

REZONING APPLICATION

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

ORIGINAL

APPLICANT INFORMATION	OWNER INFORMATION*
NorSouth Companies NAME: <u>c/ o Dennis J. Webb, Jr, Esq.</u> ADDRESS: <u>1230 Peachtree St., NE, Ste. 3100</u> CITY: <u>Atlanta</u> STATE: <u>GA</u> ZIP: <u>30309</u> PHONE: <u>(404) 815-3500</u>	NAME: <u>King Family Properties LP</u> ADDRESS: <u>P.O. Box 464517</u> CITY: <u>Lawrenceville</u> STATE: <u>GA</u> ZIP: <u>30044</u> PHONE: _____
CONTACT PERSON: <u>Dennis J. Webb, Jr.</u> PHONE: <u>(404) 815-3500</u> CONTACT'S E-MAIL: <u>djwebb@sgrlaw.com</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): C2 REQUESTED ZONING DISTRICT: O-1
 LAND DISTRICT(S): 6 LAND LOT(S): 53 ACREAGE: +/- 7.59
 ADDRESS OF PROPERTY: Oakland Park Blvd., Snellville, GA
 PROPOSED DEVELOPMENT: Age restricted (55+ years) senior apartment community

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: <u>100</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>1,015 s.f.</u>	Total Building Sq. Ft. _____
Gross Density: <u>128,200 s.f.</u>	Density: _____
Net Density: <u>92,300 s.f.</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 53 of the 6th District of Gwinnett County, Georgia, and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, begin at a point formed by the land lot corner common to Land Lots 46, 47, 53 and 54, and thence run northwesterly along the land lot line common to Land Lots 53 and 54, North $31^{\circ}48'36''$ West, a distance of 1,962.10 feet to an iron pin found 1/2" rebar);

thence continuing along the land lot line common to Land Lots 53 and 54, North $29^{\circ}43'36''$ West, a distance of 358.12 feet to a point on the southeasterly margin of the right-of-way of U.S. Hwy 78 (variable width right-of-way);

thence northeasterly along the southeasterly margin of the right-of-way of U.S. Hwy 78, North $57^{\circ}50'11''$ East, a distance of 304.01 feet to an iron pin set;

thence leaving the southeasterly margin of the right-of-way of U.S. Hwy 78, South $32^{\circ}09'49''$ East, a distance of 330 feet to an iron pin set, which is the POINT OF BEGINNING;

from the POINT OF BEGINNING, as thus established, thence North $57^{\circ}50'11''$ East a distance of 260.52 feet to an iron pin set on the southwesterly margin of the right-of-way of a variable width proposed right-of-way (Street "A");

thence southeasterly along the southwesterly margin of the right-of-way of Street "A", South $32^{\circ}09'18''$ East, a distance of 230.39 feet to an iron pin set;

thence continuing along said right-of-way along the arc of a curve to the left, said curve having a radius of 280.00 feet and a chord bearing and distance of South $57^{\circ}21'27''$ East 238.46 feet to a point;

thence leaving said right-of-way of Street "A", South $07^{\circ}15'02''$ West, a distance of 159.96 feet to a point;

thence South $57^{\circ}50'11''$ West, a distance of 569.02 feet to a point;

thence South $57^{\circ}50'11''$ West a distance of 20.00 feet to a point;

thence North $31^{\circ}48'36''$ West a distance of 541.95 feet to a point;

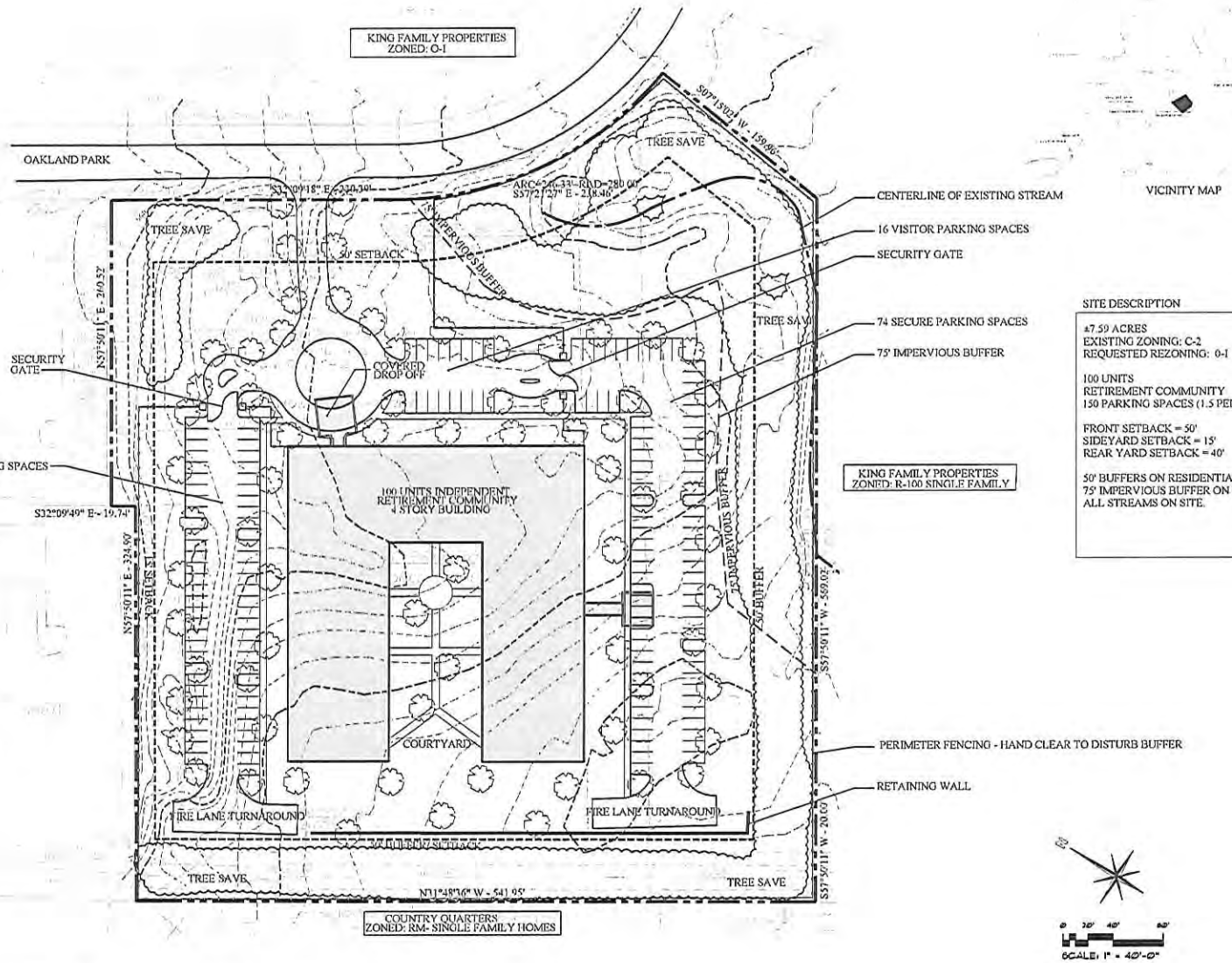
thence North $57^{\circ}50'11''$ West a distance of 324.90 feet to a point;

