

CHANGE IN CONDITIONS APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>LeCraw Engineering</u> <small>Agent for Chrysler Realty Corp.</small> ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u> CITY: <u>Duluth</u> STATE: <u>Georgia</u> ZIP: <u>30097</u> PHONE: <u>(770) 822-0900</u>	NAME: <u>Chrysler Realty Corp.</u> ADDRESS: <u>1000 Chrysler Drive, Ste 485-1230</u> CITY: <u>Auburn Hills</u> STATE: <u>MI</u> ZIP: <u>48326</u> PHONE: _____
CONTACT PERSON: <u>Marian C. Adeimy</u> PHONE: <u>(678) 518-6855</u> CONTACT'S E-MAIL: <u>madeimy@atclawfirm.com</u>	

APPLICANT IS THE:	
<input checked="" type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input type="checkbox"/> CONTRACT PURCHASER
ZONING DISTRICTS(S): <u>C-2</u> PRIOR ZONING CASE: <u>REZ96-00125 and SUP</u> LAND DISTRICT(S): <u>6th</u> LAND LOT(S): <u>57</u> ACREAGE: <u>.69</u> (ADDRESS OF PROPERTY: <u>2134 Davis Road, Stone Mountain, Georgia</u> PROPOSED CHANGE IN CONDITIONS: <u>CIC for consistent automobile dealership parking,</u> with a reduction from the 75 ft. buffer to 12 feet between the shared dealership property lines (Condition 2A) and to supplement street and property landscaping in lieu of landscaped islands throughout the parking areas (Condition 2D).	
RESIDENTIAL DEVELOPMENT: NO. OF LOTS/DWELLING UNITS: _____ DWELLING UNIT SIZE (Sq. Ft.): _____ GROSS DENSITY: _____ NET DENSITY: _____	NON-RESIDENTIAL DEVELOPMENT: NO. OF BUILDINGS/LOTS: <u>0</u> TOTAL GROSS SQUARE FEET: <u>0</u> DENSITY: <u>0</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 57 of the 6th District of Gwinnett County, Georgia and being more particularly described as follows:

