

SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Simpson Circle Plaza</u>	NAME: <u>L&P Development Associates, LLC</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>
CITY: <u>Duluth</u>	CITY: <u>Duluth</u>
STATE: <u>Georgia</u> ZIP: <u>30097</u>	STATE: <u>Georgia</u> ZIP: <u>30097</u>
PHONE: <u>(770) 822-0900</u>	PHONE: <u>(770) 822-0900</u>
CONTACT PERSON: <u>Marian C. Adeimy, Esq.</u> PHONE: <u>(770) 822-0900</u>	
CONTACT'S E-MAIL: <u>madeimy@atclawfirm.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 checked="" type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER
<input type="checkbox"/> CONTRACT PURCHASER	
EXISTING/PROPOSED ZONING: <u>C-2</u>	BUILDING/LEASED SQUARE FEET: <u>30,878</u>
LAND DISTRICT(S): <u>6th</u>	LAND LOT(S): <u>258</u> ACREAGE: <u>2.572</u>
ADDRESS OF PROPERTY: <u>2880 Simpson Circle, Norcross, Georgia 30071</u>	
SPECIAL USE REQUESTED: <u>Pool/Billiard Hall and Check Cashing Store</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 258 of the 6th District, Gwinnett County, Georgia being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, begin at a concrete monument found at the intersection of the southeasterly right-of-way of Buford Highway, U.S. Highway 23, said right-of-way having a 100 foot width and the northeasterly right-of-way of Simpson Circle, said road having a 65 foot right-of-way, traveling thence along the right-of-way of Simpson Circle South 13 degrees 43 minutes 45 seconds East a distance of 65.74 feet to a point, traveling thence North 65 degrees 14 minutes 12 seconds East a distance of 5.42 feet to a point, traveling thence South 25 degrees 37 minutes 36 seconds East a distance of 44.77 feet to the TRUE POINT OF BEGINNING, thence leaving Simpson Circle traveling North 64 degrees 22 minutes 24 seconds East a distance of 32.00 feet to a point, traveling thence South 25 degrees 37 minutes 36 seconds East a distance of 18.35 feet to a point, traveling thence North 64 degrees 28 minutes 05 seconds East a distance of 150.77 feet to a point, traveling thence South 29 degrees 38 minutes 03 seconds East a distance of 76.92 feet to a point, traveling thence South 29 degrees 33 minutes 03 seconds East a distance of 222.84 feet to a point, traveling thence South 29 degrees 32 minutes 14 seconds East a distance of 196.25 feet to a point, traveling thence South 40 degrees 41 minutes 51 seconds West a distance of 237.15 feet to a point on the easterly right-of-way of Simpson Circle traveling thence along said right-of-way North 25 degrees 42 minutes 19 seconds West a distance of 291.73 feet to a point, traveling thence North 25 degrees 25 minutes 03 seconds West a distance of 222.23 feet to a point, traveling thence North 25 degrees 37 minutes 36 seconds West a distance of 94.72 feet to the TRUE POINT OF BEGINNING, said tract being known as Lot 2 and containing 2.53 acres as shown on that Plat prepared by Steve B. Hennings, Georgia Registered Land Surveyor No. 2742, dated April 24, 2007, last revised November 29, 2007, and recorded at Plat Book 122, Page 226, Gwinnett County Records, which Plat is incorporated herein by reference for a complete description thereof.

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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 Exhibit "B".

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

See Exhibit "B".

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

See Exhibit "B".

- (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 Exhibit "B".

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

See Exhibit "B".

- (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 Exhibit "B".

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EXHIBIT "B"
APPLICANT'S RESPONSE

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

Yes. The proposed uses and change in conditions will complement and remain consistent with the existing conditions for the existing, previously approved commercial and retail center, located in a commercial and industrial corridor.

- B) WHETHER A PROPOSED REZONING (OR SPECIAL USE PERMIT) OR CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No, the proposed uses and conditions are entirely compatible with the adjoining and nearby commercial, residential, and industrial zoned property and will not adversely affect these properties.

