REZONING APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: Nancy G. Lail & Stephanie Humphrey c/o Andersen, Tate & Carr, PC	NAME: Nancy G. Lail & Stephanie Humphrey c/o Andersen, Tate & Carr, PC
ADDRESS: 1960 Satellite Blvd., Suite 4000	ADDRESS: 1960 Satellite Blvd., Suite 4000
CITY: Duluth	CITY: Duluth
STATE: GA ZIP: 30097	STATE: GA ZIP: 30097
Enterprise - PHONE: (770) 822-0900	PHONE: (770) 822-0900

CONTACT PERSON: Marian C. Adeimy, Attorney PHONE: (678) 518-6855

CONTACT'S E-MAIL: madeimy@atclawfirm.com

APPLICANT IS THE:

☐ OWNER'S AGENT ■ PROPERTY OWNER ☐ CONTRACT PURCHASER/Tenant

PRESENT ZONING DISTRICTS(S): R-100 REQUESTED ZONING DISTRICT: M-1

LAND DISTRICT(S): 7 LAND LOT(S): 158 ACREAGE: 3.3

ADDRESS OF PROPERTY: 2984 McGinnis Ferry Road

PROPOSED DEVELOPMENT: Office/Industrial/Warehouse

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units	No. of Buildings/Lots: Approx. 3
Dwelling Unit Size (Sq. Ft.):	Total Building Sq. Ft. Approx. 60,000 sq. ft.
Gross Density:	Density: n/a
Net Density:	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Legal Description

2984 McGinnis Ferry Road (3.3 acres)

All that tract or parcel of land lying and being in Land Lot 153, District 7, City of Suwanee, Gwinnett County Georgia and being more particularly described as follows:

Beginning at an iron pin set (1/2" rebar) on the southwesterly right of way of McGinnis Ferry Road (R/W varies), said point being S 34°28'05"E - 378.47' from a Pk Nail set at the intersection of McGinnis Ferry Road and Autumnbrook Way and the TRUE POINT OF BEGINNING.
Thence along the right of way of McGinnis Ferry Road S 23°41'28"E a distance of 416.65 feet to a 1" open top pipe found;
Thence leaving said right of way S 59°27'36"W a distance of 364.39 feet to a 1-1/2" open top pipe found;
Thence N 18°56'38"W a distance of 424.42' to a 1/2" rebar found;
Thence N 59°49'23"E a distance of 328.77 feet to a 1/2" rebar set on the southerly right of way of McGinnis Ferry Road and the true point of beginning.

Said tract contains 143,786 Sq. Ft / 3.30 Acres as per a survey prepared for Nancy G. Lail and Stephanie G. Humphrey by Diversified Technical Group, LLC dated 2/23/16 (project no. 16111)

