REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Norsouth Development	NAME: Parkside Walk, LLC
ADDRESS: 2000 Riveredge Pkwy, NW, Ste. 950	ADDRESS: 3663 Clairmont Rd., Ste. A
CITY: Atlanta	CITY: Chambelee
STATE: GA ZIP: 30328	STATE: GA ZIP: 30341
PHONE: (678) 460-2869	PHONE:

CONTACT PERSON: Dennis J. Webb, Jr. PHONE: (404) 815-3500

CONTACT'S E-MAIL: djwebb@sgrlaw.com

APPLICANT IS THE:

☑ OWNER'S AGENT ☐ PROPERTY OWNER ☐ CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): C2 REQUESTED ZONING DISTRICT: O-I

LAND DISTRICT(S): 6 LAND LOT(S): 204 ACREAGE: +/- 5.251

ADDRESS OF PROPERTY: Breckinridge Blvd.

PROPOSED DEVELOPMENT: Age restricted (55+ years) senior apartment community

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units 120	No. of Buildings/Lots:
Dwelling Unit Size (Sq. Ft.): 752 s.f / 1,015 s.f.	Total Building Sq. Ft.
Gross Density: 151,600 s.f.	Density:
Net Density: 109,200 s.f.	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being Land Lot 204 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

To find The Point of Beginning, commence at the intersection of the Southerly Right-of-Way of Breckinridge Boulevard (100' R/W) and the Westerly Right-of-Way of Centerview Drive (100' R/W), if extended to form a point; THENCE along said Right-of-Way of Centerview Drive (100' R/W) South 38 degrees 49 minutes 48 seconds East for a distance of 19.86 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point as thus established and continuing along the said Right-of-Way of Centerview Drive (100' R/W) the following three (3) courses and distances South 38 degrees 49 minutes 48 seconds East for a distance of 186.48 feet to a point; THENCE South 51 degrees 10 minutes 12 seconds West for a distance of 12.00 feet to a point; THENCE South 38 degrees 49 minutes 48 seconds East for a distance of 196.48 feet to a ½" rebar found; THENCE leaving the aforesaid Right-of-Way of Centerview Drive (100' R/W) South 53 degrees 10 minutes 27 seconds West for a distance of 168.00 feet to a point; THENCE along a curve to the right having a radius of 1539.89 feet and an arc length of 188.09 feet, being subtended by a chord of South 56 degrees 40 minutes 24 seconds West for a distance of 187.97 feet to a point; THENCE South 60 degrees 10 minutes 21 seconds West for a distance of 227.96 feet to a ½" rebar found; THENCE North 29 degrees 12 minutes 31 seconds West for a distance of 418.44 feet to a ½" rebar found on the aforesaid Southerly Right-of-Way of Breckinridge Boulevard (100' R/W); THENCE continuing along the said Right-of-Way of Breckinridge Boulevard (100' R/W) the following three (3) courses and distances North 60 degrees 56 minutes 09 seconds East for a distance of 246.78 feet to a point; THENCE along a curve to the left having a radius of 1938.76 feet and an arc length of 260.10 feet, being subtended by a chord of North 57 degrees 05 minutes 32 seconds East for a distance of 259.91 feet to a ½" rebar found; THENCE South 83 degrees 49 minutes 48 seconds East for a distance of 28.98 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

Said property contains 5.251 acres.

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LEGEND

LEGAL DESCRIPTION

All that tract or parcel of land lying and being Land Lot 204 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

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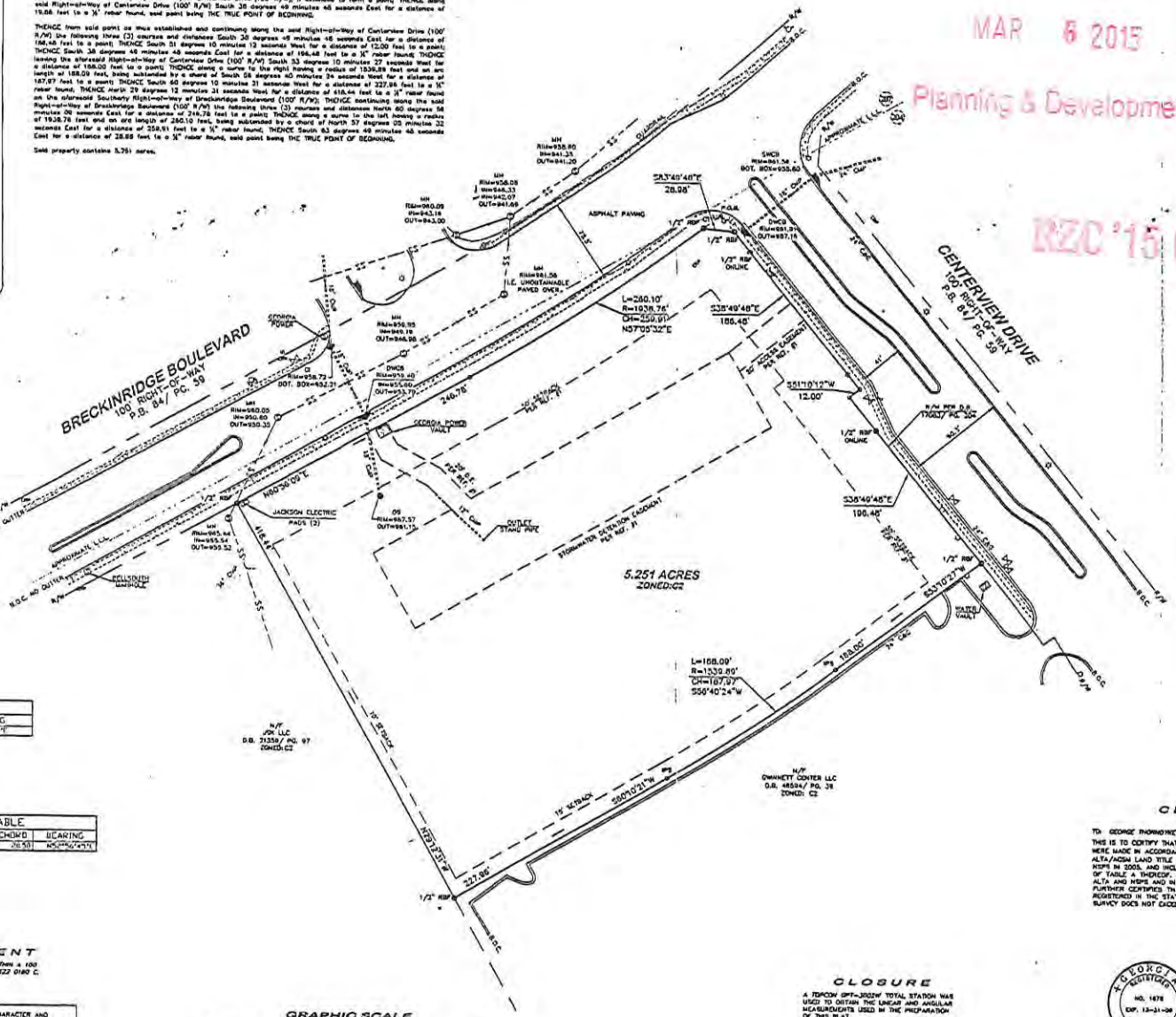
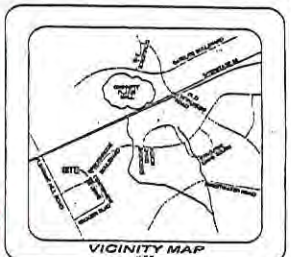
Said property contains 5.251 acres.



VICINITY MAP



N.T.S.

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REFERENCES

1.) FINAL PLAT FOR THE KOGER CENTER GWINNETT, PREPARED BY DOUTHELL ENGINEERING, INC. DATED 3/16/00, GWINNETT COUNTY RECORDS.

2.) WARRANTY DEED RECORDED IN DEED BOOK 14594, PAGE 38, APPRAISAL RECORDS.

3.) WARRANTY DEED RECORDED IN DEED BOOK 21359, PAGE 97, APPRAISAL RECORDS.

4.) RIGHT OF WAY DEED RECORDED IN DEED BOOK 17005, PAGE 326, APPRAISAL RECORDS.

