

REZONING APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>WF Sugar Hill, LLC c/o Andersen, Tate & Carr, P.C.</u>	NAME: <u>Estate of Jenifer Scott</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>4445 Bennet Rd.</u>
CITY: <u>Duluth</u>	CITY: <u>Buford</u>
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: <u>GA</u> ZIP: <u>30519</u>
PHONE: <u>770-822-0900</u>	PHONE: _____
CONTACT PERSON: <u>Shaun R. Adams, Esq.</u> PHONE: <u>770-822-0900</u>	
CONTACT'S E-MAIL: <u>sadams@atclawfirm.com</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): C1 REQUESTED ZONING DISTRICT: C2

PARCEL NUMBER(S): R7339 014 ACREAGE: .80

ADDRESS OF PROPERTY: Northeast Cumming Hwy and Suwanee Dam Rd., Sugar Hill

PROPOSED DEVELOPMENT: Car wash

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>4,375</u>
Gross Density: _____	Density: _____
Net Density: _____	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying in and being located in Land Lot 339 of the 7th District, Gwinnett County, Georgia, and being more particularly described as follows:

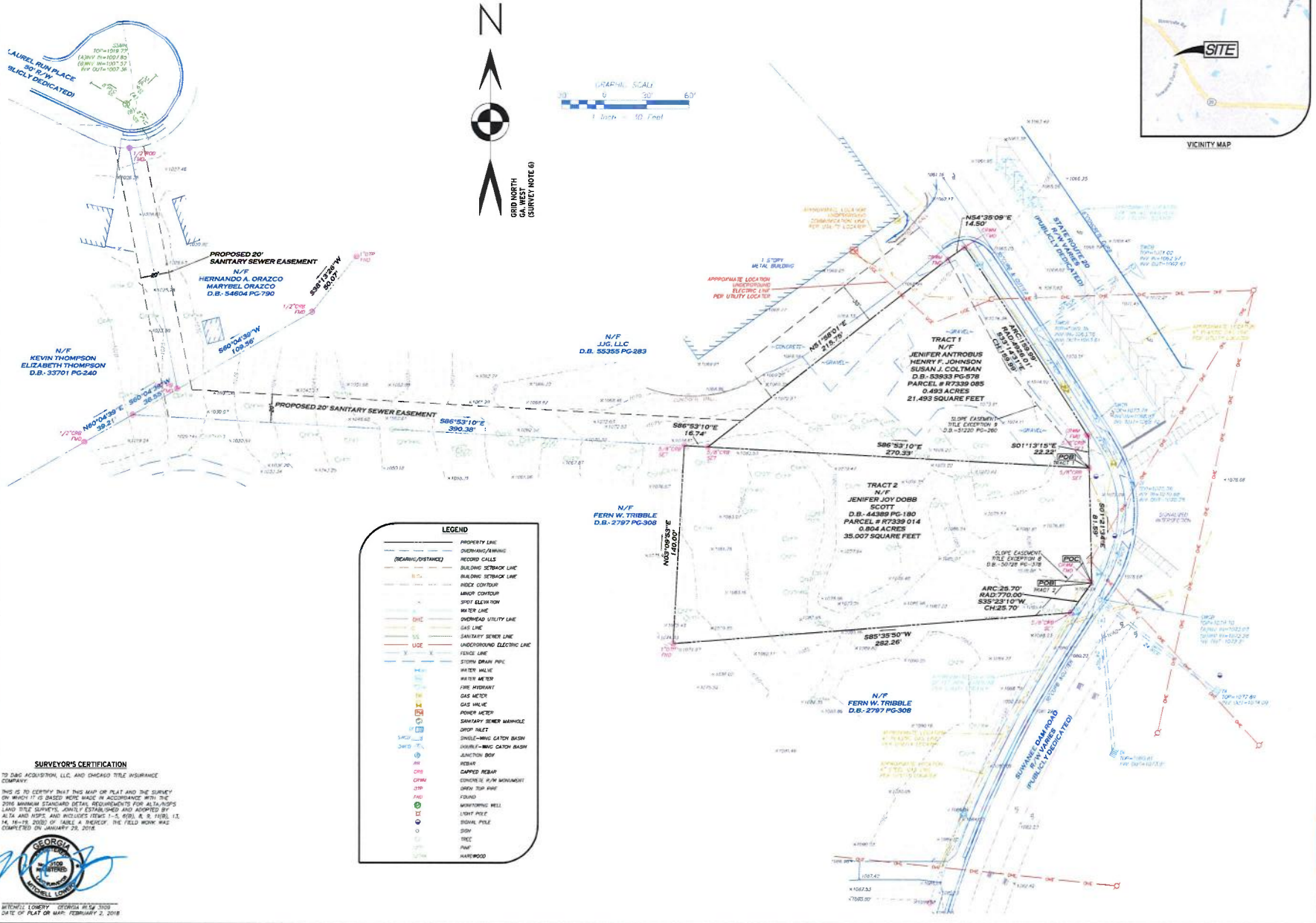
Commencing at a concrete monument at the intersection of the Westerly right of way line of State Route 20 (having a publicly dedicated variable width right of way) and the Northerly right of way line of Suwanee Dam Road (having a publicly dedicated variable width right of way), said concrete monument being the TRUE POINT OF BEGINNING.