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

No. The subject property does not have any reasonable economic use as a commercial/retail property with the current conditions and uses.

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

No, this property is located in an area with public water and sewer availability, and convenient access to major thoroughfares and state highways. The requested uses and changes in conditions will have little to no impact on existing streets, transportation facilities, or utilities, and no impact whatsoever on schools.

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

Yes. The Gwinnett 2030 Unified Plan identifies this area as a commercial corridor. The existing retail center and proposed changes in conditions are near the a commercial intersection at Simpson Circle and Buford Highway, near properties zoned and developed for commercial, industrial, and retail uses.

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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 THE APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING (OR SPECIAL USE PERMIT) OR CHANGE IN CONDITIONS.

Yes. The Board of Commissioners' prior approval of a rezoning for the subject property to C-2 supports the requested special use permit and change and conditions that are consistent with those commercial uses as well as the nearby industrial and commercial uses along Buford Highway and Simpson Circle.

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JUSTIFICATION FOR REZONING / CONSTITUTIONAL OBJECTIONS

The portions of the Gwinnett County Zoning Resolution and/or zoning conditions which presently restrict the property which is the subject of the Application for Special Use Permit and Change in Conditions (the "Property") to its currently permitted uses are or would be unconstitutional in that they would destroy the Applicant Simpson Circle Plaza's (the "Applicant"), and property owner, L&P Development Associates, LLC's (the "Owner") 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 Gwinnett County Zoning Resolution and/or zoning conditions which presently restrict the property to its currently permitted uses 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 has been developed as a retail center, but is without economic use based on the current permitted uses and conditions. A denial of these Applications would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore and contrary to other recent Board of Commissioners actions, 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 allow the requested special use permit and change in conditions, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate 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 approval of the requested Special Use Permit and Change in Conditions for the subject Property, 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 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.

Accordingly, the Applicant respectfully requests that the Special Use Permit and Change in Conditions Application submitted relative to the Property be granted and that the requested change in conditions be permitted on the subject Property as requested therein.

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ANDERSEN | TATE | CARR

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DULUTH, GEORGIA 30097
(770) 822-0900
FACSIMILE: (770) 236-9702
www.atclawfirm.com

MARIAN C. ADEIMY

E-mail: madeimy@atclawfirm.com

LETTER OF INTENT SPECIAL USE PERMIT AND CHANGE IN CONDITIONS APPLICATION FOR SIMPSON CIRCLE PLAZA

The Applicant, Simpson Circle Plaza (hereafter, "Applicant"), submits this Special Use Permit and Change in Conditions Application for the purpose of removing certain existing conditions of zoning contained in RZC08-069 and for a special use permit for the uses outlined herein:

1. To remove the condition prohibiting bars and lounges, to allow for a restaurant and lounge;
2. For a special use permit allowing for a check cashing store, a change in conditions to remove the condition prohibiting check cashing stores; and
3. For a special use permit allowing for a pool hall and/or billiard hall.

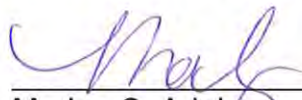
The subject Property is located at the intersection of Buford Highway and Simpson Circle, in a significant commercial and industrial corridor. The current character of this area is reflected in the Gwinnett 2030 Unified Plan. This request is also supported by the established precedent set by the Board of Commissioners' approval of the prior rezoning to C-2. The proposed uses and changes in conditions are entirely consistent with the well established development patterns and character of the immediately surrounding area and are appropriate under any reasonable land use analysis.

Applicant and its representatives welcome the opportunity to meet with the staff of the Gwinnett County Department of Planning and Development to answer any questions or to address any concerns. Applicant respectfully requests your approval of these Applications.

This 5 day of September, 2013.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adeimy
Attorneys for Applicant

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SPECIAL USE PERMIT 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.

