

REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: <u>Yellow Fever Group, LLC</u>	NAME: <u>Larry N. Thompson</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>3350 Hamilton Road</u>
CITY: <u>Duluth</u>	CITY: <u>Lawrenceville</u>
STATE: <u>Georgia</u> ZIP: <u>30097</u>	STATE: <u>Georgia</u> ZIP: <u>30044</u>
PHONE: <u>(770) 822-0900</u>	PHONE: _____
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 DISTRICTS(S): C-2 & R-ZT REQUESTED ZONING DISTRICT: R-60

LAND DISTRICT(S): 6th LAND LOT(S): 153 ACREAGE: approx. 5.12 acres

ADDRESS OF PROPERTY: 3282 Lawrenceville Highway, Lawrenceville, Georgia (Parcel ID No. R6153 058)

PROPOSED DEVELOPMENT: Rezoning of property zoned C-2 and RZT to R-60, to assemble with the adjacent R-ZT property (12.71 acres) rezoned in RZM-07-007, and per the attached elevations for that adjacent tract.

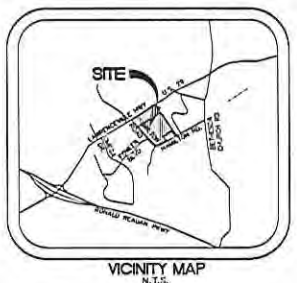
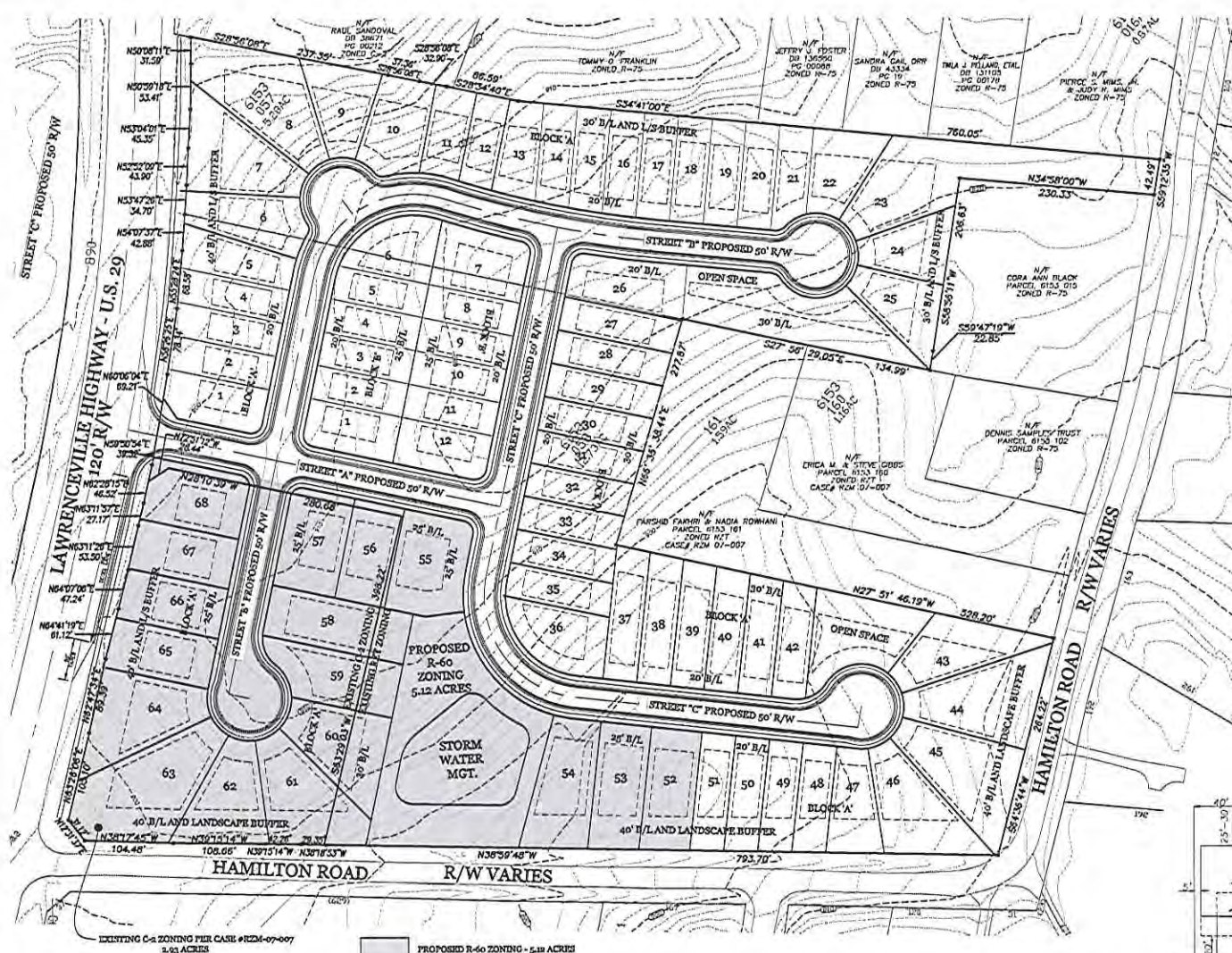
RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>80 total units (R-60 & R-ZT)</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>1,800 min.</u>	Total Building Sq. Ft. _____
Gross Density: <u>R-60: 3.32/ R-ZT: 4.95</u>	Density: _____
Net Density: <u>R-60: 3.32/ R-ZT: 4.95</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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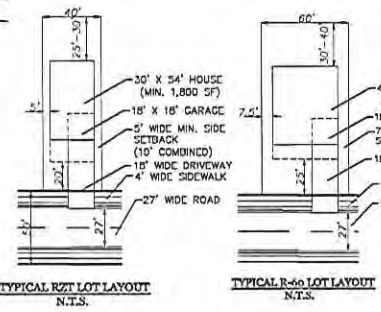
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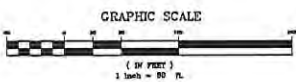


