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2/3/2022 1:48PM

**REZONING APPLICATION**

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

| APPLICANT INFORMATION   | PROPERTY OWNER INFORMATION*             |
|---|---|
| 105 PIB Group, LLC c/o Mahaffey Pickens<br>NAME: <u>Tucker, LLP</u> | NAME: <u>Paul M Caudill</u>             |
| ADDRESS: <u>1550 North Brown Road, Suite 125</u>                    | ADDRESS: <u>12585 Arbor North Dr</u>    |
| CITY: <u>Lawrenceville</u>  | CITY: <u>Milton</u>                     |
| STATE: <u>Georgia</u> ZIP: <u>30043</u>                             | STATE: <u>Georgia</u> ZIP: <u>30004</u> |
| PHONE: <u>770 232 0000</u>  | PHONE: <u>770 232 0000</u>              |

CONTACT PERSON: Shane Lanham PHONE: 770 232 0000  
CONTACT'S E-MAIL: slanham@mptlawfirm.com

**APPLICANT IS THE:**

OWNER'S AGENT     PROPERTY OWNER     CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): O-1 REQUESTED ZONING DISTRICT: C-2

PARCEL NUMBER(S): 6158 008 ACREAGE: +/- 4.30

ADDRESS OF PROPERTY: 851 Beaver Ruin Rd

PROPOSED DEVELOPMENT: Indoor climate-controlled self-storage facility

| RESIDENTIAL DEVELOPMENT                 | NON-RESIDENTIAL DEVELOPMENT                     |
|---|---|
| No. of Lots/Dwelling Units <u>NA</u>    | No. of Buildings/Lots: <u>1/1</u>               |
| Dwelling Unit Size (Sq. Ft.): <u>NA</u> | Total Building Sq. Ft. <u>120,000</u>           |
| Gross Density: <u>NA</u>                | Density: <u>+/- 27,907 square feet per acre</u> |
| Net Density: <u>NA</u>                  |   |

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

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**SPECIAL USE PERMIT APPLICATION**

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

| APPLICANT INFORMATION   | PROPERTY OWNER INFORMATION*             |
|---|---|
| 105 PIB Group, LLC c/o Mahaffey Pickens<br>NAME: <u>Tucker, LLP</u> | NAME: <u>Paul M Caudill</u>             |
| ADDRESS: <u>1550 North Brown Road, Suite 125</u>                    | ADDRESS: <u>12585 Arbor North Dr</u>    |
| CITY: <u>Lawrenceville</u>  | CITY: <u>Milton</u>                     |
| STATE: <u>Georgia</u> ZIP: <u>30043</u>                             | STATE: <u>Georgia</u> ZIP: <u>30004</u> |
| PHONE: <u>770 232 0000</u>  | PHONE: <u>770 232 0000</u>              |
| CONTACT PERSON: <u>Shane Lanham</u> PHONE: <u>770 232 0000</u>      |   |
| CONTACT'S E-MAIL: <u>slanham@mptlawfirm.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>O-I/C-2</u> BUILDING/LEASED SQUARE FEET: <u>120,000</u>  |
| PARCEL NUMBER(S): <u>6158 008</u> ACREAGE: <u>+/- 4.30</u>  |
| ADDRESS OF PROPERTY: <u>851 Beaver Ruin Rd</u>  |
| SPECIAL USE REQUESTED: <u>Self-storage facility</u>   |
|   |

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

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**OVERALL LAND DESCRIPTION 2021.041**

ALL that tract or parcel of land lying and being in Land Lot 158 of the 6th Land District, Gwinnett County, Georgia, and being as shown on a Boundary by Blue Landworks, Dated July 20, 2021. Containing 4.30-acres and being more particularly described as follows:

