CHANGE IN CONDITIONS APPLICATION

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Mahaffey Pickens Tucker, LLP	NAME: Trout Properties at Scenic Overlook, LLC
ADDRESS: 1550 N Brown Rd, Ste 125	ADDRESS: 1550 N Brown Rd, Ste 125
CITY: Lawrenceville	CITY: Lawrenceville
STATE: Georgia ZIP: 30043	STATE: Georgia ZIP: 30043
PHONE: 770.232.0000	PHONE: 770.232.0000

CONTACT PERSON: Shane Lanham PHONE: 770.232.0000

CONTACT'S E-MAIL: slanham@mptlawfirm.com

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

APPLICANT IS THE:

[X] OWNER'S AGENT [ ] PROPERTY OWNER [ ] CONTRACT PURCHASER

ZONING DISTRICTS(S): C-2 PRIOR ZONING CASE: RZC2002-016

LAND DISTRICT(S): 5 LAND LOT(S): 86 ACREAGE: 2.407

ADDRESS OF PROPERTY: 1133 Scenic Highway, Lawrenceville, GA 30045

PROPOSED CHANGE IN CONDITIONS: CIC to allow an internal driveway on Scenic Pines Drive

RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT:
NO. OF LOTS/DWELLING UNITS: n/a	NO. OF BUILDINGS/LOTS: 1/1
DWELLING UNIT SIZE (Sq. Ft.): n/a	TOTAL GROSS SQUARE FEET:
GROSS DENSITY: n/a	DENSITY:
NET DENSITY: n/a	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION

All that tract or parcel of land containing 1.184 acres and being in Land Lot 86 of the 5th District of Gwinnett County, Georgia, and being more particularly described as follows:

Commencing at a point at the intersection formed by the centerline of Essex Drive and the Westerly right of way of Georgia Highway 124; thence along the right of way margin of Georgia Highway 124, north 13 degrees 27 minutes 41 seconds east a distance of 1,153.60 feet to a point; thence along said margin North 13 degrees 27 minutes 41 seconds east a distance of 377.64 feet to a point; said point being the point of beginning; thence from said point of beginning leaving said margin north 76 degrees 16 minutes 55 seconds west a distance of 252.70 feet to a point; thence north 13 degrees 43 minutes 05 seconds east a distance of 211.37 feet to a point; thence south 76 degrees 16 minutes 55 seconds east a distance of 101.79 feet to a point; thence south 68 degrees 31 minutes 44 seconds east a distance of 109.42 feet to a point; thence along a curve to the right with an arc length of 49.01 feet and with a radius of 65.00 feet and being subtended by a chord bearing north 46 degrees 55 minutes 47 seconds west and a distance of 47.85 feet to a point; thence south 13 degrees 27 minutes 41 seconds west a distance of 173.15 feet to a point, said point being the point of beginning.

