ORIGINAL

SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: TNT Fireworks	NAME: DDRTC MARKETPLACE AT MILL CREEK LLC
ADDRESS: 4511 Helton Drive	ADDRESS: 3000 Enterprise Pkwy
CITY: Florence	CITY: Beachwood
STATE: AL ZIP: 35630	STATE: OH ZIP: 44122
PHONE: 800-243-1189	PHONE: 216-755-6571

CONTACT PERSON: Jill Arnold, Esq. PHONE: 404-665-1243

CONTACT'S E-MAIL: jarnold@pftlegal.com

*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:

☐ OWNER'S AGENT ☐ PROPERTY OWNER ☐ CONTRACT PURCHASER ☑ Contract Tenant

EXISTING/PROPOSED ZONING: C-2 BUILDING/LEASED SQUARE FEET: 1,321

LAND DISTRICT(S): 7 LAND LOT(S): 175, 176 ACREAGE: 31.808

ADDRESS OF PROPERTY: 1680 Mall of Georgia Boulevard

SPECIAL USE REQUESTED: Sale of general merchandise; sale of consumer fireworks

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION
LOT 2

All that tract or parcel of land lying and being in Land Lot 175 and 176 of the 7th Land District, Gwinnett County, Georgia and being more particularly described as follows;

To find the True Point of Beginning, commence at the intersection of the northwest right-of-way of Financial Center Way (right-of-way varies) and the northeast right-of-way of Mall of Georgia Boulevard (right-of-way varies) if extended; THENCE along a curve to the left having a radius of 999.00 feet and an arc length of 26.08 feet, being subtended by a chord of South 86 degrees 33 minutes 36 seconds West for a distance of 26.08 feet to a point, said point being the southern most end of a mitered right-of-way, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point as thus established, along said Mall of Georgia Boulevard the following four (4) courses and distances: along a curve to the left having a radius of 999.00 feet and an arc length of 148.90 feet, being subtended by a chord of South 81 degrees 32 minutes 32 seconds West for a distance of 148.76 feet to a point; THENCE South 12 degrees 43 minutes 55 seconds East for a distance of 8.00 feet to a point; THENCE along a curve to the left having a radius of 991.00 feet and an arc length of 212.63 feet, being subtended by a chord of South 71 degrees 07 minutes 32 seconds West for a distance of 212.22 feet to a point; THENCE South 64 degrees 58 minutes 43 seconds West for a distance of 36.69 feet to a point, said point marked by a ½ inch rebar pin set; THENCE leaving said right-of-way and traveling North 26 degrees 50 minutes 28 seconds West for a distance of 307.73 feet to a point; THENCE North 46 degrees 39 minutes 03 seconds West for a distance of 99.83 feet to a point; THENCE North 32 degrees 07 minutes 35 seconds West for a distance of 83.86 feet to a point; THENCE North 54 degrees 42 minutes 25 seconds West for a distance of 234.59 feet to a point; THENCE South 35 degrees 17 minutes 35 seconds West for a distance of 17.39 feet to a point; THENCE North 54 degrees 40 minutes 15 seconds West for a distance of 95.97 feet to a point; THENCE North 70 degrees 37 minutes 16 seconds West for a distance of 153.32 feet to a point, said point being the centerline of a creek; THENCE leaving said centerline of creek North 58 degrees 25 minutes 45 seconds West for a distance of 20.04 feet to a point, said point marked by a ½ inch rebar pin found; THENCE North 58 degrees 27 minutes 46 seconds West for a distance of 464.09 feet to a point along the Land Lot Line common to Land Lots 175 and 188, said point marked by a ½ inch rebar pin found; along said Land Lot Line North 60 degrees 32 minutes 42 seconds East for a distance of 45.59 feet to a point, said point marked by a ½ inch rebar pin found; THENCE along said Land Lot Line North 60 degrees 43 minutes 44 seconds East for a distance of 527.75 feet to a point, said point marked by a ½ inch rebar pin found; THENCE along said Land Lot Line North 58 degrees 51 minutes 56 seconds East for a distance of 122.96 feet to a point, said point marked by a 1 inch open top pipe found; THENCE continuing along said Land Lot Line North 58 degrees 49 minutes 49 seconds East for a distance of 437.95 feet to a point, said point marked by an axle found; THENCE leaving said Land Lot Line South 54 degrees 05 minutes 22 seconds East for a distance of 774.58 feet to a point, said point marked by a 2 inch open top pipe found; THENCE South 76 degrees 31 minutes 06 seconds East for a distance of 265.54 feet to a point along the westerly right-of-way of Financial Center Way (right-of-way varies), said point marked by a 5/8 inch rebar pin found; THENCE along said right-of-way the following eight (8) courses and distances: along a curve to the left having a radius of 1055.53 feet and an arc length of 225.78 feet, being subtended by a chord of South 13 degrees 02 minutes 32 seconds West for a distance of 225.35 feet to a point; THENCE South 06 degrees 54 minutes 52 seconds West for a distance of 98.95 feet to a point; THENCE along a curve to the right having a radius of 407.50 feet and an arc length of 251.74 feet, being subtended by a chord of South 24 degrees 36 minutes 36 seconds West for a distance of 247.76 feet to a point; THENCE South 42 degrees 18 minutes 27 seconds West for a distance of 43.77 feet to a point; THENCE North 47 degrees 41 minutes 12 seconds West for a distance of 3.50 feet to a point; THENCE South 42 degrees 18 minutes 29 seconds West for a distance of 90.14 feet to a point; THENCE along a curve to the left having a radius of 471.00 feet and an arc length of 183.55 feet, being subtended by a chord of South 31 degrees 08 minutes 36 seconds West for a distance of 182.40 feet to a point; THENCE South 19 degrees 58 minutes 35 seconds West for a distance of 13.36 feet to a point; THENCE along a mitered right- of-way South 52 degrees 18 minutes 31 seconds West for a distance of 44.74 feet to a point, said point lying along the northeast right-of-way of Mall of Georgia Boulevard, said point being THE TRUE POINT OF BEGINNING.

