

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Maiser Aboneaaj</u>	NAME: <u>Maiser Aboneaaj</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>
CITY: <u>Duluth</u>	CITY: <u>Duluth</u>
STATE: <u>Georgia</u> ZIP: <u>30097</u>	STATE: <u>Georgia</u> ZIP: <u>30097</u>
PHONE: <u>(770) 822-0900</u>	PHONE: <u>(770) 822-0900</u>
CONTACT PERSON: <u>Marian C. Adeimy, Esq.</u> PHONE: <u>(770) 822-0900</u>	
CONTACT'S E-MAIL: <u>madeimy@atclawfirm.com</u>	

APPLICANT IS THE:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER

PRESENT ZONING DISTRICT(S): R-100 & MH REQUESTED ZONING DISTRICT: R-TH

LAND DISTRICT(S): 7th LAND LOT(S): 044 ACREAGE: 2.344

ADDRESS OF PROPERTY: 1852 Marie Way, Lawrenceville, Georgia and 1655 Purcell Road, Lawrenceville, GA

PROPOSED DEVELOPMENT: Townhome community

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>18</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>1,100 sqft</u>	Total Building Sq. Ft. _____
Gross Density: <u>7.68</u>	Density: _____
Net Density: <u>7.68</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED



LAND DESCRIPTION

All that tract or parcel of land lying and being a part of Land Lot 44 of the 7th Land District of Gwinnett County, Georgia and being more particularly described as follows:

Beginning at a 1/2 inch rebar found at the intersection of the northerly right of way of Marie Way (50 foot right of way) and the Westerly right of way of Purcell Road (right of way varies) said point being the POINT OF BEGINNING.

Thence along the right of way of Marie Way the following two courses and distances North 63 degrees 24 minutes 00 seconds West for a distance of 82.29 feet to a point; Thence along a curve turning to the right having a radius of 140.86 feet, an arc length of 67.71 feet and being subtended by a chord having a bearing of North 46 degrees 28 minutes 17 seconds West for a distance of 67.06 feet to a 1/2 inch rebar found; Thence leaving said right of way North 48 degrees 55 minutes 30 seconds East for a distance of 120.02 feet to a 1/2 inch rebar found; Thence North 51 degrees 30 minutes 14 seconds West for a distance of 8.86 feet to a 1/2 inch rebar found; Thence North 20 degrees 11 minutes 14 seconds West for a distance of 229.14 feet to a 1/2 inch rebar found; Thence North 32 degrees 39 minutes 48 seconds East for a distance of 179.86 feet to a 1/2 inch rebar found; Thence South 69 degrees 30 minutes 18 seconds East for a distance of 260.62 feet to a 1/2 inch rebar found on the Westerly right of way of Purcell Road; Thence along the right of way of Purcell Road the following four courses and distances along a curve to the right having a radius of 1633.45 feet, an arc length of 185.93 feet and being subtended by a chord having a bearing of South 22 degrees 49 minutes 41 seconds West for a distance of 185.83 feet to a point; Thence South 27 degrees 40 minutes 42 seconds West for a distance of 204.89 feet to a 1/2 inch rebar found; Thence North 51 degrees 06 minutes 07 seconds West for a distance of 10.26 feet to a 1/2 inch rebar found; Thence South 26 degrees 34 minutes 21 seconds West for a distance of 107.74 feet to a 1/2 inch rebar found, said point being the POINT OF BEGINNING.

Said tract contains 2.344 acres and is shown as tract one and tract two on a survey for John Bambach and prepared by Bullard Land Planning, Inc., dated November 19, 2013.

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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 Exhibit "B".

- (B) WHETHER A PROPOSED REZONING 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 REZONING HAS REASONABLE ECONOMIC USE AS CURRENTLY ZONED:

See Exhibit "B".

- (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 Exhibit "B".

- (E) WHETHER THE PROPOSED REZONING 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 REZONING:

See Exhibit "B".

EXHIBIT "B"
APPLICANT'S RESPONSE
1655 PURCELL ROAD AND 1852 MARIE WAY ("PROPERTY")

- 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 has been established as an industrial, office, and mixed-use node and the proposed transitional zoning for townhomes is consistent the 2030 Unified Plan and map and an appropriate transition based on the nearby office and industrial uses.

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

No. The subject Property is near major roads and nearby property is made up of older mobile homes and more intense industrial, office and commercial uses.