NOTES

1.) ALL AREA INCLUDES EASEMENTS WITHIN.

2.) THE TITLE RESEARCH PERFORMED IN THE PREPARATION OF THIS SURVEY IS LIMITED TO THE INFORMATION NECESSARY TO RETRACE THE BOUNDARY LINES OF THE SUBJECT PROPERTY AND THE ADJOINERS. THIS SURVEY DOES NOT CONSTITUTE A TITLE EXAMINATION. MATTERS OF RECORD WHICH AFFECT THE SUBJECT PROPERTY MAY NOT BE SHOWN HEREON.

LINE TABLE		
LINE	LENGTH	BEARING
L1	19.98	S38°49'48"E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	28.98	1938.76'	28.98'	N53°26'47"E

FLOOD STATEMENT

NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A 100 YEAR FLOOD HAZARD AREA PER FIRM PANEL 13135C 0180 E DATED MAY 4, 1992.

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.

GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

CLOSURE

A TOPCON GPT-3002W 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 70,101' FEET AND AN ANGULAR ERROR OF 02" 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 284,622 FEET AND CONTAINS 5.251 ACRES.

CERTIFICATION

TO: GEORGE THORNDYKE

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE 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, 2, 3, 4, & 7(a), 13 OF TABLE A THEREOF. 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.

GEORGIA REGISTERED LAND SURVEYOR NO. 1678 EXP. 12-31-06 RANDALL W. DIXON

RANDALL W. DIXON
REG. NO. 1678

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.

DATE	NO.	DESCRIPTION

CAD: 06313

E:\SOURCE\06313\CAD\06313.DWG

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GEORGIA REGISTERED LAND SURVEYOR NO. 1678 RANDALL W. DIXON

Precision Planning, Inc.
planners, engineers, architects & surveyors
P.O. Box 2219
400 Pike Boulevard
Lawrenceville, GA 30046-2219
(770) 822-5900
(770) 822-5933 Fax

GEORGE THORNDYKE

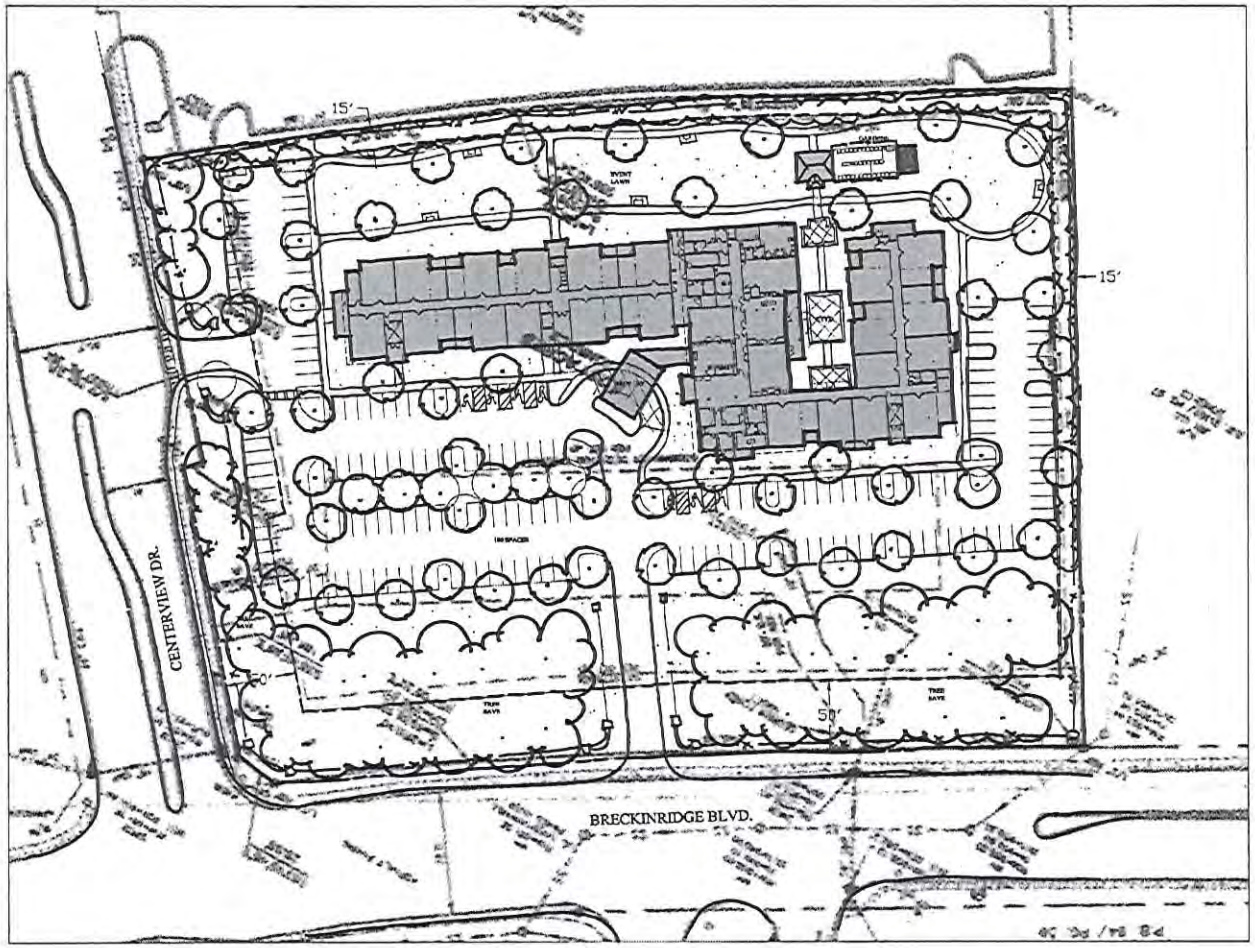
LOCATED IN LAND LOT 204 OF THE 6th LAND DISTRICT OF GWINNETT COUNTY, GEORGIA
SCALE 1"=50'

ALTA/ACSM BOUNDARY SURVEY FOR:
SHEET TITLE

FIELD	DRAWN	CHECKED
MB	JRM	SCE

DATE	DRAWN BY	CHECKED BY	DWG. NO.	FILE NUMBER
11/13/06				
11/6/06				
5/26/06				

1 OF 1



PROJECT DATA:

5.251 ACRES
CURRENTLY ZONED = C-2
PROPOSED ZONING = O-I
120 UNITS (4 STORIES)
180 PARKING SPACES (1.5 / UNIT)

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Breckinridge Village Senior Residences

FEBRUARY 27, 2015
SCALE: 1"=40'-0"
CONCEPTUAL SITE PLAN

NORSOUTH DEVELOPMENT

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

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REZONING APPLICANT'S RESPONSE

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO SECTION 1702 OF THE 1985 ZONING RESOLUTION, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

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

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

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

See attached Letter of Intent

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LETTER OF INTENT

and

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

of

NORSOUTH COMPANIES

for

± 5.251 Acres of Land located in
Land Lot 204, 6th District
REZONE - C-2 to O-I
SUP – Retirement Community/Four-Story Building Height (55')

Submitted for Applicant by:

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

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SGR/12845110.3

I. INTRODUCTION

This Application seeks (a) to rezone ± 5.251 acres of land in Land Lot 204, 6th District of Gwinnett County (the "Subject Property") from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height (55'). The Subject Property is designated as "Regional Mixed-Use" on the County's Future Land Use Map ("FLUM"), a designation that supports the proposed use.

The Subject Property consists of a single tract (R6204129) located in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. The Subject Property is currently undeveloped.

The Applicant is a Georgia-based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980's and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar "HearthSide" communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is scheduled for completion in April, 2015 and Hearthside Tucker is currently under construction.

The senior living community that the Applicant hopes to develop on the Subject Property will have 120 units, at a density of slightly less than 23 units per acre. The development will contain roughly 48 one (1) bedroom, one (1) bathroom units and 72 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio, media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

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

II. IMPACT ANALYSIS

A.

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

Yes. The Subject Property sits in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. It is undeveloped and has commercial, institutional and multi-family uses in the vicinity. It also is designated as a "Regional Mixed-Use" on the County's FLUM. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

B.

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

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on

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building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

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

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

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

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

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of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

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

D.