Said property contains 31.808 acres.

NOTES

1) SETBACKS AND BUFFERS TAKEN FROM FINAL PLAT FOR THE MARKETPLACE AT MILL CREEK (UNIT II) PREPARED BY PRECISION PLANNING, INC., DATED 8/14/95, RECORDED IN PLAT BOOK 82, PAGE 192.

2) ITEMS 8 AND 14 OF TABLE A OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS OF THE MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS AS ADOPTED BY ALTA/ACSM AND NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS IN 1999 ARE NOT APPLICABLE TO THIS SURVEY (NO TOPOGRAPHIC INFORMATION SHOWN HEREON)

3) NO ENCROACHMENTS FOUND

VICINITY MAP
N.T.S.

SURVEYORS CERTIFICATE

DATE OF SURVEY: [1/20/03, last revised 2/10/07]

This survey is made for the benefit of:

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, FOR THE BENEFIT OF ITS SEPARATE REAL ESTATE ACCOUNT;
DDRTC CORE RETAIL FUND, LLC;
TREA RETAIL PROPERTY PORTFOLIO 2006 LLC;
DDR TC LLC;
CHICAGO TITLE INSURANCE COMPANY;
DDRTC Holdings Pool 1 LLC;
Bank of America, N.A., its successors and/or assigns as their interests may appear;
DDRTC Marketplace at Mill Creek LLC

and their respective successors and assigns as their interests may appear.

I, Randall W. Dixon, Professional Land Surveyor do hereby certify to the aforesaid parties, as of the date set forth above that I have made a careful survey of a tract of land described as follows:

[LEGAL DESCRIPTION]
[See Sheet 1 of 1 of Survey]

I further certify that:

1.) The accompanying survey was made on the ground and correctly shows the location of all buildings, structures and other improvements situated on the above premises and all of said buildings, structures and other improvements, including location and dimensions, are correctly depicted and are fully completed, except as shown hereon. There are no (i) easements, (ii) rights-of-way across said property, (iii) party walls, (iv) encroachments on adjoining properties or streets by any of said buildings, structures or improvements, or (v) encroachments on said property by buildings, structures or other improvements situated on adjoining property, except as shown hereon; there are no streams, rivers, springs, ponds, lakes, ditches or drains located or bordering on or running through the subject premises, except as shown hereon; there are no gaps, gores or overlaps between parcels or roads, highways, streets or alleys and all parcels which comprise the whole subject premises are contiguous.