Thence leaving said Westerly right of way line of State Route 20 and along said Northerly right of way line of Suwanee Dam Road with a curve to the left, said curve having a radius of 770.00 feet, with an arc distance of 25.70 feet, with a chord bearing of South 35 degrees 23 minutes 10 seconds West and a chord length of 25.70 feet to a 5/8-inch capped rebar set; Thence leaving said Northerly right of way line of Suwanee Dam Road South 85 degrees 35 minutes 50 seconds West a distance of 282.26 feet to a 1-inch open top pipe; Thence North 03 degrees 09 minutes 53 seconds East a distance of 140.00 feet to a 5/8-inch capped rebar set; Thence South 86 degrees 53 minutes 10 seconds East a distance of 16.74 feet to a 5/8-inch capped rebar set; Thence South 86 degrees 53 minutes 10 seconds East a distance of 270.33 feet to a 5/8-inch capped rebar set on the Westerly right of way line of State Route 20; Thence along said Westerly right of way line of State Route 20 South 01 degrees 21 minutes 34 seconds East a distance of 81.59 feet to a concrete monument found; said concrete monument being the TRUE POINT OF BEGINNING.

Said tract of land contains 0.804 Acres (35,007 square feet).

RECEIVED

01/06/2022 4:32PM



LEGEND

---	PROPERTY LINE
---	CHICKEN FENCING
(BEARING/DISTANCE)	RECORD CALLS
---	BUILDING SETBACK LINE
---	BUILDING SETBACK LINE
---	ROCK CONTOUR
---	MINOR CONTOUR
---	SPOT ELEVATION
---	WATER LINE
---	OVERHEAD UTILITY LINE
---	GAS LINE
---	SANITARY SEWER LINE
---	UNDERGROUND ELECTRIC LINE
---	FENCE LINE
---	STORM DRAIN PIPE
---	WATER METER
---	FIRE HYDRANT
---	GAS METER
---	GAS METER
---	POWER METER
---	SANITARY SEWER MANHOLE
---	SEWER SILET
---	SHIELD-BING CATCH BASIN
---	SHIELD-BING CATCH BASIN
---	JUNCTION BOX
---	STEAK
---	CAPPED REBAR
---	CONCRETE IN-PIN MONUMENT
---	WOOD SIGN PAVE
---	FOUND
---	MONUMENT WELL
---	LIGHT PIPE
---	BRICK PILE
---	SOIL
---	PAV
---	TRUCK
---	PAV
---	HARDWOOD

SURVEYOR'S CERTIFICATION
TO D&C ACQUISITION, LLC AND CHICAGO TITLE INSURANCE COMPANY:
THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACPS LAND TITLE SURVEYS, AS WELL AS ESTABLISHED AND ADOPTED BY ALTA AND ACPS, AND INCLUDES ITEMS 1-5, 6(B), 8, 9, 10(B), 11, 14, 16-19, 20(B), OF TABLE A, IN ADDITION, THE FIELD WORK WAS COMPLETED ON JANUARY 25, 2018.



MICHELLE LOWERY - GEORGIA #124 3303
DATE OF PLAN OR MAP: FEBRUARY 2, 2018

LOWERY & ASSOCIATES
LAND SURVEYING, LLC
317 GRASSDALE ROAD
CARTERSVILLE, GA 30011
INFO@LOWERYLANDSURVEYS.COM
WWW.LOWERYLANDSURVEYS.COM
GEORGIA COAL. LSP#00102

PREPARED BY:
D&C ACQUISITION, LLC
CHICAGO TITLE INSURANCE COMPANY

ALTA/ACPS LAND TITLE SURVEY OF: TRACT 1 & 2 TAX PARCEL # R7339 014 (TRACT 1) TAX PARCEL # R7339 015 (TRACT 2)	COUNTY: GWINNETT	DISTRICT: 7
STATE: GEORGIA	UNAD. LOT: 339	

REVISIONS

DATE	DESCRIPTION



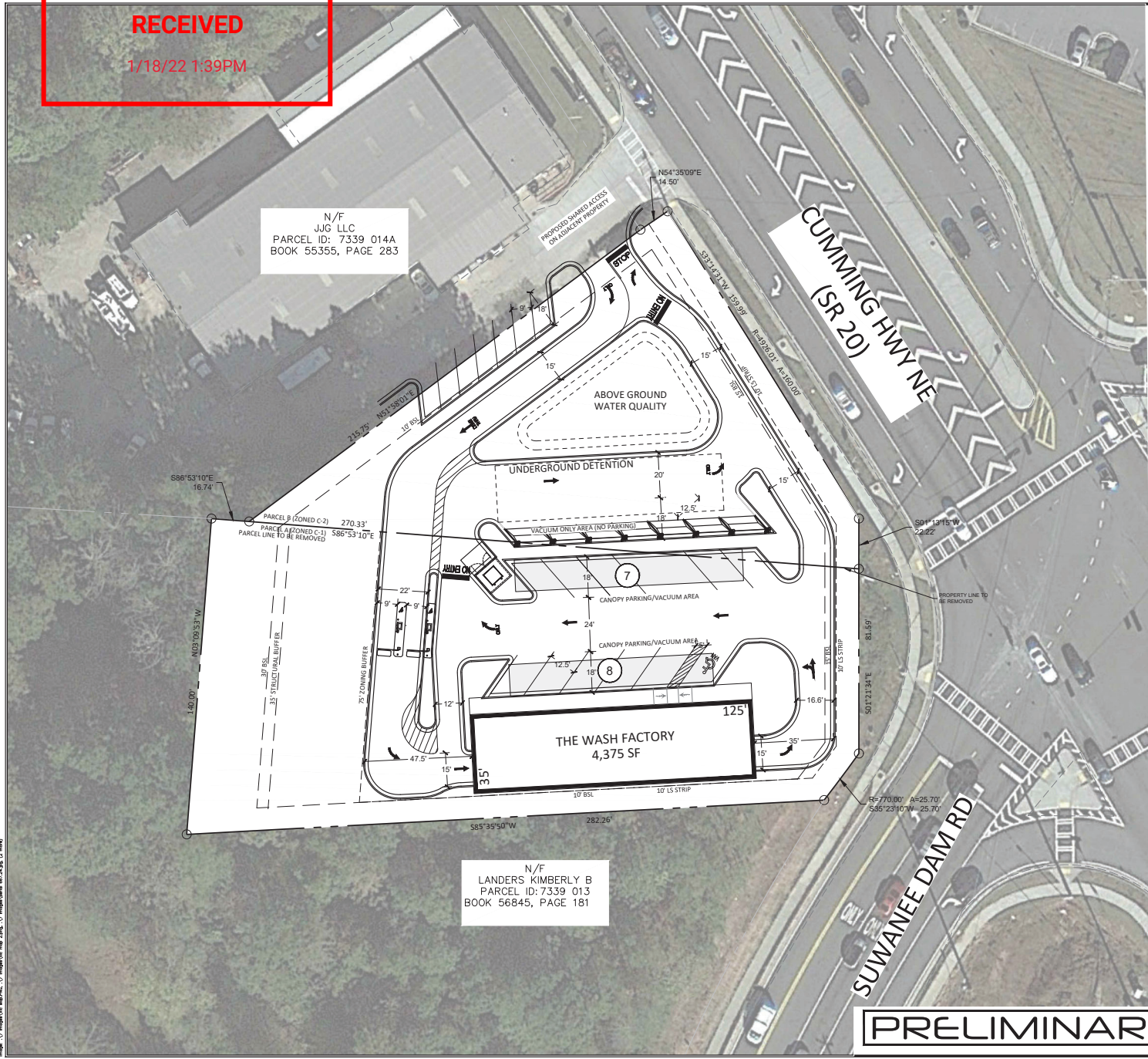
SHEET 1 OF 2
DATE: FEBRUARY 2, 2018
JOB #: 18023
SCALE: 1"=30'
DRAWN BY: J.THREADGILL