Marian C. Adeimy

Signature of Applicant

9-5-13

Date

Marian C. Adeimy, Attorney for Owner/Applicant

Type or Print Name and Title

P

Signature of Notary Public

9-5-13

Date



Notary Seal

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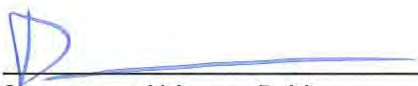
SPECIAL USE PERMIT PROPERTY OWNER'S CERTIFICATION

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
9-5-13 _____
Date

Marian C. Adeimy, Attorney for Owner/Applicant

Type or Print Name and Title

 _____
Signature of Notary Public
9-5-13 _____
Date



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EXHIBIT "C"
DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY ANDERSEN, TATE & CARR, P.C.

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE CONTRIBUTION WAS MADE
Charlotte Nash, Chairman	\$1,000 \$1,000 \$500	February 22, 2011 November 16, 2011 February 20, 2013
Jace Brooks, District 1 Commissioner	\$500 \$500	March 15, 2012 December 20, 2012
Lynette Howard, District 2 Commissioner	\$1,000 \$1,000	May 25, 2010 October 27, 2011
Tommy Hunter, District 3 Commissioner	\$1,500 \$500 \$1,500	October 1, 2012 December 28, 2012 August 22, 2013
John Heard, District 4 Commissioner	\$1,000 \$1,000	February 16, 2010 August 25, 2011

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Simpson Circle Plaza</u>	NAME: <u>L&P Development Associates, LLC</u>
ADDRESS: <u>2880 Simpson Circle</u>	ADDRESS: <u>207 Beutell Street</u>
CITY: <u>Norcross</u>	CITY: <u>Norcross</u>
STATE: <u>GA</u> ZIP: <u>30071</u>	STATE: <u>GA</u> ZIP: <u>30071</u>
PHONE: <u>(770)595-1951</u>	PHONE: <u>(770)595-1951 / (678)9100.1951</u>
CONTACT PERSON: <u>Samuel Park</u> PHONE: <u>(770)595-1951</u>	
CONTACT'S E-MAIL: <u>sbagroupinc@gmail.com</u>	

APPLICANT IS THE:

OWNER'S AGENT PROPERTY OWNER CONTRACT PURCHASER

ZONING DISTRICT(S): C-2 PRIOR ZONING CASE: ZCC-08-069

LAND DISTRICT(S): 6th LAND LOT(S): 258 ACREAGE: 2.572 ac.

ADDRESS OF PROPERTY: 2880 Simpson Circle, Norcross GA 30071

PROPOSED CHANGE IN CONDITIONS: Removing conditions prohibiting bars and lounges and prohibiting check cashing stores.

RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT:
NO. OF LOTS/DWELLING UNITS: _____	NO. OF BUILDINGS/LOTS: <u>1</u>
DWELLING UNIT SIZE (Sq. Ft.): _____	TOTAL GROSS SQUARE FEET: <u>130,878.85 sqft</u>
GROSS DENSITY: _____	DENSITY: _____
NET DENSITY: _____	

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 258 of the 6th District, Gwinnett County, Georgia being more particularly described as follows:

To find the TRUE POINT OF BEGINNING, begin at a concrete monument found at the intersection of the southeasterly right-of-way of Buford Highway, U.S. Highway 23, said right-of-way having a 100 foot width and the northeasterly right-of-way of Simpson Circle, said road having a 65 foot right-of-way, traveling thence along the right-of-way of Simpson Circle South 13 degrees 43 minutes 45 seconds East a distance of 65.74 feet to a point, traveling thence North 65 degrees 14 minutes 12 seconds East a distance of 5.42 feet to a point, traveling thence South 25 degrees 37 minutes 36 seconds East a distance of 44.77 feet to the TRUE POINT OF BEGINNING, thence leaving Simpson Circle traveling North 64 degrees 22 minutes 24 seconds East a distance of 32.00 feet to a point, traveling thence South 25 degrees 37 minutes 36 seconds East a distance of 18.35 feet to a point, traveling thence North 64 degrees 28 minutes 05 seconds East a distance of 150.77 feet to a point, traveling thence South 29 degrees 38 minutes 03 seconds East a distance of 76.92 feet to a point, traveling thence South 29 degrees 33 minutes 03 seconds East a distance of 222.84 feet to a point, traveling thence South 29 degrees 32 minutes 14 seconds East a distance of 196.25 feet to a point, traveling thence South 40 degrees 41 minutes 51 seconds West a distance of 237.15 feet to a point on the easterly right-of-way of Simpson Circle traveling thence along said right-of-way North 25 degrees 42 minutes 19 seconds West a distance of 291.73 feet to a point, traveling thence North 25 degrees 25 minutes 03 seconds West a distance of 222.23 feet to a point, traveling thence North 25 degrees 37 minutes 36 seconds West a distance of 94.72 feet to the TRUE POINT OF BEGINNING, said tract being known as Lot 2 and containing 2.53 acres as shown on that Plat prepared by Steve B. Hennings, Georgia Registered Land Surveyor No. 2742, dated April 24, 2007, last revised November 29, 2007, and recorded at Plat Book 122, Page 226, Gwinnett County Records, which Plat is incorporated herein by reference for a complete description thereof.

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CIC 13024

SPECIAL CONDITION APPLY TO THIS PROPERTY
BRD-03-005 (app. 9/23/2003)

CASE NUMBER BRD-03-005
CASE NUMBER BRD-03-005
BOARD OF COMMISSIONERS
WINNETT COUNTY
LAWRENCEVILLE, GEORGIA
RESOLUTION
READING AND ADOPTION
At the regular meeting of Winnett County Board of Commissioners, held in the Administration Center Auditorium, 75 Longley Drive, Lawrenceville, Georgia,
Present: F. Wayne Hill, Chairman
Morris Weston, District 1
Albert Hanks, District 2
John Duda, District 3
Kevin Keefe, District 4

On motion of COM. HASKET, which carries 4-0, the following resolution was adopted:
A RESOLUTION TO REDUCE THE BUFFER ON PROPERTY
WHEREAS, the Municipal-County Planning Commission has held a duly advertised public hearing and has filed a formal recommendation with the Winnett County Board of Commissioners upon Application to Reduce the Buffer on Property from 50 FEET AND 25 FEET UNDISTURBED TO 30 FEET UNDISTURBED AND 15 FEET UNDISTURBED;
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS that the above application is hereby APPROVED subject to the following enumerated conditions:

CASE NUMBER BRD-03-005
CASE NUMBER BRD-03-005
WHEREAS, notice in the public regarding said Buffer Reduction Application has been duly published in the WINNETT DAILY POST, the Official News Organ of Winnett County; and
WHEREAS, a public hearing was held by the Winnett County Board of Commissioners on SEPTEMBER 23, 2003, and objections were filed;
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS that the above application is hereby APPROVED subject to the following enumerated conditions:
1. Provide a 10-foot undisturbed Buffer adjacent to the eastern property line supplemented with an 8-foot high wooden privacy fence (4-foot 6-inch inside the property line with the decorative side facing the adjacent mobile home park).
2. Trash collection or dumpster pickup shall be limited to between the hours of 7 A.M. and 7 P.M.
3. The proposed driveway connection from the adjacent mobile home park shall be landscaped. Site and landscape plans shall be submitted for review and approval by the Director of Planning and Development.
4. All easements adjacent to the adjacent mobile home park shall be approved by the Director of Planning and Development.

WINNETT COUNTY BOARD OF COMMISSIONERS
By: F. Wayne Hill, Chairman
Date Signed: _____

WITNESSETH:
County Clerk

FILED & RECORDED
CLERK SUPERIOR COURT
WINNETT COUNTY GA
DATE 12-12-2013 10:40 AM
PLAT BOOK 122 PAGE 246
TOM LAWLER, CLERK