2.) This map or plat and the survey on which it is based were made in accordance with laws regulating surveying in the State of Georgia, and in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005 and includes Items 1 (except CA), 2, 3, 4, 6, 7a, 7b1, 7c, 8, 9, 10, 11b, 13, 14, 16, 17 and 18 of Table A thereof and to the extent possible, shows the location of all setback lines listed pursuant to Item 6 of Table A. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Georgia the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

3.) The property described hereon is the same as the property described in Chicago Title Insurance Company ALTA Commitment No. [illegible] with an effective date of [illegible] and that all easements, rights-of-way, covenants and restrictions referenced in said title commitment furnished to me by the title insurance company or examining attorney, (with reference to recording data) or apparent from a physical inspection of the site or otherwise known to me have been plotted hereon or otherwise noted as to their effect on the subject property and, unless otherwise stated, the physical evidence and recorded description of such easements conform.

4.) Said described property is located within an area having a Zone Designation AE by the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map No.13135C0138F, with a date of identification of September 29, 2006, for Community No.130322 & 130322, in Gwinnett County, State of Georgia, which is the current Flood Insurance Rate Map for the community in which said premises is situated.

5.) The Property has direct access to Mall of Georgia Boulevard & Financial Center Way, a dedicated public street or highway.

6.) All public roads, highways, streets and alleys running adjacent to or upon the subject premises are shown, all physical evidence of boundary lines and lines of possession or occupancy have been shown and proper notation made where in conflict with the legal description; there are no boundary line discrepancies and no deficiencies in the quantity of the land described in the legal description; the survey was actually made on the ground as per record description furnished by the title insurance company or examining attorney and is true and correct.

7.) Said described property contains 74.922 acres and the total number of striped parking spaces on the subject property is 2,829, including 73 designated handicap spaces.

8.) Except as shown, all visible utilities serving the subject property enter through adjoining public streets and/or easements of record.

9.) The street address of the said described property is 1550, 1600, 1705, 1725 Mall of Georgia Boulevard & 1795 Buford Drive.

Randall W. Dixon
Georgia Professional Land Surveyor No. 1878

GEORGIA REGISTERED No. 1878 Exp. 12-31-08 LAND SURVEYOR RANDALL W. DIXON

REFERENCES

1) REZONING PLAT FOR STERLING RIVERSIDE PREPARED BY PRECISION PLANNING, INC., DATED 8/4/95, LAST REVISED 11/20/95.
2) SURVEY FOR STERLING CORPORATE LAKES PARTNERS LIMITED PARTNERS, PREPARED BY PRECISION PLANNING, INC., DATED 12/06/94, LAST REVISED 8/14/95.
3) GEORGIA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP PROJECT STP-180-1(155).
4) SETBACKS SHOWN HEREON ARE TAKEN FROM A FINAL PLAT OF STERLING RIVERSIDE APARTMENTS DATED 12/22/99 PREPARED WATTS & BROWNING ENGINEERS, INC., RECORDED AT PLAT BOOK 83, PAGE 101, GWINNETT COUNTY RECORDS.

