a planned interchange at McGinnis Ferry and I-85, is adjacent to a similar property with the requested zoning designation and is adjacent to an office/warehouse use. The Property is the subject of a planned transportation project which includes the addition of an entrance ramp from McGinnis Ferry onto I-85 southbound.

The Gwinnett County Unified Plan identifies similar properties as appropriate locations for the intended use of the Property. The application for rezoning to C-2 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the immediate vicinity, and alternate uses are not suitable given its location and surrounding uses, and the addition of the planned interchange.

The Subject parcel is adjacent to and will be consolidated with the adjacent parcel located at 2984 McGinnis Ferry Road, already zoned C-2 per Case Number RZC2016-00016. The consolidation of the two parcels will allow highest and best use of the two parcels. Attached with this application is a site plan showing both parcels and a potential use. Note the stormwater detention for both sites is shown in this site plan and is located on the 2984 parcel.

Sidewalks along the McGinnis Ferry frontage of both properties are existing and in place, subject to any modifications as required by Department of Transportation construction of the southbound entrance ramp construction.

Use of the property will be consistent with the Workplace Centers Character Area.

#### II. CONSTITUTIONAL OBJECTIONS

The portions of the Gwinnett County Unified Development Ordinance (the "UDO") which classify or condition the Property into any more or less intensive zoning classification and/or zoning condition other

than as requested by the Applicant are and would be unconstitutional in that they would destroy the Applicants property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to approve the Applicants request, so as to permit a feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property I violation for Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution.

### III. CONCLUSION

The Applicant respectfully requests that the Gwinnett County Board of Commissioner, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, to allow the Applicant a viable, quality, and economic use of the Property. The Applicant and its representatives welcome the opportunity to meet with Staff, Planning Commission and Board of Commissioners to answer any questions.

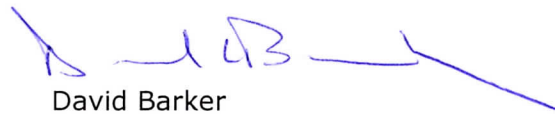
Respectfully submitted this 6<sup>th</sup> day of April, 2022.

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

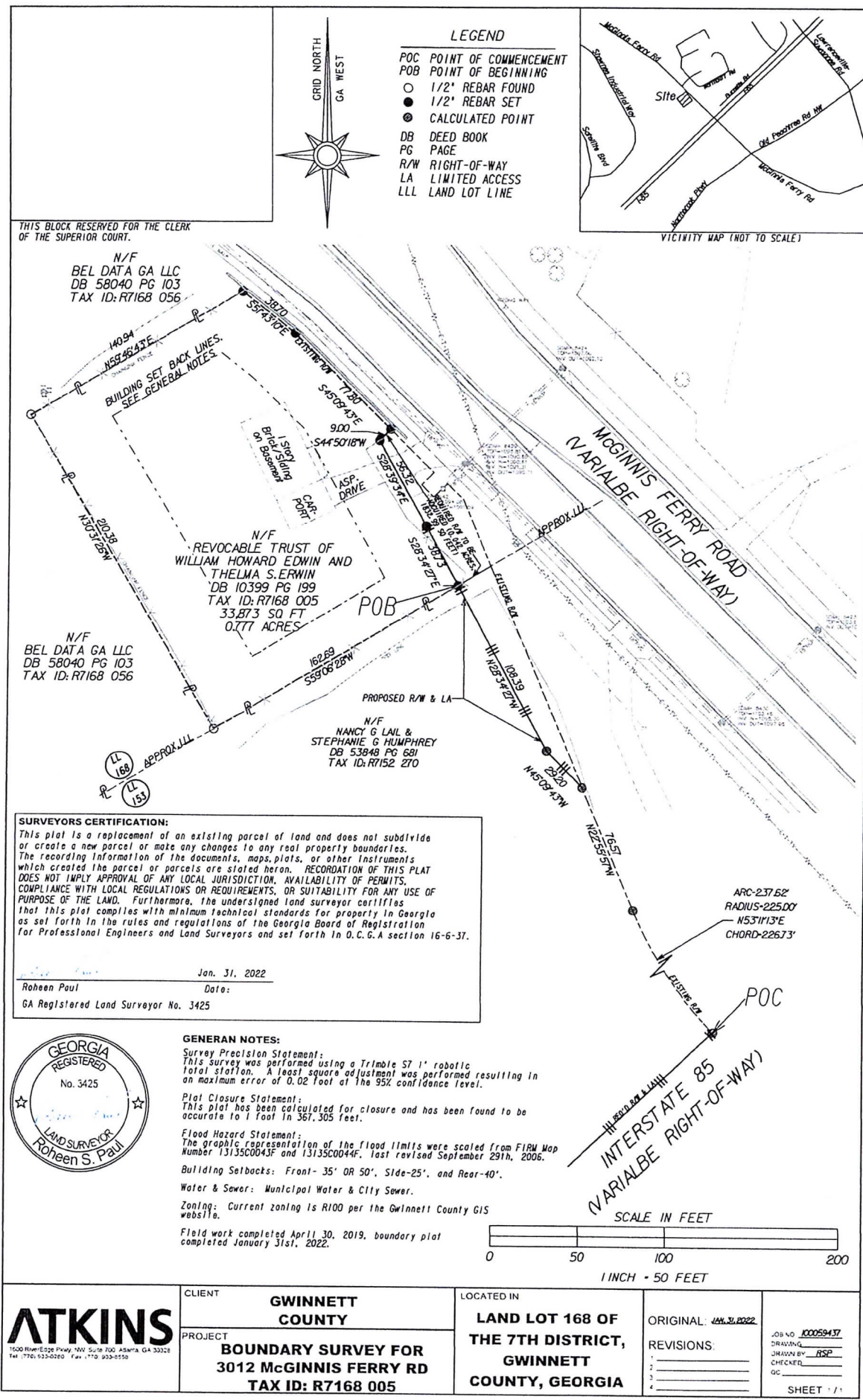
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April 20, 2022

