

SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Golden Age Assisted Living, Inc.</u>	NAME: <u>Florian Pop</u>
ADDRESS: <u>1399 Harris Road</u>	ADDRESS: <u>1409 Harris Road Lawrenceville</u>
CITY: <u>Lawrenceville</u>	CITY: <u>Lawrenceville</u>
STATE: <u>GA</u> ZIP: <u>30043</u>	STATE: <u>GA</u> ZIP: <u>30043</u>
PHONE: <u>678-407-0591</u>	PHONE: <u>678-407-0591</u>
CONTACT PERSON: <u>Tabita Pop</u> PHONE: <u>678-407-0591</u>	
CONTACT'S E-MAIL: <u>tpop05@yahoo.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 checked="" type="checkbox"/> <i>The business of the</i> PROPERTY OWNER
<input type="checkbox"/> CONTRACT PURCHASER	
EXISTING/PROPOSED ZONING: <u>R-100</u>	BUILDING/LEASED SQUARE FEET: <u>5,500 sq feet</u>
LAND DISTRICT(S): <u>7th</u>	LAND LOT(S): <u>7</u> ACREAGE: <u>1.168 ACRES</u>
ADDRESS OF PROPERTY: <u>1399 Harris Road Lawrenceville GA 30043</u>	
SPECIAL USE REQUESTED: <u>Family Personal Care Home</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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L E G A L D E S C R I P T I O N

All that tract of land lying in and being in Land Lot 56 of the 7th Land District, Gwinnett County, Georgia and being more particularly described as follows:

Commence at the intersection of Land Lots 55,56,61 & 62 said point being a 5/8 inch rebar found, THENCE along Land Lot Line common to Land Lot 56 & 61 North 59 degrees 48 minutes 17 seconds East for a distance of 393.11 to a point, said point being a 5/8 inch rebar found, Thence continue on said Land Lot Line North 59 degrees 42 minutes 00 seconds East for a distance of 1305.28 feet to a point, said point being an angle iron found, THENCE leaving said Land Lot Line South 31 degrees 14 minutes 27 seconds East for a distance of 702.60 feet to a point, said point being a 1/2 inch rebar found, said point being the True Point of Beginning.

THENCE South 31 degrees 14 minutes 01 seconds East for a distance of 228.97 feet to a point, said point being a 1/2 inch rebar found; THENCE South 35 degrees 44 minutes 32 seconds West for a distance of 150.57 feet to a point; THENCE South 26 degrees 06 minutes 28 seconds West for a distance of 88.24 feet to a point, said point being a 1/2 inch rebar found on the Northerly right-of-way of Harris Road (60' r/w); Thence along said right-of-way the following two courses and distances THENCE along a curve to the left having a radius of 320.00 feet and an arc length of 64.89 feet, being subtended by a chord of North 69 degrees 42 minutes 06 seconds West for a distance of 64.78 feet to a point; THENCE North 75 degrees 30 minutes 39 seconds West for a distance of 62.47 feet to a point, said point being a 1/2 inch rebar found; THENCE leaving said right-of-way of Harris Road (60'r/w) North 19 degrees 48 minutes 00 seconds East for a distance of 50.22 feet to a point, THENCE North 75 degrees 30 minutes 39 seconds West for a distance of 104.60 feet to a point; THENCE North 07 degrees 13 minutes 57 seconds East for a distance of 41.01 feet to a point; THENCE South 68 degrees 23 minutes 00 seconds East for a distance of 113.13 feet to a point; THENCE North 19 degrees 48 minutes 00 seconds East for a distance of 304.72 feet to a point, said point being a 1/2 inch rebar found, said point being the True Point of Beginning.

Together with subject to covenants, easement, and restrictions of record, said property contains 1.168 acres as shown on survey for Florian Pop prepared by Georgia Premier Land Surveying, Inc. dated 2/09/12 last revised 12/07/12.

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

See attached Exhibit "A."

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

See attached Exhibit "A."

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

See attached Exhibit "A."

- (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:

See attached Exhibit "A."

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

See attached Exhibit "A."

- (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 SPECIAL USE PERMIT:

See attached Exhibit "A."

EXHIBIT "A"

With respect to the criteria contained in Section 1702 of the Zoning Resolution of Gwinnett County, Georgia, the Applicant responds to the following criteria:

(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:**

The SUP for a Family Personal Care Home will provide high-quality housing and care for up to eight (8) elderly residents. The Property blends in nicely with the other residential homes in the neighborhood. There will be no exterior signage to indicate the presence of a Family Personal Care Home; it will appear to be an attractive residence, not a business. As such, it is consistent with the neighboring and nearby properties, which are zoned for residential uses.

(B) **Whether a proposed special use permit will adversely affect the existing use or usability of adjacent or nearby property:**

The proposed development will not adversely affect the existing use or usability of adjacent or nearby properties. The Applicant is seeking to create a quality Family Personal Care Home that will benefit the community. The proposed residential facility is compatible with the use and development of neighboring and nearby residential properties and would not create any objectionable conditions. In general, it is a very quiet and peaceful business.

