

## CHANGE IN CONDITIONS APPLICATION

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

| APPLICANT INFORMATION   | OWNER INFORMATION                              |
|---|--|
| NAME: <u>NorSouth Development Company</u><br><u>c/o Mill Creek Consulting</u> | NAME: <u>HJE Simpson LP</u>                    |
| ADDRESS: <u>4480 Commerce Dr., Suite A</u>                                    | ADDRESS: <u>3747 Peachtree Rd NE Apt 1018.</u> |
| CITY: <u>Buford</u>   | CITY: <u>Atlanta</u>                           |
| STATE: <u>GA</u> ZIP: <u>30518</u>  | STATE: <u>GA</u> ZIP: <u>30318</u>             |
| PHONE: <u>770-614-6511</u>  | PHONE: _____                                   |
| 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 type="checkbox"/> PROPERTY OWNER | <input checked="" type="checkbox"/> CONTRACT PURCHASER |
| PRESENT ZONING DISTRICT (S): <u>O &amp; I</u>  |   | PRIOR ZONING CASE: <u>RZC2012-05</u>                   |
| LAND DISTRICT (S): <u>7</u>  | LAND LOT (S): <u>074</u>                | ACREAGE: <u>6.721</u>                                  |
| ADDRESS OF PROPERTY: <u>1625 Atkinson Road</u>                                       |   |  |
| PROPOSED DEVELOPMENT: <u>Asst. Living Fac. height increase from 49 ft. to 55 ft.</u> |   |  |
| RESIDENTIAL DEVELOPMENT:   | NON-RESIDENTIAL DEVELOPMENT:            |  |
| NO. OF LOTS/DWELLING UNITS: _____  | NO. OF BUILDINGS/UNITS: <u>1</u>        |  |
| DWELLING UNIT SIZE (SQ. FT.): _____  | TOTAL GROSS SQUARE FEET: <u>144,000</u> |  |
| GROSS DENSITY: _____   | DENSITY: <u>21,397 sq.ft./acre</u>      |  |
| NET DENSITY: _____   | <b>RECEIVED BY</b>                      |  |

APR 04 2013

**LETTER OF INTENT**  
PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED  
*Planning & Development*

CIC 13010

## HearthSide Sugarloaf Legal Description

- All that tract or parcel of land lying and being in Land Lot 74 of The 7<sup>th</sup> Land District of Gwinnett County, Georgia and being more particularly described as follows:

To find the True Point of Beginning, begin at the intersection of the Southerly right-of-way of West Field Drive (50 foot right-of-way) and the Easterly right-of-way of Atkinson Road (right-of-way varies); THENCE following along the easterly right-of-way of Atkinson Road for a distance of 920.77 feet to a ½ inch rebar found, said point Being The True Point of Beginning; THENCE leaving said right-of-way North 56 degrees 36 minutes 16 seconds East for a distance of 471.96 feet to a ½ inch rebar found; THENCE North 74 degrees 03 minutes 16 seconds East for a distance of 241.16 feet to a point on the westerly right-of-way of Sugarloaf Parkway (right-of-way varies); THENCE along said right-of-way along a curve to the left having a radius of 11404.16 feet an arc length of 13.19 feet being subtended by a chord bearing of South 25 degrees 10 minutes 17 seconds East for a chord distance of 13.19 feet to a point; THENCE South 25 degrees 08 minutes 26 seconds East for a distance of 283.21 feet to a point; THENCE leaving said right-of-way South 59 degrees 30 minutes 08 seconds West for a distance of 772.76 feet to a ¾ inch rebar found on the easterly right-of-way of Atkinson Road; THENCE along said right-of-way North 36 degrees 13 minutes 49 seconds West for a distance of 368.05 feet to a ½ inch rebar found, said point being the True Point of Beginning.

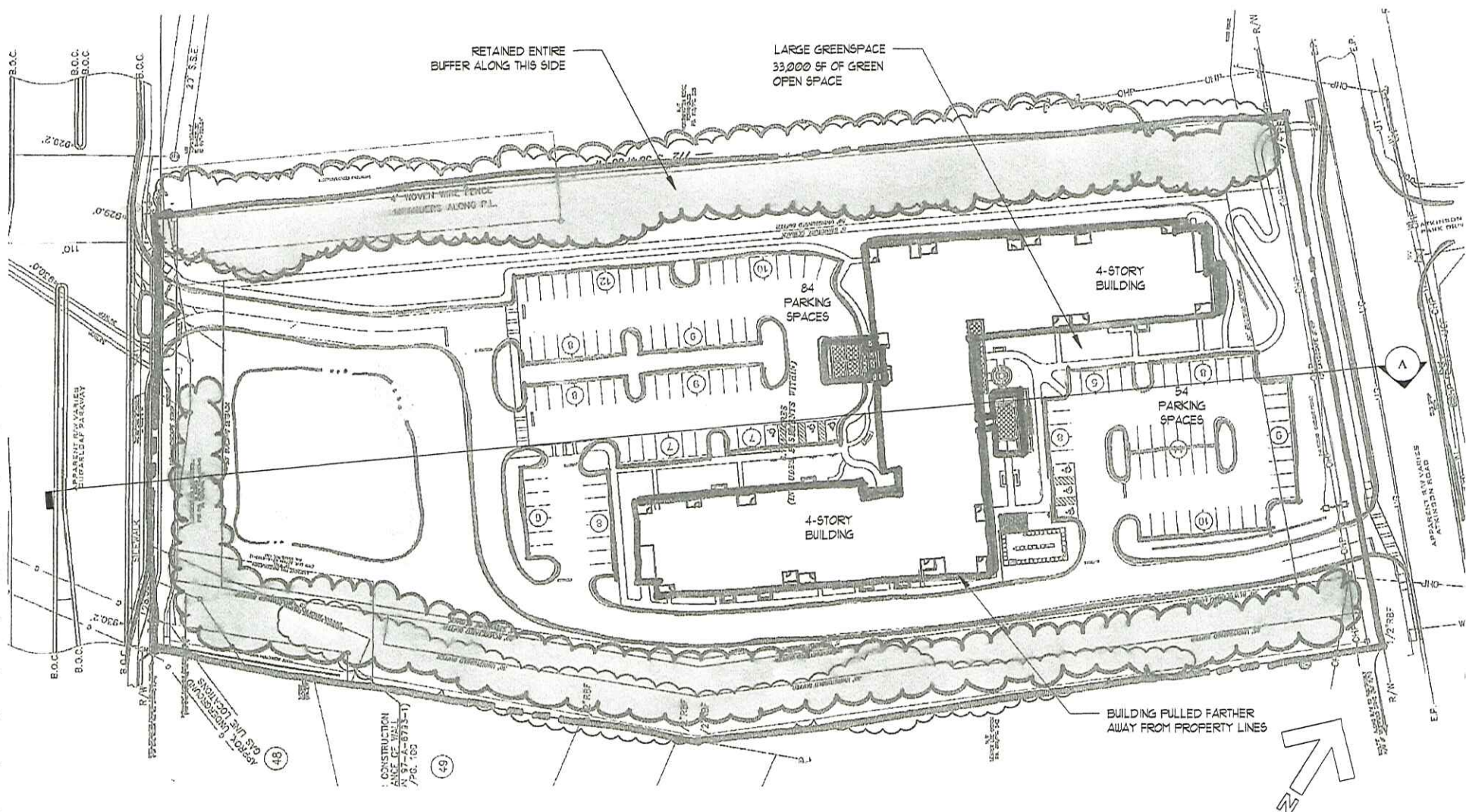
Said property contains 6.721 acres.