thence South $32^{\circ}09'49''$ East a distance of 19.74 feet to a point; said point being the **POINT OF BEGINNING**. 7.5917 +/- acres.

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SITE DESCRIPTION

47.59 ACRES
 EXISTING ZONING: C-2
 REQUESTED REZONING: O-1

100 UNITS
 RETIREMENT COMMUNITY
 150 PARKING SPACES (1.5 PER UNIT)

FRONT SETBACK = 50'
 SIDYARD SETBACK = 15'
 REAR YARD SETBACK = 40'

50' BUFFERS ON RESIDENTIAL SIDE
 75' IMPERVIOUS BUFFER ON ALL STREAMS ON SITE

HEARTHSIDE GWINNETT

GWINNETT COUNTY, GA
 NORSOUTH DEVELOPMENT CO. OF GEORGIA

3-8-2014
 SCALE: 1" = 40'-0"
 CONCEPTUAL SITE PLAN FOR RE-ZONING

FOLEY DESIGN ASSOCIATES ARCHITECTS INC.
 1513 Cleveland Avenue Building 160 Suite 162 East Point, Georgia 30344 (404) 781-1299

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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:

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

- (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:

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

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LETTER OF INTENT

and

Other Material Required by
Gwinnett County Zoning Ordinance
For the
Rezoning and Special Use Permit Applications

of

NORSOUTH COMPANIES

for

± 7.59 Acres of Land located in
Land Lot 53, 6th District
REZONE - C-2 to O-I
SUP – Retirement Community/Four-Story Building Height

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

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SGR/11727069.4

I. INTRODUCTION

This Application seeks (a) to rezone \pm 7.59 acres of land in Land Lot 53, 6th District of Gwinnett County (the “Subject Property”) from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height. The Subject Property is designated as “Corridor Mixed-Use” on the County’s Future Land Use Map (“FLUM”), a designation that supports the proposed use.

The Subject Property consists of two (2) tracts (R6053198 and R6053194) located in the southwest quadrant of the intersection of U.S. Highway 78 (Stone Mountain Highway) and Oakland Park Boulevard. The Subject Property is adjacent to and south of two fast food-type restaurants and north of a single-family detached subdivision.

The Applicant is a Georgia based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980’s and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar “HearthSide” communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is currently under construction (photo attached) and Hearthsides Tucker will break ground this summer.

The senior living community that the Applicant hopes to develop on the Subject Property will have 100 units, at a density of slightly more than 13 units per acre. The development will contain roughly 35 one (1) bedroom, one (1) bathroom units and 65 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio,

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media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

The Applicant submits this Letter of Intent as required by the Gwinnett County Zoning Ordinance. The document also is intended to address and substantiate the requisite responses to the State “Steinberg Act”, O.C.G.A. § 36-67-1 et seq. A site plan of the proposed development and other required material has been filed contemporaneously with this Application.

II. IMPACT ANALYSIS

A.

WHETHER A PROPOSED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

Yes. The Subject Property sits in the southwest quadrant of the intersection of U.S. Highway 78, and urban principal arterial, and Oakland Park Boulevard, a private road. It is adjacent to and south of two (2) fast food-type restaurants and is located in a corridor consisting of commercial, office and retail uses; the Subject Property is in a vicinity designated as a “Corridor Mixed-Use” on the County’s FLUM. The Subject Property also is north of a single-family detached subdivision. The Applicant believes that both the requested use and requested zoning district represent a logical transition between the single family use to the south and the commercial uses to the north. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

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B.

WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE
OR USABILITY OF ADJACENT OR NEARBY PROPERTY

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS A
REASONABLE ECONOMIC USE AS CURRENTLY ZONED

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use

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reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

The Subject Property is not suitable for its restricted uses as presently zoned. Accordingly, a denial of this Application would constitute an arbitrary and capricious act by Gwinnett County without any rational basis therefore constituting an abuse of discretion and violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section II, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

A refusal by Gwinnett County to approve this application and permit the only feasible economic use of the Subject Property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Applicants and owners of similarly-situated property in violation of Article I, Section II, Paragraph III of the Constitution of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and land use regulations as an expression of the government's police power, *Guhl v. Holcomb Bridge Road*, 238 Ga. 322 (1977).

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D.

WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING
STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 100-unit senior, independent multifamily development would generate only 344 trips on a weekday, 261 on a Saturday and 284 on a Sunday. The existing transportation network is more than adequate to accommodate the relatively minor number of trips the proposed development will generate.

As for utilities, the Subject Property has access to water and sewer. Finally, the proposed request should have little or no impact on surrounding schools.

E.

WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH
THE POLICY AND INTENT OF THE LAND USE PLAN

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development.