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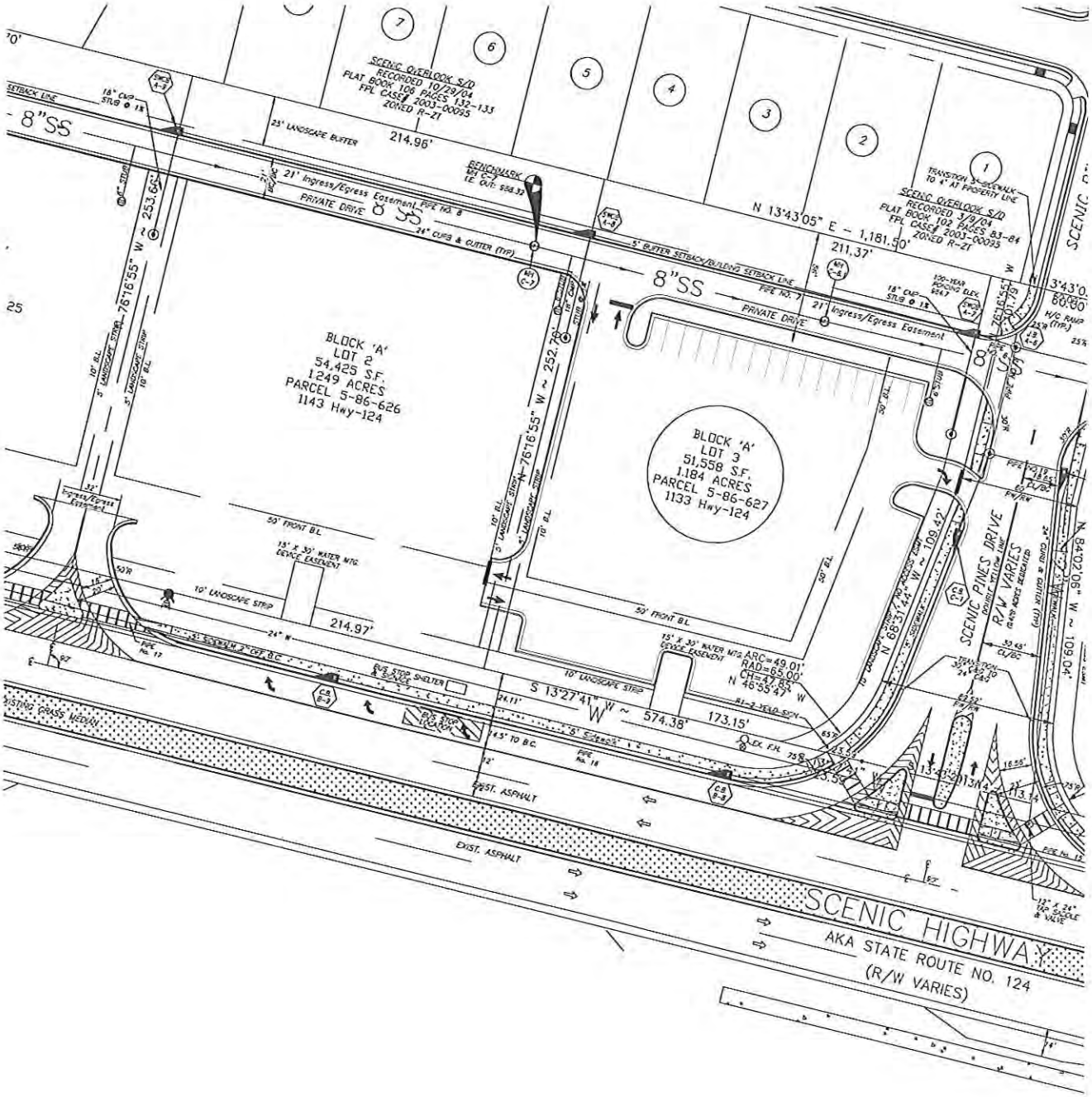

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FINAL PLAT for SCENIC OVERLOOK COMMERCIAL LOTS UNIT 1

SCENIC VIEW TRACE 50' R/W

SCENIC PINES DRIVE 50' R/W

SCENIC HIGHWAY
AKA STATE ROUTE NO. 124
(R/W VARIES)

BLOCK 'A' LOT 1 45,779 S.F. 1.051 ACRES PARCEL 5-06-625 1150 Hwy-124

BLOCK 'A' LOT 2 54,425 S.F. 1.249 ACRES PARCEL 5-06-626 1140 Hwy-124

BLOCK 'A' LOT 3 51,558 S.F. 1.184 ACRES PARCEL 5-06-627 1130 Hwy-124

BLOCK 'A' LOT 4 53,202 S.F. 1.223 ACRES PARCEL 5-06-628 1050 Hwy-124

BLOCK 'A' LOT 5 54,624 S.F. 1.240 ACRES PARCEL 5-06-629 1000 Hwy-124

SCENIC OVERLOOK S/D RECORDED 10/21/04 PLAT BOOK 108 PAGES 132-133 FPL CASE# 2003-00093 ZONED H-2T

N 13°43'05" E ~ 1,181.50'

S 15°27'41" W ~ 574.38'

S 13°34'11" W ~ 483.50'

PRIVATE DRIVE

21' Ingress/Egress Easement

24" Curb & Gutter (TYP)

10' LANDSCAPE STRIP

EXIST. CONCRETE FLUME

EXIST. ASPHALT

EXISTING GRASS MEDIAN

GRAPHIC SCALE
SCALE 1" = 30'

LOCATION MAP

NOT TO SCALE

FINAL PLAT DATA

GENERAL	
ZONING	C-2 / H-2T-PUD-HTS
DEVELOPMENT TYPE	COMMERCIAL
PROJECT DATA	
NUMBER OF LOTS	5
TOTAL AREA (ACRES)	7.776
NET AREA (ACRES)	7.776
FLOODPLAIN AREA	0.00 ACRES
FLOODPLAIN (%)	
FLOODPLAIN ACRES VS. TOTAL ACRES	N/A
SANITARY SEWAGE	SEWER YES / SEPTIC NO
FLOOD PLAIN DATA	
FLOOD PLAIN AREA (%)	N/A
# FLOOD PLAIN VS. TOTAL #	N/A

LOT	BLOCK	SQUARE FEET	ACREAGE
1	A	45,779	1.051
2	A	54,425	1.249
3	A	51,558	1.184
4	A	53,202	1.221
5	A	54,624	1.240
6	A	47,040	0.918
TOTAL 1 - 6	A	306,628	6.867
N/A	—	19,629	0.450
TOTAL LOT	—	312,258	7.167
TOTAL AREA 1 - 6 @ R/W	LOTS	338,688	7.776