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

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 120-unit senior, independent multifamily development would generate only 24 trips in the weekday a.m. peak hour and 30 trips in the weekday p.m. peak hour. The existing transportation network is adequate to accommodate the relatively minor number of trips the proposed development will generate.

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

E.

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

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the 2030 Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development. Among other things, the UDP recognizes that:

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

The Applicant's proposed development directly responds to these issues. At the same time, it advances the intent of the County's FLUM designation for the Subject Property, which is "Regional Mixed-Use." This category specifically promotes the type of higher density, multi-

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family development located within walking distance of commercial and retail nodes that this Application proposes.

F.

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

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

III. CONCLUSION

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

This 6th day of March, 2015.

Respectfully submitted,

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

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

RZC'15 012

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.

03/05/15

Signature of Applicant — Date

BRENDAN BARR — SENIOR VICE PRESIDENT

Type or Print Name and Title

3/5/2015

DARRELL KEITH ROCHESTER
NOTARY PUBLIC
HALL COUNTY, GEORGIA
MY COMMISSION EXPIRES FEBRUARY 16, 2016

Signature of Notary Public — Date — Notary Seal

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REZONING PROPERTY OWNER'S CERTIFICATION

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

Signature of Property Owner — Date: 3-6-15

ALBERT TENENBAUM — CO MANAGING MEMBER
Type or Print Name and Title

Shawna E. Avila — Date: 3-6-15
Signature of Notary Public — Date

SHAWNA E. AVILA NOTARY PUBLIC GWINNETT COUNTY GEORGIA EXPIRES March 16, 2016
Notary Seal

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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.

	03/05/15	BRENDAN BARR SENIOR VICE PRESIDENT
SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr. Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	3/5/2015	DARRELL KEITH ROCHESTER NOTARY PUBLIC HALL COUNTY, GEORGIA MY COMMISSION EXPIRES FEBRUARY 16, 2016
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☐ YES ☒ NO _____ YOUR NAME

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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CONFLICT OF INTEREST CERTIFICATION FOR REZONING

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

SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☐ YES ☒ NO

YOUR NAME

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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CONFLICT OF INTEREST CERTIFICATION FOR REZONING

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

SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr. Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
Shawna E. Avila	3-6-15	
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

SHAWNA E. AVILA NOTARY PUBLIC GEORGIA GWINNETT COUNTY EXPIRES March 16, 2016

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 Dennis J. Webb, Jr., Esq.

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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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING

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

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

PARCEL I.D. NUMBER: 6 - 204 - 129
(Map Reference Number) District Land Lot Parcel

Signature of Applicant — Date: 03/05/15

BRENDAN BARR — SENIOR VICE PRESIDENT
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)

NAME — TITLE: TSA II

DATE: 3/6/15

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SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Norsouth Development	NAME: Parkside Walk, LLC
ADDRESS: 2000 Riveredge Pkwy., NW, Ste. 950	ADDRESS: 3663 Clairmont Rd., Ste. A
CITY: Atlanta	CITY: Chamblee
STATE: GA ZIP: 30328	STATE: GA ZIP: 30341
PHONE: (678) 460-2869	PHONE:

CONTACT PERSON: Dennis J. Webb, Jr. PHONE: 404-815-3500

CONTACT'S E-MAIL: djwebb@sgrlaw.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

EXISTING/PROPOSED ZONING: C2 / O-I BUILDING/LEASED SQUARE FEET: _____

LAND DISTRICT(S): 6 LAND LOT(S): 204 ACREAGE: 5.251

ADDRESS OF PROPERTY: Breckinridge Blvd.

SPECIAL USE REQUESTED: Age restricted (55+ years) senior apartment community

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being Land Lot 204 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

To find The Point of Beginning, commence at the intersection of the Southerly Right-of-Way of Breckinridge Boulevard (100' R/W) and the Westerly Right-of-Way of Centerview Drive (100' R/W), if extended to form a point; THENCE along said Right-of-Way of Centerview Drive (100' R/W) South 38 degrees 49 minutes 48 seconds East for a distance of 19.86 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point as thus established and continuing along the said Right-of-Way of Centerview Drive (100' R/W) the following three (3) courses and distances South 38 degrees 49 minutes 48 seconds East for a distance of 186.48 feet to a point; THENCE South 51 degrees 10 minutes 12 seconds West for a distance of 12.00 feet to a point; THENCE South 38 degrees 49 minutes 48 seconds East for a distance of 196.48 feet to a ½" rebar found; THENCE leaving the aforesaid Right-of-Way of Centerview Drive (100' R/W) South 53 degrees 10 minutes 27 seconds West for a distance of 168.00 feet to a point; THENCE along a curve to the right having a radius of 1539.89 feet and an arc length of 188.09 feet, being subtended by a chord of South 56 degrees 40 minutes 24 seconds West for a distance of 187.97 feet to a point; THENCE South 60 degrees 10 minutes 21 seconds West for a distance of 227.96 feet to a ½" rebar found; THENCE North 29 degrees 12 minutes 31 seconds West for a distance of 418.44 feet to a ½" rebar found on the aforesaid Southerly Right-of-Way of Breckinridge Boulevard (100' R/W); THENCE continuing along the said Right-of-Way of Breckinridge Boulevard (100' R/W) the following three (3) courses and distances North 60 degrees 56 minutes 09 seconds East for a distance of 246.78 feet to a point; THENCE along a curve to the left having a radius of 1938.76 feet and an arc length of 260.10 feet, being subtended by a chord of North 57 degrees 05 minutes 32 seconds East for a distance of 259.91 feet to a ½" rebar found; THENCE South 83 degrees 49 minutes 48 seconds East for a distance of 28.98 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

Said property contains 5.251 acres.

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LEGEND

[illegible]