Among other things, the UDP recognizes that:

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- “Gwinnett’s share of the older populations has... grown significantly from several years ago. Between 1990 and 2000, the population age 55 and older doubled and now comprises more than 12% of the total population” (UDP, p. 12);
- “The County will need to prepare for ever-increasing numbers of residents across all age ranges. Gwinnett County was once a family-dominated suburb. In the future, however, as residents age in place, the County will increasingly need to provide ... for older adults” (UDP at 14);
- “An increasing portion of Gwinnett’s population are groups whose needs and lifestyles do not require the typical single-family subdivision type of housing” (UDP at 32);
- “The County’s population over the age of 65 is expected to nearly double in the next 20 years” (UDP at 32); and
- “A wider range of housing types... is needed to meet the needs of ... the elderly” (UDP at 37).

The Applicant’s proposed development directly responds to these issues. At the same time, it advances the intent of the County’s FLUM designation for the Subject Property, which is “Corridor Mixed-Use.” This category specifically promotes the type of higher density, multi-family development located within walking distance of commercial and retail nodes that this Application proposes.

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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
REZONING


The proposed zoning is appropriate for the Subject Property. It is consistent with the County's future development plans. It also is suitable in light of adjacent and nearby developments and uses, as detailed herein. Hence, the zoning requested conforms to the ideals and spirit of the Gwinnett County Zoning Ordinance.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of Gwinnett County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 7th day of March, 2014.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 815-3500

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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

3-3-2014
Date

DAVID A. DIXON 
Type or Print Name and Title MANAGER
NORSOUTH DEVELOPMENT COMPANY OF GEORGIA, LLC


Signature of Notary Public

3/3/14
Date

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

Notary Seal

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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.



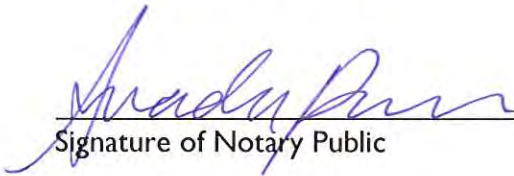
Signature of Property Owner

3/3/2014

Date

KING FAMILY PROPERTIES, L.P.
KENNY O. KING FAMILY TRUST, GENERAL PARTNER & LIMITED PARTNER
KENNY O. KING, TRUSTEE

Type or Print Name and Title



Signature of Notary Public

3/3/14

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 3-3-2014 DATE MANAGER, NORTHSOUTH DEVELOPMENT COMPANY OF GEORGIA, LLC TYPE OR PRINT NAME AND TITLE


 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE 3/7/14 DATE Dennis J. Webb, Jr. TYPE OR PRINT NAME AND TITLE


 SIGNATURE OF NOTARY PUBLIC 3/3/14 DATE

MAUREEN K FREEHILL
 NOTARY PUBLIC
 DEKALB COUNTY, GEORGIA
 MY COMMISSION EXPIRES NOVEMBER 27, 2016
 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 DAVE DIXON
 YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE 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

[Handwritten Signature]

YOUR NAME Dennis J. Webb, Jr.

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)

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 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE 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 Kathryn M. Zickert
 YOUR NAME Kathryn M. Zickert

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR 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: 6 - 053 - 198 3 194
(Map Reference Number) District Land Lot Parcel

 03.06.14
Signature of Applicant Date

DAVID DIXON MANAGER, SOUTHWEST DEVELOPMENT COMPANY OF GEORGIA, LLC
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)

Debra L. Smith tax service associate
NAME TITLE

March 7, 2014
DATE

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SPECIAL USE PERMIT APPLICATION

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

ORIGINAL

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>NorSouth Companies c/o Dennis J. Webb, Jr., Esq.</u>	NAME: <u>King Family Properties LP</u>
ADDRESS: <u>1230 Peachtree St., NE, Ste. 3100</u>	ADDRESS: <u>P.O. Box 464517</u>
CITY: <u>Atlanta</u>	CITY: <u>Lawrenceville</u>
STATE: <u>GA</u> ZIP: <u>30309</u>	STATE: <u>GA</u> ZIP: <u>30044</u>
PHONE: <u>(404) 815-3500</u>	PHONE: _____
CONTACT PERSON: <u>Dennis J. Webb, Jr.</u> PHONE: <u>(404) 815-3500</u>	
CONTACT'S E-MAIL: <u>djwebb@sgrlaw.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>C2</u>	BUILDING/LEASED SQUARE FEET: _____
LAND DISTRICT(S): <u>6</u>	LAND LOT(S): <u>53</u> ACREAGE: <u>+/- 7.59</u>
ADDRESS OF PROPERTY: <u>Oakland Park Blvd., Snellville, GA</u>	
SPECIAL USE REQUESTED: <u>Age restricted (55+ years) senior apartment community</u>	

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thence continuing along the land lot line common to Land Lots 53 and 54, North 29°43'36" West, a distance of 358.12 feet to a point on the southeasterly margin of the right-of-way of U.S. Hwy 78 (variable width right-of-way);

thence northeasterly along the southeasterly margin of the right-of-way of U.S. Hwy 78, North 57°50'11" East, a distance of 304.01 feet to an iron pin set;

thence leaving the southeasterly margin of the right-of-way of U.S. Hwy 78, South 32°09'49" East, a distance of 330 feet to an iron pin set, which is the POINT OF BEGINNING;

from the POINT OF BEGINNING, as thus established, thence North 57°50'11" East a distance of 260.52 feet to an iron pin set on the southwesterly margin of the right-of-way of a variable width proposed right-of-way (Street "A");

thence southeasterly along the southwesterly margin of the right-of-way of Street "A", South 32°09'18" East, a distance of 230.39 feet to an iron pin set;

thence continuing along said right-of-way along the arc of a curve to the left, said curve having a radius of 280.00 feet and a chord bearing and distance of South 57°21'27" East 238.46 feet to a point;

thence leaving said right-of-way of Street "A", South 07°15'02" West, a distance of 159.96 feet to a point;

thence South 57°50'11" West, a distance of 569.02 feet to a point;

thence South 57°50'11" West a distance of 20.00 feet to a point;

thence North 31°48'36" West a distance of 541.95 feet to a point;