PROJECT NAME: FINAL PLAT FOR SCENIC OVERLOOK COMMERCIAL LOTS

SHEET TITLE: PLAN SOUTH

PROJECT NO. DGJ002

SHEET NO. 1 of 2

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CHANGE IN CONDITIONS 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 CHANGE IN CONDITIONS WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:

See attached

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

See attached

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

See attached

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

See attached

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

See attached

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

See attached

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

(A) The proposed change in conditions will permit a use that is suitable in view of the use and development of adjacent and nearby property. The immediate surrounding area is a commercial development with several outparcels. The proposed change in conditions will allow the property to be developed for identical uses to surrounding properties.

(B) The proposed change in conditions will not adversely affect the existing use or usability of adjacent or nearby property. In fact, the proposed change will enhance adjacent and nearby property by increasing the free flow of traffic and the safety of those visiting the property.

(C) In light of market conditions, site-specific topography and design layout, the property to be affected by the proposed change in conditions does not have reasonable economic use as currently zoned.

(D) The proposed change in conditions will not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, or schools. The surrounding infrastructure is built to accommodate a major commercial corridor development such as the development currently existing on adjacent properties. The change in conditions will allow the property to be developed in conformity with surrounding properties.

(E) The proposed change in conditions is in conformity with the policy and intent of the Land Use Plan. The property is in the Corridor Mixed-Use character area and the change in conditions will allow the property to be development in conformity with surrounding properties.

(F) Access to the subject property is restricted due to a zoning condition imposed on the property in 2002. Due to market conditions, the development of the property is not feasible due the lack of direct access. Because access to the property is limited from Scenic Highway, the market demands access from Scenic Pines Drive. In addition to the foregoing, the major development in the area and the evolution of Gwinnett County's Comprehensive Plan regarding commercial developments along Scenic Highway give supporting grounds for approval of the proposed change in conditions.

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Mahaffey Pickens Tucker, LLP
ATTORNEYS AT LAW

Matthew P. Benson
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Christopher D. Holbrook
Gerald Davidson, Jr.*
Jill H. Harris*

Joshua P. Johnson
Jeffrey R. Mahaffey
Steven A. Pickens
Andrew D. Stancil
Kenneth W. Stroud
R. Lee Tucker, Jr.
Wesley C. Turner
*of Counsel

LETTER OF INTENT FOR CHANGE IN CONDITIONS APPLICATION OF TROUT PROPERTIES AT SCENIC OVERLOOK, LLC

Mahaffey Pickens Tucker, LLP submits this application for a change in conditions of zoning on behalf of Trout Properties at Scenic Overlook, LLC (the "Applicant"). The property which is the subject of this application (the "Property") is located at 1133 Scenic Highway south of Sugarloaf Parkway. The Property is currently zoned C-2 for general commercial retail use pursuant to zoning case number RZC-02-016, approved by Resolution of the Board of Commissioners of Gwinnett County, Georgia on May 9, 2002 ("Resolution"). The Resolution contains several conditions governing the development of the Property, which is part of the larger Scenic Overlook development.

The Applicant files this application requesting that one of the conditions of zoning be changed so as to permit a driveway from the parcel onto Scenic Pines Drive. Condition 3B of the Resolution currently reads as follows: "No driveways will be permitted on the proposed main entrance road between State Road 124 and the proposed rear interparcel access easement." The Applicant respectfully requests that Condition 3B be removed in its entirety.

The proposed change in conditions will allow the Applicant to develop the Property as a general commercial use with the driveway as seen on the site plan included within the application. The Applicant is cognizant of potential traffic flow issues and accordingly submits

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this proposal for a "right out" egress-only driveway which will enhance the flow of traffic without creating the potential congestion issues that a "full-service" driveway may create. Having developed other sites similar in size and nature, the Applicant submits that the proposed driveway will greatly aid the flow of traffic into and around the Property as well as increase safety for patrons.

The Applicant and its representatives welcome the opportunity to meet with staff of the Gwinnett County Department of Planning & Development to answer any questions or to address any concerns relating to the matters set forth in this letter or in the Rezoning Application filed herewith. The Applicant respectfully requests your approval of this Application.

Respectfully submitted this 2nd day of July, 2015.