**BEGINNING** at a IPF (5/8" Rebar) having a State Plane Coordinate of **N:1423748.21 E:2306034.77** GA West Zone, said pin is on the southwesterly R/W of Beaver Ruin Road (130' R/W) said pin being southeasterly 182.5 feet of the intersection of Beaver Ruin Road R/W and Casco Way (60' R/W) pin being **THE TRUE POINT OF BEGINNING**. Thence continuing along said southwesterly margin of Beaver Ruin Road (130' R/W) South 52 degrees 13 minutes 06 seconds East 503.59 feet, to an IPS (1/2" Rebar W/cap); Thence departing said margin South 58 degrees 41 minutes 26 seconds West 477.62 feet, to an IPF (Metal T Post); Thence North 47 degrees 36 minutes 56 seconds West 168.95 feet to an IPF (1" OTP); Thence North 48 degrees 16 minutes 41 seconds West 94.58 feet to an IPF (1" OTP); Thence North 47 degrees 42 minutes 29 West 95.05 feet to an IPF (1" OTP); Thence North 41 degrees 02 minutes 05 seconds East 24.95 feet, to an IPF (1" OTP); Thence North 41 degrees 08 minutes 47 seconds East 149.98 feet , to an IPF (1" OTP); Thence North 41 degrees 06 minutes 15 seconds East 125.26 feet to an IPF (1" CTP); Thence North 41 degrees 05 minutes 52 seconds East 119.15 feet to an IPF (5/8" Rebar), said pin being **THE TRUE POINT OF BEGINNING**.





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**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:

Please see attached

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

Please see attached

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

Please see attached

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- (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:

Please see attached

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

Please see attached

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- (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:

Please see attached

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STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- A. Approval of the rezoning request and proposed special use permit will permit a use that is suitable in view of the use and development of adjacent and nearby property. The subject Property is located along Beaver Ruin Road adjacent to existing commercial developments. The proposed development would provide an appropriate transition of land uses stepping down from those more intense commercial/retail uses towards single-family residential uses to the northwest.
- B. Approval of the rezoning request and proposed special use permit will not adversely affect the existing use or usability of adjacent or nearby property. Rather the proposed development would complement surrounding commercial land uses by providing a use that would serve residents and employees of the surrounding area.
- C. The Applicant submits that due to its size, location, physical characteristics, and layout, the subject property does not have a reasonable economic use without the rezoning request and proposed special use permit.
- D. Approval of the rezoning request and proposed special use permit will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. The property has direct access to Beaver Ruin Road (State Route 378) and other major transportation corridors such as Lawrenceville Highway (U.S. Route 29) and Interstate 85.
- E. Approval of the proposed rezoning and special use permit is in conformity with the policy and intent of the 2040 Plan. The subject Property is designated as within the Neighborhood Node Character Area on the 2040 Plan Future Development Map. Encouraged land uses for this character area include commercial development to serve the surrounding community.
- F. The Property's location on Beaver Ruin Road, the Property's proximity to Interstate 85, and the nature of existing land uses at the established high-intensity commercial node provide additional supporting grounds for approval of the application.

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Matthew Benson

Gerald Davidson, Jr.\*

Rebecca B. Gober

Brian T. Easley

Christopher D. Holbrook

Charlotte L. Luu

W. Brady Hughes



Samuel C. Kennon  
Shane M. Lanham  
Jeffrey R. Mahaffey  
Steven A. Pickens  
Andrew D. Stancil  
R. Lee Tucker, Jr.

\*Of Counsel

**COMBINED LETTER OF INTENT FOR  
REZONING AND SPECIAL USE PERMIT APPLICATION**

Mahaffey Pickens Tucker, LLP respectfully submits this Combined Letter of Intent and attached Rezoning and Special Use Permit Applications (the “Applications”) on behalf of 105 PIB Group, LLC (the “Applicant”) for the purpose of requesting a rezoning and grant of a Special Use Permit relative to an approximately 4.30-acre tract of land located at 851 Beaver Ruin Road (the “Property”). The requested rezoning and special use permit would allow the development and operation of an interior climate-controlled self-storage facility on the Property. The Property is currently zoned O-I and is located within the Neighborhood Node Character Area as depicted on the Gwinnett County 2040 Unified Plan Future Development Map.

The surrounding area is characterized by a mix of commercial/retail, office, and residential land uses. The commercial/retail uses are focused at the intersection of Beaver Ruin Road and Burns Road. Moving northwest away from the core of the activity node, the intensity of existing land uses generally transitions down moving towards single-family detached residential uses to the northwest of the Property. To the southeast, the Property is adjacent to land zoned C-2 which includes a convenience/grocery store and a pharmacy. Across Beaver Ruin Road to the northeast is additional land zoned C-2 including a gas station and strip retail buildings.