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

No. In addition to the shape, size and configuration of the subject property, under the current single-family residential zoning, the Property would have almost no chance of any reasonable or likely economic use in the office and industrial node in which its located.

- 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:

No. Any use under this rezoning, including the proposed 18-unit townhome community, would have access to the existing utilities, major roads, and highways, with little to no impact, excessive, or burdensome use on transportation facilities, streets, utilities, or the school system.

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

Yes. The proposed rezoning would be entirely consistent with the letter and intent of the Gwinnett 2030 Unified Plan and Comprehensive Plan for this node, labeled for mixed-use, along with research, development and industrial uses.

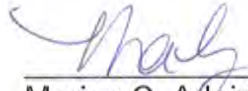
- F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER THE APPROVAL OR DISAPPROVAL OF THE PROPOSED REZONING.

To restrict the subject property to the current residential zoning district leaves the Applicant and Owner with zero economic use for what would be an otherwise viable parcel, and 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 for the requested, transitional R-TH zoning is appropriate as applied to the subject Property and is consistent with the surrounding uses.

This 6th day of December, 2013.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adeimy
Attorney for Owner/Applicant

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MARIAN C. ADEIMY
Attorney at Law

E-mail: madeimy@atclawfirm.com

LETTER OF INTENT FOR REZONING TO R-TH **Purcell Road Townhomes**

The Applicant, Maiser Aboneaaj (hereinafter, "Applicant"), submits this request for a townhome community on an approximately 2.344 acre tract of land located at the corner of Purcell Road and Marie Way, specifically 1655 Purcell Road and 1852 Marie Way (hereinafter, the "Property"). The subject property covered by this Application is currently zoned R-100 and MH.

The proposed townhome development would increase property values of the nearby mobile residential homes and would provide an appropriate transition from the industrial to residential uses along Purcell Road and Lakes Parkway.

This site is consistent with other townhome developments in the Sugarloaf Parkway area. These townhome developments have provided young professionals who are from the area or who work nearby with home ownership options that allow for a maintenance free lifestyle consistent with their busy lives with a price point and architectural standard consistent with the surrounding community.

Quality townhomes do not have a negative impact on residential property values. Townhomes are not apartments. The proposed townhomes would be individually owned by the occupant. Rental of townhome units and maintenance of the community and common property would be governed by covenants for the development. By way of example, there is a townhome development right outside the entrance to the Sugarloaf Country Club subdivision and a beautiful townhome development at Sever Road & Old Peachtree. Like the nearby mobile home, office, and industrial uses surrounding the subject Property, the property values of the single-family subdivisions in each of those areas have not been negatively impacted as a result of having quality townhome developments in those areas.

Furthermore, with a townhome development, the landscaping and exterior maintenance is all taken care of by the mandatory homeowners association and dues are collected from the owners to pay for that upkeep. So there is a better guarantee of long term maintenance, upkeep and attractiveness of the individual homes and the overall development that you don't have with single family homes, where each individual homeowner is responsible for their own landscaping and maintenance.

Additionally, townhome developments also have very little, if any impact on the school system. Townhomes are marketed to and appeal primarily to young and/or single

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professionals with no kids. The design of a townhome unit and the fact that there is no yard to play in makes it particularly undesirable to families with children. So from the perspective of school impact, a townhome development has far less of an impact than that of a traditional single-family subdivision.

The subject Property is surrounded by industrial and office uses to the South, East and West, zoned M-1, and is bordered by a large mobile home community, providing an appropriate transition from residential to office and industrial uses. The property is located adjacent to the Corporate Lakes industrial and office park, a primary Research and Development node identified in the 2030 Unified Plan and Future Development Map. Townhomes will serve employees and promote growth in that research and development corridor. The property is also only a few parcels away from the major Mixed-Use, Mixed-Housing, and Office nodes identified in the Gwinnett 2030 Unified Plan, further bolstering the need for a transitional use on the subject Property and making this request entirely consistent with the Plan's guidelines for this area.