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham
Attorneys for Applicant

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JUSTIFICATION FOR CHANGE IN CONDITIONS APPLICATION OF TROUT PROPERTIES AT SCENIC OVERLOOK, LLC

The portions of the Gwinnett County Unified Development Ordinance (the "Ordinance") which classify or may classify the property which is the subject of this Application (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 Ordinance as applied to the subject Property, which restricts its use to the present zoning classifications and conditions, is unconstitutional, illegal, null and void, constituting a taking of the Applicant/Owner's property in violation of the Just Compensation Clause of the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, Article I, Section I, Paragraph I, and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

The Property is presently suitable for development under the C-2 zoning classification with the change in conditions as requested by the Applicant, and is not economically suitable for development under the present zoning classifications and conditions 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.

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A refusal by the Gwinnett County Board of Commissioners to modify the conditions of zoning 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 modification of conditions on the subject Property with the requested change in conditions, 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/Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Accordingly, the Applicant respectfully requests that the Change in Conditions Application submitted by it relative to the Property be granted and that the current conditions of zoning be amended as requested on the respective application.

This 2nd day of July, 2015.

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham

Attorneys for Applicant

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CHANGE IN CONDITIONS APPLICANT'S CERTIFICATION

THE UNDERSIGNED BELOW IS AUTHORIZED TO MAKE THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

6-3-15

Signature of Applicant — Date

Shane M. Lanham, Attorney for Applicant

Type or Print Name and Title

6-3-15

Signature of Notary Public — Date — Notary Seal

Signature of Notary Public — Date — Notary Seal

WENDY M FRANK NOTARY PUBLIC GWINNETT COUNTY, GA EXPIRES GEORGIA April 13, 2019

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CHANGE IN CONDITIONS PROPERTY OWNER'S CERTIFICATION

THE UNDERSIGNED BELOW, OR AS ATTACHED, IS THE OWNER OF THE PROPERTY CONSIDERED IN THIS APPLICATION. THE UNDERSIGNED IS AWARE THAT NO APPLICATION OR REAPPLICATION AFFECTING THE SAME LAND SHALL BE ACTED UPON WITHIN 12 MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS UNLESS WAIVED BY THE BOARD OF COMMISSIONERS. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION BE ACTED UPON IN LESS THAN SIX (6) MONTHS FROM THE DATE OF LAST ACTION BY THE BOARD OF COMMISSIONERS.

W. R. Nash 6-3-15

Signature of Property Owner Date

WILLIAM R. NASH / MANAGER

Type or Print Name and Title

MITZI WEIPPERT
MY COMMISSION EXPIRES
APRIL
23
2019
GWINNETT CO., GEORGIA
NOTARY PUBLIC

Mitzi Weippert 6-3-15

Signature of Notary Public Date Notary Seal

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CONFLICT OF INTEREST CERTIFICATION FOR CHANGE IN CONDITIONS

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

Signature of Applicant	Date	Type of Print Name and Title
	6-3-15	Shane M. Lanham, Attorney for Applicant
Signature of Applicant's Attorney or Representative	Date	Type or Print Name and Title
	6-3-15	
Signature of Notary Public	Date	Notary Seal

WENDY M FRANK NOTARY PUBLIC GWINNETT COUNTY GA EXPIRES GEORGIA April 13, 2019

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?

[X] YES [ ] NO

Mahaffey Pickens Tucker, LLP
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)
Please see attached.		

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

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CONFLICT OF INTEREST CERTIFICATION FOR REZONING/CHANGE IN CONDITIONS AND SPECIAL USE PERMIT APPLICATIONS

MAHAFFEY PICKENS TUCKER, LLP

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
Tommy Hunter	$1000	08/22/2013
John Heard	$1000	01/09/2014
Lynette Howard	$1000	03/21/2014
Tommy Hunter	$1000	03/05/2015
Jace Brooks	$1000	03/05/2015
John Heard	$1000	03/31/2015

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Updated 05/04/2015

VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR CHANGE IN CONDITIONS

THE UNDERSIGNED CERTIFIES THAT ALL GWINNETT COUNTY PROPERTY TAXES BILLED TO DATE FOR THE PARCEL LISTED BELOW HAVE BEEN PAID IN FULL TO THE TAX COMMISSIONER OF GWINNETT COUNTY, GEORGIA. IN NO CASE SHALL AN APPLICATION OR REAPPLICATION FOR REZONING BE PROCESSED WITHOUT SUCH PROPERTY VERIFICATION.

*** NOTE: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE REZONING REQUEST.**

PARCEL I.D. NUMBER: (Map Reference Number) 5 (District) - 86 (Land Lot) - 627 (Parcel)

Signature of Applicant — Date: 6-1-15

Shane M. Lanham, Attorney for Applicant

Type or Print Name and Title

TAX COMMISSIONERS USE ONLY

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

Jennifer E Gordon — NAME

Tax Services Associate II — TITLE

6/1/15 — DATE

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