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FEB 20 2013

**CHANGE IN CONDITIONS APPLICATION**

BY: .....

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

APPLICANT INFORMATION	OWNER INFORMATION
NAME: <u>D &amp; C Management Group LLC</u>	NAME: <u>D &amp; C Management Group LLC</u>
ADDRESS: <u>c/o Mill Creek Consulting</u> <u>4480 Commerce Dr., Suite A</u>	ADDRESS: <u>c/o Mill Creek Consulting</u> <u>4480 Commerce Dr., Suite A</u>
CITY: <u>Buford</u>	CITY: <u>Buford</u>
STATE: <u>GA</u> ZIP: <u>30518</u>	STATE: <u>GA</u> ZIP: <u>30518</u>
PHONE: <u>770-614-6511</u>	PHONE: <u>770-614-6511</u>
CONTACT PERSON: <u>MITCH PEEVY</u> PHONE: <u>(770) 614-6511</u>	
APPLICANT'S E-MAIL: <u>millcreekconsulting@gmail.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"/> OWNERS AGENT	<input checked="" type="checkbox"/> PROPERTY OWNER	<input type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICT (S): <u>C-2</u> PRIOR ZONING CASE: <u>RZC-05-019</u>		
LAND DISTRICT (S): <u>6</u>	LAND LOT (S): <u>150</u>	ACREAGE: <u>4.12</u>
ADDRESS OF PROPERTY: <u>554 Beaver Ruin Road</u>		
PROPOSED DEVELOPMENT: <u>Drive thru restaurant and a Convenience Store with gas pumps</u>		
RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT:	
NO. OF LOTS/DWELLING UNITS: _____	NO. OF BUILDINGS/UNITS: <u>2</u>	
DWELLING UNIT SIZE (SQ. FT.): _____	TOTAL GROSS SQUARE FEET: <u>10,400</u>	
GROSS DENSITY: _____	DENSITY: <u>2,524 sq/ft per acre</u>	
NET DENSITY: _____		

LETTER OF INTENT

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

CIC '13 00 8

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**LEGAL DESCRIPTION OF  
BEAVER RUIN ROAD COMMERCIAL TRACT**

All that tract or parcel of land lying and being in Land Lots 149 and 150 of the 6th District, Gwinnett County, Georgia, and being more particularly described as follows:

**TRACT I:**

**COMENCING** at a point on the Land Lot Line intersection of Land Lots 157, 150, 158 and 149; said point also being the **TRUE POINT OF BEGINNING**.

THENCE from said **TRUE POINT OF BEGINNING**; South 29 degrees 34 minutes 01 seconds East a distance of 112.46 feet to a point; THENCE along a curve to the left with a radius of 210.00 feet and an arc length of 57.73 feet, said curve having a chord bearing of South 35 degrees 21 minutes 43 seconds West and a chord distance of 57.54 feet to a point; THENCE South 27 degrees 29 minutes 13 seconds West a distance of 51.39 feet to a point; THENCE along a curve to the right with a radius of 515.00 feet and an arc length of 93.36 feet, said curve having a chord bearing of South 32 degrees 40 minutes 49 seconds West and a chord distance of 93.23 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 50.00 feet to a point; THENCE South 37 degrees 52 minutes 26 seconds West a distance of 45.53 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 58.15 feet to a point; THENCE North 37 degrees 52 minutes 26 seconds East a distance of 10.00 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 20.00 feet to a point; THENCE South 37 degrees 52 minutes 26 seconds West a distance of 10.00 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 118.93 feet to a point; THENCE North 60 degrees 53 minutes 15 seconds East a distance of 276.63 feet to a point; THENCE North 60 degrees 53 minutes 15 seconds East a distance of 37.97 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Together with **TRACT II**

**COMENCING** at a point on the Land Lot Line intersection of Land Lots 157, 150, 158 and 149; THENCE South 29 degrees 34 minutes 01 seconds East a distance of 112.46 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