(C) **Whether the property to be affected by a proposed special use permit has reasonable economic use as currently zoned:**

Although it may have some economic use as currently zoned, the Property is ideally suited for use as a Family Personal Care Home. The Owners meticulously designed and constructed the existing residence on the Property as a state of the art Family Personal Care Home that would not only provide first-rate care for one of their elderly family members, but would also be fully equipped to provide the same high level of care to seven (7) other elderly

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residents. The residence was constructed with careful attention to detail to ensure that it meets all codes and standards with regard to accessibility.

(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:

The proposed development will not tax the existing water supply or sewage, drainage or transportation facilities. Typically Family Personal Care Homes like that proposed by the Applicant have negligible impact on traffic as the residents do not drive. Rather, they depend on a single caretaker for transportation. Additionally, the proposed Family Personal Care Home will have no impact on the school system as the residents are elderly and do not have school-aged children. Moreover, the proposed development will not cause an excessive or burdensome use of the area fire or police protection or solid waste collections and disposal services provided by the County. There are adequate public facilities and services in the area to serve the proposed facility.

(E) Whether the proposed special use permit is in conformity with the policy and intent of the land use plan:

The Applicant's proposal is in conformity with the recommendations of the Gwinnett County 2030 Unified Plan. The Unified Plan designates the Property as Existing/Emerging Suburban on the Composite Policy Map and the Future Development Map. As noted above, the Applicant's proposal will maintain a low density residential use, and it will blend in well with the surrounding suburban homes. The proposed SUP is also in keeping with Theme 4 of the Unified Plan which reflects Gwinnett County's goal of providing more housing choices for County residents. Specifically, the Unified Plan notes that housing needs and preferences are directly influenced by changing demographics, which includes the housing needs of disabled or otherwise dependent special needs populations. See Gwinnett County 2030 Unified Plan, p. 120. The proposed SUP assists in achieving the County's goal of providing more housing choices for County residents.

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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 special use permit:

Housing needs and preferences change naturally as people age and demographics shift. As noted above, the Gwinnett County Unified Plan recognizes these changing conditions and the need of the County to provide more housing choices for these populations, including disabled or otherwise dependent populations. The proposed SUP will provide a high quality alternative to a nursing home for elderly residents who desire a family-like and less institutional setting.

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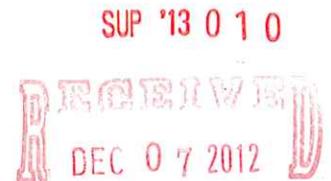
LETTER OF INTENT

APPLICATION FOR SPECIAL USE PERMIT

The Applicant, Golden Age Assisted Living (the "Applicant"), requests a Special Use Permit ("SUP") for 1.168 acres of land located at 1399 Harris Road, Lawrenceville, Georgia in Land Lot 7 of the 7th District of Gwinnett County, Georgia (the "Subject Property"). The Subject Property is zoned R-100 and developed with an attractive 5,500 square foot residence. The Applicant is requesting this SUP from the Board of Commissioners pursuant to Sections 1301, 1701 and 1705 of the Code of Gwinnett County in order to operate a Family Personal Care Home.

Mr. Florian Pop, one of the owners of the Property, and his wife, Tabita Pop, will be the operators of the Family Personal Care Home. Ms. Pop is a Registered Certified Nursing Assistant in the State of Georgia. She and her husband are also certified in Dementia Care and Mental Health Care. Mr. and Mrs. Pop have years of experience operating Family Personal Care Homes, having owned and operated a similar facility in the State of Washington from 2005 to 2009.

Mr. Pop purchased the Property in 2008 with the intent of opening a Family Personal Care Home for up to eight (8) elderly residents. At the time Mr. Pop purchased the Property, Family Personal Care Homes were permitted as of right in the R-100 zoning district. As a result, the Pops meticulously designed and constructed the existing residence on the Property as a state of the art Family Personal Care Home. They intended the Family Personal Care Home to not only provide first-rate care for one of their elderly family members, also be fully equipped to provide the same high level of care to seven (7) other elderly residents. The Property blends in nicely with the other residential homes in the neighborhood. There will be no exterior signage to



indicate the presence of a Family Personal Care Home; it will appear to be an attractive residence, not a business. As such, it is consistent with the neighboring and nearby properties, which are zoned for residential uses.

The residence was constructed with careful attention to detail to ensure that it meets all codes and standards with regard to accessibility, oftentimes going above and beyond code requirements. For example, the Family Personal Care Home is equipped with a fire sprinkler system that is in compliance with NFPA 13R, not just NFPA 10, as well as all state and local codes. Additionally, the Pops installed a commercial grade back-up generator to ensure that residents would never be without electricity.

The Property has access to a public water supply, public sanitary sewer and convenient access to collector streets. The proposed development will not tax the existing water supply or sewage, drainage or transportation facilities. Typically Family Personal Care Homes like that proposed by the Applicant have negligible impact on traffic as the residents do not drive. Additionally, the proposed Family Personal Care Home will have no impact on the school system as the residents are elderly and do not have school-aged children. Moreover, the proposed development will not cause an excessive or burdensome use of the area fire or police protection or solid waste collections and disposal services provided by the County. There are adequate public facilities and services in the area to serve the proposed facility.

