

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Brand Properties, LLC</u> <u>c/o Mahaffey Pickens Tucker, LLP</u> ADDRESS: <u>1550 North Brown Road, Suite 125</u> CITY: <u>Lawrenceville</u> STATE: <u>Georgia</u> ZIP: <u>30043</u> PHONE: <u>(770)232-0000</u>	NAME: <u>Bank of North Georgia</u> ADDRESS: <u>8025 Westside Parkway,</u> CITY: <u>Alpharetta</u> STATE: <u>Georgia</u> ZIP: <u>30009</u> PHONE: <u>(770)232-0000</u>
CONTACT PERSON: <u>Justin Abernathy</u> PHONE: <u>(770)232-0000</u> CONTACT'S E-MAIL: <u>jabernathy@mptlawfirm.com</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICT(S): C-2 REQUESTED ZONING DISTRICT: RM-13
 LAND DISTRICT(S): 7 LAND LOT(S): 177 ACREAGE: 16.14 +/- acres
 ADDRESS OF PROPERTY: Woodward Crossing Blvd., Buford, GA
 PROPOSED DEVELOPMENT: Apartment Community

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>190</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>975 - 1000 s.f.</u>	Total Building Sq. Ft. _____
Gross Density: <u>11.88 units per acre</u>	Density: _____
Net Density: <u>13.0 units per acre</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Exhibit "A"

Legal Description or Depiction of the Property

All that tract or parcel of land lying in or being in Land Lot 177 of the 7th District, Gwinnett County, Georgia, and being more particularly described as follows:

Commencing at a three-quarter inch reinforcing bar at the common corner of Land Lot Numbers 144, 145, 176 and 177, the point at which has coordinates on the Georgia State Plane Coordinate System of: North 1,478,129.4427 and East 2,353,475.6327, North American Datum of 1983; thence proceed along the southwesterly line of aforesaid Land Lot 177, being the northeasterly line of aforesaid Land Lot 176, North 30 degrees 35 minutes 40 seconds West for a distance of 308.69 feet to a point on the northwesterly right-of-way of a proposed roadway to be known as Woodward Mill Road (100-foot right-of-way at this point); thence depart aforesaid southwesterly line of Land Lot 177 and proceed along the said northwesterly right-of-way of proposed Woodward Mill Road, North 66 degrees 26 minutes 50 seconds East for a distance of 194.52 feet to the True Point of Beginning; the Point of Beginning thus established, thence depart said northwesterly right-of-way of proposed Woodward Mill Road North 17 degrees 11 minutes 52 seconds West for a distance of 7.88 feet to a point; thence North 43 degrees 50 minutes 19 seconds West for a distance of 67.63 feet to a point; thence North 21 degrees 15 minutes 42 seconds West for a distance of 28.12 feet to a point; thence North 31 degrees 18 minutes 23 seconds East for a distance of 50.39 feet to a point; thence North 11 degrees 27 minutes 36 seconds East for a distance of 113.69 feet to a point; thence North 28 degrees 32 minutes 07 seconds West for a distance of 105.35 feet to a point; thence North 06 degrees 48 minutes 31 seconds East for a distance of 71.96 feet to a point; thence North 31 degrees 05 minutes 38 seconds East for a distance of 79.29 feet to a point; thence North 08 degrees 03 minutes 23 seconds East for a distance of 79.18 feet to a point; thence North 21 degrees 01 minute 24 seconds East for a distance of 57.73 feet to a point; thence North 44 degrees 35 minutes 09 seconds East for a distance of 202.93 feet to a point; thence North 18 degrees 13 minutes 52 seconds East for a distance of 62.60 feet to a point; thence North 36 degrees 42 minutes 40 seconds East for a distance of 49.05 feet to a point; thence North 23 degrees 42 minutes 35 seconds East for a distance of 62.37 feet to a point; thence North 34 degrees 08 minutes 16 seconds East for a distance of 54.49 feet to a point; thence North 04 degrees 10 minutes 02 seconds West for a distance of 67.65 feet to a point; thence North 16 degrees 17 minutes 05 seconds East for a distance of 137.96 feet to a point; thence North 26 degrees 32 minutes 48 seconds East for a distance of 23.38 feet to a point on the southwesterly right-of-way of a proposed roadway to be known as Mill Creek Road (100-foot right-of-way at this point); thence proceed along said southwesterly right-of-way of proposed Mill Creek Road, South 63 degrees 45 minutes 07 Seconds East for a distance of 509.11 feet to a point; thence continue along said southwesterly right-of-way of proposed Mill Creek Road along a curve to the right having a radius of 666.00 feet and an arc length of 64.17 feet, being subtended by a chord of South 60 degrees 59 minutes 30 seconds East for a distance of 64.15 feet to a jog in said right-of-way of proposed Mill Creek Road; thence continue along said jog in the right-of-way, South 31 degrees 46 minutes 07 seconds West for a distance of 10.00 feet to a point where the right-of-way width of said proposed Mill Creek Road is 120 feet; thence continue along said southwesterly right-of-way of proposed Mill Creek Road along a curve to the right having a radius of 656.00 feet and an arc length of 306.43 feet, being subtended by a chord of South 44 degrees 50 minutes 59 seconds East for a distance of 303.65 feet to a point; thence continue along said southwesterly right-of-way of proposed Mill Creek Road, South 31 degrees 28 minutes 04 seconds East for a distance of 81.48 feet to a point at the mitre of intersection of said southwesterly right-of-