THENCE from said **TRUE POINT OF BEGINNING** South 29 degrees 34 minutes 01 seconds East a distance of 64.06 feet to a point; THENCE South 29 degrees 34 minutes 01 seconds East a distance of 56.94 feet to a point; THENCE South 52 degrees 07 minutes 34 seconds East a distance of 364.71 feet to a point; THENCE South 37 degrees 52 minutes 26 seconds West a distance of 33.27 feet to a point; THENCE South 16 degrees 34 minutes 44 seconds East a distance of 200.57 feet to a point; THENCE South 89 degrees 34 minutes 26 seconds East a distance of 76.68 feet to a point; THENCE South 31 degrees 16 minutes 27

seconds West a distance of 60.58 feet to a point; THENCE South 19 degrees 04 minutes 26 seconds West a distance of 55.40 feet to a point; THENCE South 24 degrees 41 minutes 12 seconds East a distance of 152.78 feet to a point; THENCE along a curve to the left with a radius of 2947.70 feet and an arc length of 714.94 feet, said curve having a chord bearing of North 45 degrees 10 minutes 40 seconds West and a chord distance of 713.19 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 52.74 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 90.00 feet to a point; THENCE North 52 degrees 07 minutes 34 seconds West a distance of 40.00 feet to a point; THENCE North 37 degrees 52 minutes 26 seconds East a distance of 45.53 feet to a point; THENCE South 52 degrees 07 minutes 34 seconds East a distance of 50.00 feet to a point; THENCE along a curve to the left with a radius of 515.00 feet and an arc length of 93.36 feet, said curve having a chord bearing of North 32 degrees 40 minutes 49 seconds East and a chord distance of 93.23 feet to a point; THENCE North 27 degrees 29 minutes 13 seconds East a distance of 51.39 feet to a point; THENCE along a curve to the right with a radius of 210.00 feet and an arc length of 57.73 feet, said curve having a chord bearing of North 35 degrees 21 minutes 43 seconds East and a chord distance of 57.54 feet to a point, said point being the **TRUE POINT OF BEGINNING.**

All together containing 179,452 square feet or 4.12 acres.



STANDARDS GOVERNING EXERCISE OF THE ZONING POWER

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

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

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

THE APPLICANT BELIEVES THE PROPOSED USE IS SUITABLE.

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

THE PROPOSED USE WILL NOT ADVERSELY AFFECT THE USE OF THE SURROUNDING PROPERTIES.

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

THE APPLICANT BELIEVES THAT THE SUBJECT PROPERTY DOES NOT HAVE A REASONABLE ECONOMIC USE WITHOUT THE CHANGE IN CONDITIONS.

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

THE PROPOSED USE WILL NOT PRODUCE AN ADVERSE AFFECT ON THE EXISTING INFRASTRUCTURE.

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

THE SUBJECT PROPERTY IS DESIGNATED AS EXISTING/EMERGING SURBURBAN

(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 LETTER OF INTENT.

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CIC'13 008

BY:.....

Based upon the above reasons, the applicant feels that this is a reasonable request and that action contradictory to the zoning request will constitute a taking of 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, and Article P, Section 1, Paragraph 1, and Article 1, Section 3, Paragraph 1 of the Constitution of Georgia, denying the owner viable use of its land.

.....  
PLANNING DIVISION USE ONLY

CASE NUMBER \_\_\_\_\_

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BY:.....

CIC'13 003

# REZONING APPLICANT'S LETTER OF INTENT

The Applicant and Owner, D & C Management Group, LLC, requests a change in conditions to allow a drive thru restaurant and a convenience store with gas pumps. The property was originally zoned for a restricted list of commercial uses in 2005, which the applicant accepted but did not necessarily agree to, but it is just too restricted for a business to be successful. The Applicant has marketed the property since it was zoned for commercial uses but they have not been able to locate any interested businesses based on the approved conditions. The subject property is located on Beaver Ruin Road and is found in the 6th district land lot 150 in Gwinnett County.

## Requested Condition Changes:

Condition 1.A. Remove the restriction of All Automotive Uses (Including Gas Pumps) and Fast-food restaurants.

Condition 1.D. Remove the hours of operation restriction. Beaver Ruin is a heavily traveled and mostly commercially oriented road and a restaurant or a convenience store will need to be open as necessary to be successful instead of restricted to certain hours as competition in the area is not restricted.

Condition 1.E. The Applicant is requesting that they be allowed to have a drive-thru with speakers for the restaurant. Additional screening can be added to the buffer behind the facility if it is deemed necessary.

Condition 2. I. An outdoor loudspeaker is requested for the restaurant drive-thru.

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CHANGE IN CONDITIONS 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.