The proposed SUP is also in keeping with Theme 4 of the Unified Plan which reflects Gwinnett County's goal of providing more housing choices for County residents. Specifically, the Unified Plan notes that housing needs and preferences are directly influenced by changing demographics, which includes the housing needs of disabled or otherwise dependent special needs populations. See Gwinnett County 2030 Unified Plan, p. 120. The proposed SUP assists



in achieving the County's goal of providing more housing choices for County residents by providing a high quality alternative to a nursing home for elderly residents who desire a family-like and less institutional setting.

As noted above, the Applicant's proposal will maintain a low density residential use and blend in well with the surrounding suburban homes. The Owners have over four (4) years of experience operating a Family Personal Care Home in the state of Washington. They are passionate about providing high quality care to the elderly and believe that elderly residents do much better when they can socialize in smaller family-like environments. The Owners recognize that each resident is a unique individual, and their policies and regulations respect the dignity, independence and spiritual well-being of each resident.

Georgia Law and the procedures of Gwinnett County require us to raise Federal and State Constitutional objections during the application process. Accordingly, a denial of the requested SUP would be unconstitutional in that it 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 I of the Constitution of the State of Georgia of 1983, Article I, Section III, Paragraph I 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.

Furthermore, any application of the Code of Gwinnett County, or the Zoning Ordinance of Gwinnett County to the Property that prohibits the Applicant from developing the Property as proposed is unconstitutional, illegal, null and void because such an application constitutes a taking of the Applicant's property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section III, Paragraph I, of the Constitution of the State of Georgia of 1983 and a violation of

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the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States because such an application denies the Applicant an economically viable use of its land while not substantially advancing legitimate state interests. Moreover, any approval of the SUP that subjects the Property to conditions that are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting the Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

In addition, this Letter of Intent constitutes formal written notice to Gwinnett County, Georgia pursuant to O.C.G.A. § 36-11-1 that the Applicant plans to seek to recover all damages that they sustain or suffer as a result of the denial of this application and/or the unconstitutional zoning of the Property from Gwinnett County, Georgia. Such damages may include, but are not necessarily limited to, damages related to the diminution in the value of the Property, attorneys' fees and expenses of litigation.

Accordingly, the Applicant respectfully requests that the Gwinnett County Board of Commissioners grants the Applicant the SUP requested above.

THE GALLOWAY LAW GROUP, LLC

By: Lauren M. Hansford
Lauren M. Hansford
Attorney for Applicant

3500 Lenox Road, NE
Suite 760
Atlanta, Georgia 30326
(404) 965-3680
(404) 965-3670 Facsimile

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SPECIAL USE PERMIT 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.



Signature of Property Owner

Dec. 06. 2012

Date

FLORIAN D. POP

Type or Print Name and Title

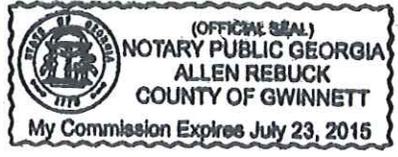
OWNER



Signature of Notary Public

12/6/12

Date



Notary Seal

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**SPECIAL USE PERMIT IN A
RESIDENTIAL DISTRICT**

(Only submit with Special Use Permit Application for a use within a residence)

I, the undersigned applicant, understand and agree that the Special Use Permit, if approved, shall automatically terminate in the event that this property is sold, transferred or otherwise conveyed to any other party, or the business which operates the special use is sold, transferred, otherwise conveyed or discontinued.



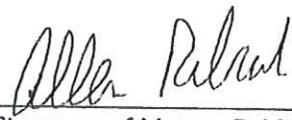
Signature of Applicant

FLORIAN D POP

Type or Print Name

Dec. 06. 2012

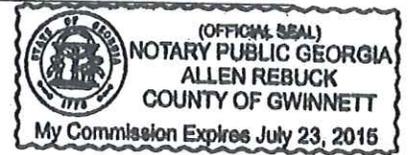
Date



Signature of Notary Public

12/6/12

Date



Notary Seal

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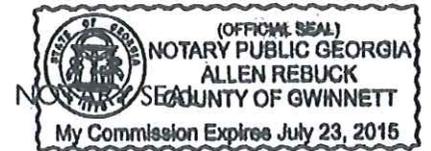
CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

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.

Florian D Pop Dec.06.2012 FLORIAN D Pop owner
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

Lauren M Hanford 12/6/12 Lauren M. Hanford, Esq.
 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
ATTORNEY OR REPRESENTATIVE

Allen Rebut 12/6/12
 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 FLORIAN D. POP
 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.

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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR SPECIAL USE PERMIT

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 SPECIAL USE PERMIT REQUEST.**

PARCEL I.D. NUMBER: 7th - 56 - R7056392
(Map Reference Number) District Land Lot Parcel

Florian D Pop Dec. 06. 2012
Signature of Applicant Date
FLORIAN D Pop owner
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)

Ginger Hendricks TSA
NAME TITLE
12-7-12
DATE

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