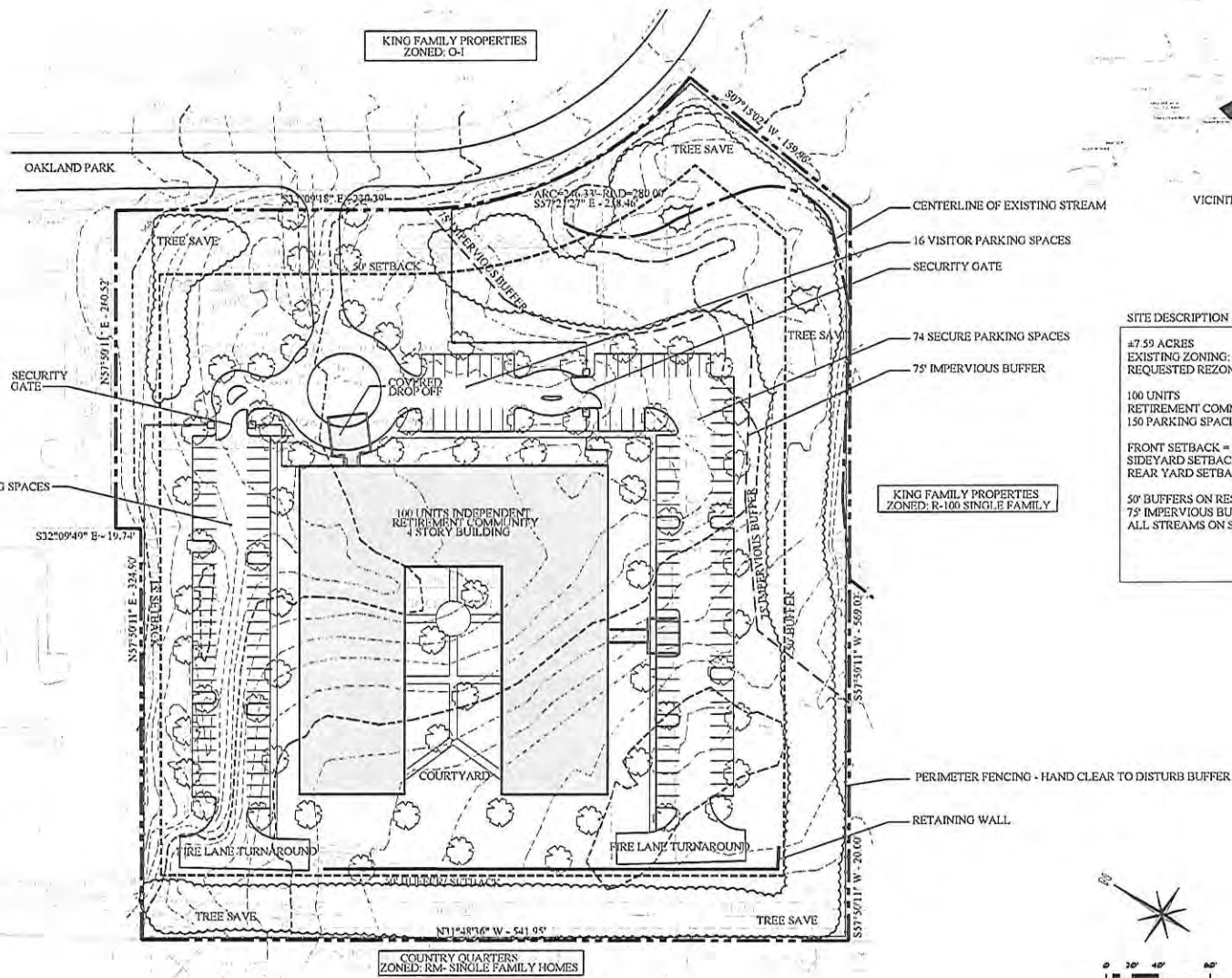
thence North 57°50'11" West a distance of 324.90 feet to a point;

thence South 32°09'49" East a distance of 19.74 feet to a point; said point being the **POINT OF BEGINNING**. 7.5917 +/- acres.

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VICINITY MAP

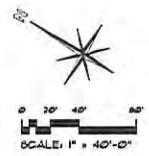
SITE DESCRIPTION

±7.59 ACRES
 EXISTING ZONING: C-2
 REQUESTED REZONING: O-1

100 UNITS
 RETIREMENT COMMUNITY
 150 PARKING SPACES (1.5 PER UNIT)

FRONT SETBACK = 50'
 SIDYARD SETBACK = 15'
 REAR YARD SETBACK = 40'

50' BUFFERS ON RESIDENTIAL SIDE
 75' IMPERVIOUS BUFFER ON ALL STREAMS ON SITE.



HEARTHSIDE GWINNETT

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3-6-2014
 SCALE: 1" = 40'-0"
 CONCEPTUAL SITE PLAN FOR RE-ZONING

GWINNETT COUNTY, GA
 NORSOUTH DEVELOPMENT CO. OF GEORGIA

FOLEY DESIGN ASSOCIATES ARCHITECTS INC.
 1513 Cleveland Avenue Building 100 Suite 102 East Point, Georgia 30344 (404) 701-1299

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SPECIAL USE PERMIT APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENT OF THE UNIFIED DEVELOPMENT ORDINANCE, 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 Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

- (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 Letter of Intent

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

See attached Letter of Intent

- (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 Letter of Intent

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LETTER OF INTENT

and

Other Material Required by
Gwinnett County Zoning Ordinance
For the
Rezoning and Special Use Permit Applications

of

NORSOUTH COMPANIES

for

± 7.59 Acres of Land located in
Land Lot 53, 6th District
REZONE - C-2 to O-1
SUP – Retirement Community/Four-Story Building Height

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

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SGR/11727069.4

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I. INTRODUCTION

This Application seeks (a) to rezone \pm 7.59 acres of land in Land Lot 53, 6th District of Gwinnett County (the "Subject Property") from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height. The Subject Property is designated as "Corridor Mixed-Use" on the County's Future Land Use Map ("FLUM"), a designation that supports the proposed use.