RECEIVED

1/18/22 1:39PM

N/F
JUG LLC
PARCEL ID: 7339 014A
BOOK 55355, PAGE 283

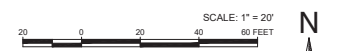
N/F
LANDERS KIMBERLY B
PARCEL ID: 7339 013
BOOK 56845, PAGE 181



VICINITY MAP

SITE ANALYSIS

CAR WASH	4,375 SF
REQUIRED PARKING	10 SPACES
PROPOSED PARKING	15 SPACES
PARKING RATIO	3.43 SPACE/M.S.F.
PARCEL A	0.80 ACRES
PARCEL B	0.49 ACRES
TOTAL SITE AREA	1.29 ACRES



PRELIMINARY SITE PLAN

civilogistix
500 SUN VALLEY DRIVE, STE H3, ROSWELL, GA 30076
(404) 594-4403 - civilogistix.com

PRELIMINARY SITE PLAN
PROJECT: SUGAR HILL WASH FACTORY
1110 STATE BRIDGE ROAD
SUGAR HILL, GA 30528

SHEET NUMBER
CP2

PROJECT NUMBER
19320

DATE
JANUARY 17, 2022

REVISIONS
OWNER COMMENTS
01-18-22

Small vertical text on the left margin containing project details and dates.

January 5, 2022

LETTER OF INTENT AND JUSTIFICATION FOR REZONING

**Rezoning Application
Gwinnett County, Georgia**

Applicant:

WF Sugar Hill, LLC

Property:

Tax Parcel ID R7339 014

±0.80 Acres of Land

Located at Suwanee Dam and NE Cumming Hwy, Sugar Hill, Georgia 30518

From C-1 to C-2

Submitted for Applicant by:

Melody A. Glouton, Esq.

ANDERSEN TATE & CARR, P.C.

One Sugarloaf Centre

1960 Satellite Blvd.

Suite 4000

Duluth, Georgia 30097

770.822.0900

mglouton@atclawfirm.com

I. INTRODUCTION

This Application for Rezoning is submitted for a 0.80-acre parcel of land located in Land Lot 339 of the 7th District of Gwinnett County, Georgia, Sugar Hill, and located at the southwest corner of Cumming Hwy and Suwanee Dam Rd (hereinafter the “Property”). The Property is mostly a rectangular lot facing the intersection of Cumming Hwy and Suwanee Dam Rd. The Property is shown on the survey prepared by Lowery & Associates Land Surveying, LLC dated February 2, 2018, and filed with this Application. The Property that is the subject of this rezoning application is owned by Jennifer Scott and further identified below from the Gwinnett County GIS:



The Property is currently zoned C-1 (Neighborhood Business District) pursuant to the Gwinnett County Unified Development Ordinance (the “UDO”). The Applicant, WF Sugar Hill, LLC (the “Applicant”) now seeks approval to rezone the 0.80-acres to C-2 (General Business District) to align it with the current zoning of the adjacent .49-acre property identified as 5922 Cumming Hwy (R7339 085) for the purpose of developing an express car wash over the combined 1.29-acre tract. The Applicant has filed a companion Special Use Permit Application with this rezoning to allow for the express car wash on the combined 1.29-acre tract. The rezoning and special use permit for the Property will allow for a quality commercial development that will service the surrounding community in accordance with the 2040 Comprehensive Plan. The proposed development will consist of an approximately 4,375sf express car wash building and 15 spaces for vacuuming.