- R-60 SITE SUMMARY:**
- TOTAL ACREAGE (GROSS AND NET) OF R-60 = 5.12 ACRES
 - TOTAL NUMBER OF LOTS = 17
 - EXISTING ZONING = C-2 & RTZ (ZONED 07-007); PROPOSED ZONING IS R-60
 - GROSS & NET DENSITY = 3.32 LOTS/AC.
 - BOUNDARY INFORMATION BASED ON GWINNETT COUNTY TAX MAPS
 - TOPOGRAPHIC INFORMATION BASED ON MEAN SEA LEVEL, AS TAKEN FROM GWINNETT COUNTY GIS SURVEY REFERENCE DATUM: NOV-1989.
 - NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A DESIGNATED 100 YEAR FLOOD HAZARD AREA AS DEPICTED ON F.I.R.M. PANEL NO. 12150800P DATED SEPTEMBER 26, 2006
 - LOTS SHOWN ARE FOR SINGLE FAMILY USE ONLY. LOTS HAVE A MINIMUM SQUARE FOOTAGE OF 7,200. MAXIMUM DWELLING HEIGHT IS 35 FEET. MINIMUM PROPOSED DWELLING SIZE IS 1,800 SF.
 - ALL LOTS TO BE SERVED BY GWINNETT COUNTY GRAVITY FLOW SANITARY SEWER.
 - WATER PROVIDED BY GWINNETT COUNTY.
 - YARD REQUIREMENTS: FRONT = 25 FT
REAR = 30'
SIDEYARD = 7.5' MIN