BUILDING CHART

BUILDING #	OCCUPANT	MATERIAL	HEIGHT	SQUARE FOOTAGE
100	TOYS R US	BRICK & STUCCO	39.30'	46,418
200	BORDERS	BRICK & STUCCO	42.40'	23,559
300	OFFICE MAX	STONE & STUCCO	40.00'	23,409
400	LINENS N' THINGS	BRICK & STUCCO	40.00'	34,034
500	PETSMART	BRICK & STUCCO	39.10'	20,961
600	MICHAEL'S	STONE & STUCCO	40.20'	23,865
700	R.E.I.	STONE & STUCCO	32.80'	20,067
800	VACANT	BRICK & STUCCO	22.40'	8,295
900	LOW SHOES	BRICK & STUCCO	25.90'	[illegible]
1000	VACANT	BRICK & STUCCO	28.00'	8,478
1100	VACANT	BRICK & STUCCO	[illegible]	[illegible]
1200	VACANT	BRICK & STUCCO	22.00'	8,449
1300	COST PLUS	BRICK & STUCCO	36.90'	18,323
1400	ROSS	BRICK & STUCCO	41.80'	[illegible]
1500	MARSHALL'S	STONE & STUCCO	34.20'	30,249
	CHUCK E CHEESE	BRICK & STUCCO	30.20'	12,855
	SUBWAY/MIKO	BRICK & STUCCO	24.00'	20,215
	PIER 1	BRICK & STUCCO	21.00'	9,566
	BURGER KING	BRICK	25.70'	4,276
	TGI FRIDAY'S	STUCCO	24.00'	6,024
	COSTCO	BRICK & STUCCO	33.10'	149,590
	HAVERTY WAREHOUSE	BRICK & STUCCO	34.70'	77,304

NOTE: ALL BUILDINGS ARE 1 STORY IN HEIGHT.

INFORMATION REGARDING THE REPUTED PRESENCE, SIZE, CHARACTER AND LOCATION OF EXISTING UNDERGROUND UTILITIES AND STRUCTURES IS SHOWN HEREON. THERE IS NO CERTAINTY OF THE ACCURACY OF THIS INFORMATION AND IT SHALL BE CONSIDERED IN THAT LIGHT BY THOSE USING THIS DRAWING. THE LOCATION AND ARRANGEMENT OF UNDERGROUND UTILITIES AND STRUCTURES SHOWN HEREON MAY BE INACCURATE AND UTILITIES AND STRUCTURES NOT SHOWN MAY BE ENCOUNTERED. THE OWNER, HIS EMPLOYEES, HIS CONSULTANTS AND HIS CONTRACTORS SHALL HEREBY DISTINCTLY UNDERSTAND THAT THE SURVEYOR IS NOT RESPONSIBLE FOR THE CORRECTNESS OR SUFFICIENCY OF THIS INFORMATION.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RECERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

FLOOD STATEMENT

PORTIONS OF THE SUBJECT PROPERTY LIES WITHIN A 100 YEAR FLOOD HAZARD AREA PER FIRM PANEL 13135C0138F, DATED SEPTEMBER 29, 2006.

PARKING SUMMARY
PARKING=2,756 SPACES
HANDICAPPED=73 SPACES
TOTAL = 2,829 SPACES

CLOSURE

A TOPCON GTS-301 TOTAL STATION WAS USED TO OBTAIN THE LINEAR AND ANGULAR MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 18,844 FEET AND AN ANGULAR ERROR OF 03" PER ANGLE POINT, AND WAS ADJUSTED USING THE LEAST SQUARES METHOD.

THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 326,134 FEET AND CONTAINS 74.922 ACRES.

ACREAGE CHART
TRACT TWO = 31.808
TRACT SEVEN =19.790
TRACT EIGHT =1.504
TRACT NINE =1.545
COSTCO TRACT=20.275
TOTAL = 74.922 ACRES

LEGEND

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Precision Planning, Inc.
planners, engineers, architects & surveyors
P.O. Box 2213
400 Pike Boulevard
Lawrenceville, GA 30046-2213
(770) 338-8000
(770) 822-5593 Fax