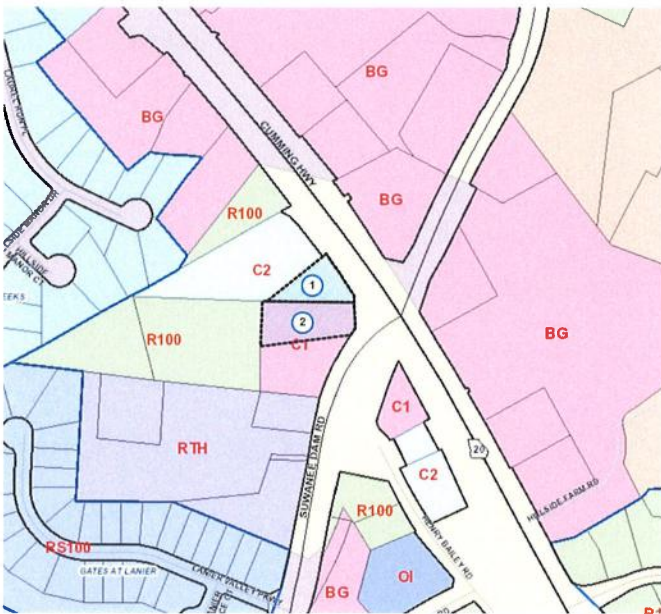
This document is submitted as the Letter of Intent, Response to Standard Governing the Exercise of Zoning Power, and other materials required by the Gwinnett County UDO.

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is a mostly rectangular tract fronting Cumming Hwy at the intersection of Cumming Hwy and Suwanee Dam Rd in Sugar Hill. The Property sits within a commercial Neighborhood Node and is surrounded by properties that are zoned both C-1 (Neighborhood Business District) and C-2. There are two major commercial developments across the street within the City of Sugar Hill zoned BG (General Business). One development is anchored by a Publix and the other is anchored by a Kroger and LA Fitness. Other surrounding parcels are improved with service and retail businesses, gas stations, restaurants with and without a drive-thru and automotive repair and parts stores.

The Future Development Map of the Gwinnett County 2040 Unified Plan (the “2040 Plan”) classifies this Property as within the “Neighborhood Node Character Area,” of the Gwinnett County Future Development Map. The Neighborhood Node Character Area is intended to serve surrounding residential neighborhoods with retail/commercial nodes located at intersections.

As referenced above, the surrounding properties in this corridor are zoned commercial with uses similar, or more intense, in scale to what is being proposed by the Applicant. Below are maps of the surrounding uses and the zoning classifications by parcel:



III. PROJECT SUMMARY

As shown on the conceptual site plan prepared by Civilogistix, LLC. dated January 27, 2020 and filed with this Application (hereinafter the "Site Plan"), the Applicant proposes to develop the Property as an express car wash. The rezoning of the Property will activate a vacant site and allow for a quality commercial development that will service the surrounding community in accordance with the 2040 Plan. The proposed development will consist of a single 4,375sf building containing an express car wash along with 15 spaces for vacuuming.

The proposed development will maintain the existing shared access onto Cumming Highway with the adjacent automobile repair shop. The access is currently a right-in and right-out access and will remain as such post development. The Site Plan does not propose any access directly onto Suwanee Dam Road. The Applicant's proposal is consistent with the 2040 Plan and the Neighborhood Node Character Area as it brings service based commercial to a commercial node as intended by the 2040 Plan. Additionally, staff previously recommended approval of the same proposal for the Property during the 2020 calendar year under cases RZC2020-0003 and SUP2020-00008 siting that the proposed development is consistent with the 2040 Comp Plan and the Neighborhood Node Character Area. The 2020 application was withdrawn by the Applicant after publication resulting in a denial without prejudice for reasons not directly related to the proposed development.

IV. SITE IMPACT ANALYSIS

Pursuant to UDO § 270-20.6, entitled "Impact Analysis," the Applicant submits its written impact analysis which shows that rezoning to C-2, satisfies UDO § 270-20.5, entitled "Standards Governing Exercise of the Zoning Power," as follows:

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

Yes, approval of the proposed Rezoning will permit a use that are suitable in view of the use and development of adjacent and nearby property. The Property is located at the Cumming Hwy and Suwanee Dam Rd intersection within a Neighborhood Node. The Property is currently zoned C-1 and is adjacent to similar automotive commercial uses and across the street from two intense, large-scale commercial developments.

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

No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties. The proposed zoning classification is compatible with existing commercial uses of adjacent and nearby properties. Rather the proposed development would complement existing commercial uses and provide a complimentary service based use to the surrounding community as intended by the 2040 Plan.

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

The Applicant submits that due to the size, location, layout, topography, and natural features of the Property, it does not have reasonable economic use as currently zoned. The Property by itself would not have sufficient access to the public RoW without being combined with the adjacent property which is already zoned C-2 and contains access to Cumming Hwy.

(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:

No, the proposed rezoning application will not result in an excessive or burdensome use of the infrastructure systems. The Property has convenient access to Cumming Hwy when combined and developed with the adjacent property as proposed by the Applicant. The proposed development would complement the existing retail commercial uses in the area by providing a needed service-based use.

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

The proposed rezoning application is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The Property is located within the Neighborhood Node Character Area of the 2040 Future Development Map. Encouraged land uses for the Neighborhood Node Character Area include retail and service commercial uses designed to support the surrounding community. The proposed development would be compatible with and successfully co-exist with the surrounding 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 ZONING PROPOSAL:

The Applicant submits that the character of the surrounding development and the existing mix of uses in the area provide supporting reasons for approval of the rezoning. The Applicant submits that the Property's location, size, and dimensions, as well as its location at the commercial intense intersection of Cumming Hwy and Suwanee Dam Rd within the Neighborhood Node Character Area provide further support for approval of the proposed rezoning application.

V. JUSTIFICATION FOR REZONING

The Applicant respectfully submits that "The Unified Development Ordinance of Gwinnett County, Georgia" (the "Ordinance"), as amended from time to time, to the extent that it classifies the Property in any zoning district that would preclude development of an express car wash is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning of the Property pursuant to the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the Gwinnett County Board of Commissioners to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current zoning classification and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications between the existing zoning and the zoning requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested rezoning change would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Gwinnett County Board of Commissioners cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

This Application meets favorably with the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See Guhl v. Holcomb Bridge Road Corp., 238 Ga. 322 (1977).