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way of proposed Mill Creek Road with the aforesaid northwesterly right-of-way of proposed Woodward Mill Road; thence proceed along said mitre of the aforesaid rights-of-way, South 13 degrees 01 minute 48 seconds West for a distance of 33.66 feet to a point on said northwesterly right-of-way of proposed Woodward Mill Road having a right-of-way width of 120 feet at this point; thence proceed along said northwesterly right-of-way of proposed Woodward Mill Road, South 58 degrees 31 minutes 56 seconds West for a distance of 415.21 feet to a jog in said right-of-way; thence proceed along said jog in the right-of-way, South 31 degrees 28 minutes 04 seconds East for a distance of 10.00 feet to a point where the right-of-way width of said proposed Woodward Mill Road is 100 feet; thence continue along Said northwesterly right-of-way of proposed Woodward Mill Road, South 58 degrees 31 minutes 56 seconds West for a distance of 173.86 feet to a point; thence continue along said northwesterly right-of-way of proposed Woodward Mill Road along a curve to the right having a radius of 1950.00 feet and an arc length of 269.38 feet, being subtended by a chord of South 62 degrees 29 minutes 23 seconds West for a distance of 269.17 feet to a point; thence continue along said northwesterly right-of-way of proposed Woodward Mill Road, South 66 degrees 26 minutes 50 seconds West for a distance of 362.37 feet to the Point of Beginning.

Said parcel of land contains 16.1416 acres and is shown on and described according to that certain survey entitled "Portions of lands of Mill Creek Land, L.L.C.", prepared by Post, Buckley, Schuh & Jernigan, Julian D. Grace, Georgia Registered Land Surveyor No. 2679, dated September 18, 1997, which survey is hereby made a part of this description by this reference.

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REZONING APPLICANT'S RESPONSE
STANDARDS GOVERNING THE 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:

Please see attached.

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

Please see attached.

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

Please see attached.

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

Please see attached.

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

Please see attached.

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

Please see attached.

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STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

- (A) Yes, the proposed Rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property. The subject property is surrounded by commercial, office institutional and residentially-zoned properties within the Mall of Georgia region and is bordered by the Mall of Georgia to the west, the Reserve at Ivory Creek, and Century Mill Creek apartments to the southeast. The proposed Rezoning is compatible with the zonings and uses currently in effect or contemplated for adjacent and nearby properties.
- (B) No, the proposed Rezoning will not adversely affect the existing use or usability of adjacent or nearby property but, to the contrary, will be compatible and consistent with such uses as currently exist or as are contemplated in the future.
- (C) No. In light of market conditions and the realities of the surrounding property uses, it would be nearly impossible to use and develop the property in accordance with its current C-2 zoning.
- (D) No, the proposed Rezoning will not result in a use which will or could cause an excessive or burdensome use of the existing streets, transportation facilities, utilities or schools. The proposed Rezoning and use will have no effect upon schools other than to generate revenue in the form of ad valorem taxes for the Gwinnett County Public School System. The transportation network in this area has been improved greatly and is capable of handling any traffic to be generated by the development of this property under the proposed Rezoning.
- (E) Yes. The proposed Rezoning is in conformity with the intent of the Land Use Plan in that it provides multifamily residential in the midst of a mixed-use corridor in the Mall of Georgia region. Also, the subject tract is adequately served by transportation thoroughfares providing appropriate ingress and egress to and from the property.
- (F) Yes, the existing zonings of adjacent and nearby properties and the fact that the subject tract is surrounded by ample infrastructure, and is located in close proximity to a major thoroughfare give additional supporting grounds for the approval of the requested rezoning. Additionally, the property has no reasonable economic use under its current zoning thereby giving additional support for the approval of this Application.