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# HEARTHSIDE SUGARLOAF

HEARTHSIDE SUGARLOAF, LP  
1825 ATKINSON ROAD LAWRENCEVILLE, GEORGIA

APRIL 2, 2013  
NTS  
NEW SITE PLAN LAYOUT

FOLEY DESIGN ASSOCIATES ARCHITECTS INC.  
1812 Cleveland Avenue Building 100 Suite 102 East Point, Georgia 30344 (404) 701-1200

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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 REGIONAL MIXED USE.

(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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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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## **CHANGE IN ZONING CONDITIONS APPLICANT'S LETTER OF INTENT**

We are seeking a Change in Zoning Conditions height increase from 49 feet to 55 feet to allow the development of a 110 unit 62 years and older senior housing development. The property is located at 1625 Atkinson Road in the 7th district land lot 074 in Gwinnett County.

When we rezoned the property, the Board of Commissioners approval was conditioned with a building height restriction of 49 feet. At the time this was well under our anticipated average roof height as we were designing a split three-four story building. The building height measurement actually considers the building's "average" height along all elevations from an "average" grade. We have now moved to a full four story building, all at the same grade, in an effort to reduce the building footprint and create more green space, parks, gardens, and walking trails, to be available to our residents. Because of this, our average building height has increased to 53 feet 3 inches and is above the maximum 49 feet allowable. We have not increased the height of the building, just the 'average' height of the building. We believe that the increased height makes for a more attractive building and reduces the footprint to create more green space.

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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.



Signature of Applicant

04.04.13

Date

BRENDAN BARR

VICE PRESIDENT

Type or Print Name and Title



Signature of Notary Public

4/4/13

Date

MAUREEN K FREEMILL,  
NOTARY PUBLIC  
DEKALB COUNTY, GEORGIA  
MY COMMISSION EXPIRES NOVEMBER 27, 2010

Notary Seal

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**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.

*Harold W. Simpson*

*4/3/13*

Signature of Property Owner

Date

*HAROLD W. SIMPSON, PARTNER*

Type or Print Name and Title

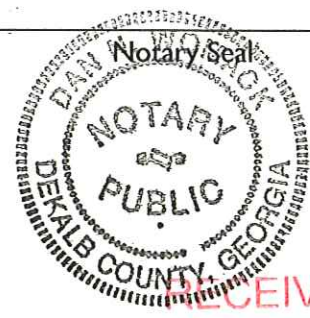
*Dan Wornach*

*4/3/13*

Signature of Notary Public

Date

NOTARY PUBLIC, DEKALB COUNTY, GEORGIA  
MY COMMISSION EXPIRES MAY 21, 2013




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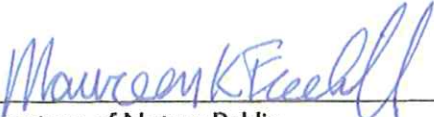


**CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS**

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.

 04/04/2013 BRENDAN BARR  
Signature of Applicant Date VICE PRESIDENT  
Type of Print Name and Title

Signature of Applicant's Attorney or Representative Date Type or Print Name and Title

 4/4/13 MAUREEN K FREHILL  
Signature of Notary Public Date NOTARY PUBLIC  
DEKALB COUNTY, GEORGIA  
MY COMMISSION EXPIRES NOVEMBER 27, 2010  
Notary Seal

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

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

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

**PARCEL I.D. NUMBER:**      7      -      74      -      006  
(Map Reference Number)      District      Land Lot      Parcel

[Signature]      04/04/2013  
Signature of Applicant      Date  
BRENDAN BARR      VICE PRESIDENT  
Type or Print Name and Title

**TAX COMMISSIONERS USE ONLY**

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

[Signature]      TSA  
NAME      TITLE  
04/04/13  
DATE  
**GWINNETT COUNTY  
TAX COMMISSIONER**

7      **CIC '13 01 0**      RECEIVED BY  
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