The Applicant proposes to develop the Property to include a three-story building for the self-storage facility with approximately 120,000 square feet of floor area. The facility would be accessed by a single right-in-right-out driveway on Beaver Ruin Road. The proposed self-storage building would feature attractive architectural elements and landscaping which would enhance the

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aesthetics of the Beaver Ruin Road corridor. The proposed development would also provide a 75-foot wide natural, undisturbed buffer adjacent to residentially-zoned property to the northwest and southwest.

The proposed development is in line with the policies of the Gwinnett County 2040 Unified Plan (the "2040 Plan"), is compatible with surrounding land uses, and would provide an appropriate transition of land uses moving from more intense commercial uses to the southeast to less intense single-family residential uses to the northwest. Policies for the Neighborhood Node Character Area encourage commercial development and redevelopment with land uses that serve and are compatible with nearby residential uses. The Property is currently under-utilized and contains a single building which includes approximately 2,200 square feet of floor area and was originally constructed as a single-family residence in 1955. The proposed redevelopment would enhance the aesthetics of the Property and provide a more efficient use of land. The proposed self-storage facility would also serve as a community amenity for residents of the surrounding area as most patrons of self-storage facilities live within a short distance of their chosen facility. The proposed self-storage facility would also generate fewer vehicle trips than a typical commercial or retail use. Further, many of the vehicle trips which are generated by self-storage facilities occur at off-peak hours further limiting the traffic impacts of the proposed development. The proposed development is compatible with adjacent commercial uses and provides appropriate buffering against adjacent residential communities.

Moreover, multiple characteristics of the Property frustrate its development as more intense commercial/retail and/or mixed-use developments. Specifically, sewer is currently unavailable on-site. The nearest sewer manhole is located in the right-of-way of Northaven Court to the south; however, no existing easement is available to access that sewer infrastructure. The elevation of existing sewer infrastructure in Northaven Court is also at a higher elevation than the entirety of the subject Property meaning the only feasible access would be through a lift station or grinder pump after extension of sewer lines to the subject property. Additionally, vehicular access to the Property would be limited to a right-in-right-out driveway configuration due to an existing median in Beaver Ruin Road. This restricted access limits the viability of commercial/retail uses.

GWINNETT COUNTY  
PLANNING AND DEVELOPMENT

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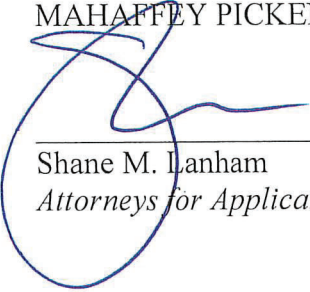
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The Applicant welcomes the opportunity to work alongside Gwinnett County Planning & Development Staff to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Application filed herewith. The Applicant respectfully requests your approval of the Application.

This 2nd day of February, 2022.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



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Shane M. Lanham  
*Attorneys for Applicant*

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6/20/2022

**AMENDMENT TO AN APPLICATION TO AMEND THE OFFICIAL  
ZONING MAP OF GWINNETT COUNTY, GEORGIA**

APPLICANT: 105 PIB Group, LLC c/o Mahaffey Pickens  
Tucker, LLP

ZONING CASE NUMBER: RZC2022-00012 & SUP2022-00018

PRESENT ZONING DISTRICT(S): O-I

REQUESTED ZONING DISTRICT(S): C-2 w/ SUP

PROPERTY: 851 Beaver Ruin Road


SIZE: +/- 4.3 acres

PROPOSED DEVELOPMENT: Self-Storage Facility

The Applicant hereby amends its application to amend the official zoning map of Gwinnett County, Georgia heretofore filed with the Planning Division of Gwinnett County, Georgia by the addition of the attached Exhibit to the original application.

This 20th day of June, 2022.