Most importantly, the subject property has absolutely no reasonable economic use as currently zoned R-100. It would be all but impossible to develop and/or market the property for any low density, detached or single-family residential uses due to (1) the property's relatively small size and configuration, (2) the fact that the property is a peninsula, surrounded almost entirely by industrial and office uses, with very little depth back from any of the roads surrounding the property, and (3) the age of the adjacent mobile home community. Due to the size and shape of the Property and given the more intense office and industrial uses located nearby, the Applicant also seeks setback variances from 40 to 30 feet along the property line adjacent to the mobile home communities, and from 40 to 20 feet along the rear setback. Additionally, due to the size and configuration of the Property, the Applicant requests a variance to allow for minimal easement encroachment in the landscape strip and for a 50% reduction of the front setback along Purcell Road (located across from industrial uses). All of the requested variances will allow the Applicant to promote a quality, well-designed and well-landscaped townhome community, in compliance with applicable development, detention/retention, and landscaping ordinances and regulations.

The development of the property as a small but high-quality townhome development is appropriate to the subject tract and would be entirely consistent with the residential to office transitional character of the area. Townhomes are essentially the only residential use that would work on this property. If that use is not permitted, the owner and Applicant will be left with no other reasonable economic uses available for the Property.

The extension of this commercial node to the subject property is entirely appropriate under any reasonable land use consideration and is also consistent with the Board of Commissioners precedent in establishing the Lakes Parkway office park as an industrial and commercial node and approving subsequent expansions of this node.

The property has access to a public water supply, public sanitary sewer, and convenient access to collector streets, major thoroughfares and an interstate highway. The subject property is also located near public transportation routes and locations already existing and being considered in Gwinnett County.


CONCLUSION

This proposed townhome use would bring a vibrant, upscale, community to this area and serve the nearby companies and the young professionals they employ. Applicant and its representatives welcome the opportunity to meet with the staff of the Gwinnett County Department of Planning and Development, Planning Commissioners, and Board of Commissioners to answer any questions or to address any concerns. Applicant respectfully requests your approval of this Application.

This 6^h day of December, 2013.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adelmy
Attorney for the Applicant

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JUSTIFICATION FOR REZONING EH HOLDINGS, LLLP

The Applicant and Owner, Maiser Aboneaaj and Ahmad Aboneaaj (hereinafter, collectively the "Applicant") hereby states that the portions of the Gwinnett County Zoning Resolution and/or zoning conditions which presently restrict the property known as 1655 Purcell Road, Lawrenceville, Georgia and 1852 Marie Way, Lawrenceville, Georgia (hereinafter, collectively the "Property") are and would be unconstitutional in that they would destroy the Applicant's and Owner'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 Zoning Resolution and/or zoning conditions which presently restrict the property is unconstitutional, illegal, null and void, constituting a taking of the Applicant'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 use under the requested R-TH zoning classification, with buffer and setback variances, as requested by the Applicant, and is not economically suitable for development under the present R-100, residential zoning classification and conditions, or with the current buffer and setback requirements under the R-TH zoning district. 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 the requested zoning with the requested 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

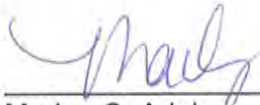
Amendment to the Constitution of the United States. Any rezoning of the subject Property to the requested zoning classification or some other classification, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's 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 constitutions as set forth herein.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property, with any requested variances and amendments submitted by the Applicant, be granted, and that the Property be rezoned to the zoning classification and conditions requested therein.

This 6th day of December, 2013.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adeimy
Attorney for Owner/Applicant

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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.

Mari

Signature of Applicant

12-6-13

Date

Marian C. Adeimy, Attorney for Owner/Applicant

Type or Print Name and Title

Ginger Conroy

Signature of Notary Public

Date



12-6-13

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.

Mady

12-6-13

Signature of Property Owner

Date

Marian C. Adeimy, Attorney for Owner/Applicant

Type or Print Name and Title

Ginger Conroy

12-6-13

Signature of Notary Public

Date



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CONFLICT OF INTEREST CERTIFICATION FOR REZONING

The undersigned below, making application for a Rezoning, has complied with the Official Code of Georgia Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions, and has submitted or attached the required information on the forms provided.

Marian C. Adeimy 12-6-13 Marian C. Adeimy, Attorney for Owner/Applicant
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

Marian C. Adeimy 12-6-13 Marian C. Adeimy, Attorney for Owner/Applicant
 SIGNATURE OF APPLICANT'S DATE TYPE OR PRINT NAME AND TITLE
 ATTORNEY OR REPRESENTATIVE

Ginger Conroy 12-6-13
 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 Andersen, Tate & Carr, P.C.
 YOUR NAME

If the answer is yes, please complete the following section: See Exhibit "C".

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

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

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