D. L. Barker & Associates, Inc.



David Barker  
Principal





## LEGAL DESCRIPTION

3012 McGinnis Ferry Road, Tax ID 7168 005, PI 0013104 Parcel 2

All that tract or parcel of land and being in Land Lot 168 of the 7<sup>th</sup> district of Gwinnett County, Georgia and being more particularly described as follows:

Commencing at the intersection of the Westerly right-of-way line of Interstate 85 (having a variable right-of-way) and the Southerly right-of-way of McGinnis Ferry Road (having a variable right-of-way);

THENCE continue along the Southerly right-of-way line of McGinnis Ferry Road (having a variable right-of-way) the following courses and distances;

THENCE along a curve to the left having a radius of 225.00 feet and an arc length of 237.62 feet, being subtended by a chord of North 53 degrees 11 minutes 13 seconds East for a distance of 226.73 feet to a point;

THENCE North 22 degrees 55 minutes 57 seconds West for a distance of 76.57 feet to a point, said point being on the Southerly proposed limited access right-of-way line of McGinnis Ferry Road (having a variable right-of-way);

THENCE continue along the Southerly proposed limited access right-of-way line of McGinnis Ferry Road (having a variable right-of-way) the following courses and distances:

THENCE North 45 degrees 09 minutes 43 seconds West for a distance of 29.20 feet to a point;

THENCE North 28 degrees 34 minutes 27 seconds West for a distance of 108.39 feet to a ½ rebar set, point also being the POINT OF BEGINNING;

THENCE leaving said proposed limited access right-of-way line South 59 degrees 06 minutes 28 seconds West for a distance of 162.69 feet to a ½ rebar found;

THENCE North 30 degrees 31 minutes 26 seconds West for a distance of 210.38 feet to a ½ inch rebar found;

THENCE North 59 degrees 46 minutes 43 seconds East for a distance of 140.94 feet to a point, said point being on the Southerly right-of-way line of McGinnis Ferry Road (having a variable right-of-way);

Thence continue along the Southerly right-of-way line of McGinnis Ferry Road (having a variable right-of-way) the following courses and distances:

THENCE continue along said Southerly right-of-way line South 51 degrees 43 minutes 10 seconds East for a distance of 38.70 feet to a ½" rebar set;

THENCE South 45 degrees 09 minutes 43 seconds East for a distance of 77.80 feet to a ½" rebar set, said point being on the Southerly proposed limited access right-of-way line McGinnis Ferry Road (having a variable right-of-way);

THENCE continue along the Southerly proposed limited access right-of-way line of McGinnis Ferry Road (having a variable right-of-way) the following courses and distance;

THENCE leaving said Southerly right-of-line, South 44 degrees 50 minutes 18 seconds West for a distance of 9.00 feet to a ½" rebar set;