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this Application to Rezone from C-1 to C-2 be approved. The Applicant welcomes the opportunity to meet with the Gwinnett County Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 5th day of January, 2022.

ANDERSEN, TATE & CARR, P.C.

Melody A. Glouton

Melody A. Glouton, Esq.

Enclosures
MAG/ag



Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

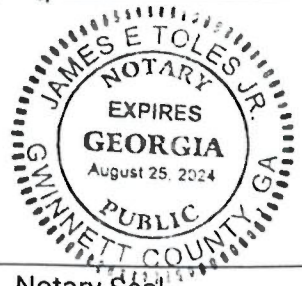
REZONING APPLICANT'S CERTIFICATION

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.

[Signature] _____ 1/6/2022
Signature of Applicant Date

Travis Smith _____ Member/Applicant
Type or Print Name and Title

[Signature] _____ 1/6/2022 _____
Signature of Notary Public Date Notary Seal



Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

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.

Brandon Scott
Signature of Property Owner

11-9-21
Date

Brandon Scott
Type or Print Name and Title

Angelee J. Garner
Signature of Notary Public

11/9/21
Date



Gwinnett County Planning Division
Rezoning Application
Last Updated 5/2021

REZONING PROPERTY OWNER'S CERTIFICATION

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Corey Scott

Signature of Property Owner

11-9-21

Date

Corey Scott

Type or Print Name and Title

Angelee J. Garner 11/9/21

Signature of Notary Public

Date





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.

[Signature] 10/2/21 Trans Site Member
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

[Signature] 10/8/21
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 Trans Site Member
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.



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.

_____ SIGNATURE OF APPLICANT	_____ DATE	_____ TYPE OR PRINT NAME AND TITLE
<i>Shaun R. Adams</i>	<i>1/6/22</i>	Shaun R. Adams, Attorney for Applicant
_____ SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	_____ DATE	_____ TYPE OR PRINT NAME AND TITLE

_____ SIGNATURE OF NOTARY PUBLIC	_____ DATE	NOTARY SEAL
<i>Angela Matz</i>	<i>1-6-22</i>	

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 Andersen, Tate & Carr, P.C.
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)
Nicole Love Hendrickson - Chairwoman	\$1,000	9/30/2020
Kirkland Carden - Planning Commissioner	\$2,800	11/16/2021

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

SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>WF Sugar Hill, LLC c/o Andersen, Tate & Carr, P.C.</u>	NAME: <u>Please see attached</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: _____
CITY: <u>Duluth</u>	CITY: _____
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: _____ ZIP: _____
PHONE: <u>770-822-0900</u>	PHONE: _____
EMAIL: <u>sadams@atclawfirm.com</u>	EMAIL: _____
CONTACT PERSON: <u>Shaun R. Adams, Esq.</u> PHONE: <u>770-822-0900</u>	
CONTACT'S E-MAIL: <u>sadams@atclawfirm.com</u>	

*Include any person having a property interest and any person having a financial interest in any business entity having property interest (use additional sheets if necessary).

APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
EXISTING/PROPOSED ZONING: <u>C-2</u> BUILDING/LEASED SQUARE FEET: <u>4,375</u>	
PARCEL NUMBER(S): <u>R7339 014 and R7339 085</u> ACREAGE: <u>.80 and .49</u>	
ADDRESS OF PROPERTY: <u>5399 NE Cumming Hwy., Sugar Hill</u>	
SPECIAL USE REQUESTED: <u>Express car wash</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

RECEIVED

1/06/2022 4:32PM

**Special Use Permit Application for WF Sugar Hill, LLC
5922 Cumming Hwy., Sugar Hill**

Property Owners

R7339 085

Jennifer Antrobus

Susan Coltman

Henry Johnson

33249 River Rd.

Orange Beach, AL 36561

R7339 014

Estate of Jenifer Scott

4445 Bennet Rd.

Buford, GA 30519

TRACT 1

ALL THAT TRACT OR PARCEL OF LAND lying in and being located in Land Lot 339 of the 7th District, Gwinnett County, Georgia, and being more particularly described as follows:

Commencing at a concrete monument at the intersection of the Westerly right of way line of State Route 20 (having a publicly dedicated variable width right of way) and the Northerly right of way line of Suwanee Dam Road (having a publicly dedicated variable width right of way), Thence along said Westerly right of way line of State Route 20 North 01 degrees 21 minutes 34 seconds West a distance of 81.59 feet to a 5/8-inch capped rebar set, said rebar being the TRUE POINT OF BEGINNING. 21,493 square feet)

Thence leaving said Westerly right of way line of State Route 20 North 86 degrees 53 minutes 10 seconds West a distance of 270.33 feet to a 5/8-inch capped rebar set; Thence North 51 degrees 58 minutes 01 seconds East a distance of 215.75 feet to a concrete monument found on the Westerly right of way line of State Route 20; Thence along said Westerly right of way line of State Route 20 the following courses and distances: North 54 degrees 35 minutes 09 seconds East a distance of 14.50 feet to a concrete monument found; along a curve to the right, said curve having a radius of 4926.01 feet, with an arc distance of 159.99 feet, with a chord bearing of South 33 degrees 14 minutes 31 seconds East and a chord length of 159.99 feet to a concrete monument found; South 01 degrees 13 minutes 15 seconds East a distance of 22.22 feet to a concrete monument found; said concrete monument being the TRUE POINT OF BEGINNING.

Said tract of land contains 0.493 Acres (21,493 square feet).