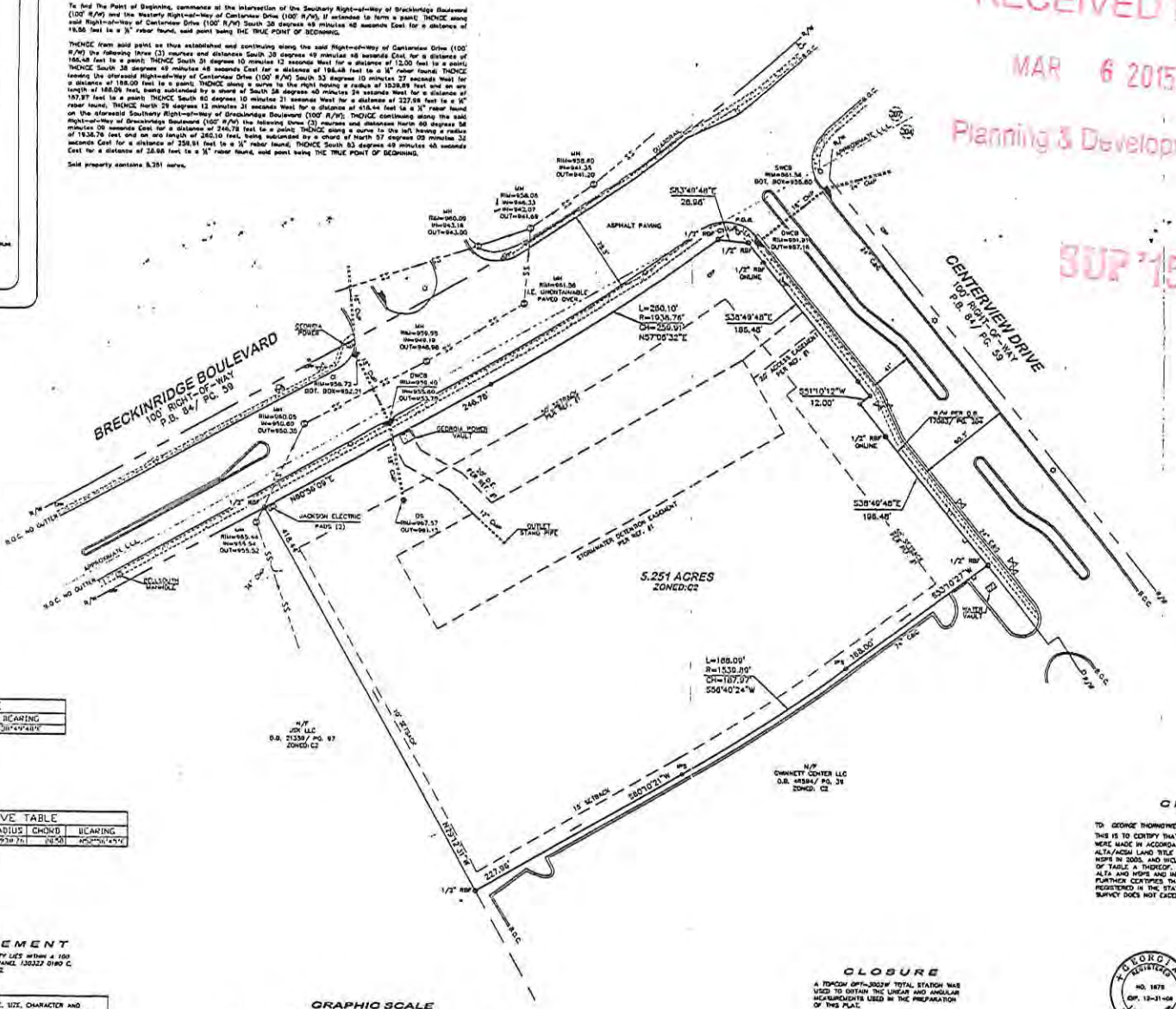
LEGAL DESCRIPTION

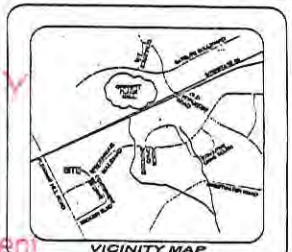
All that tract or parcel of land lying and being Land Lot 204 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

To find The Point of Beginning, commence at the intersection of the Southerly Right-of-Way of Breckinridge Boulevard (100' R/W) and the Westerly Right-of-Way of Centerview Drive (100' R/W), if extended to form a point; THENCE along said Right-of-Way of Centerview Drive (100' R/W) South 38 degrees 49 minutes 48 seconds East for a distance of 19.56 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point as thus established and continuing along the said Right-of-Way of Centerview Drive (100' R/W) the following three (3) courses and distances South 38 degrees 49 minutes 48 seconds East, for a distance of 186.48 feet to a point; THENCE South 51 degrees 10 minutes 12 seconds West for a distance of 12.00 feet to a point; THENCE South 38 degrees 49 minutes 48 seconds East for a distance of 198.48 feet to a ½" rebar found; THENCE leaving the aforesaid Right-of-Way of Centerview Drive (100' R/W) South 53 degrees 10 minutes 27 seconds West for a distance of 188.00 feet to a point; THENCE along a curve to the right having a radius of 1538.89 feet and an arc length of 168.09 feet, being subtended by a chord of South 56 degrees 40 minutes 24 seconds West for a distance of 167.97 feet to a point; THENCE South 60 degrees 10 minutes 21 seconds West for a distance of 227.98 feet to a ½" rebar found; THENCE North 29 degrees 12 minutes 31 seconds West for a distance of 618.44 feet to a ½" rebar found on the aforesaid Southerly Right-of-Way of Breckinridge Boulevard (100' R/W); THENCE continuing along the said Right-of-Way of Breckinridge Boulevard (100' R/W) the following three (3) courses and distances North 60 degrees 58 minutes 09 seconds East for a distance of 246.78 feet to a point; THENCE along a curve to the left having a radius of 1938.76 feet and an arc length of 260.10 feet, being subtended by a chord of North 57 degrees 09 minutes 32 seconds East for a distance of 258.91 feet to a ½" rebar found; THENCE South 53 degrees 49 minutes 48 seconds East for a distance of 28.96 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

Said property contains 5.251 acres.





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REFERENCES

1.) FINAL PLAT FOR THE ROGER CENTER GWINNETT, PREPARED BY SOUTHELL ENGINEERING, INC, DATED 2/16/00, GWINNETT COUNTY RECORDS.

2.) WARRANTY DEED RECORDED IN DEED BOOK 48594, PAGE 38, APDERSAD RECORDS.

3.) WARRANTY DEED RECORDED IN DEED BOOK 21339, PAGE 97, APDERSAD RECORDS.

4.) RIGHT OF WAY DEED RECORDED IN DEED BOOK 17083, PAGE 204, APDERSAD RECORDS.

NOTES

1.) ALL AREA INCLUDES EASEMENTS WITHIN.

2.) THE TITLE RESEARCH PERFORMED IN THE PREPARATION OF THIS SURVEY IS LIMITED TO THE INFORMATION NECESSARY TO RE-TRACE THE BOUNDARY LINES OF THE SUBJECT PROPERTY AND THE ADJOINERS. THIS SURVEY DOES NOT CONSTITUTE A TITLE EXAMINATION. MATTERS OF RECORD WHICH AFFECT THE SUBJECT PROPERTY MAY NOT BE SHOWN HEREON.

LINE TABLE		
LINE	LENGTH	BEARING
L1	19.56	S38°49'48"E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	260.10	1938.76	258.91	N57°09'32"E

CERTIFICATION

TO: GEORGE THORNDYKE

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE 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, 2, 3, 4, 6, 8, 11(a), 13 OF TABLE A THEREOF. 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.

GEORGIA REGISTERED LAND SURVEYOR RANDALL W. DIXON

RANDALL W. DIXON
REG. NO. 1679

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 MAKING SAID PERSON.

FLOOD STATEMENT

NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A 100 YEAR FLOOD HAZARD AREA PER FIRM PANEL 130322 0190 C DATED MAY 4, 1992.

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.

GRAPHIC SCALE

(IN FEET)
1 inch = 60 ft.

CLOSURE

A TOPCON OPTI-3002W 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 20,301 FEET AND AN ANGULAR ERROR OF 02" 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 391,022 FEET AND CONTAINS 5.251 ACRES.

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Precision Planning, Inc.
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P.O. Box 2113
400 Pike Boulevard
Lawrenceville, GA 30046-2210
(770) 338-8000
(770) 822-5999 Fax

GEORGIA REGISTERED LAND SURVEYOR RANDALL W. DIXON

GEORGE THORNDYKE

LOCATED IN LAND LOT 204 OF THE 6th LAND DISTRICT OF GWINNETT COUNTY, GEORGIA
SCALE 1"=50'