The Subject Property consists of two (2) tracts (R6053198 and R6053194) located in the southwest quadrant of the intersection of U.S. Highway 78 (Stone Mountain Highway) and Oakland Park Boulevard. The Subject Property is adjacent to and south of two fast food-type restaurants and north of a single-family detached subdivision.

The Applicant is a Georgia based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980's and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar "HearthSide" communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is currently under construction (photo attached) and Hearthsides Tucker will break ground this summer.

The senior living community that the Applicant hopes to develop on the Subject Property will have 100 units, at a density of slightly more than 13 units per acre. The development will contain roughly 35 one (1) bedroom, one (1) bathroom units and 65 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio,

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media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

The Applicant submits this Letter of Intent as required by the Gwinnett County Zoning Ordinance. The document also is intended to address and substantiate the requisite responses to the State “Steinberg Act”, O.C.G.A. § 36-67-1 et seq. A site plan of the proposed development and other required material has been filed contemporaneously with this Application.

II. IMPACT ANALYSIS

A.

WHETHER A PROPOSED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

Yes. The Subject Property sits in the southwest quadrant of the intersection of U.S. Highway 78, and urban principal arterial, and Oakland Park Boulevard, a private road. It is adjacent to and south of two (2) fast food-type restaurants and is located in a corridor consisting of commercial, office and retail uses; the Subject Property is in a vicinity designated as a “Corridor Mixed-Use” on the County’s FLUM. The Subject Property also is north of a single-family detached subdivision. The Applicant believes that both the requested use and requested zoning district represent a logical transition between the single family use to the south and the commercial uses to the north. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

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B.

WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE
OR USABILITY OF ADJACENT OR NEARBY PROPERTY

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS A
REASONABLE ECONOMIC USE AS CURRENTLY ZONED

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use

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reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

The Subject Property is not suitable for its restricted uses as presently zoned. Accordingly, a denial of this Application would constitute an arbitrary and capricious act by Gwinnett County without any rational basis therefore constituting an abuse of discretion and violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section II, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

A refusal by Gwinnett County to approve this application and permit the only feasible economic use of the Subject Property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Applicants and owners of similarly-situated property in violation of Article I, Section II, Paragraph III of the Constitution of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and land use regulations as an expression of the government's police power, *Guhl v. Holcomb Bridge Road*, 238 Ga. 322 (1977).

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D.

WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING
STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 100-unit senior, independent multifamily development would generate only 344 trips on a weekday, 261 on a Saturday and 284 on a Sunday. The existing transportation network is more than adequate to accommodate the relatively minor number of trips the proposed development will generate.

As for utilities, the Subject Property has access to water and sewer. Finally, the proposed request should have little or no impact on surrounding schools.

E.

WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH
THE POLICY AND INTENT OF THE LAND USE PLAN

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development.

Among other things, the UDP recognizes that:

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- “Gwinnett’s share of the older populations has... grown significantly from several years ago. Between 1990 and 2000, the population age 55 and older doubled and now comprises more than 12% of the total population” (UDP, p. 12);
- “The County will need to prepare for ever-increasing numbers of residents across all age ranges. Gwinnett County was once a family-dominated suburb. In the future, however, as residents age in place, the County will increasingly need to provide ... for older adults” (UDP at 14);
- “An increasing portion of Gwinnett’s population are groups whose needs and lifestyles do not require the typical single-family subdivision type of housing” (UDP at 32);
- “The County’s population over the age of 65 is expected to nearly double in the next 20 years” (UDP at 32); and
- “A wider range of housing types... is needed to meet the needs of ... the elderly” (UDP at 37).

The Applicant’s proposed development directly responds to these issues. At the same time, it advances the intent of the County’s FLUM designation for the Subject Property, which is “Corridor Mixed-Use.” This category specifically promotes the type of higher density, multi-family development located within walking distance of commercial and retail nodes that this Application proposes.

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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
REZONING

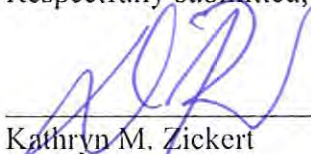
The proposed zoning is appropriate for the Subject Property. It is consistent with the County's future development plans. It also is suitable in light of adjacent and nearby developments and uses, as detailed herein. Hence, the zoning requested conforms to the ideals and spirit of the Gwinnett County Zoning Ordinance.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of Gwinnett County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 7th day of March, 2014.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 815-3500

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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.


Signature of Applicant

03.06.14
Date

DAVID DIXON MANAGER, nopsouth Development Company of GEORGIA, LLC
Type or Print Name and Title


Signature of Notary Public

3/6/14
Date

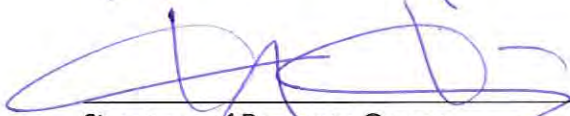
MAUREEN K FREEHILL
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
MY COMMISSION EXPIRES NOVEMBER 27, 2016
Notary Seal

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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.

KING FAMILY PROPERTIES, L.P.




Signature of Property Owner

MARCH 7, 2014

Date

KENNY O. KING FAMILY TRUST, GENERAL PARTNER LIMITED PARTNER
KENNY O. KING, TRUSTEE

Type or Print Name and Title



Signature of Notary Public

3/7/14

Date





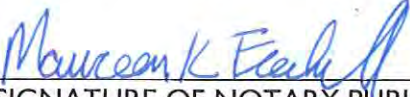
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CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

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.