STAMP

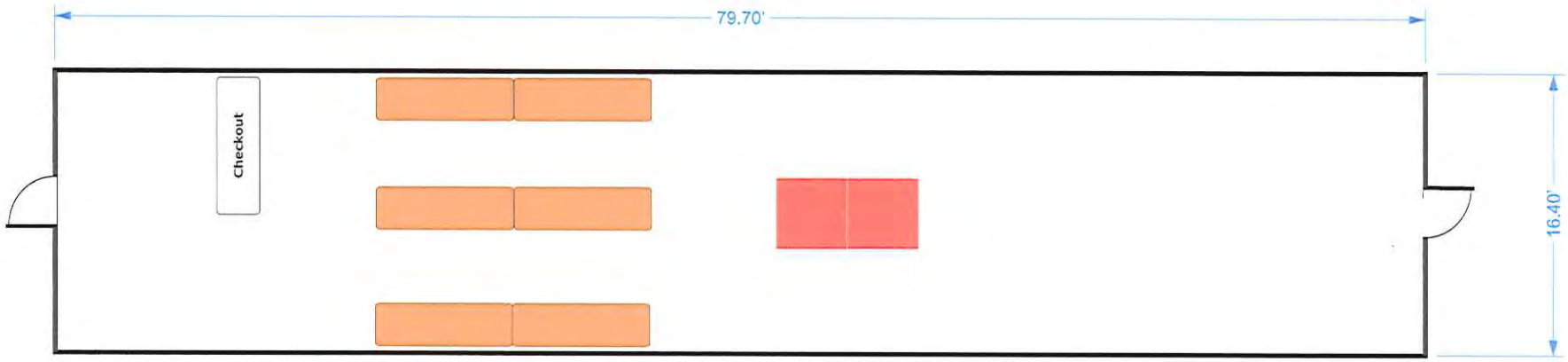
PROJECT
TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, FOR THE BENEFIT OF ITS SEPARATE REAL ESTATE ACCOUNT; TREA RETAIL PROPERTY PORTFOLIO 2006 LLC; DDRTC CORE RETAIL FUND, LLC; DDR TC LLC; CHICAGO TITLE INSURANCE COMPANY; DDRTC Holdings Pool 1 LLC; Bank of America, N.A., its successors and/or assigns as their interests may appear; DDRTC Marketplace at Mill Creek LLC
LL 175 AND 176 OF THE 7TH DISTRICT
GWINNETT CO. GEORGIA

SHEET
ALTA/ACSM LAND TITLE SURVEY FOR
SCALE: 1"=100'
DEJ
SCE

RELEASE

2 OF 2

Location: Marketplace at Millcreek



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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:

PLEASE SEE ATTACHED

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

PLEASE SEE ATTACHED

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

PLEASE SEE ATTACHED

(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:

PLEASE SEE ATTACHED

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

PLEASE 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 SPECIAL USE PERMIT:

PLEASE SEE ATTACHED

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PURSLEYFRIESE TORGRIMSON

Jill Arnold
404-665-1243

E-Mail
jarnold@pftlegal.com

June 29, 2015

Charlotte J. Nash, Chairwoman
and Commissioners
c/o Jeff West, Planning Division Manager
Gwinnett County Board of Commissioners
75 Langley Drive
Lawrenceville, GA 30046

Re: Special Use Permit Application by TNT Fireworks; Letter of Intent; Applicant's Response to Standards Governing the Exercise of the Zoning Power; Constitutional and Ante Litem Notice; 1680 Mall of Georgia Boulevard, Suite 1750, Buford, GA 30519

Dear Chairwoman Nash and County Commissioners:

Please be advised that this firm has been retained by TNT Fireworks ("Applicant") to represent them in obtaining a special use permit for the sale of fireworks and other general merchandise in Gwinnett County. The subject property is located within the Marketplace at Mill Creek Shopping Center at 1680 Mall of Georgia Boulevard, Suite 1750, Buford, GA 30519. This location is a permanent building, not a temporary structure.