TRACT 2

ALL THAT TRACT OR PARCEL OF LAND lying in and being located in Land Lot 339 of the 7th District, Gwinnett County, Georgia, and being more particularly described as follows:

Commencing at a concrete monument at the intersection of the Westerly right of way line of State Route 20 (having a publicly dedicated variable width right of way) and the Northerly right of way line of Suwanee Dam Road (having a publicly dedicated variable width right of way), said concrete monument being the TRUE POINT OF BEGINNING.

Thence leaving said Westerly right of way line of State Route 20 and along said Northerly right of way line of Suwanee Dam Road with a curve to the left, said curve having a radius of 770.00 feet, with an arc distance of 25.70 feet, with a chord bearing of South 35 degrees 23 minutes 10 seconds West and a chord length of 25.70 feet to a 5/8-inch capped rebar set; Thence leaving said Northerly right of way line of Suwanee Dam Road South 85 degrees 35 minutes 50 seconds West a distance of 282.26 feet to a 1-inch open top pipe; Thence North 03 degrees 09 minutes 53 seconds East a distance of 140.00 feet to a 5/8-inch capped rebar set; Thence South 86 degrees 53 minutes 10 seconds East a distance of 16.74 feet to a 5/8-inch capped rebar set; Thence South 86 degrees 53 minutes 10 seconds East a distance of 270.33 feet to a 5/8-inch capped rebar set on the Westerly right of way line of State Route 20; Thence along said Westerly right of way line of State Route 20 South 01 degrees 21 minutes 34 seconds East a

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distance of 81.59 feet to a concrete monument found; said concrete monument being the TRUE POINT OF BEGINNING.

Said tract of land contains 0.804 Acres (35,007 square feet).

ANDERSEN | TATE | CARR

January 5, 2022

LETTER OF INTENT AND JUSTIFICATION FOR SPECIAL USE PERMIT

Special Use Permit Application Gwinnett County, Georgia

Applicant:

WF Sugar Hill, LLC

Property:

Tax Parcel IDs R7339 014 & R7339 085

±1.29 Acres of Land

Located at Suwanee Dam and NE Cumming Hwy, Sugar Hill, Georgia 30518

Special Use Permit to Allow for an Express Car Wash

Submitted for Applicant by:

Melody A. Glouton, Esq.

ANDERSEN TATE & CARR, P.C.

One Sugarloaf Centre

1960 Satellite Blvd.

Suite 4000

Duluth, Georgia 30097

770.822.0900

mglouton@atclawfirm.com

I. INTRODUCTION

This Application for Rezoning is submitted for a 1.29-acre assemblage of land located in Land Lot 339 of the 7th District of Gwinnett County, Georgia, Sugar Hill, and identified as 5922 Cumming Hwy (hereinafter the “Property”). The Property is mostly a pentagon shaped tract facing the intersection of Cumming Hwy and Suwanee Dam Rd. The Property is shown on the survey prepared by Lowery & Associates Land Surveying, LLC dated February 2, 2018, and filed with this Application. The Property subject to this Special Use Permit (“SUP”) application contains two parcels under separate ownership. Parcel R7339 014 is owned by Jennifer Scott (“Scott Parcel”) and Parcel R7339 085 is owned by Jennifer Antrobus (“Antrobus Parcel”), both are further identified below from the Gwinnett County Tax Assessor’s Website:



The Property is currently zoned C-1 (Neighborhood Business District) and C-2 (General Business District) pursuant to the Gwinnett County Unified Development Ordinance (the “UDO”). The Applicant, WF Sugar Hill, LLC (the “Applicant”) has filed an application seeking approval to rezone the 0.80-acre Scott Parcel to C-2 (General Business District) to align it with the current zoning of the adjacent .49-acre Antrobus Parcel for the purpose of developing an express car wash over the combined 1.29-acre tract. This SUP application combined with the rezoning of the Scott Parcel would allow for the express car wash on the combined 1.29-acre tract. The rezoning and special use permit for the Property will allow for a quality commercial development that will service the surrounding community in accordance with the 2040 Comprehensive Plan. The proposed development will consist of an approximately 4,375sf express car wash building and 15 spaces for vacuuming.

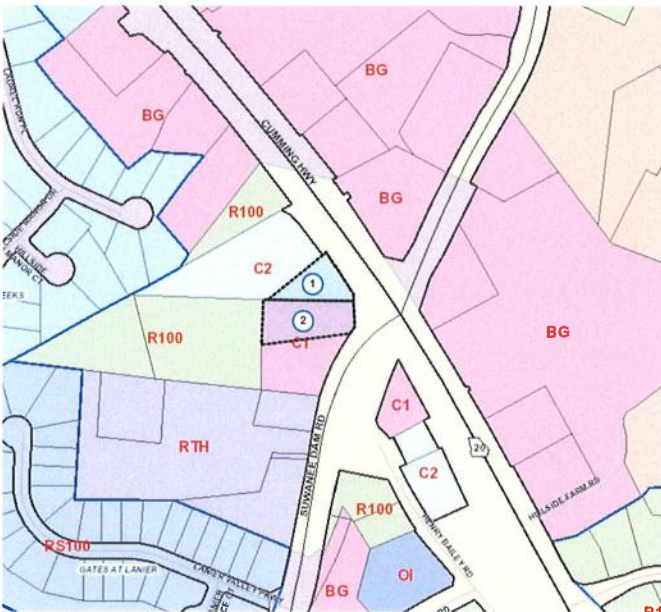
This document is submitted as the Letter of Intent, Response to Standard Governing the Exercise of Zoning Power, and other materials required by the Gwinnett County UDO.