ALTA/ACSM BOUNDARY SURVEY FOR:
SHEET TITLE

FIELD	DRAWN	CHECKED	SCE
MS	JPM		

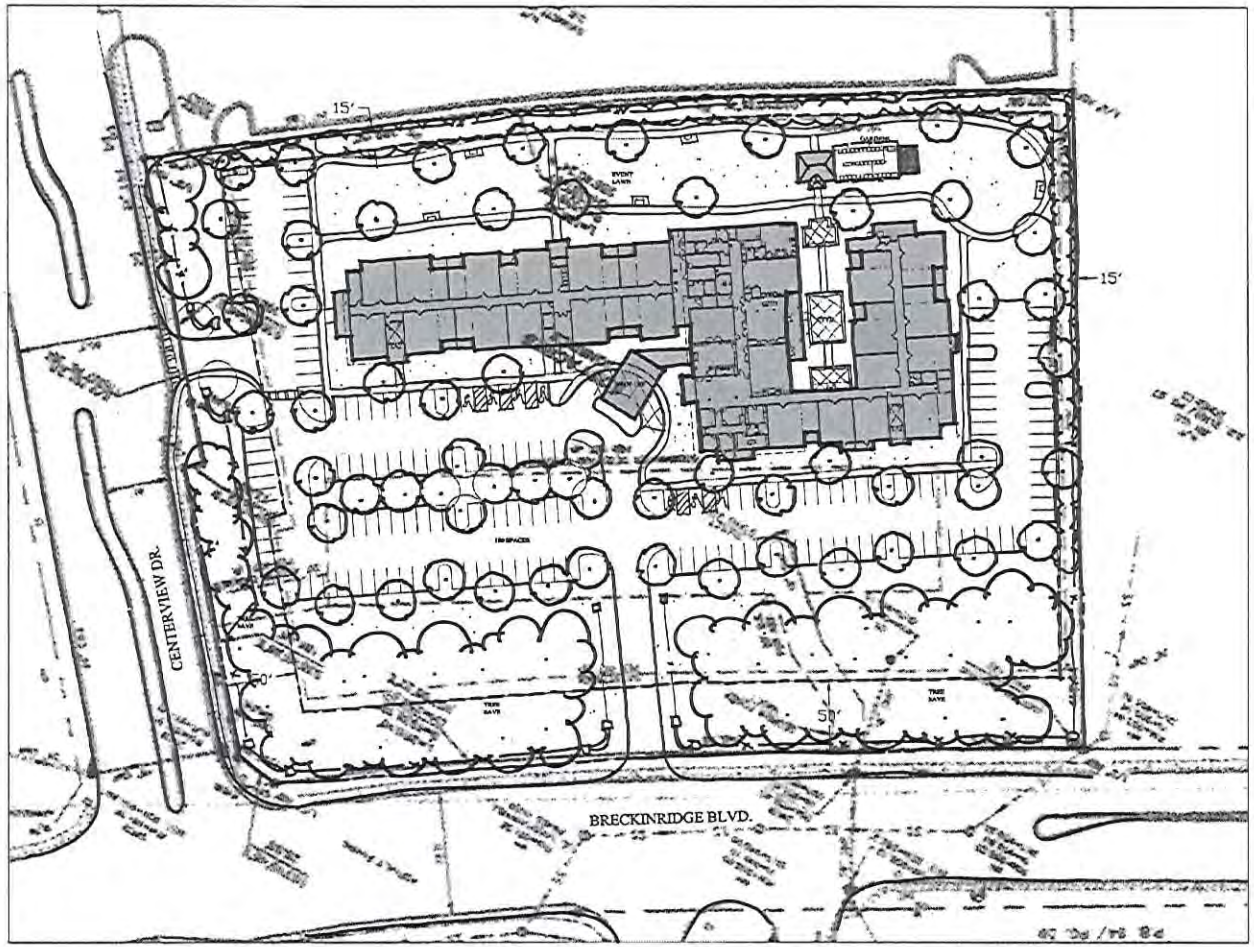
DATE	NO.	DESCRIPTION

DRG. 06313

DATE	DRAWN BY	JOB NUMBER	FILE NUMBER
11/13/06	11/6/06	S06319	

1 OF 1

E:\SDGROUP\06319\PROJ\06319.DWG



PROJECT DATA:

5.251 ACRES
CURRENTLY ZONED = C-2
PROPOSED ZONING = O-I
120 UNITS (4 STORIES)
180 PARKING SPACES (1.5 / UNIT)

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SCALE: 1" = 40'

Breckinridge Village Senior Residences

FEBRUARY 27, 2015
SCALE: 1"=40'-0"
CONCEPTUAL SITE PLAN

NORSOUTH DEVELOPMENT

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

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SPECIAL USE PERMIT APPLICANT'S RESPONSE

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENT OF THE UNIFIED DEVELOPMENT ORDINANCE, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

(A) WHETHER A PROPOSED SPECIAL USE PERMIT WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:
See attached Statement of Intent

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

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

(D) WHETHER THE PROPOSED SPECIAL USE PERMIT WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:
See attached Statement of Intent

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

(F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE PROPOSED SPECIAL USE PERMIT:
See attached Statement of Intent

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LETTER OF INTENT

and

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

of

NORSOUTH COMPANIES

for

± 5.251 Acres of Land located in
Land Lot 204, 6th District
REZONE - C-2 to O-I
SUP – Retirement Community/Four-Story Building Height (55')

Submitted for Applicant by:

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

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SGR/12845110.3

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I. INTRODUCTION

This Application seeks (a) to rezone ± 5.251 acres of land in Land Lot 204, 6th District of Gwinnett County (the "Subject Property") from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height (55'). The Subject Property is designated as "Regional Mixed-Use" on the County's Future Land Use Map ("FLUM"), a designation that supports the proposed use.

The Subject Property consists of a single tract (R6204129) located in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. The Subject Property is currently undeveloped.

The Applicant is a Georgia-based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980's and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar "HearthSide" communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is scheduled for completion in April, 2015 and Hearthside Tucker is currently under construction.

The senior living community that the Applicant hopes to develop on the Subject Property will have 120 units, at a density of slightly less than 23 units per acre. The development will contain roughly 48 one (1) bedroom, one (1) bathroom units and 72 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio, media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

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

II. IMPACT ANALYSIS

A.

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

Yes. The Subject Property sits in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. It is undeveloped and has commercial, institutional and multi-family uses in the vicinity. It also is designated as a "Regional Mixed-Use" on the County's FLUM. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

B.

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

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on

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building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

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

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

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

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

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of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

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

D.

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

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 120-unit senior, independent multifamily development would generate only 24 trips in the weekday a.m. peak hour and 30 trips in the weekday p.m. peak hour. The existing transportation network is adequate to accommodate the relatively minor number of trips the proposed development will generate.

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

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E.

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

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the 2030 Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development. Among other things, the UDP recognizes that:

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

The Applicant's proposed development directly responds to these issues. At the same time, it advances the intent of the County's FLUM designation for the Subject Property, which is "Regional Mixed-Use." This category specifically promotes the type of higher density, multi-

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family development located within walking distance of commercial and retail nodes that this Application proposes.

F.

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

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

III. CONCLUSION

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

This 6th day of March, 2015.

Respectfully submitted,

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

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

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SPECIAL USE PERMIT APPLICANT'S CERTIFICATION

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

03/05/15

Signature of Applicant | Date

BRENDAN BARR | SENIOR VICE PRESIDENT

Type or Print Name and Title

3/5/2015

DARRELL KEITH ROCHESTER
NOTARY PUBLIC
HALL COUNTY, GEORGIA
MY COMMISSION EXPIRES FEBRUARY 16, 2016

Signature of Notary Public | Date | Notary Seal

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SPECIAL USE PERMIT PROPERTY OWNER'S CERTIFICATION

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

Signature of Property Owner — Date: 3-6-15

ALBERT TENENBAUM — CO MANAGING MEMBER
Type or Print Name and Title

Shawna E. Avila — Date: 3-6-15
Signature of Notary Public

SHAWNA E. AVILA NOTARY PUBLIC GEORGIA GWINNETT COUNTY EXPIRES March 16, 2016
Notary Seal

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MAR 6 2015
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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.

	03/05/15	BRENDAN BARR SENIOR VICE PRESIDENT
SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr. Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	3/5/2015	DARRELL KEITH ROCHESTER NOTARY PUBLIC HALL COUNTY, GEORGIA MY COMMISSION EXPIRES FEBRUARY 16, 2016
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☐ YES ☒ NO _____
YOUR NAME

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

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

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

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SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☐ YES ☒ NO

YOUR NAME

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

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

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SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr., Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
Shawna E. Avila	3-6-15	
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

SHAWNA E. AVILA NOTARY PUBLIC GEORGIA EXPIRES March 16, 2016 GWINNETT COUNTY

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 Dennis J. Webb, Jr.

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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VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR SPECIAL USE PERMIT

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

***Note: A SEPARATE VERIFICATION FORM MUST BE COMPLETED FOR EACH TAX PARCEL INCLUDED IN THE SPECIAL USE PERMIT REQUEST.**

PARCEL I.D. NUMBER: 6 - 204 - 129
(Map Reference Number) District Land Lot Parcel

[signature] 03/05/15
Signature of Applicant Date

BRENDAN BARR SENIOR VICE PRESIDENT
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)

[signature] TSA II
NAME TITLE

3/6/15
DATE

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SPECIAL USE PERMIT APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Norsouth Development	NAME: Parkside Walk, LLC
ADDRESS: 2000 Riveredge Pkwy., NW, Ste. 950	ADDRESS: 3663 Clairmont Rd., Ste. A
CITY: Atlanta	CITY: Chamblee
STATE: GA ZIP: 30328	STATE: GA ZIP: 30341
PHONE: (678) 460-2869	PHONE:

CONTACT PERSON: Dennis J. Webb, Jr. PHONE: 404-815-3500

CONTACT'S E-MAIL: djwebb@sgrlaw.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

EXISTING/PROPOSED ZONING: C2 / O-I BUILDING/LEASED SQUARE FEET: _____

LAND DISTRICT(S): 6 LAND LOT(S): 204 ACREAGE: 5.251

ADDRESS OF PROPERTY: Breckinridge Blvd.