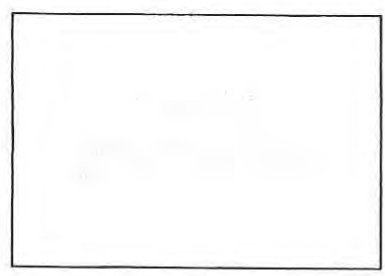
X Cliff Sandez 2-4-13  
SIGNATURE OF APPLICANT DATE

Cliff Sandez MANAGER  
TYPE OR PRINT NAME AND TITLE

Rebecca Swilling 2-4-13  
SIGNATURE OF NOTARY PUBLIC DATE

**REBECCA SWILLING**  
**NOTARY PUBLIC**  
Gwinnett County  
State of Georgia  
NOTARY SEAL  
My Comm. Expires November 20, 2014

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CIC '13 008



CHANGE IN CONDITIONS PROPERTY OWNER'S CERTIFICATION

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

X Cliff Sandoz 2-4-13  
SIGNATURE OF OWNER DATE

CLIFF SANDOZ, MANAGER  
TYPE OR PRINT NAME AND TITLE

Rebecca Swilling 2-4-13  
SIGNATURE OF NOTARY PUBLIC DATE

REBECCA SWILLING  
NOTARY PUBLIC  
Gwinnett County  
NOTARY STATE OF Georgia  
My Comm. Expires November 20, 2014

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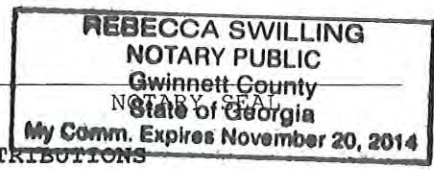
**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

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

X Cliff Sanooz                      2-4-13                      Cliff Sanooz - Manager  
 SIGNATURE OF APPLICANT                      DATE                      TYPE OR PRINT NAME AND TITLE

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

Rebecca Swilling                      2-4-13  
 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?

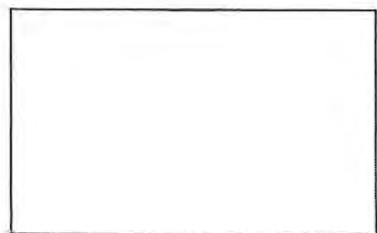
X Cliff Sanooz <sup>NO</sup> (yes/no)  
 YOUR NAME

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.

CASE NUMBER \_\_\_\_\_



BY:.....

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

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 - 150 - 013E

(Map Reference Number) District Land Lot Parcel

SIGNATURE OF APPLICANT Cliff Sandoz DATE 2-4-13

TYPE OR PRINT NAME AND TITLE CLIFF SANDOZ

**TAX COMMISSIONERS USE ONLY**

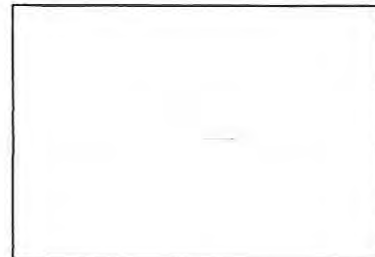
(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

NAME Bill Jorgensen TITLE TSA

DATE 2/6/13

**GWINNETT COUNTY  
TAX COMMISSIONER**

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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR CHANGE IN CONDITIONS

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

PARCEL I.D. NUMBER: 6 - 150 - 441  
(Map Reference Number)      District      Land Lot      Parcel  
SIGNATURE OF APPLICANT *Cliff Sandoz*      DATE 2-4-13  
TYPE OR PRINT NAME AND TITLE CLIFF SANDOZ

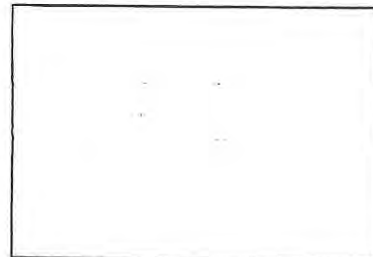
**TAX COMMISSIONERS USE ONLY**

(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)

NAME *Bill Torjan*      TITLE *TSA*  
DATE 2/6/13

**GWINNETT COUNTY  
TAX COMMISSIONER**

CASE NUMBER \_\_\_\_\_



**RECORDED & INDEXED**  
**FEB 06 2013**