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E. Michelle Rothmeier
Shawn F. Bratton
Alissa L. Cummo
Justin A. Abernathy
Austen T. Mabe
J. David Gussio
Jill H. Harris,
of Counsel

**LETTER OF INTENT FOR
REZONING APPLICATION OF BRAND PROPERTIES, LLC**

Mahaffey Pickens Tucker, LLP submits this Rezoning Application on behalf of the Applicant, Brand Properties, LLC, for the purpose of rezoning an approximate 16 acre tract (hereinafter, the "Property") located at the Woodward Crossing Boulevard and Mall of Georgia Boulevard intersection to the RM-13 zoning classification. The Property is currently zoned C-2.

In its current state, the use and development of the Property as C-2 is not economically feasible and is not the highest and best use. As stated in the Rezoning Application, the Applicant intends to develop the Property as a multi-family residential use.

The Applicant respectfully submits that the proposed development will conform to the Gwinnett County 2030 Unified Plan and will be compatible and consistent with adjacent properties. The Applicant submits that the proposed rezoning would not impose any additional burdens on the transportation network. The Applicant further submits that the operation of the Property as a multi-family residential development under the guidelines of Gwinnett County is appropriate for the subject tract, is consistent with the surrounding property and will afford the owner the opportunity to increase the number of allowed uses on site so as to provide a needed amenity for the surrounding area. The proposed development would ensure affordable and accessible housing and attract new residents, increasing the tax base without overburdening County schools and infrastructure. Rezoning of the property from the C-2 zoning classification to multi-family residential would protect and promote the quality of life of the surrounding community, as well as allow the Property to be developed to its highest and best use.

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The Applicant and its representatives welcome the opportunity to meet with staff of the Gwinnett County Department of Planning & Development to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Rezoning Application filed herewith. The Applicant respectfully requests your approval of this Application.

This 4th day of April, 2013.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



Justin Abernathy
Attorneys for Applicant

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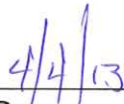
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REZONING APPLICANT'S CERTIFICATION

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

Justin Abernathy, Attorney for Brand Properties, LLC

Type or Print Name and Title


Signature of Notary Public


Date



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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.

Synovus Bank

~~Bank of North Georgia~~

By:

[Handwritten Signature]

4-3-13

Signature of Property Owner

Date

By:

MIKEAL R JONES
SR. SPECIAL ASSETS OFFICER

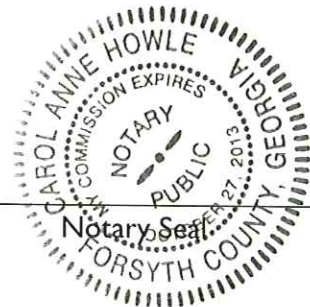
Type or Print Name and Title

Carol Anne Howle

4-3-13

Signature of Notary Public

Date



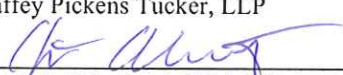

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CONFLICT OF INTEREST CERTIFICATION FOR REZONING

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
Mahaffey Pickens Tucker, LLP By: 	4/4/13	Justin Abernathy, Attorney for Brand Properties, LLC
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	4.4.13	
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?

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)
	Please see attached.	

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

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**CONFLICT OF INTEREST CERTIFICATION FOR REZONING/CHANGE IN
CONDITIONS AND SPECIAL USE PERMIT APPLICATIONS**

MAHAFFEY PICKENS TUCKER, LLP

<u>NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL</u>	<u>CONTRIBUTIONS</u>	<u>DATE</u>
Lynette Howard	\$1,000	10/13/2010
Jace Brooks	\$1,000	07/02/2012
John Heard	\$500	10/24/2012
Tommy Hunter	\$1,000	09/06/2012

LEE TUCKER, ATTORNEY AT LAW, PC

<u>NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL</u>	<u>CONTRIBUTIONS</u>	<u>DATE</u>
John Heard	\$500	07/07/2010
Lynette Howard	\$500	03/30/2010

JEFF MAHAFFEY, ATTORNEY AT LAW, PC

<u>NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL</u>	<u>CONTRIBUTIONS</u>	<u>DATE</u>
John Heard	\$1,000	07/2010
John Heard	\$250	10/2012

GERALD DAVIDSON, JR., ATTORNEY AT LAW, PC

<u>NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL</u>	<u>CONTRIBUTIONS</u>	<u>DATE</u>
John Heard	\$500	07/26/2010

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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: 7 - 177 - 047
(Map Reference Number) District Land Lot Parcel

Brand Properties, LLC

By: *J. Abernathy*

Signature of Applicant

4/4/13
Date

Justin Abernathy, Attorney for Applicant

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)

Bill Jorgensen
NAME

TSA
TITLE

4/4/13
DATE

**GWINNETT COUNTY
TAX COMMISSIONER**

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