SPECIAL USE REQUESTED: Building height of four (4) stories

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

RECEIVED BY

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LEGAL DESCRIPTION

All that tract or parcel of land lying and being Land Lot 204 of the 6th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

To find The Point of Beginning, commence at the intersection of the Southerly Right-of-Way of Breckinridge Boulevard (100' R/W) and the Westerly Right-of-Way of Centerview Drive (100' R/W), if extended to form a point; THENCE along said Right-of-Way of Centerview Drive (100' R/W) South 38 degrees 49 minutes 48 seconds East for a distance of 19.86 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point as thus established and continuing along the said Right-of-Way of Centerview Drive (100' R/W) the following three (3) courses and distances South 38 degrees 49 minutes 48 seconds East for a distance of 186.48 feet to a point; THENCE South 51 degrees 10 minutes 12 seconds West for a distance of 12.00 feet to a point; THENCE South 38 degrees 49 minutes 48 seconds East for a distance of 196.48 feet to a ½" rebar found; THENCE leaving the aforesaid Right-of-Way of Centerview Drive (100' R/W) South 53 degrees 10 minutes 27 seconds West for a distance of 168.00 feet to a point; THENCE along a curve to the right having a radius of 1539.89 feet and an arc length of 188.09 feet, being subtended by a chord of South 56 degrees 40 minutes 24 seconds West for a distance of 187.97 feet to a point; THENCE South 60 degrees 10 minutes 21 seconds West for a distance of 227.96 feet to a ½" rebar found; THENCE North 29 degrees 12 minutes 31 seconds West for a distance of 418.44 feet to a ½" rebar found on the aforesaid Southerly Right-of-Way of Breckinridge Boulevard (100' R/W); THENCE continuing along the said Right-of-Way of Breckinridge Boulevard (100' R/W) the following three (3) courses and distances North 60 degrees 56 minutes 09 seconds East for a distance of 246.78 feet to a point; THENCE along a curve to the left having a radius of 1938.76 feet and an arc length of 260.10 feet, being subtended by a chord of North 57 degrees 05 minutes 32 seconds East for a distance of 259.91 feet to a ½" rebar found; THENCE South 83 degrees 49 minutes 48 seconds East for a distance of 28.98 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

Said property contains 5.251 acres.

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LEGEND

LEGAL DESCRIPTION

All that tract or parcel of land lying and being Land Lot 204 of the 5th Land District, Gwinnett County, Georgia, and being more particularly described as follows:

To find The Point of Beginning, commence at the intersection of the Southerly Right-of-Way of Breckinridge Boulevard (100' R/W) and the Westerly Right-of-Way of Centerview Drive (100' R/W), if extended to form a point; THENCE along said Right-of-Way of Centerview Drive (100' R/W) South 38 degrees 49 minutes 48 seconds East for a distance of 18.88 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

THENCE from said point so thus established and continuing along the said Right-of-Way of Centerview Drive (100' R/W) the following three (3) courses and distances: South 38 degrees 49 minutes 48 seconds East for a distance of 186.48 feet to a point; THENCE South 31 degrees 10 minutes 12 seconds West for a distance of 12.00 feet to a point; THENCE South 38 degrees 49 minutes 48 seconds East for a distance of 196.48 feet to a ½" rebar found; THENCE leaving the aforesaid Right-of-Way of Centerview Drive (100' R/W) South 53 degrees 10 minutes 27 seconds West for a distance of 168.00 feet to a point; THENCE along a curve to the right having a radius of 1539.89 feet and an arc length of 188.09 feet, being subtended by a chord of South 56 degrees 40 minutes 24 seconds West for a distance of 187.97 feet to a point; THENCE South 60 degrees 10 minutes 21 seconds West for a distance of 227.96 feet to a ½" rebar found; THENCE North 29 degrees 12 minutes 31 seconds West for a distance of 418.44 feet to a ½" rebar found on the aforesaid Southerly Right-of-Way of Breckinridge Boulevard (100' R/W); THENCE continuing along the said Right-of-Way of Breckinridge Boulevard (100' R/W) the following three (3) courses and distances: North 80 degrees 58 minutes 09 seconds East for a distance of 246.78 feet to a point; THENCE along a curve to the left having a radius of 1938.76 feet and an arc length of 240.10 feet, being subtended by a chord of North 57 degrees 03 minutes 32 seconds East for a distance of 239.91 feet to a ½" rebar found; THENCE South 83 degrees 49 minutes 48 seconds East for a distance of 28.98 feet to a ½" rebar found, said point being THE TRUE POINT OF BEGINNING.

Said property contains 5.251 acres.

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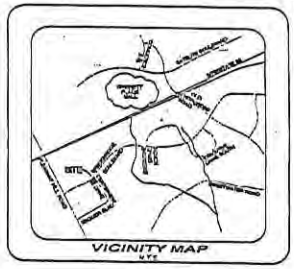
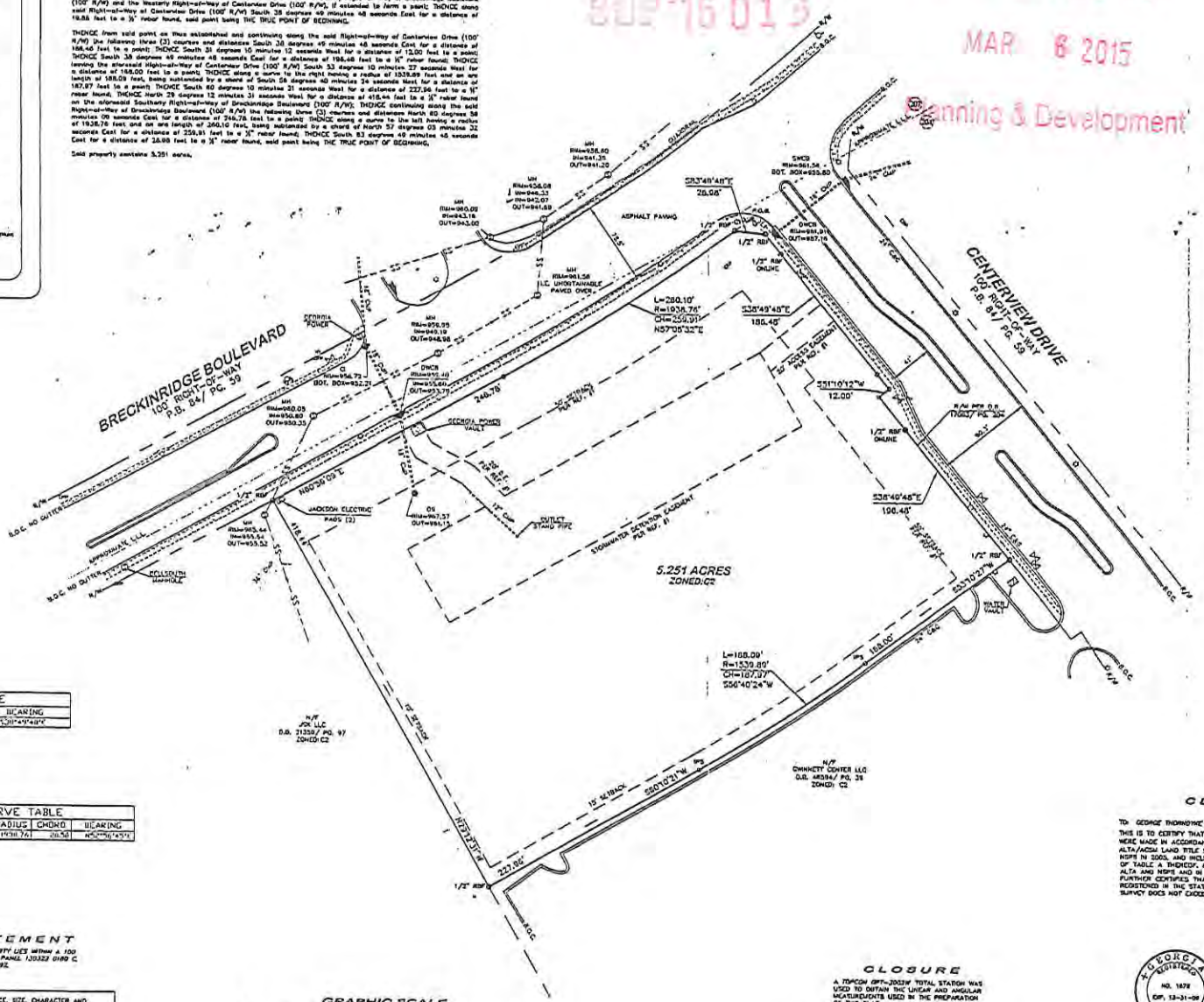




LINE TABLE		
LINE	LENGTH	BEARING
L1	19.06	S38°49'48"E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	BEARING
C1	28.58	1938.76'	28.58	N57°06'45"E

REFERENCES

1.) FINAL PLAT FOR THE ROGER CENTER GWINNETT, PREPARED BY BOLTWELL ENGINEERING, INC., DATED 2/16/00, GWINNETT COUNTY RECORDS.