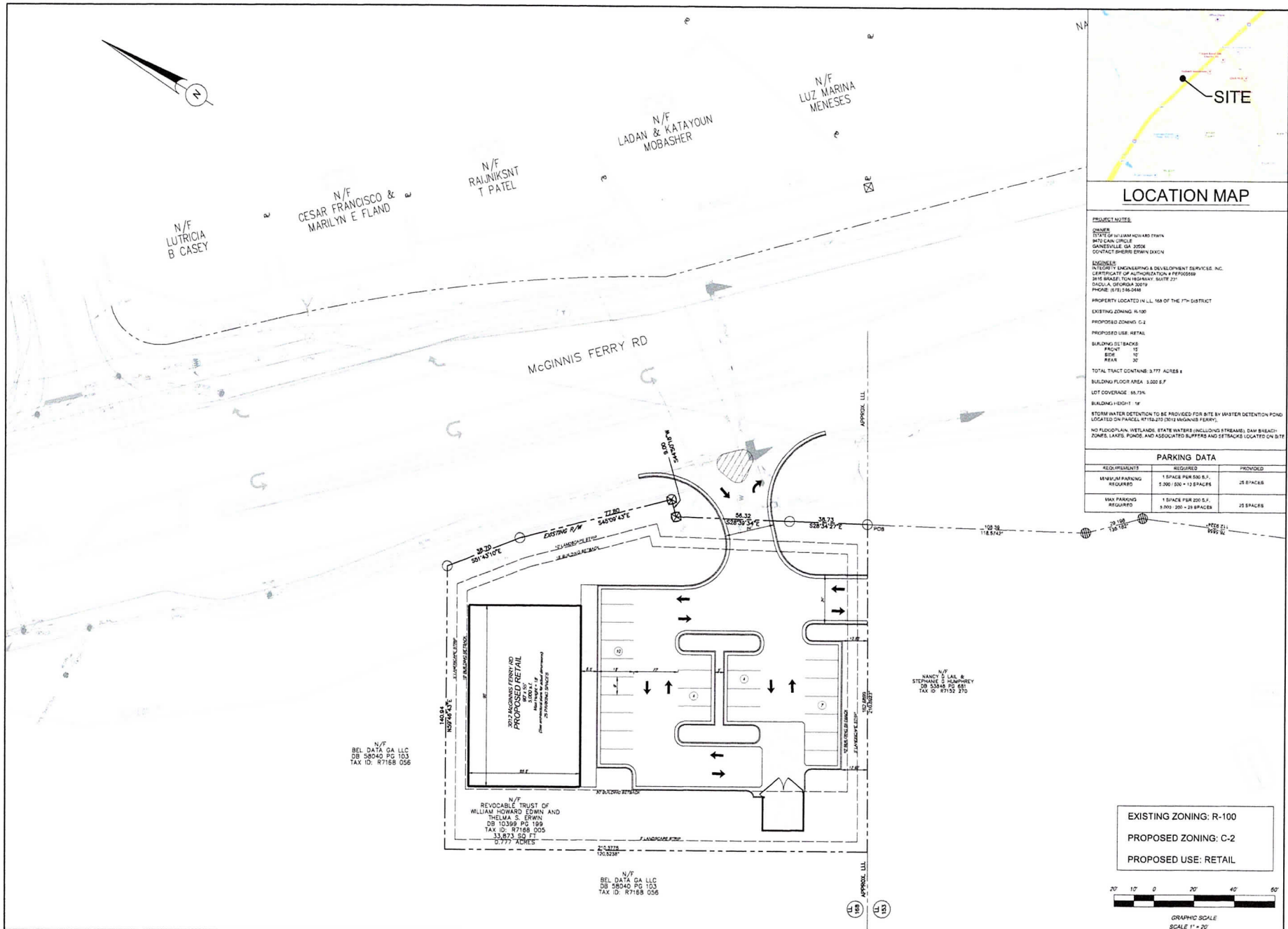
THENCE South 28 degrees 39 minutes 34 seconds East for a distance of 56.32 feet to a ½" rebar set;

THENCE continue along said Southerly proposed right-of-way line South 28 degrees 34 minutes 27 seconds East for a distance of 38.73 feet to the POINT OF BEGINNING;

Said property contains 0.777 acres or 33,873 square feet more or less.