 SIGNATURE OF APPLICANT	03.06.14 DATE	DAVID DIXON MANAGER TYPE OR PRINT NAME AND TITLE
 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	3/7/14 DATE	Dennis J. Webb, Jr. TYPE OR PRINT NAME AND TITLE
 SIGNATURE OF NOTARY PUBLIC	3/9/14 DATE	MAUREEN K FREEHILL NOTARY PUBLIC DEKALB COUNTY, GEORGIA MY COMMISSION EXPIRES NOVEMBER 27, 2016 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

DAVID DIXON
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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CONFLICT OF INTEREST CERTIFICATION FOR SPECIAL USE PERMIT

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 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YES NO

YOUR NAME Dennis J. Webb, Jr.

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

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YES NO Kathryn M Zickert
 YOUR NAME Kathryn M. Zickert

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR 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: 6 - 053 - 198 3 194
(Map Reference Number) District Land Lot Parcel

 _____ 03.06.14
Signature of Applicant Date

DAVID DIXON, MANAGER, HORSOUTH DEVELOPMENT COMPANY OF GEORGIA, LLC
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)

Debra L. Smith tax service associate
NAME TITLE

March 7, 2014
DATE

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SPECIAL USE PERMIT APPLICATION

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

Original

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>NorSouth Companies c/o Dennis J. Webb, Jr., Esq.</u>	NAME: <u>King Family Properties LP</u>
ADDRESS: <u>1230 Peachtree St., NE, Ste. 3100</u>	ADDRESS: <u>P.O. Box 464517</u>
CITY: <u>Atlanta</u>	CITY: <u>Lawrenceville</u>
STATE: <u>GA</u> ZIP: <u>30309</u>	STATE: <u>GA</u> ZIP: <u>30044</u>
PHONE: <u>(404) 815-3500</u>	PHONE: _____
CONTACT PERSON: <u>Dennis J. Webb, Jr.</u> PHONE: <u>(404) 815-3500</u>	
CONTACT'S E-MAIL: <u>djwebb@sgrlaw.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>C2/OI</u> BUILDING/LEASED SQUARE FEET: _____		
LAND DISTRICT(S): <u>6</u> LAND LOT(S): <u>53</u> ACREAGE: <u>+/- 7.59</u>		
ADDRESS OF PROPERTY: <u>Oakland Park Blvd., Snellville, GA</u>		
SPECIAL USE REQUESTED: <u>Building height of four (4) stories</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 53 of the 6th District of Gwinnett County, Georgia, and being more particularly described as follows:

TO FIND THE POINT OF BEGINNING, begin at a point formed by the land lot corner common to Land Lots 46, 47, 53 and 54, and thence run northwesterly along the land lot line common to Land Lots 53 and 54, North $31^{\circ}48'36''$ West, a distance of 1,962.10 feet to an iron pin found 1/2" rebar);

thence continuing along the land lot line common to Land Lots 53 and 54, North $29^{\circ}43'36''$ West, a distance of 358.12 feet to a point on the southeasterly margin of the right-of-way of U.S. Hwy 78 (variable width right-of-way);

thence northeasterly along the southeasterly margin of the right-of-way of U.S. Hwy 78, North $57^{\circ}50'11''$ East, a distance of 304.01 feet to an iron pin set;

thence leaving the southeasterly margin of the right-of-way of U.S. Hwy 78, South $32^{\circ}09'49''$ East, a distance of 330 feet to an iron pin set, which is the POINT OF BEGINNING;

from the POINT OF BEGINNING, as thus established, thence North $57^{\circ}50'11''$ East a distance of 260.52 feet to an iron pin set on the southwesterly margin of the right-of-way of a variable width proposed right-of-way (Street "A");

thence southeasterly along the southwesterly margin of the right-of-way of Street "A", South $32^{\circ}09'18''$ East, a distance of 230.39 feet to an iron pin set;

thence continuing along said right-of-way along the arc of a curve to the left, said curve having a radius of 280.00 feet and a chord bearing and distance of South $57^{\circ}21'27''$ East 238.46 feet to a point;

thence leaving said right-of-way of Street "A", South $07^{\circ}15'02''$ West, a distance of 159.96 feet to a point;

thence South $57^{\circ}50'11''$ West, a distance of 569.02 feet to a point;

thence South $57^{\circ}50'11''$ West a distance of 20.00 feet to a point;

thence North $31^{\circ}48'36''$ West a distance of 541.95 feet to a point;