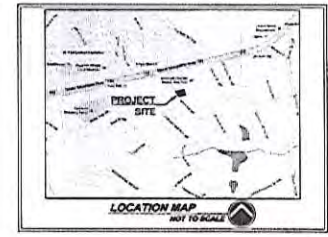
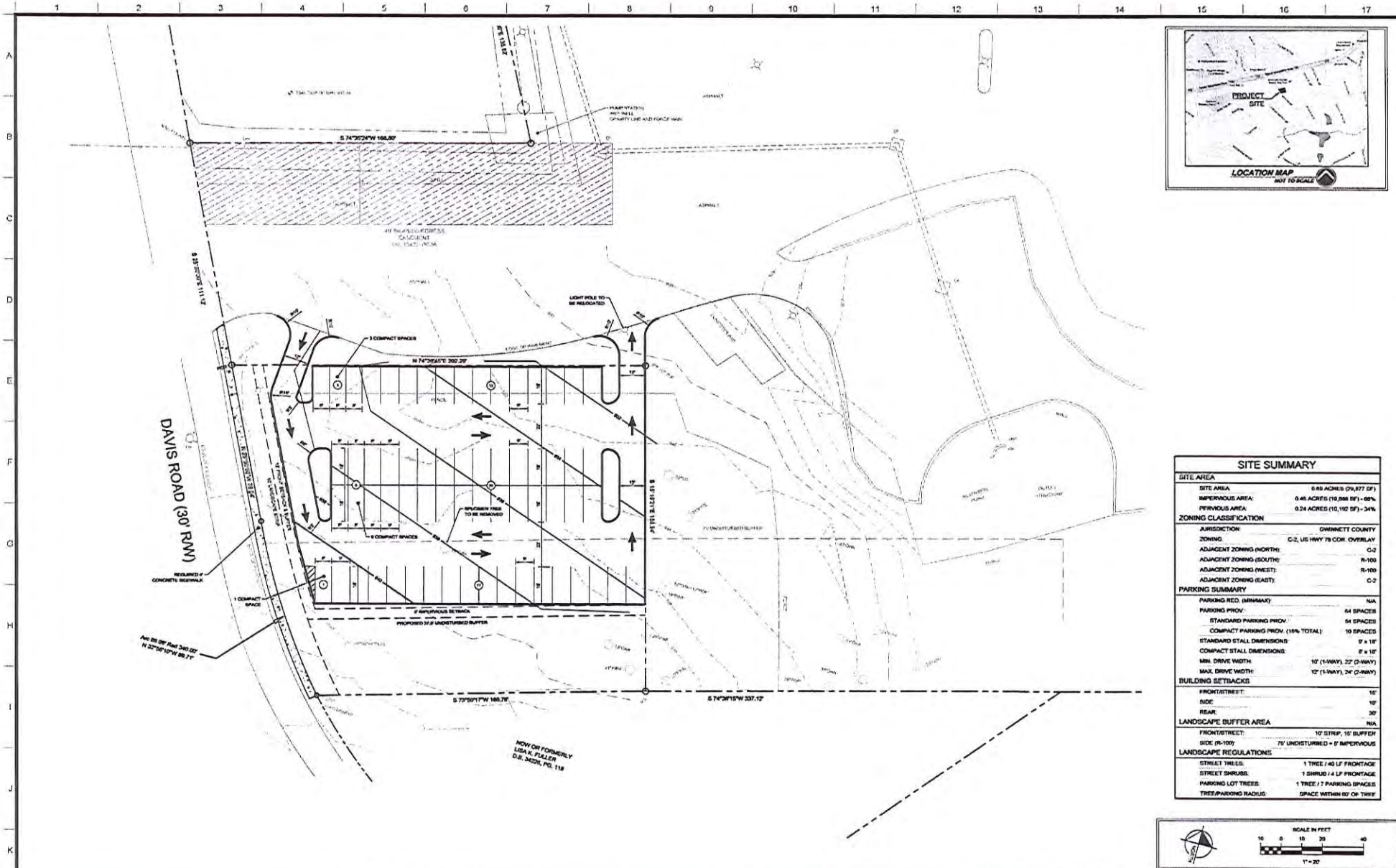
To reach the Point of Beginning commence at the mitered intersection of the eastern right-of-way of Davis Road (Variable R/W) and the southern right-of-way of U.S. Highway # 78 (Variable right-of-way, 59' from centerline at this point); thence along the southern right-of-way of U.S. Highway # 78 in a northeastern direction a distance of 147.2 feet to a nail found; thence leaving said Right of Way and running South 18' 37' 31" East a distance of 179.16 feet to a ½" rebar found; thence S 76' 49' 24" West a distance of 10.30 feet to a point; thence South 27' 03' 00" East a distance of 135.62 feet to a point; thence South 74' 35' 24" West a distance of 166.80 feet to a nail found on the easterly Right of Way of Davis Road (30' R/W); thence along said Right of Way South 25' 50' 00" East a distance of 111.12 feet to a 1/2" rebar found and the Point of Beginning; from point thus established and leaving said Right of Way and running North 74' 39' 45" East a distance of 202.29 feet to a ½" rebar found; thence South 15' 16' 21" East a distance of 159.94 feet to a ½" rebar set; thence South 73' 50' 17" West a distance of 160.78 feet to a 1" open top pipe found (disturbed) on the easterly Right of Way of Davis Road; thence along said Right of Way along a curve to the right an arc distance of 89.98 feet (said curve having a radius of 340.00 feet; a chord bearing of North 32' 56' 10" West and a chord distance of 89.71 feet) to a point; thence North 25' 50' 00" West a distance of 78.04 feet to the POINT OF BEGINNING. Said tract containing 0.686 Acres.

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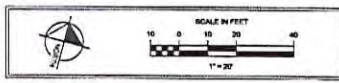
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SITE SUMMARY	
SITE AREA	
SITE AREA:	0.88 ACRES (38,777 SF)
IMPERVIOUS AREA:	0.48 ACRES (19,888 SF) - 55%
PERVIOUS AREA:	0.24 ACRES (10,102 SF) - 34%
ZONING CLASSIFICATION	
JURISDICTION:	GWINNETT COUNTY
ZONING:	C-2, US HWY 78 COR. OVERLAY
ADJACENT ZONING (NORTH):	C-2
ADJACENT ZONING (SOUTH):	R-100
ADJACENT ZONING (WEST):	R-100
ADJACENT ZONING (EAST):	C-2
PARKING SUMMARY	
PARKING REQ. (MINIMUM):	N/A
PARKING PROV.:	64 SPACES
STANDARD PARKING PROV.:	54 SPACES
COMPACT PARKING PROV. (15% TOTAL):	10 SPACES
STANDARD STALL DIMENSIONS:	8' x 18'
COMPACT STALL DIMENSIONS:	8' x 12'
MIN. DRIVE WIDTH:	10' (1-WAY), 22' (2-WAY)
MAX. DRIVE WIDTH:	12' (1-WAY), 24' (2-WAY)
BUILDING SETBACKS	
FRONT/STREET:	10'
SIDE:	10'
REAR:	30'
LANDSCAPE BUFFER AREA	
FRONT/STREET:	10' STRIP, 10' BUFFER
SIDE (R-100):	75' UNDISTURBED + 5' IMPERVIOUS
LANDSCAPE REGULATIONS	
STREET TREES:	1 TREE / 40 LF FRONTAGE
STREET SHRUBS:	1 SHRUB / 4 LF FRONTAGE
PARKING LOT TREES:	1 TREE / 7 PARKING SPACES
TREE/PARKING RADIUS:	SPACE WITHIN 60' OR TREE