SIDEWALK NOTES

- 1. SIDEWALKS SHALL BE INSTALLED ON NEW INTERNAL STREET (BOTH SIDES INCLUDING CURB-DE-SAC AND "EYEBROW" TURNAROUNDS) AND ON ABUTTING EXTERNAL STREETS (ABUTTING SIDE) WITHIN 60 DAYS OF APPROVAL OF FINAL PLAT.
- 2. SIMPSON CIRCLE SIDEWALKS ARE TO BE LOCATED 2' FROM BACK OF CURB AND SHALL BE CONSTRUCTED OF CONCRETE A MINIMUM OF 5' IN WIDTH AND 4" THICK WITH CROSS SLOPE OF .25' PER FOOT. CONCRETE SHALL BE CLASS "B" AND HAVE A STRENGTH OF 2200 PSI AT 28 DAYS.
- 3. DEVELOPERS SHALL INSTALL SIDEWALKS ON ABUTTING EXTERNAL STREETS, PASSIVE RECREATION AREA LOTS, AND OPEN SPACE LOT, AND SHALL INSTALL INTERSECTION RADIUS CURB RAMP AT NEW STREET INTERSECTIONS, AND L-SHAPED MID-BLOCK RAMP AT CURB-DE-SAC TURNAROUNDS, WITHIN 60 DAYS OF APPROVAL OF THE FINAL PLAT (O.R.G. 13-1-1.1).
- 4. SIDEWALKS SHALL BE INSTALLED ON ABUTTING STREETS (ABUTTING SIDE) PRIOR TO THE ISSUANCE OF CERTIFICATE OF OCCUPANCY. (O.R.G. 13-1-1.C.)

MAPLE LANE

TREE PROTECTION AREAS
PROVIDE SIXTEEN (16) TREE DENSITY UNITS PER ACRE. THESE AREAS MUST CONTAIN AT LEAST THREE (3) TREES GROUPED TOGETHER IN TREE PROTECTION AREAS. INDIVIDUAL 12-INCH OR GREATER DIAMETER TREES MAY ALSO RECEIVE CREDIT.
REAR FOUND

FLOODPLAIN NOTES
THERE IS NO FLOODPLAIN ON THIS PROPERTY FROM A WATER COURSE WITH A DRAINAGE AREA EXCEEDING 100 ACRES.
FLOODPLAIN SHOWS IS FROM FIRM PANEL # 13220002R DATED 8-28-00.
THERE ARE NO ISLANDS ON THIS SITE.
THERE ARE NO STATE WATER BARRIERS ON THIS SITE.

LOT SUMMARY
TOTAL ACRES 3.19
ZONED C-1
CASE # CDP 2004-00274
(APP. 4-26-05)
CASE # BRD-03-005
(APP. 9-23-03)

LOT 1
0.66 ACRES
28,869 SQ. FT.

LOT 2
2.53 ACRES
110,071 SQ. FT.

SETBACKS
FRONT = 50 FEET
REAR = 15 FEET
SIDE = 40 FEET
10 FOOT UNDISTURBED SIDE BUFFER
10 FOOT FRONT LANDSCAPE STRIP
MAXIMUM BUILDING HEIGHT 35 FEET
PROVIDE 3 FOOT STRUCTURE SETBACK FROM BUFFER.

GENERAL NOTES

- 1. WATER SUPPLIED BY WINNETT COUNTY.
- 2. SANITARY SEWER SUPPLIED BY WINNETT COUNTY.
- 3. IRON PILING SET ON ALL LOT CORNERS ARE 1/2" REINFORCEMENT BAR UNLESS OTHERWISE NOTED.
- 4. PERMANENT STRUCTURES AND TREES NOT ALLOWED IN SANITARY SEWER EASEMENTS ACCORDING TO WINNETT COUNTY POLICY.

DRAINAGE NOTES

- 1. WINNETT COUNTY ASSUMES NO RESPONSIBILITY FOR OVERFLOW OR CROSSION OF NATURAL OR ARTIFICIAL DRAINAGE BEYOND THE EXTENT OF THE STREET RIGHT-OF-WAY, OR FOR THE CONSTRUCTION OF CULVERTS BEYOND THE POINT SHOWN ON THE APPROVED AND RECORDED SUBDIVISION PLAT. WINNETT COUNTY DOES NOT ASSUME THE RESPONSIBILITY FOR THE MAINTENANCE OF PIPES IN DRAINAGE EASEMENTS BEYOND THE COUNTY RIGHT-OF-WAY.
- 2. STREAM BUFFER EASEMENTS ARE TO REMAIN IN A NATURAL AND UNDISTURBED CONDITION.
- 3. STRUCTURES ARE NOT ALLOWED IN DRAINAGE EASEMENTS.