The following supporting documents are attached:

1. Completed Application Form;
2. Applicant Certification with Notarized Signature;
3. Property Owner Certification with Notarized Signature;
4. Conflict of Interest Certification/Campaign Contributions Disclosure;
5. Boundary Survey

BACKGROUND

Starting July 1, 2015, Georgia TNT Fireworks Stores will be operating numerous "Retail Chain" stores throughout the state of Georgia and will be licensed as such with the State Fire Marshal's office. In Gwinnett County, TNT Fireworks stores will not be used primarily for the retail sales of "Consumer Fireworks" as defined under state and local law. That is, consumer fireworks will be ancillary to other merchandise offered in the store and in no Gwinnett location shall it be the principal product. TNT's stores will have a minimum of 51% or more of a variety of general merchandise other than Consumer Fireworks. The stores will sell many different kinds of products that are not expensive, including, but not limited to, sparklers and sparkling devices

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as defined in paragraph (2) of subsection (b) of O.C.G.A Code Section 25-10-1, TNT Shirts, hats, posters and other novelty items. The sale of consumer fireworks at these stores will be ancillary to other products available.

As you most likely know, the new state law incorporates definitions and also incorporates by reference National Fire Protection Association Standard 1124, 2006 Edition (NFPA 1124). NFPA 1124 defines a "Store" as a building classified as a mercantile occupancy that contains a variety of merchandise and that is not used primarily for the retail sales of Consumer Fireworks. Mercantile occupancy is defined as occupancy used for the display and sale of merchandise. Accordingly, TNT's retail chain stores fit squarely within the definition of store. Although TNT will operate Consumer Fireworks Retail Sales Facilities (building or structure used primarily for the retail display and sale of Consumer Fireworks), those locations will not be within Gwinnett County. Furthermore, Georgia TNT Fireworks Stores will be in full compliance for all other regulatory requirements for general mercantile occupancies as required by law

RESERVATION OF RIGHTS

Please note that the Applicant's submission of this Special Use Permit Application does not constitute agreement with the County's position and regulations regarding the sale of commercial fireworks. The Applicant reserves its right to challenge the County's special use permit requirements for the sale of fireworks as such regulations go beyond the authority of local governments. As such, this Application does not constitute a waiver of any challenges, facial or as applied, that the Applicant may have against Gwinnett County's regulation of consumer fireworks and deprivation of Applicant's property rights in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth and Fifth Amendments to the Constitution of the United States.

ZONING STANDARDS

The Applicant proposes to use the above-referenced properties for the sale of general merchandise and consumer fireworks. Despite the fact that the sale of consumer fireworks will not be the principal use at any of the six locations, the County is still requiring the Applicant to obtain a special use permit in order to operate in the proposed locations. The proposed use is consistent with Gwinnett County's 2030 Unified Plan for Future Development and the surrounding and nearby properties which include commercial and retail uses.

The Applicant satisfies all of the criteria for a zoning change as set forth in the Gwinnett County Unified Development Ordinance, § 270-20.

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(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:

Yes. The proposed use is suitable in view of the use and development of adjacent and nearby properties. The surrounding area includes a mix of commercial and retail uses, and the property is located within an existing commercial shopping center.

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

No, the proposed special use permit will not adversely affect the existing use or usability of surrounding properties. Surrounding properties include a mix of commercial and retail uses, and the property is located within an existing shopping center.

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

The property, as currently zoned, has some economic value but without the special use permit has little or no value for the proposed retail use and development.

(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:

No, the proposed special use permit will not result in a use which would overburden existing streets, transportation facilities, utilities, or schools. Schools would in no way be affected by the use permit since the use is non-residential. Moreover, the proposed use of the property would not affect utilities. The proposed use of the property will have a negligible impact on the number of vehicles on the road. The existing arterial roads and nearby highways have adequate capacity to handle any increased traffic generated by the use.

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

Yes, the proposed special use permit is consistent with the policies and intent of the land use plan.

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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 SPECIAL USE PERMIT:

Yes. Recent changes in Georgia Law will allow all types of federally legal consumer fireworks to be allowed in the state beginning on July 1, 1015. Prior to this date the sale of fireworks was not permitted in the state. The Applicant seeks to sell general commercial merchandise and legal consumer fireworks in several commercial nodes within the County as permitted by state and local law.

The hereinafter constitutional and ante litem notice is now required by Georgia law.