- RTZ SITE SUMMARY:**
- TOTAL ACREAGE (GROSS AND NET) OF RTZ = 12.71 ACRES
 - TOTAL NUMBER OF LOTS = 43
 - EXISTING ZONING IS RTZ
 - GROSS & NET DENSITY = 4.95 LOTS/AC.
 - BOUNDARY INFORMATION BASED ON GWINNETT COUNTY TAX MAPS
 - TOPOGRAPHIC INFORMATION BASED ON MEAN SEA LEVEL, AS TAKEN FROM GWINNETT COUNTY GIS SURVEY REFERENCE DATUM: NOV-1989.
 - NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A DESIGNATED 100 YEAR FLOOD HAZARD AREA AS DEPICTED ON F.I.R.M. PANEL NO. 12150800P DATED SEPTEMBER 26, 2006
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 - ALL LOTS TO BE SERVED BY GWINNETT COUNTY GRAVITY FLOW SANITARY SEWER.
 - WATER PROVIDED BY GWINNETT COUNTY.
 - YARD REQUIREMENTS: FRONT = 25 FT
REAR = 25' (INTERNAL)
40' (EXTERNAL)
SIDEYARD = 5' MIN



AVERAGE LOT SIZE = 5,000 SF



PROPOSED R-60 ZONING - 5.12 ACRES

OWNER/DEVELOPER:
ANDERSON, TATE & CARR, P.C.
ONE SUGARLOAF CENTRE
SUITE 4000
1960 SATELLITE BOULEVARD
DULUTH, GA. 30097
TEL. 770-822-0900
CONTACT: MARIAN C. ADEMY



LOT & BLOCK CHART

LOTS 1A-51A EXISTING RTZ ZONING
LOTS 32A-48A PROPOSED R-60 ZONING
LOTS 19-12B EXISTING RTZ ZONING

TOTAL RTZ LOTS = 43
TOTAL PROPOSED R-60 LOTS = 17

OVERALL GROSS AND NET DENSITY - 80 LOTS/17.83 ACRES = 4.49

		STAMP
Precision Planning, Inc. Survey, Engineering, Architecture & Landscaping 605 Box 2170 Lawrenceville, GA 30046-2170 (770) 962-5500 (770) 962-5505 Fax WWW.PPINC.COM		FILE NO. 271
		PROJECT
HAMILTON ROAD @ HIGHWAY 29 TRACT LAWRENCEVILLE HIGHWAY AT HAMILTON ROAD LAND LOT 13 OF THE 6TH DISTRICT GWINNETT COUNTY, GEORGIA		SHEET
REZONING PLAN	DATE	RELEASE
DESIGN	DRAWN	DATE
JAR	JAR	FILE NUMBER
DATE NO DESCRIPTION	DATE	FILE NUMBER
4/2/14	14117	1 OF 1

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REZONING APPLICANT'S RESPONSE
STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENTS 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 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"

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EXHIBIT "B"
APPLICANT'S RESPONSE

- 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 a transitional residential node and the proposed transitional, down-zoning for single family homes is consistent the 2030 Unified Plan and map and an appropriate transition based on the nearby commercial, townhome, and residential uses, and being adjacent to Highway 29, a major highway.

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

No. The subject Property is located near a major highway and intersection, and nearby property is made up of more dense residential and commercial uses. The Property is consistent with and will have no adverse impact on the single family uses already in the area.

- 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 commercial zoning, the Property would have almost no chance of any reasonable or likely economic use due to the adjacent residential zonings and uses.

- 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 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 residential and commercial 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 transitional residential zoning is appropriate as applied to the subject Property, and is consistent with precedent and the Gwinnett County Board of Commissioners' approval of the nearby R-ZT, R-60 and R-TH zonings.

This 9 day of May, 2014.

Respectfully submitted,

ANDERSEN, TATE & CARR, P.C.



Marian C. Adeimy
Attorney for Owner/Applicant

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ANDERSEN | TATE | CARR

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

MARIAN C. ADEIMY
Attorney at Law

E-mail: madeimy@atclawfirm.com

LETTER OF INTENT FOR REZONING

The Applicant, Yellow Fever Group, LLC (hereinafter, "Applicant"), submits this request for rezoning of the property located at Hamilton Road and Lawrenceville Highway 29, known as 3282 Lawrenceville Highway (the "Property"), from C-2 to R-60, in order to assemble the subject Property with the to the adjacent property, zoned R-ZT and located at 3226 Lawrenceville Highway, for the development of a single-family residential subdivision.

The Applicant proposes a quality residential development consistent with that prior rezoning, based on the proposed conditions and elevations submitted herewith. The addition of these 5.12 acres will promote and allow for that quality subdivision.