2.) WARRANTY DEED RECORDED IN DEED BOOK 46594, PAGE 38, AFORESAID RECORDS.

3.) WARRANTY DEED RECORDED IN DEED BOOK 21358, PAGE 97, AFORESAID RECORDS.

4.) RIGHT OF WAY DEED RECORDED IN DEED BOOK 17082, PAGE 204, AFORESAID RECORDS.

NOTES

1.) ALL AREA INCLUDES EASEMENTS WITHIN.

2.) THE TITLE RESEARCH PERFORMED IN THE PREPARATION OF THIS SURVEY IS LIMITED TO THE INFORMATION NECESSARY TO ASCERTAIN THE BOUNDARY LINES OF THE SUBJECT PROPERTY AND THE ADJOINERS. THIS SURVEY DOES NOT CONSTITUTE A TITLE EXAMINATION. MATTERS OF RECORD WHICH AFFECT THE SUBJECT PROPERTY MAY NOT BE SHOWN HEREON.

CERTIFICATION

TO: GEORGE THORNDYKE

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE 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, 2, 3, 4, 6, 8, 11(A), 13 OF TABLE A THEREOF. 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.

GEORGIA REGISTERED No. 1878 CAP, 12-31-06 LAND SURVEYOR RANDALL W. DIXON

RANDALL W. DIXON
REG. NO. 1878

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 MAKING SAID PERSON.

FLOOD STATEMENT

NO PORTION OF THE SUBJECT PROPERTY LIES WITHIN A 100 YEAR FLOOD HAZARD AREA PER FIRM PANEL 130323 0180 C DATED MAY 4, 1992.

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.

CLOSURE

A TOPCON GPT-7003W 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 70,301 FEET AND AN ANGULAR ERROR OF 07" PER ANGLE POINT, AND WAS ADJUSTED USING THE LEAST SQUARES METHOD.

THIS MAP OF PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 395,022 FEET AND CONTAINS 5.251 ACRES.

Precision Planning, Inc.
planners, engineers, architects & surveyors
P.O. Box 2210
430 Pike Boulevard
Lawrenceville, GA 30046-2210
(770) 339-6500
(770) 822-3593 Fax

GEORGE THORNDYKE

LOCATED IN LAND LOT 204 OF THE 5TH LAND DISTRICT OF GWINNETT COUNTY, GEORGIA
SCALE 1"=50'

ALTA/ACSM BOUNDARY SURVEY FOR:

SHEET TITLE

FIELD	DRAWN
RG	RM
CHECKED	
SCE	

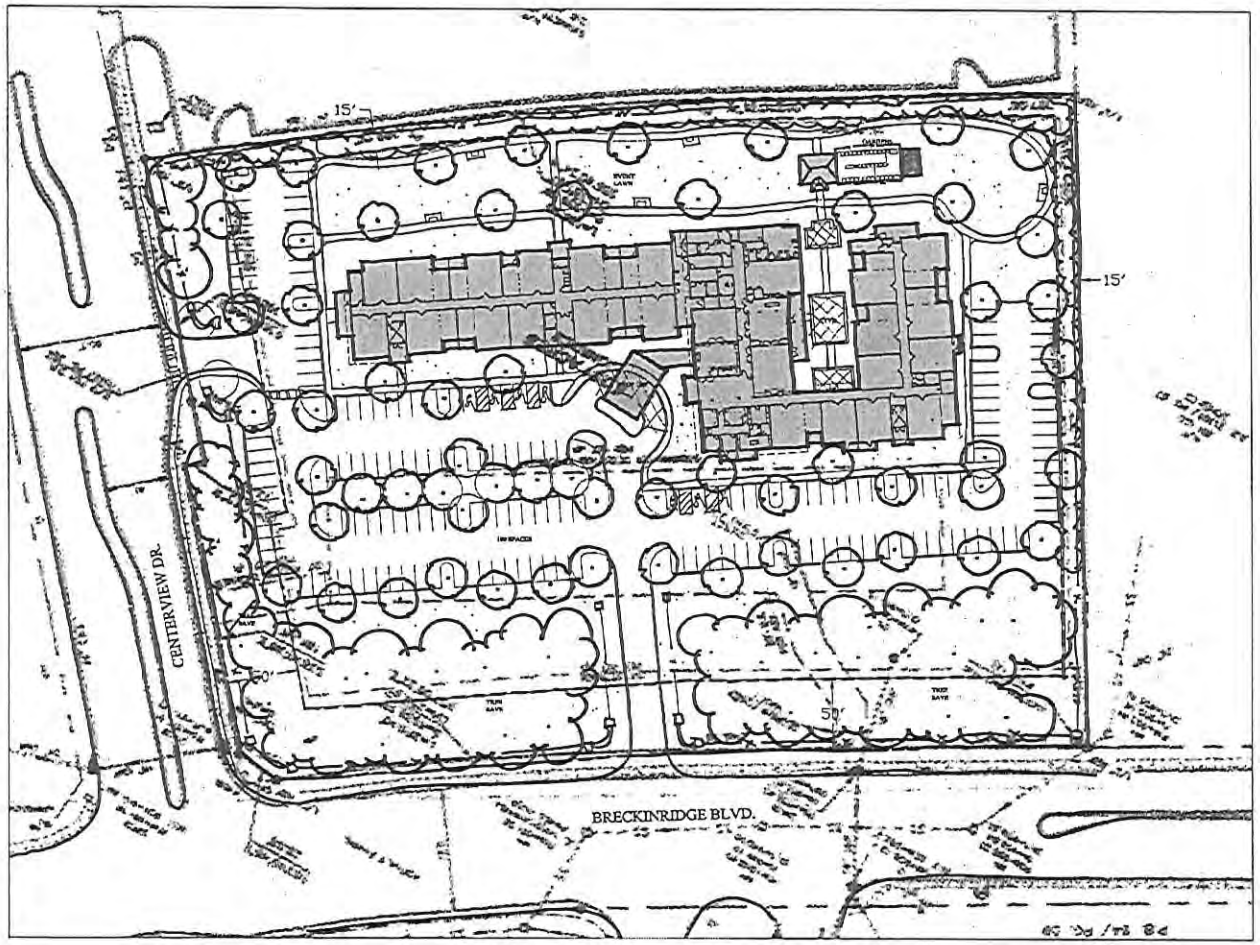
DATE	NO.	DESCRIPTION

DATE	11/3/06
DATE OF FIELD WORK	11/6/06
JOB NUMBER	S06319
FILE NUMBER	

1 OF 1

CPD: 06318

E:\S06319\A\S6319\dwg\S6318.dwg



PROJECT DATA:

5.251 ACRES
CURRENTLY ZONED = C-2
PROPOSED ZONING = O-I
120 UNITS (4 STORIES)
180 PARKING SPACES (1.5 / UNIT)

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N

SCALE: 1" = 40'

Breckinridge Village Senior Residences

FEBRUARY 27, 2015
SCALE: 1"=40'-0"
CONCEPTUAL SITE PLAN

NORSOUTH DEVELOPMENT

FOLEY DESIGN ASSOCIATES ARCHITECTS INC.
1513 Cleveland Avenue - Building 100 Suite 102 East Point, Georgia 30344 (404) 761-1298

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SPECIAL USE PERMIT APPLICANT'S RESPONSE

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

PURSUANT TO REQUIREMENT OF THE UNIFIED DEVELOPMENT ORDINANCE, THE BOARD OF COMMISSIONERS FINDS THAT THE FOLLOWING STANDARDS ARE RELEVANT IN BALANCING THE INTEREST IN PROMOTING THE PUBLIC HEALTH, SAFETY, MORALITY OR GENERAL WELFARE AGAINST THE RIGHT TO THE UNRESTRICTED USE OF PROPERTY AND SHALL GOVERN THE EXERCISE OF THE ZONING POWER.