The portions of the Gwinnett County Unified Development Ordinance, facially and as applied to the Property, which restrict the Property to any zoning classification, uses, or to any zoning district other than that proposed by the Applicant are 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 I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the Gwinnett County Unified Development Ordinance, facially and as applied to the Property, which restricts the Property to any zoning classification, uses, or to any zoning classification other than the classification as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses 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.

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 Section III, Paragraph I 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 grant the special use permit for the property in accordance with the zoning criteria as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner

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between the Applicant and owners of the 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 special use permit issued by the Gwinnett County Board of Commissioners that is subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

A denial of the special use permit for the proposed use on the property would be unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-11-1 to afford the County an opportunity to grant the special use permit. If action is not taken by the County to issue the special use permit within a reasonable time, a claim will be filed in the Superior Court of Gwinnett County demanding just and adequate compensation under Georgia law for the taking of the Property, diminution of value of the Property, attorney's fees and other damages arising out of the unlawful deprivation of the Applicant's property rights.

Accordingly, your Applicant respectfully requests that this Application be granted as requested by the Applicant.

If there are any questions about this rezoning request, you may contact me at 404-665-1243 or at jarnold@pftlegal.com.

Sincerely,

PURSLEY FRIESE TORGRIMSON

G. Douglas Dillard
Julie L. Sellers
Jillian S. Arnold
Attorneys for TNT Fireworks

Pursley Friese Torgrimson
1230 Peachtree Street, Ste. 1200
Atlanta, GA 30309
404-665-1243

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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.

lmackay — 6.28.2015

Signature of Applicant — Date

linda mackay north georgia area manager

Type or Print Name and Title

Kathryn G. Roos — 6/28/2015

Signature of Notary Public — Date — Notary Seal

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KATHRYN G ROOS
Notary Public
Fulton County
State of Georgia
My Commission Expires Jun 8, 2018

SUP '15 034

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.

Signature of Property Owner — Date: 6/24/15

Laura McLaughlin Director, Ancillary Income
Type or Print Name and Title

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
KASEY FOGLEMAN
Notary Public
CONSHOHOCKEN BORO, MONTGOMERY COUNTY
My Commission Expires Apr 6, 2019

Signature of Notary Public — Date: 6/24/15 — Notary Seal

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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	DATE	TYPE OR PRINT NAME AND TITLE
lmackay	6/29/2015	linda mackay

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

SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL
Kathryn G Roos	6/29/15	KATHRYN G ROOS Notary Public Fulton County State of Georgia My Commission Expires Jun 8, 2018

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 linda mackay

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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CAMPAIGN DISCLOSURE STATEMENT

G. DOUGLAS DILLARD, JULIE SELLERS and JILL ARNOLD of the law firm of PURSLEY FRIESE TORGRIMSON, LLP, and formerly of the law firm of WEISSMAN NOWACK CURRY & WILCO, P.C., has been retained to represent TNT FIREWORKS before GWINNETT COUNTY, GEORGIA. Pursuant to the provisions of O.C.G.A. §36-67A-3, please find below a list of the contributions made by the above-named individuals, or the law firm of WEISSMAN NOWACK CURRY & WILCO, P.C. or PURSLEY FRIESE TORGRIMSON, LLP, in the past two years, aggregating $250.00 or more, to local government officials who may review this Application.

NAME OF GOV'T. OFFICIAL	POSITION	AMOUNT OF CONTRIBUTION	DATE OF CONTRIBUTION
John Heard	Commissioner	$250.00	March 24, 2015
Jace Brooks	Commissioner	$250.00	April 3, 2015

PURSLEY FRIESE TORGRIMSON

By: _____
G. DOUGLAS DILLARD

By: _____
JULIE SELLERS

By: _____
JILL ARNOLD

Date: 6/29/2015

1230 Peachtree Street, NE
Promenade II, Suite 1200
Atlanta, GA 30309

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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: (Map Reference Number) 7 - 175 - 001
District - Land Lot - Parcel

Lmackay
Signature of Applicant

6/29/2015
Date

linda mackay
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)

[illegible]
NAME

Tax Services I
TITLE

6-30-15
DATE

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