<small>This document, together with the measures and design presented herein, is an instrument of service, is prepared solely for the specific address and client for whom it was prepared. Portions of any instrument prepared on this document without written authorization and approval by LeCraw Engineering, Inc. shall be returned solely to LeCraw Engineering, Inc. Copyright LeCraw Engineering, Inc. 2014.</small>	PREPARED IN THE OFFICE OF: 	CLIENT: CBRE 2000 TOWN CENTER, SUITE 300, SOUTHFIELD, MI 48075		CHRYSLER PARKING LOT EXPANSION 2134 DAVIS ROAD LAND LOT 57, 6TH DISTRICT, PARCEL ID 6057 028 STONE MOUNTAIN, GWINNETT COUNTY, GEORGIA
		TITLE: ZONING SITE PLAN		

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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"
CHANGE IN CONDITIONS – APPLICANT’S RESPONSE

- 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:

Yes. The subject Property has been zoned commercial for several decades in an area that is long established as uniformly commercial. Allowing a parking expansion consistent with the currently permitted uses, and additional commercial uses that are permitted to other similarly situated C-2 zoned properties in the immediate vicinity and throughout Gwinnett County, would be entirely consistent with the use and development of adjacent and surrounding property.

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

No. The subject property is located near the intersection with Stone Mountain Highway, a significant commercial corridor and four and six-lane, divided median arterial road. Adjacent and nearby property is a mix of commercial uses and the proposed change in conditions would be entirely consistent with the well established types of uses in the immediate vicinity of this part of Stone Mountain.

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

No. The subject property has been partially vacant for some time and would have almost no chance of any reasonable or likely economic use as long as it is restricted by the current conditions.

- 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:

No, this property is located in an area with public water and sewer availability, and convenient access to major thoroughfares. The requested change in conditions and supplemental parking is for Chrysler’s business uses only, and will not cause any discernable additional use of existing streets, transportation facilities or utilities, and will have absolutely no impact on the school system.

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

Yes. The proposed change in conditions would be entirely consistent with the letter and intent of the Gwinnett 2030 Unified Plan, Unified Development Ordinance, and prior precedent.

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 CHANGE IN CONDITIONS.

This request is necessary as the space requirements of the primary business. To restrict the subject property with the existing conditions leaves the Applicant with zero economic use for what would be an otherwise viable commercial parcel, it is also a result that cannot be supported by any rational review of Gwinnett's zoning and development related ordinances, including the Gwinnett 2030 Unified Plan.

Allowing a complimentary accessory use and development for the Chrysler dealership is appropriate to the subject tract, consistent with the use and development of adjacent and surrounding properties as well as the longtime commercial zoning of the subject property and the Gwinnett County 2030 Unified Plan.

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MARIAN C. ADEIMY
Attorney at Law

E-mail: madeimy@atclawfirm.com

September 4, 2014

LETTER OF INTENT
FOR CHANGE IN CONDITIONS APPLICATION
CHRYSLER REALTY CORP. - STONE MOUNTAIN CHRYSLER

The Owner and Applicant, Chrysler Realty Corp. (hereinafter, "Applicant") submits the Variance Application and Application for Change in Conditions to allow Applicant to utilize the subject property as a used automobile sales facility. The property is located at 2134 Davis Road, Stone Mountain, Georgia. The adjacent property was zoned for and is used by Chrysler as its Stone Mountain dealership. The original 7 acre tract was zoned and conditions for auto sales and dealership uses, pursuant to RZ1996-125 and SUP1996- 089.

Since that time, the automobile sales industry has continued to improve alongside the growing commercial uses in the area. The Applicant purchased the subject property as the adjacent tract to its business in order to expand and pave for parking and auto storage. The tracts would share interparcel connections and would include a total of 64 parking spaces as shown on the submitted site plan.