MAHAFFEY PICKENS TUCKER, LLP



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Shane M. Lanham  
*Attorneys for Applicant*

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6/20/2022

## JUSTIFICATION FOR REZONING

The portions of the Gwinnett County Unified Development Ordinance (the “UDO”) which classify or may classify the property which is the subject of this Application (the “Property”) into any less intensive zoning classification other than as requested by the Applicant, or that prohibit or restrict the use which is the subject of the Special Use Permit request (the “SUP”), are or would be unconstitutional in that they would destroy the Applicant's 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, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the UDO as applied to the subject Property, which restricts its use to the present zoning classification, is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and 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 of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the C-2 classification with the SUP as requested by the Applicant, and is not economically suitable for development under the present O-I zoning classification of Gwinnett County. A denial of this Application would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and 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 rezone the Property to the C-2 classification and grant the SUP with such conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate

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In an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of 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 of the United States. Any rezoning of the subject Property to the C-2 classification and/or grant of the SUP, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

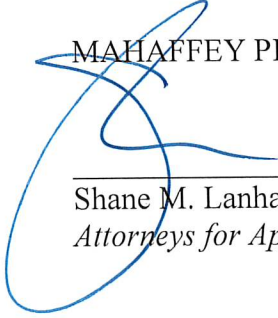
Opponents to the request set forth in the Application, or in any amendments to the Application, have waived their rights to appeal any decision of the Gwinnett County Board of Commissioners because they lack standing, have failed to exhaust administrative remedies, and/or because they failed to assert any legal or constitutional objections.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application and that the SUP is granted.

This 20th day of June, 2022.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



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Shane M. Lanham  
*Attorneys for Applicant*

1550 North Brown Road  
Suite 125  
Lawrenceville, Georgia 30043  
(770) 232-0000

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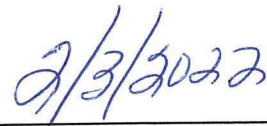
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**REZONING APPLICANT'S CERTIFICATION**

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.



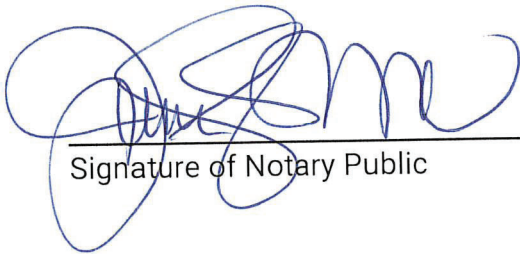
Signature of Applicant



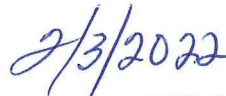
Date

Shane Lanham, attorney for the Applicant

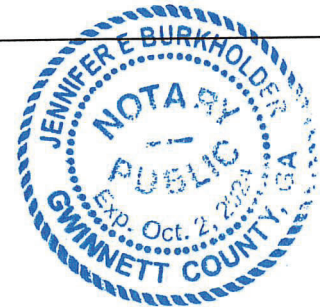
Type or Print Name and Title



Signature of Notary Public



Date



Notary Seal

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**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.

*Myrna S. Caudill by Candy Caudill Lusby POA 2-2-22*

Signature of Property Owner

Date

*Myrna S. Caudill by Candy Caudill Lusby POA*

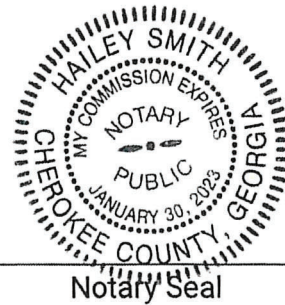
Type or Print Name and Title

*HSM*

Signature of Notary Public

*2-2-22*

Date



Notary Seal

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**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

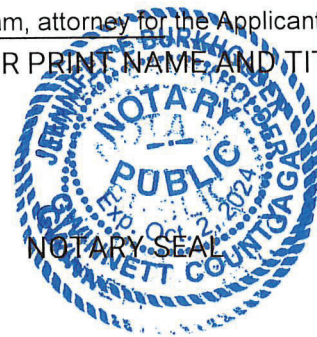
2/3/22

Shane Lanham, attorney for the Applicant

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

2/3/2022

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    Mahaffey Pickens Tucker, LLP  
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) |
|--|---|--|
| Kirkland Carden                                  | \$2,800   | 11/18/2021   |
|  |   |  |
|  |   |  |

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

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**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:**      6                      - 158                      - 008  
(Map Reference Number)      District                      Land Lot                      Parcel

Signature of Applicant

Date

Shane Lanham, attorney for the Applicant

Type or Print Name and Title

2/3/22

**\*\*\*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)

Arnts Flowed

NAME

Tax Services Assoc II

TITLE

2-3-22

DATE

Taxes are current