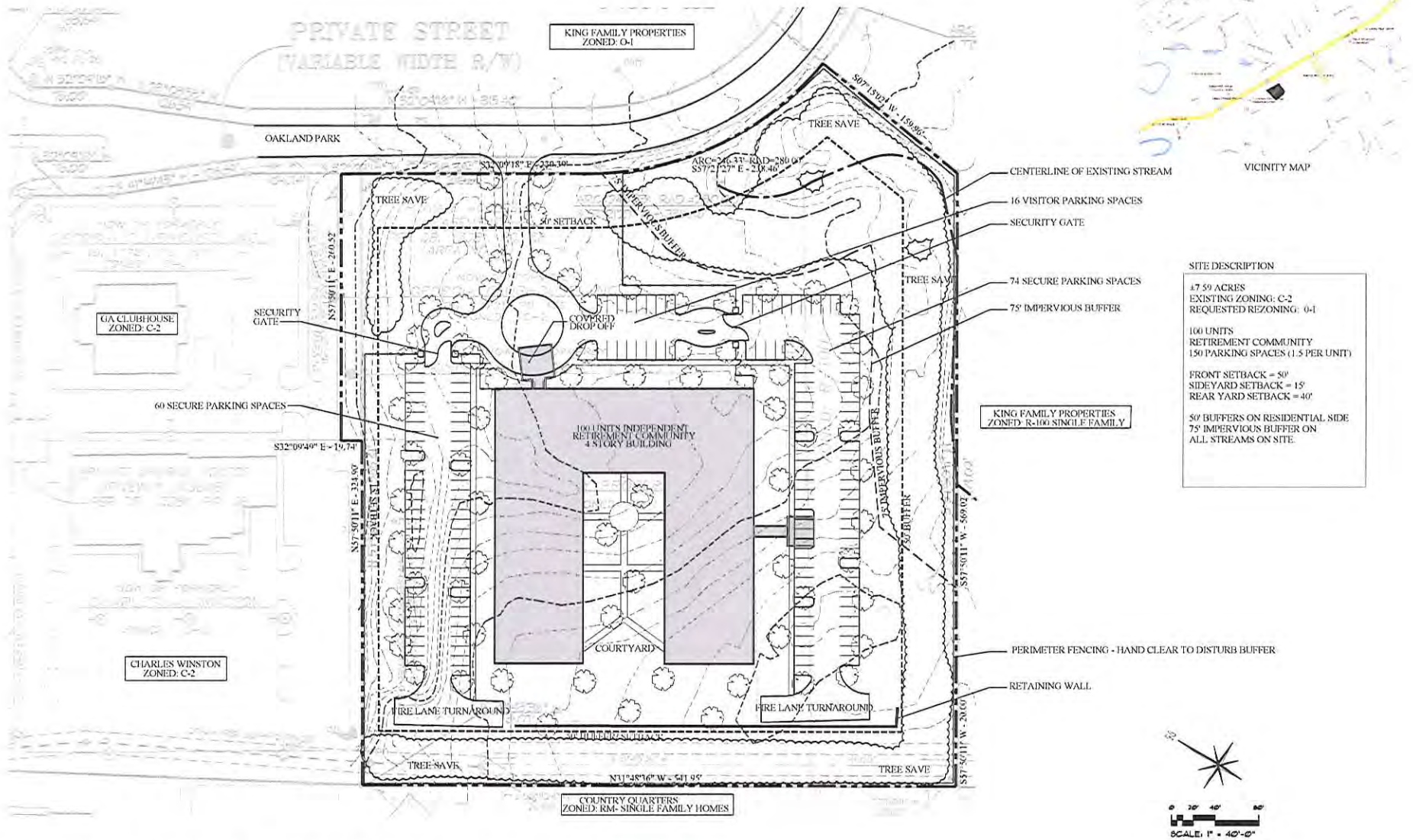
thence North $57^{\circ}50'11''$ West a distance of 324.90 feet to a point;

thence South $32^{\circ}09'49''$ East a distance of 19.74 feet to a point; said point being the **POINT OF BEGINNING**. 7.5917 +/- acres.

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HEARTHSIDE GWINNETT

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3-6-2014
SCALE: 1" = 40'-0"
CONCEPTUAL SITE PLAN FOR RE-ZONING

FOLEY DESIGN ASSOCIATES ARCHITECTS INC.
1513 Cleveland Avenue Building 100 Suite 102 East Point, Georgia 30344 (404) 761-1299

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GWINNETT COUNTY, GA
NORSOUTH DEVELOPMENT CO. OF GEORGIA



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SPECIAL USE PERMIT APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENT OF THE UNIFIED DEVELOPMENT ORDINANCE, 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:

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See attached Letter of Intent

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

See attached Letter of Intent

- (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 Letter of Intent

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LETTER OF INTENT

and

Other Material Required by
Gwinnett County Zoning Ordinance
For the
Rezoning and Special Use Permit Applications

of

NORSOUTH COMPANIES

for

± 7.59 Acres of Land located in
Land Lot 53, 6th District
REZONE - C-2 to O-1
SUP – Retirement Community/Four-Story Building Height

Submitted for Applicant by:

Kathryn M. Zickert
Dennis J. Webb, Jr.
Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
404-815-3500

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I. INTRODUCTION

This Application seeks (a) to rezone \pm 7.59 acres of land in Land Lot 53, 6th District of Gwinnett County (the "Subject Property") from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height. The Subject Property is designated as "Corridor Mixed-Use" on the County's Future Land Use Map ("FLUM"), a designation that supports the proposed use.

The Subject Property consists of two (2) tracts (R6053198 and R6053194) located in the southwest quadrant of the intersection of U.S. Highway 78 (Stone Mountain Highway) and Oakland Park Boulevard. The Subject Property is adjacent to and south of two fast food-type restaurants and north of a single-family detached subdivision.

The Applicant is a Georgia based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980's and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar "HearthSide" communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is currently under construction (photo attached) and Hearthsides Tucker will break ground this summer.

The senior living community that the Applicant hopes to develop on the Subject Property will have 100 units, at a density of slightly more than 13 units per acre. The development will contain roughly 35 one (1) bedroom, one (1) bathroom units and 65 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio,

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media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

The Applicant submits this Letter of Intent as required by the Gwinnett County Zoning Ordinance. The document also is intended to address and substantiate the requisite responses to the State “Steinberg Act”, O.C.G.A. § 36-67-1 et seq. A site plan of the proposed development and other required material has been filed contemporaneously with this Application.

II. IMPACT ANALYSIS

A.

WHETHER A PROPOSED REZONING WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY

Yes. The Subject Property sits in the southwest quadrant of the intersection of U.S. Highway 78, and urban principal arterial, and Oakland Park Boulevard, a private road. It is adjacent to and south of two (2) fast food-type restaurants and is located in a corridor consisting of commercial, office and retail uses; the Subject Property is in a vicinity designated as a “Corridor Mixed-Use” on the County’s FLUM. The Subject Property also is north of a single-family detached subdivision. The Applicant believes that both the requested use and requested zoning district represent a logical transition between the single family use to the south and the commercial uses to the north. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

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B.

WHETHER A PROPOSED REZONING WILL ADVERSELY AFFECT THE EXISTING USE
OR USABILITY OF ADJACENT OR NEARBY PROPERTY

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both “off-site” and “on-site” transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

WHETHER THE PROPERTY TO BE AFFECTED BY A PROPOSED REZONING HAS A
REASONABLE ECONOMIC USE AS CURRENTLY ZONED

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use

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reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

The Subject Property is not suitable for its restricted uses as presently zoned. Accordingly, a denial of this Application would constitute an arbitrary and capricious act by Gwinnett County without any rational basis therefore constituting an abuse of discretion and violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section II, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

A refusal by Gwinnett County to approve this application and permit the only feasible economic use of the Subject Property would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the Applicants and owners of similarly-situated property in violation of Article I, Section II, Paragraph III of the Constitution of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

This Application meets favorably the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and land use regulations as an expression of the government's police power, *Guhl v. Holcomb Bridge Road*, 238 Ga. 322 (1977).