II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is a pentagon shaped tract fronting Cumming Hwy at the intersection of Cumming Hwy and Suwanee Dam Rd in Sugar Hill, The Property sits within a commercial Neighborhood Node and is surrounded by properties that are zoned both C-1 (Neighborhood Business District) and C-2. There are two major commercial developments across the street within the City of Sugar Hill zoned BG (General Business). One development is anchored by a Publix and the other is anchored by a Kroger and LA Fitness. Other surrounding parcels are improved with service and retail businesses, gas stations, restaurants with and without a drive-thru and automotive repair and parts stores. The Property would share access with the adjacent automotive repair shop onto Cumming Hwy.

The Future Development Map of the Gwinnett County 2040 Unified Plan (the “2040 Plan”) classifies this Property as within the “Neighborhood Node Character Area,” of the Gwinnett County Future Development Map. The Neighborhood Node Character Area is intended to serve surrounding residential neighborhoods with retail/commercial nodes located at intersections.

As referenced above, the surrounding properties in this corridor are zoned commercial with uses similar, or more intense, in scale to what is being proposed by the Applicant. Below are maps of the surrounding uses and the zoning classifications by parcel:



III. PROJECT SUMMARY

As shown on the conceptual site plan prepared by Civilogistix, LLC. dated January 27, 2020 and filed with this Application (hereinafter the “Site Plan”), the Applicant proposes to develop the Property as an express car wash. The SUP for the Property will activate a vacant site and allow for a quality commercial development that will service the surrounding community in accordance with the 2040 Plan. The proposed development will consist of a single 4,375sf building containing an express car wash along with 15 spaces for vacuuming.

The proposed development will maintain the existing shared access onto Cumming Highway with the adjacent automobile repair shop. The access is currently a right-in and right-out access and will remain as such post development. The Site Plan does not propose any access directly onto Suwanee Dam Road. The Applicant’s proposal is consistent with the 2040 Plan and the Neighborhood Node Character Area as it brings service based commercial to a commercial node as intended by the 2040 Plan. Additionally, staff previously recommended approval of the same proposal for the Property during the 2020 calendar year under cases RZC2020-0003 and SUP2020-00008 siting that the proposed development is consistent with the 2040 Comp Plan and the Neighborhood Node Character Area. The 2020 application was withdrawn by the Applicant after publication resulting in a denial without prejudice for reasons not directly related to the proposed development.

IV. SITE IMPACT ANALYSIS

Pursuant to UDO § 270-20.6, entitled “Impact Analysis,” the Applicant submits its written impact analysis which shows that the SUP request, satisfies UDO § 270-20.5, entitled “Standards Governing Exercise of the Zoning Power,” as follows:

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

Yes, approval of the proposed SUP will permit a use that is suitable in view of the use and development of adjacent and nearby property. The Property is located at the Cumming Hwy and Suwanee Dam Rd intersection within a Neighborhood Node. The Property is adjacent to similar automotive commercial uses and across the street from two intense, large-scale commercial developments.

(B) WHETHER A PROPOSED SPECIAL USE PERMIT WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No, the proposed SUP Application will not adversely affect the existing use or usability of any of the nearby properties. The proposed use is compatible with existing commercial uses of adjacent and nearby properties. Rather the proposed development would complement existing commercial uses and provide a complimentary service-based use to the surrounding community as intended by the 2040 Plan.

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

The Applicant submits that due to the size, location, layout, topography, and natural features of the Property, it does not have reasonable economic use as currently zoned. The Property by itself would not have sufficient access to the public RoW without being combined with the adjacent property which is already zoned C-2 and contains access to Cumming Hwy. The SUP would allow for a service-based development that has a low traffic impact and would be economically feasible with the current access limitations on the Property.

(D) WHETHER THE PROPOSED SPECIAL USE PERMIT 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 proposed SUP application will not result in an excessive or burdensome use of the infrastructure systems. The Property has convenient access to Cumming Hwy when combined and developed with the adjacent property as proposed by the Applicant. The proposed development would complement the existing retail commercial uses in the area by providing a needed service-based use.

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

The proposed SUP application is in conformity with the policy and intent of the Gwinnett County 2040 Unified Plan. The Property is located within the Neighborhood Node Character Area of the 2040 Future Development Map. Encouraged land uses for the Neighborhood Node Character Area include retail and service commercial uses designed to support the surrounding community. The proposed development would be compatible with and successfully co-exist with the surrounding 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 PROPOSED SPECIAL USE PERMIT:

The Applicant submits that the character of the surrounding development and the existing mix of uses in the area provide supporting reasons for approval of the SUP application. The Applicant submits that the Property's location, size, and dimensions, as well as its location at the commercially intense intersection of Cumming Hwy and Suwanee Dam Rd within the Neighborhood Node Character Area provide further support for approval of the proposed SUP application.

V. JUSTIFICATION FOR REZONING

The Applicant respectfully submits that "The Unified Development Ordinance of Gwinnett County, Georgia" (the "Ordinance"), as amended from time to time, to the extent that it classifies the Property in any zoning district or restricts the use in such a way that would preclude development of an express car wash is unconstitutional as a taking of property, a denial of equal protection, an arbitrary and capricious act, and an unlawful delegation of authority under the specific constitutional provisions later set forth herein. Any existing inconsistent zoning, or use restrictions, of the Property pursuant to the Ordinance deprives the Applicant and Property owner of any alternative reasonable use and development of the Property. Additionally, all other zoning classifications and use restrictions, including ones intervening between the existing classification and that requested herein, would deprive the Applicant and Property owner of any reasonable use and development of the Property. Further, any attempt by the Gwinnett County Board of Commissioners to impose greater restrictions upon the manner in which the Property will be developed than presently exist would be equally unlawful.