The subject property is an approximately .69 acre tract (hereinafter, the "Property") located on Davis Road near its intersection with Stone Mountain Highway, and directly adjacent to the existing Chrysler dealership, which property is jointly owned. The area is composed of a mix of commercial uses, and the property was zoned for automobile sales and uses, within which the requested change in conditions is consistent. Subject to these requests, the Applicant would comply with all other conditions found under the existing zoning.

On the southern end of the property, the majority of the existing buffer would continue to remain undeveloped and wooded, allowing for a significant natural buffer and setback totaling 42.5 feet, which could also be supplemented by additional landscaping.

Generally, Section 230.130.3 (D) of the Unified Development Ordinance provides for a 50 ft. buffer adjacent to residential zonings. As reflected on the submitted site plan, while the Property was previously zoned with a 75 ft. buffer condition. While not yet in place when the subject property was zoned in 1996, in applying the UDO, Section 230.130.3 only, the Applicant

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Letter of Intent - Chrysler
September 4, 2014

is essentially requesting a 7.5 feet reduction on the southern property line. The Applicant also seeks to eliminate buffers, if any, located along the jointly owned Chrysler property on the northern and eastern property lines, where the existing Chrysler property and subject property will be connected for interparcel access.

The Applicant intends to continue to use the existing Chrysler property in its current configuration, as the primary car sales facility, and the proposed additional parking should not negatively impact the neighboring properties.

The proposed used automobile parking will be primarily focused on business uses, and as a result, many of the attributes of traditional auto sales lots may not be present on the subject property. Moreover, the development of the property for automobile sales and/or parking under the guidelines of Gwinnett County is appropriate to the subject tract, and proposes a continued, consistent use and development that is consistent with the Gwinnett County 2030 Unified Plan and the prior zoning precedent both for the subject property and area in general.

CONCLUSION

This proposed change in conditions (and pending variance application) will result in a continued, high-quality car sales business for the residents of Gwinnett County, providing jobs and improving Gwinnett's tax base. The 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. The Applicant respectfully requests your approval of this Application.

This 4th day of September, 2014.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.

Marian C. Adeimy
Attorney for Owner/Applicant

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JUSTIFICATION FOR REZONING

The portions of the Gwinnett County Unified Development Ordinance and/or zoning conditions which presently restrict the property which is the subject of this Application (the "Property") are or would be unconstitutional in that they 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 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 Unified Development Ordinance and/or zoning conditions which presently restrict the property 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 is presently suitable for development under the C-2 zoning classification for automobile sales and parking, as requested by the Applicant, and is not economically suitable for development under the present conditions. A denial of this Application 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 change and/or approve the requested zoning conditions and variances, 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 zoning of the subject Property to the requested zoning classification or some other classification, 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 the 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 change in conditions application submitted by the Applicant relative to the Property, as amended, be granted and that the Property be zoned to the zoning classification and conditions requested therein.

This 4th day of September, 2014.

ANDERSEN, TATE & CARR, P.C.

By: _____
Marian C. Adeimy
Attorney for Owner/Applicant

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CHANGE IN CONDITIONS APPLICANT'S CERTIFICATION

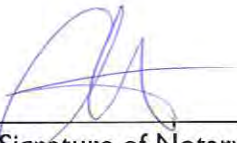
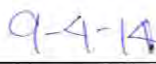
THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL 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 Date

Marian C. Adeimy, Attorney for Applicant/Owner

Type or Print Name and Title

Signature of Notary Public Date



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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.

Marij 9-4-14
Signature of Property Owner Date

Marian C. Adeimy, Attorney for Applicant/Owner
Type or Print Name and Title

* AA 9-4-14
Signature of Notary Public Date



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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.

Marian C. Adeimy 9-4-14 Marian C. Adeimy, Attorney for Applicant

 Signature of Applicant Date Type of Print Name and Title

Marian C. Adeimy 9-4-14 Marian C. Adeimy, Attorney for Applicant

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

* *[Signature]* 9-4-14 _____
 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 Andersen, Tate & Carr, PC

 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)
See Exhibit "C"		

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
	\$1,000	
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
	\$500	
	\$200	

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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: 6 - 057 - 028
(Map Reference Number) District Land Lot Parcel

 _____ Date 9-4-14
Signature of Applicant

Marian C. Adeimy, 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)

Diane Fox Dore TSA II
NAME TITLE
9/04/2014
DATE

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