- 4. PER ARTICLE B, SECTION 8.2.6.D OF THE DEVELOPMENT REGULATIONS, IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER TO MAINTAIN ANY DETENTION FACILITY CONSTRUCTED ON THEIR PROPERTY AND TO ENSURE THE FACILITY IS FREE OF OBSTRUCTION, SILT, OR DEBRIS.

FINAL PLAT APPROVAL

THE DIRECTOR OF THE DEPARTMENT OF PLANNING & DEVELOPMENT CERTIFIED THAT THIS PLAT COMPLIES WITH THE ZONING RESOLUTION AND THE DEVELOPMENT REGULATIONS, AND THAT IT HAS BEEN APPROVED BY ALL OTHER OPERATIONAL COUNTY DEPARTMENTS, AS APPROPRIATE. THIS PLAT IS APPROVED SUBJECT TO THE PROVISIONS AND REQUIREMENTS OF THE DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT EXECUTED FOR THIS PROJECT BETWEEN THE OWNER AND WINNETT COUNTY.

DATED THIS 5TH DAY OF DECEMBER, 2013.
DIRECTOR OF PLANNING & DEVELOPMENT
PPL2007.00103

THIS PLAT RECORDED IN BOOK _____
PAGE _____, WINNETT COUNTY
RECORDS, DATED _____

FINAL SURVEYOR'S CERTIFICATE

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT AS TO THE PROPERTY LINES AND ALL IMPROVEMENTS SHOWN THEREON, AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION; THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST, AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN. THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 133,000 FEET AND AN ANGULAR ERROR OF .005 PER ANGLE POINT, AND WAS ADJUSTED USING COMPASS RULE. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 323,282 FEET, AND CONTAINING A TOTAL OF 3.19 ACRES. THE EQUIPMENT USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS HEREIN WAS TOPCON GTS-312.

STEVE B. HENNINGES
REGISTERED GEORGIA LAND SURVEYOR
REG NO 2744 DATE OF EXPIRATION 12-31-08

FINAL PLAT DATA
GENERAL
ZONING C-1
DEVELOPMENT TYPE COMMERCIAL
PROJECT DATA
NUMBER OF LOTS 2
TOTAL AREA (ACRES) 3.19
NET AREA (ACRES) 2.64
FLOODPLAIN AREA (ACRES) N/A
SANITARY SEWER SERVICE SEWER
FINAL PLAT DATA
DENSITY (UNITS/ACRE)
GROSS
NET
LOT & DWELLING DATA
MIN. LOT SIZE
MIN. DWELLING SIZE

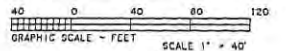


FINAL PLAT
SIMPSON CIRCLE PLAZA SUBDIVISION
2-LOT DIVISION

PLAN
L & P DEVELOPMENT ASSOCIATES, L.L.C.

LOCATION

4510 BUFORD HIGHWAY
2800 SIMPSON CIRCLE
TAX ID # 6-258-242
WINNETT COUNTY, GEORGIA
DATE: APRIL 24, 2007 JOB# 027124P
REVISION DATE: SEPTEMBER 7, 2007
BOUNDARY LINE & COUNTY COMMENTS
REVISION DATE: NOVEMBER 19, 2007
COUNTY COMMENTS
REVISION DATE: NOVEMBER 29, 2007
SEWER EASEMENT WATER EASEMENT



OWNER/DEVELOPER
L & P DEVELOPMENT ASSOCIATES, LLC
207 DEUTEL STREET
NORCROSS, GA. 30071
TEL. 770-458-2700 (SAM PARK)