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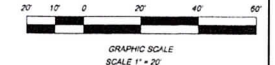
### LOCATION MAP

**PROJECT NOTES:**  
OWNER: STATE OF GEORGIA HOWARD ERWIN, 3015 BRADFORD LANE, GAINESVILLE, GA 30508, CONTACT: BRUCE ERWIN, 3015 BRADFORD LANE, GAINESVILLE, GA 30508, PHONE: (770) 546-0446  
ENGINEER: INTEGRITY ENGINEERING & DEVELOPMENT SERVICES, INC., 3015 BRADFORD LANE, SUITE 201, GAINESVILLE, GEORGIA 30508, PHONE: (770) 546-0446  
PROPERTY LOCATED IN LL 168 OF THE 17TH DISTRICT  
EXISTING ZONING: R-100  
PROPOSED ZONING: C-2  
PROPOSED USE: RETAIL  
BUILDING SETBACKS: FRONT 15', SIDE 10', REAR 30'  
TOTAL TRACT CONTAINS: 3.777 ACRES ±  
BUILDING FLOOR AREA: 3,000 S.F.  
LOT COVERAGE: 86.75%  
BUILDING HEIGHT: 15'  
STORM WATER DETENTION TO BE PROVIDED FOR SITE BY MASTER DETENTION POND LOCATED ON PARCEL 171 (LUTRICIA B CASEY).  
NO FLOODPLAIN, WETLANDS, STATE WATERS (INCLUDING STREAMS), DAM BREAK ZONES, LAKE, POND, AND ASSOCIATED BUFFERS AND SETBACKS LOCATED ON SITE.

### PARKING DATA

REQUIREMENTS	REQUIRED	PROVIDED
MINIMUM PARKING REQUIRED	1 SPACE PER 500 S.F. 1,000 / 500 = 10 SPACES	25 SPACES
MAX PARKING REQUIRED	1 SPACE PER 200 S.F. 3,000 / 200 = 15 SPACES	25 SPACES

EXISTING ZONING: R-100  
PROPOSED ZONING: C-2  
PROPOSED USE: RETAIL



DATE	DESCRIPTION
1	03/15/22
2	
3	
4	

**INTEGRITY**  
ENGINEERING & DEVELOPMENT SERVICES, INC.  
3015 Bradford Lane, Suite 201, Gainesville, GA 30508  
(770) 546-0446

McGINNIS  
FERRY  
RETAIL  
3017 McGINNIS FERRY RD  
Tax Parcel 87168-005  
Gwinnett County