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D.

WHETHER THE PROPOSED REZONING WILL RESULT IN A USE WHICH
WILL OR COULD CAUSE EXCESSIVE OR BURDENSOME USE OF EXISTING
STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 100-unit senior, independent multifamily development would generate only 344 trips on a weekday, 261 on a Saturday and 284 on a Sunday. The existing transportation network is more than adequate to accommodate the relatively minor number of trips the proposed development will generate.

As for utilities, the Subject Property has access to water and sewer. Finally, the proposed request should have little or no impact on surrounding schools.

E.

WHETHER THE PROPOSED REZONING IS IN CONFORMITY WITH
THE POLICY AND INTENT OF THE LAND USE PLAN

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development.

Among other things, the UDP recognizes that:

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- “Gwinnett’s share of the older populations has... grown significantly from several years ago. Between 1990 and 2000, the population age 55 and older doubled and now comprises more than 12% of the total population” (UDP, p. 12);
- “The County will need to prepare for ever-increasing numbers of residents across all age ranges. Gwinnett County was once a family-dominated suburb. In the future, however, as residents age in place, the County will increasingly need to provide ... for older adults” (UDP at 14);
- “An increasing portion of Gwinnett’s population are groups whose needs and lifestyles do not require the typical single-family subdivision type of housing” (UDP at 32);
- “The County’s population over the age of 65 is expected to nearly double in the next 20 years” (UDP at 32); and
- “A wider range of housing types... is needed to meet the needs of ... the elderly” (UDP at 37).

The Applicant’s proposed development directly responds to these issues. At the same time, it advances the intent of the County’s FLUM designation for the Subject Property, which is “Corridor Mixed-Use.” This category specifically promotes the type of higher density, multi-family development located within walking distance of commercial and retail nodes that this Application proposes.

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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
REZONING

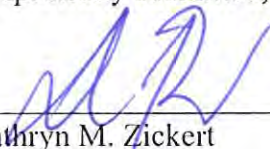
The proposed zoning is appropriate for the Subject Property. It is consistent with the County's future development plans. It also is suitable in light of adjacent and nearby developments and uses, as detailed herein. Hence, the zoning requested conforms to the ideals and spirit of the Gwinnett County Zoning Ordinance.

III. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that the Rezoning Application at issue be approved. The Applicant also invites and welcomes any comments from Staff or other officials of Gwinnett County so that such recommendations or input might be incorporated as conditions of approval of this Application.

This 7th day of March, 2014.

Respectfully submitted,



Kathryn M. Zickert
Dennis J. Webb, Jr.
Attorneys For Applicant

Smith, Gambrell & Russell, LLP
Promenade, Suite 3100
1230 Peachtree Street, NE
Atlanta, Georgia 30309
(404) 815-3500

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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.


Signature of Applicant

03.06.14
Date

DAVID DIXON MANAGER, nopsouth Development Company of Georgia, LLC
Type or Print Name and Title


Signature of Notary Public

3/6/14
Date

MAUREEN K FREEHILL
NOTARY PUBLIC
DEKALB COUNTY, GEORGIA
MY COMMISSION EXPIRES NOVEMBER 27, 2016
Notary Seal

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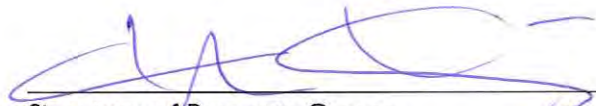
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SPECIAL USE PERMIT PROPERTY OWNER'S CERTIFICATION

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.

KING FAMILY PROPERTIES, LTD.



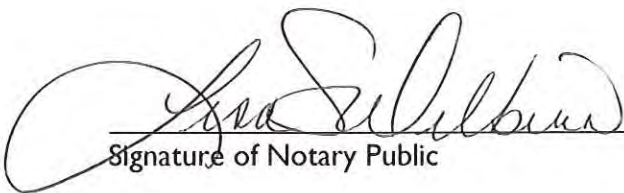
Signature of Property Owner

March 7, 2014

Date

Kenny O. King Family Trust, General Partner Limited Partner
Kenny O. King, Trustee

Type or Print Name and Title



Signature of Notary Public

3/7/14

Date



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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.

DAVID DIXON
MANAGER

 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

Dennis J. Webb, Jr.

 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

Maureen K Freehill 3/9/14

 SIGNATURE OF NOTARY PUBLIC DATE

MAUREEN K FREEHILL
 NOTARY PUBLIC
 DEKALB COUNTY, GEORGIA
 MY COMMISSION EXPIRES NOVEMBER 27, 2016
 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 DAVID DIXON

 YOUR NAME

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE


 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the Board of Commissioners or a member of the Gwinnett County Planning Commission?

YES NO

 _____
 YOUR NAME *Dennis J. Klebb, Jr.*

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
 ATTORNEY OR REPRESENTATIVE

 SIGNATURE OF NOTARY PUBLIC DATE 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 Kathryn M. Zickert
 YOUR NAME Kathryn M. Zickert

If the answer is yes, please complete the following section:

NAME AND OFFICAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS (List all which aggregate to \$250 or More)	DATE CONTRIBUTION WAS MADE (Within last two years)

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

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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR 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: 6 - 053 - 198 & 194
(Map Reference Number) District Land Lot Parcel


Signature of Applicant 03.06.14
Date

DAVID DIXON, MANAGER, SOPSOUTH DEVELOPMENT COMPANY OF GEORGIA, LLC
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)

Debra L. Britz tax service associate
NAME TITLE
March 7 2014
DATE

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MAR 07 2014

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