OWNERS ACKNOWLEDGMENT AND DECLARATION
(STATE OF GEORGIA)
(COUNTY OF WINNETT)

THE OWNER OF LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERETO, IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, ACKNOWLEDGES THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY, AND DECIDED BY THIS ACKNOWLEDGMENT AND DECLARATION TO THE USE OF THE PUBLIC FOREVER ALL STREETS, SEWER COLLECTORS, LIFT STATIONS, DRAINS, EASEMENTS, AND OTHER PUBLIC FACILITIES AND APPURTENANCES THEREON SHOWN.

SIGNATURE OF SUBDIVIDER
L & P Development Associates
DATE SIGNED 12/2/13
SIGNATURE OF OWNER
Samuel J. Dark
DATE SIGNED 12/5/13
PRINTED OR TYPED NAME OF OWNER
Samuel J. Dark

HENNINGES LAND SURVEYS
In my opinion, this is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.
Steve B. Henninges, R.L.S. No. 2744
125 Longley Drive, Lawrenceville, GA 30045
404-794-5087
JOSBS

CHANGE IN CONDITIONS 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 CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:
See Exhibit "B"
- (B) WHETHER A PROPOSED CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USABILITY OF ADJACENT OR NEARBY PROPERTY:
See Exhibit "B"
- (C) WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED CHANGE IN CONDITIONS HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:
See Exhibit "B"
- (D) WHETHER THE PROPOSED CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:
See Exhibit "B"
- (E) WHETHER THE PROPOSED CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:
See Exhibit "B"
- (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 CHANGE IN CONDITIONS:
See Exhibit "B"

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EXHIBIT "B"
APPLICANT'S RESPONSE

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

Yes. The proposed uses and change in conditions will complement and remain consistent with the existing conditions for the existing, previously approved commercial and retail center, located in a commercial and industrial corridor.

- B) WHETHER A PROPOSED REZONING (OR SPECIAL USE PERMIT) OR CHANGE IN CONDITIONS WILL ADVERSELY AFFECT THE EXISTING USE OR USEABILITY OF ADJACENT OR NEARBY PROPERTY:

No, the proposed uses and conditions are entirely compatible with the adjoining and nearby commercial, residential, and industrial zoned property and will not adversely affect these properties.

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

No. The subject property does not have any reasonable economic use as a commercial/retail property with the current conditions and uses.

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

No, this property is located in an area with public water and sewer availability, and convenient access to major thoroughfares and state highways. The requested uses and changes in conditions will have little to no impact on existing streets, transportation facilities, or utilities, and no impact whatsoever on schools.

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

Yes. The Gwinnett 2030 Unified Plan identifies this area as a commercial corridor. The existing retail center and proposed changes in conditions are near the a commercial intersection at Simpson Circle and Buford Highway, near properties zoned and developed for commercial, industrial, and retail uses.

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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 THE APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING (OR SPECIAL USE PERMIT) OR CHANGE IN CONDITIONS.

Yes. The Board of Commissioners' prior approval of a rezoning for the subject property to C-2 supports the requested special use permit and change and conditions that are consistent with those commercial uses as well as the nearby industrial and commercial uses along Buford Highway and Simpson Circle.

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JUSTIFICATION FOR REZONING / CONSTITUTIONAL OBJECTIONS

The portions of the Gwinnett County Zoning Resolution and/or zoning conditions which presently restrict the property which is the subject of the Application for Special Use Permit and Change in Conditions (the "Property") to its currently permitted uses are or would be unconstitutional in that they would destroy the Applicant Simpson Circle Plaza's (the "Applicant"), and property owner, L&P Development Associates, LLC's (the "Owner") 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 Gwinnett County Zoning Resolution and/or zoning conditions which presently restrict the property to its currently permitted uses 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 has been developed as a retail center, but is without economic use based on the current permitted uses and conditions. A denial of these Applications would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore and contrary to other recent Board of Commissioners actions, 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 allow the requested special use permit and change in conditions, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate 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 approval of the requested Special Use Permit and Change in Conditions for the subject Property, 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 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.