The proposed rezoning will downzone the property from its current C-2 zoning and proposes a lower density than the adjacent R-ZT zoning, while allowing for a consistent residential development with the addition of the 5.12 acres. The property is located across from a much more dense, townhome community, and in the vicinity of older, single family homes, making the requested downzoning and proposed development appropriate in this area. The Applicant believes that the proposed development will help increase property values, and will provide an appropriate transition to the more dense residential and commercial uses along Lawrenceville Highway. As required by the Unified Development Ordinance, a mandatory homeowners association would be responsible for landscaping and maintenance of common areas, to maintain the quality of the proposed community.

The 2030 Unified Plan and Future Development Map identifies this area as mixed commercial/residential, making this request entirely consistent with the Comprehensive Plan's guidelines for this area. Based on its location, and the adjacent, similarly-zoned property, this proposed use will serve to provide updated and quality housing in this area. The 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. The Applicant respectfully requests your approval of this Application.

Respectfully submitted this 9 day of May, 2014.



Marian C. Adeimy
Attorney for the Applicant

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ONE SUGARLOAF CENTRE
1960 SATELLITE BOULEVARD, SUITE 4000
DULUTH, GEORGIA 30097
(770) 822-0900
FACSIMILE (770) 822-9680
www.atclawfirm.com

Marian C. Adeimy, Esq.

Email: madeimy@atclawfirm.com

JUSTIFICATION FOR REZONING / CONSTITUTIONAL OBJECTIONS

The portions of the current official zoning map and/or zoning resolution of Gwinnett County, Georgia which classify or may classify the property which is the subject of this Rezoning Application. located at Hamilton Road and Lawrenceville Highway 29, known as 3282 Lawrenceville Highway (the "Property") into any less intensive zoning classification other than as requested by the Applicant, are or would be unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Gwinnett County Zoning Resolution as applied to the subject Property, which restricts its use to the present zoning classification, is unconstitutional, illegal, null and void, constituting a taking of the Applicant's and the Owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the R-60 zoning classification as requested by the Applicant and such a request is consistent with both the existing zoning and uses of the subject and surrounding properties as well as the subject property's partial designation on Gwinnett County's Comprehensive Plan. The Property is not economically suitable for development under the present zoning classification of Gwinnett County. A denial of this Application would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore, 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 rezone the Property to the R-60 classification with only such conditions as agreed to by the Applicant, 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 R-60 classification with conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application.

Respectfully submitted this 9 day of May, 2014.

ANDERSEN, TATE & CARR, P.C.

By: 

Marian C. Adeimy
Attorneys for Applicant

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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.

Harry N. Thompson Jr, Executor 4/23/2014
Signature of Property Owner Date

HARRY N. THOMPSON JR, EXECUTOR
Type or Print Name and Title

Carla W. Stueber 4-24-2014
Signature of Notary Public Date Notary Seal

**CARLA W STUEBER
NOTARY PUBLIC, GWINNETT COUNTY, GEORGIA
MY COMMISSION EXPIRES NOVEMBER 17, 2014**

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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.

Matthew Retter 4-28-14 Matthew Retter manager
 SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

Maia 4-28-14 Maia C. Adeimy
 SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

Carla W Stueber 4-28-2014 NOTARY SEAL
 SIGNATURE OF NOTARY PUBLIC DATE

CARLA W STUEBER
 NOTARY PUBLIC, GWINNETT COUNTY, GEORGIA
 MY COMMISSION EXPIRES NOVEMBER 17, 2014

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 Matthew Retter
 YOUR NAME

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

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. RZR '14 0 1 7

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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
	\$500	February 22, 2013
Jace Brooks, District 1 Commissioner	\$500	March 15, 2012
	\$500	December 20, 2012
	\$1,500	November 12, 2013
Lynette Howard, District 2 Commissioner	\$1,000	May 25, 2010
	\$1,000	October 27, 2011
	\$1,000	March 20, 2014
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	August 25, 2011
	\$1,000	January 9, 2014
	\$200	March 26, 2014
	\$100	May 6, 2014

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