PLEASE RESPOND TO THE FOLLOWING STANDARDS IN THE SPACE PROVIDED OR USE AN ATTACHMENT AS NECESSARY:

(A) WHETHER A PROPOSED SPECIAL USE PERMIT WILL PERMIT A USE THAT IS SUITABLE IN VIEW OF THE USE AND DEVELOPMENT OF ADJACENT AND NEARBY PROPERTY:
See attached Statement of Intent

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

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

(D) WHETHER THE PROPOSED SPECIAL USE PERMIT WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:
See attached Statement of Intent

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

(F) WHETHER THERE ARE OTHER EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY WHICH GIVE SUPPORTING GROUNDS FOR EITHER APPROVAL OR DISAPPROVAL OF THE PROPOSED SPECIAL USE PERMIT:
See attached Statement of Intent

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LETTER OF INTENT

and

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

of

NORSOUTH COMPANIES

for

± 5.251 Acres of Land located in
Land Lot 204, 6th District
REZONE - C-2 to O-I
SUP – Retirement Community/Four-Story Building Height (55')

Submitted for Applicant by:

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

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SGR/12845110.3

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I. INTRODUCTION

This Application seeks (a) to rezone ± 5.251 acres of land in Land Lot 204, 6th District of Gwinnett County (the "Subject Property") from C-2 (General Business District) to O-I (Office-Institution District) and (b) to secure a Special Use Permit to allow for a Retirement Community and four-story building height (55'). The Subject Property is designated as "Regional Mixed-Use" on the County's Future Land Use Map ("FLUM"), a designation that supports the proposed use.

The Subject Property consists of a single tract (R6204129) located in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. The Subject Property is currently undeveloped.

The Applicant is a Georgia-based, diversified real estate company specializing in environmentally sensitive senior living communities. The firm was founded in the 1980's and its track record includes over 7,000 units in five (5) states. In addition to the development proposed in this request, the Applicant operates similar "HearthSide" communities in Town Lake – Woodstock, Brookleigh, Johns Creek and Peachtree City. HearthSide Sugarloaf, located along Sugarloaf Parkway, is scheduled for completion in April, 2015 and Hearthside Tucker is currently under construction.

The senior living community that the Applicant hopes to develop on the Subject Property will have 120 units, at a density of slightly less than 23 units per acre. The development will contain roughly 48 one (1) bedroom, one (1) bathroom units and 72 two (2) bedroom, two (2) bathroom units, ranging in size from 750 to 1015 square feet. It will offer a roughly 5,000 square foot amenities space which will include a community room, fitness center, art studio, media lounge, library, and hair salon. On the grounds, the facility will provide resident gardens, outdoor grilling areas and covered porches.

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

II. IMPACT ANALYSIS

A.

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

Yes. The Subject Property sits in the southwest quadrant of the intersection of Breckinridge Boulevard and Centerview Drive. It is undeveloped and has commercial, institutional and multi-family uses in the vicinity. It also is designated as a "Regional Mixed-Use" on the County's FLUM. Accordingly, the proposed use is suitable in view of the use and development of adjacent and nearby properties.

B.

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

No. The primary goal of land use planning is to eliminate or minimize the potential adverse effect of the dissimilar uses of adjacent tracts of land by establishing a harmonious transition between them. The traditional method of achieving this goal is through both "off-site" and "on-site" transition. Off-site transition consists of avoiding the placement of dissimilar uses next to each other by placing uses of intermediate density between them. On-site transition, which might either supplement or replace off-site transition, consists of measures imposed on or adjacent to the more intensive use to protect neighborhoods from adverse effects. Thus, this method of land use planning includes measures such as maintenance of natural and planted buffers; walls, fences or berms; lighting control; noise control; aesthetic control; limitations on

building location and orientation; location of or restrictions upon accessory uses; and prohibition of certain uses or hours of use normally permitted for that district. Ample off-site and on-site transition is afforded by way of this already developed site. The necessary controls already are in place through the observation of certain buffering, architectural, landscaping, building footprint and other standards to insure a reasonable transition between the uses adjacent and nearby.

C.

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

No, as agent for the property owner this Applicant states that any portion of the Gwinnett County Zoning Ordinance which would classify the Subject Property so as to prohibit the use reflected by this Application would destroy the Applicant's property rights without first paying just compensation for such rights in violation of Article I, Section I, Paragraph I of the Constitution of the State of Georgia; Article I, Section III, Paragraph I of the Constitution of the State of Georgia; and the Fifth and Fourteenth Amendments to the United States Constitution.

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

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

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of the State of Georgia and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

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

D.

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

No. In fact, the proposed development could produce less traffic than a potential development under the current zoning. The Subject Property is now zoned C-2, which theoretically could allow for a number of intense uses like a department store, an automobile sales lot, a drive-in restaurant, a grocery store, a hardware store, a health club, a hotel, and a church. Each is a significant traffic generator. Conversely, and according to the Institute of Traffic Engineers (ITE) Trip Generation Manual (9th Edition), Land Use Code 252 (Senior Adult Housing - Attached), a 120-unit senior, independent multifamily development would generate only 24 trips in the weekday a.m. peak hour and 30 trips in the weekday p.m. peak hour. The existing transportation network is adequate to accommodate the relatively minor number of trips the proposed development will generate.

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

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E.

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

Yes. In or about February, 2009, The Gwinnett County Board of Commissioner's adopted the 2030 Unified Development Plan (the "UDP"). The UDP consists of maps and a text that discusses trends and future growth scenarios and offers guidelines for future development. Among other things, the UDP recognizes that:

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

The Applicant's proposed development directly responds to these issues. At the same time, it advances the intent of the County's FLUM designation for the Subject Property, which is "Regional Mixed-Use." This category specifically promotes the type of higher density, multi-

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family development located within walking distance of commercial and retail nodes that this Application proposes.

F.

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

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

III. CONCLUSION

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

This 6th day of March, 2015.

Respectfully submitted,

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

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

BUP'15 013

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.

03/05/15

Signature of Applicant — Date

BRENDAN BARR — SENIOR VICE PRESIDENT

Type or Print Name and Title

3/5/2015

DARRELL KEITH ROCHESTER
NOTARY PUBLIC
HALL COUNTY, GEORGIA
MY COMMISSION EXPIRES FEBRUARY 16, 2016

Signature of Notary Public — Date — Notary Seal

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SPECIAL USE PERMIT PROPERTY OWNER'S CERTIFICATION

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

3-6-15

Signature of Property Owner — Date

ALBERT TENENBAUM — CO MANAGING MEMBER

Type or Print Name and Title

Shawna E. Avila — 3-6-15

Signature of Notary Public — Date

SHAWNA E. AVILA NOTARY PUBLIC GEORGIA GWINNETT COUNTY EXPIRES March 16, 2016

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.

	03/05/15	BRENDAN BARR SENIOR VICE PRESIDENT
SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr. Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	3/5/2015	DARRELL KEITH ROCHESTER NOTARY PUBLIC HALL COUNTY, GEORGIA MY COMMISSION EXPIRES FEBRUARY 16, 2016
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☐ YES ☒ NO _____
YOUR NAME

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

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

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

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SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

SIGNATURE OF NOTARY PUBLIC DATE NOTARY SEAL

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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☐ YES ☒ NO

YOUR NAME

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SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	3/6/15	Dennis J. Webb, Jr., Atty
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
Shawna E. Avila	3-6-15	
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

SHAWNA E. AVILA NOTARY PUBLIC GEORGIA GWINNETT COUNTY EXPIRES March 16, 2016

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 Dennis J. Webb, Jr.

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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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) 6 - 204 - 129
District - Land Lot - Parcel

Signature of Applicant — Date: 03/05/15

BRENDAN BARR — SENIOR VICE PRESIDENT
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)

NAME — TITLE: TSA II

DATE: 3/6/15

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