Accordingly, the Applicant respectfully requests that the Special Use Permit and Change in Conditions Application submitted relative to the Property be granted and that the requested change in conditions be permitted on the subject Property as requested therein.

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ANDERSEN | TATE | CARR

ANDERSEN, TATE & CARR, P.C.
ONE SUGARLOAF CENTRE
1960 SATELLITE BOULEVARD, SUITE 4000
DULUTH, GEORGIA 30097
(770) 822-0900
FACSIMILE: (770) 236-9702
www.atclawfirm.com

MARIAN C. ADEIMY

E-mail: madeimy@atclawfirm.com

LETTER OF INTENT SPECIAL USE PERMIT AND CHANGE IN CONDITIONS APPLICATION FOR SIMPSON CIRCLE PLAZA

The Applicant, Simpson Circle Plaza (hereafter, "Applicant"), submits this Special Use Permit and Change in Conditions Application for the purpose of removing certain existing conditions of zoning contained in RZC08-069 and for a special use permit for the uses outlined herein:

1. To remove the condition prohibiting bars and lounges, to allow for a restaurant and lounge;
2. For a special use permit allowing for a check cashing store, a change in conditions to remove the condition prohibiting check cashing stores; and
3. For a special use permit allowing for a pool hall and/or billiard hall.

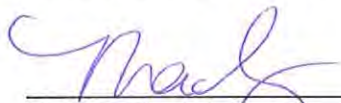
The subject Property is located at the intersection of Buford Highway and Simpson Circle, in a significant commercial and industrial corridor. The current character of this area is reflected in the Gwinnett 2030 Unified Plan. This request is also supported by the established precedent set by the Board of Commissioners' approval of the prior rezoning to C-2. The proposed uses and changes in conditions are entirely consistent with the well established development patterns and character of the immediately surrounding area and are appropriate under any reasonable land use analysis.

Applicant and its representatives welcome the opportunity to meet with the staff of the Gwinnett County Department of Planning and Development to answer any questions or to address any concerns. Applicant respectfully requests your approval of these Applications.

This 5 day of September, 2013.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adeimy
Attorneys for Applicant

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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.

Samuel Park 9/2/13
Signature of Property Owner Date

Samuel Park, Owner
Type or Print Name and Title

Peaches L. Broughton 9/2/13 Peaches L. Broughton
NOTARY PUBLIC
Barrow County
State of Georgia
My Commission Expires January 16, 2017
Signature of Notary Public Date Notary Seal

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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.

Samuel Park 9/2/13 Samuel Park, Owner
 Signature of Applicant Date Type of Print Name and Title

Marian C. Adeimy 9-2-13 Marian C. Adeimy
 Signature of Applicant's Attorney or Representative Date Type or Print Name and Title

Peaches L. Broughton 9/2/13
 Signature of Notary Public Date

Peaches L. Broughton
 NOTARY PUBLIC
 Barrow County
 State of Georgia
 My Commission Expires January 16, 2017

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 Anderson, Tate + Carr, PC
 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)
<u>See Exhibit "C"</u>		

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

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EXHIBIT "C"
DISCLOSURE OF CAMPAIGN CONTRIBUTIONS BY ANDERSEN, TATE & CARR, P.C.

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE CONTRIBUTION WAS MADE
Charlotte Nash, Chairman	\$1,000	February 22, 2011
	\$1,000	November 16, 2011
	\$500	February 20, 2013
Jace Brooks, District 1 Commissioner	\$500	March 15, 2012
	\$500	December 20, 2012
Lynette Howard, District 2 Commissioner	\$1,000	May 25, 2010
	\$1,000	October 27, 2011
Tommy Hunter, District 3 Commissioner	\$1,500	October 1, 2012
	\$500	December 28, 2012
	\$1,500	August 22, 2013
John Heard, District 4 Commissioner	\$1,000	February 16, 2010
	\$1,000	August 25, 2011

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CIC 13024