Accordingly, Applicant submits that the current zoning classification, use restrictions, and any other zoning of the Property save for what has been requested as established in the Ordinance constitute an arbitrary and unreasonable use of the zoning and police powers because they bear no substantial relationship to the public health, safety, morality or general welfare of the public and substantially harm the Applicant and Property owner. All inconsistent zoning classifications and use restrictions between the existing zoning and the zoning and SUP requested hereunder would constitute an arbitrary and unreasonable use of the zoning and police powers because they bear or would bear no substantial relationship to the public health, safety, morality, or general welfare of the public and would substantially harm the Applicant and Property owner. Further, the existing inconsistent zoning classification and use restrictions constitutes, and all zoning and plan classifications intervening between the existing inconsistent zoning classification, use restrictions, and that required to develop this Project would constitute, a taking of the owner's private property without just compensation and without due process in violation of the Fifth Amendment and Fourteenth Amendment of the Constitution of the United States, and Article I, Section I, Paragraph I and Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the Constitution of the United States.

Further, the Applicant respectfully submits that failure to approve the requested SUP would be unconstitutional and would discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and Property owner and owners of similarly situated property in violation of Article I, Section III, Paragraph I of the Constitution of the State of Georgia and the Equal Protection Clause of the Fourteenth Amendment of the Constitution of the United States.

Finally, the Applicant respectfully submits that the Gwinnett County Board of Commissioners cannot lawfully impose more restrictive standards upon the development of the Property than presently exist, as to do so not only would constitute a taking of the Property as set forth above, but also would amount to an unlawful delegation of their authority, in response to neighborhood opposition, in violation of Article IX, Section IV, Paragraph II of the Georgia Constitution.

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This Application meets favorably with the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning and planning as an expression of the government's police power. See *Guhl v. Holcomb Bridge Road Corp.*, 238 Ga. 322 (1977).

VI. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this SUP Application to allow for an express car wash be approved. The Applicant welcomes the opportunity to meet with the Gwinnett County Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 5th day of January, 2022.

ANDERSEN, TATE & CARR, P.C.

Melody A. Glouton

Melody A. Glouton, Esq.

Enclosures
MAG/ag

SPECIAL USE PERMIT 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.



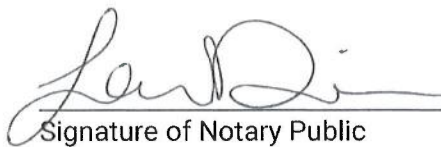
Signature of Applicant

10/8/21

Date

TRAVIS SMITH / Member

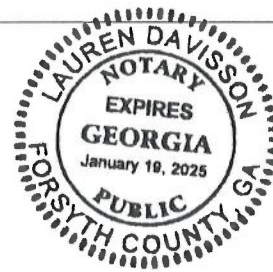
Type or Print Name and Title



Signature of Notary Public

10/8/21

Date



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Gwinnett County Planning Division
Special Use Permit Application
Last Updated 12/2015

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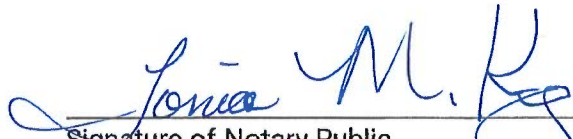
Signature of Property Owner

11/2/2021

Date

Jennifer Antrobus, Owner

Type or Print Name and Title



Signature of Notary Public

11-2-21

Date

Notary Seal

my commission EXPIRES: 6-20-24

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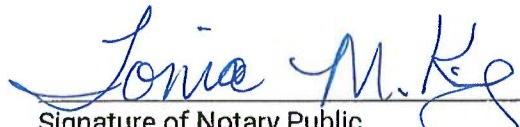
Signature of Property Owner

11/2/2021

Date

Susan J. Coltman, Owner

Type or Print Name and Title



Signature of Notary Public

11-2-2021

Date

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my commission Expires: 6-26-24

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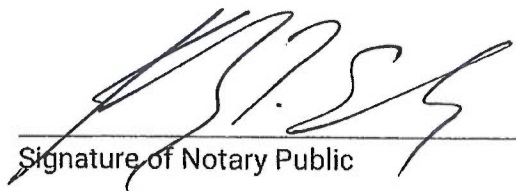
Signature of Property Owner

11/2/21

Date

Henry F. Johnson, Owner


Type or Print Name and Title



Signature of Notary Public

11/2/21

Date



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Brenda Scott

Signature of Property Owner

10-26-21

Date

Brandon Scott

Type or Print Name and Title

Angelee J. Garner

Signature of Notary Public

10-26-21

Date



Gwinnett County Planning Division
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Corey Scott

Signature of Property Owner

10-26-21

Date

Corey Scott

Type or Print Name and Title

Angelee J. Garner

Signature of Notary Public

10-26-21
Date



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Gwinnett County Planning Division
Special Use Permit Application
Last Updated 5/2021

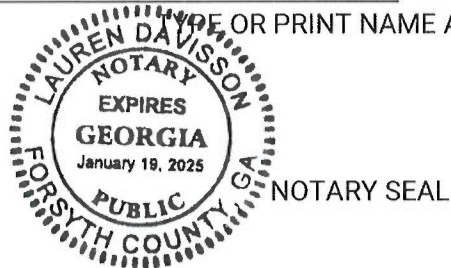
CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

The undersigned below, making application for a Special Use Permit, 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.

[Signature] 10/8/21 Travis Smith / Member
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

[Signature] 10/8/21
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 Travis Smith
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.

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SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

Melody A. Glouton *1/6/22* Melody A Glouton, Attorney for Applicant

SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
ATTORNEY OR REPRESENTATIVE

Angela Gratz *1-6-22*

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 Andersen, Tate & Carr, P.C.
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)
Nicole Love Hendrickson - Chairwoman	\$1,000	9/30/2020
Kirkland Carden - Planning Commissioner	\$2,800	11/16/2021

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