3/31/2022

1683 PROJECT NUMBER  
DLB-2101

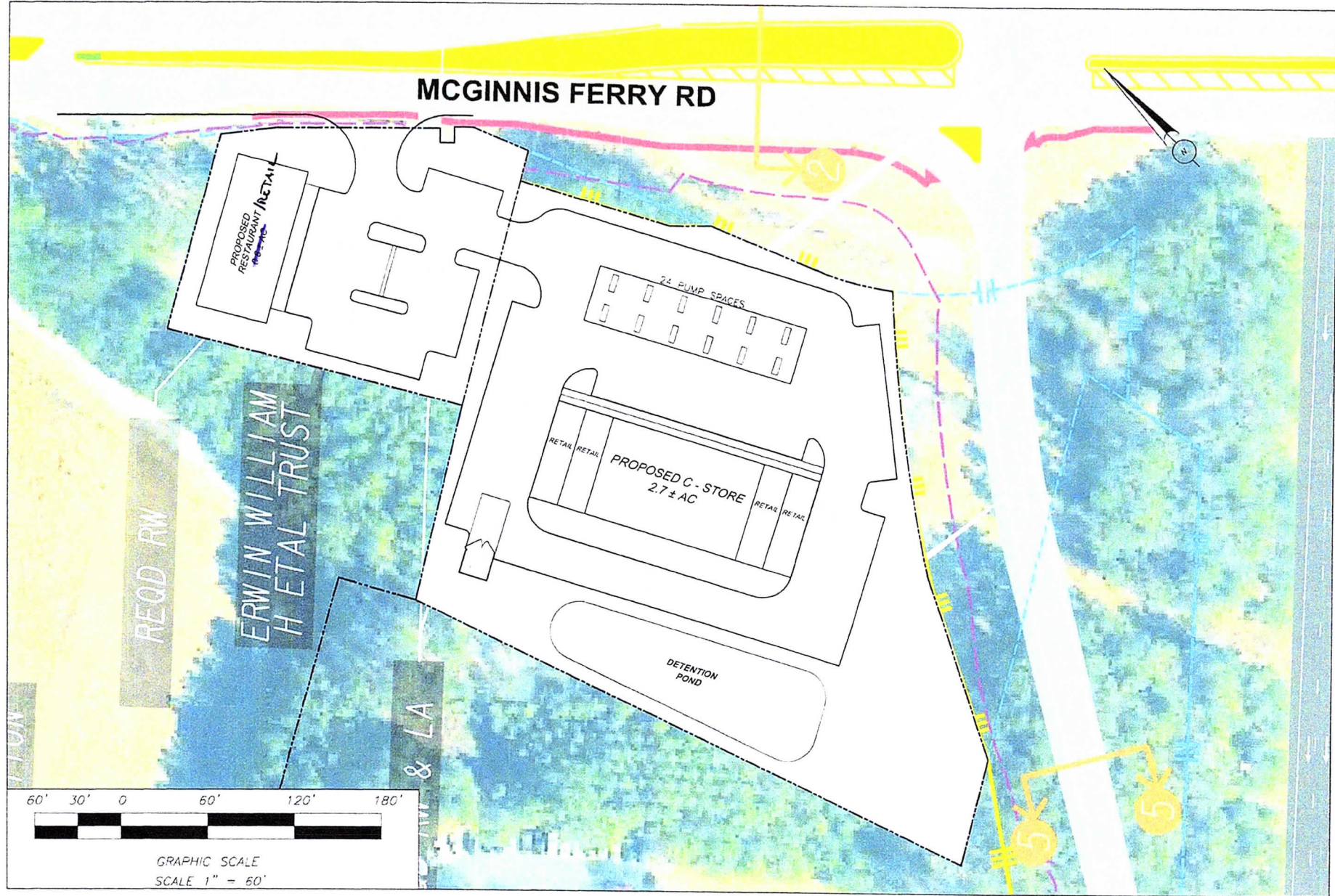
SHEET TITLE  
REZONING  
PLAN

SHEET NUMBER  
1  
1



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NO.	DATE	DESCRIPTION
1	04/06/2022	SUBMIT TO GWINNETT COUNTY

NO.	DATE	DESCRIPTION
1	04/06/2022	SUBMIT TO GWINNETT COUNTY

**INTEGRITY**  
PLANNING & DEVELOPMENT  
1010 W. GUNN RD., SUITE 100  
ATLANTA, GA 30348

PROJECT NAME	PRELIMINARY SITE PLAN
PROJECT NAME	MCGINNIS FERRY RD
CLIENT	U.L. BANNER & ASSOCIATES

PROJECT NO.	24-0-2101	DATE	04/06/2022
SCALE	1"=60'	DATE	04/06/2022
SCALE	1"=60'	DATE	04/06/2022
SCALE	1"=60'	DATE	04/06/2022

C-1



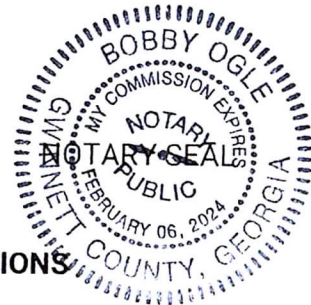
### CONFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, 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.

Sherri E. Dixon 03/01/2022 Sherri E. Dixon, Executor  
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

David L. Barker 03/01/2022 David L. Barker  
SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE  
ATTORNEY OR REPRESENTATIVE

[Signature] 3/1/2022  
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 Sherri E. Dixon David L. Barker  
YOUR NAME

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

NAME AND OFFICAL 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.

**REZONING 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.

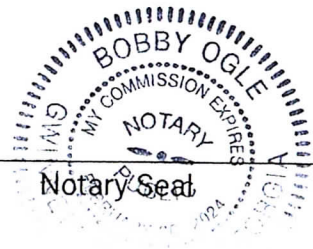
Sherri E Dixon  
Signature of Property Owner

03/01/2022  
Date

SHERRI E DIXON, Executor  
Type or Print Name and Title

[Signature]  
Signature of Notary Public

3/1/2022  
Date



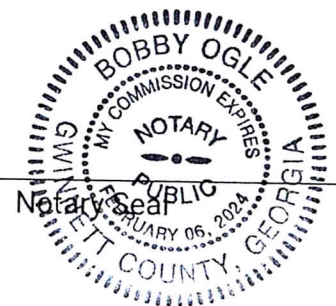
**REZONING APPLICANT'S CERTIFICATION**

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE 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.

Sherri E Dixon 03/01/2022  
Signature of Applicant Date

SHERRI E DIXON, Executor  
Type or Print Name and Title

[Signature] 3/1/2022  
Signature of Notary Public Date





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Gwinnett County Planning Division  
Rezoning Application  
Last Updated 10/2021

**VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING**

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. 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:** 29 - 168 - 005  
(Map Reference Number) District Land Lot Parcel

[Signature] 3/16/2022  
Signature of Applicant Date

David L. Barker Agent  
Type or Print Name and Title

**\*\*\*PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.\*\*\***

**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)

V Schoby TSA II  
NAME TITLE  
3/17/2022  
DATE