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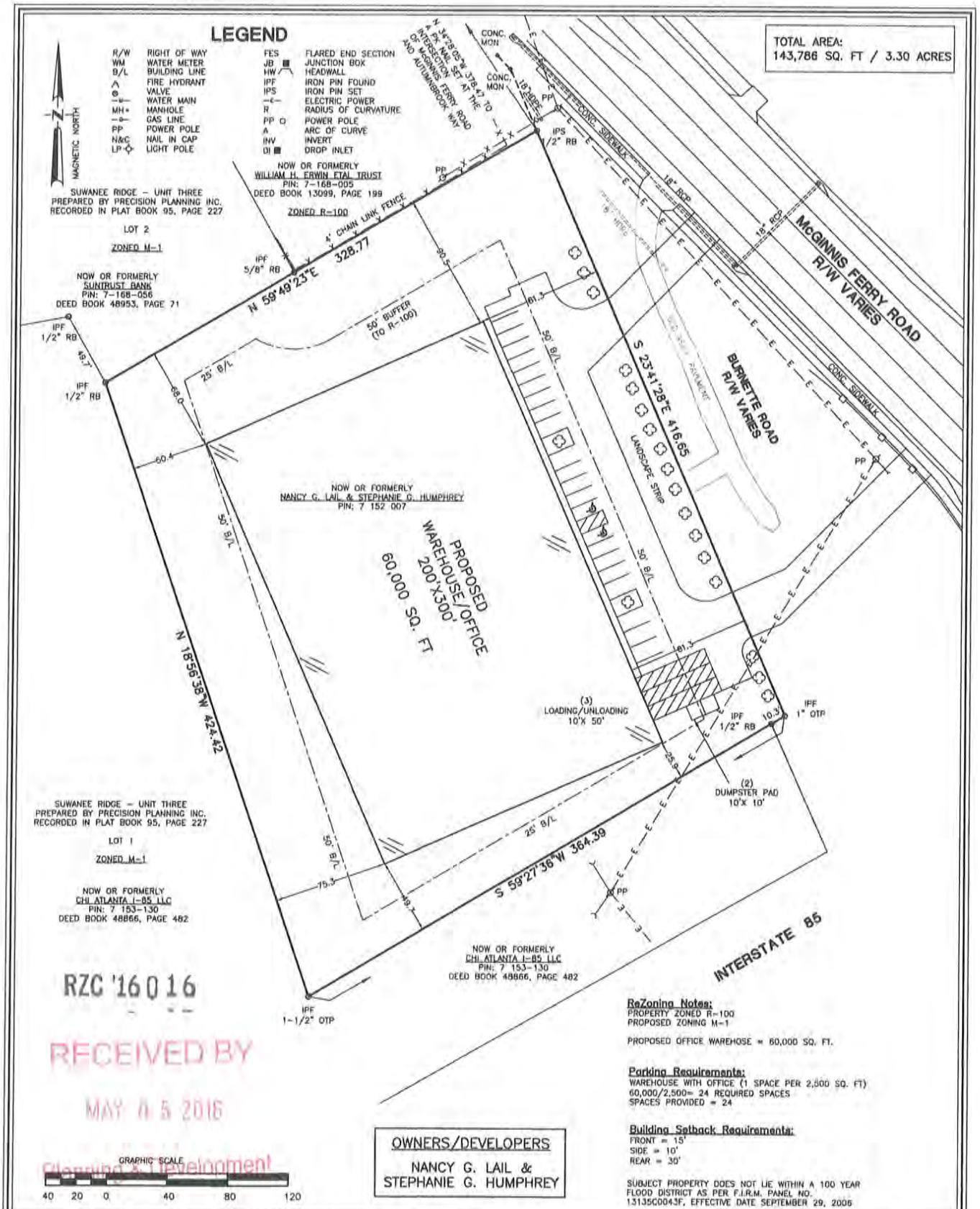

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ReZoning Notes:
PROPERTY ZONED R-100
PROPOSED ZONING M-1

PROPOSED OFFICE WAREHOUSE = 60,000 SQ. FT.

Parking Requirements:
WAREHOUSE WITH OFFICE (1 SPACE PER 2,500 SQ. FT)
60,000/2,500= 24 REQUIRED SPACES
SPACES PROVIDED = 24

Building Setback Requirements:
FRONT = 15'
SIDE = 10'
REAR = 30'

SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD DISTRICT AS PER F.I.R.M. PANEL NO. 13135C0043F, EFFECTIVE DATE SEPTEMBER 29, 2006

OWNERS/DEVELOPERS
NANCY G. LAIL &
STEPHANIE G. HUMPHREY

GEORGIA REGISTERED NO. 3014 4/27/16 DATE LAND SURVEYOR J. SCOTT SMITH

Zoning Exhibit

PROPERTY ADDRESS:
2984 McGINNIS FERRY ROAD

COUNTY: GWINNETT	LAND LOT (S): 153	DISTRICT: 7	STATE: GEORGIA	
SCALE: 1" = 40'	DATE: 2/23/16	DRAWN: J.S.S.	CHECKED: J.S.S.	JOB NO. 16137

DIVERSIFIED TECHNICAL GROUP, L.L.C.
LAND SURVEYING
RESIDENTIAL & COMMERCIAL SITE DESIGN
2700 BRASELTON HIGHWAY - SUITE 10-430
DACULA, GEORGIA 30019
PH. 770-614-7095 - FAX 770-614-7099
EMAIL: DtgSurvey@yahoo.com
Web: DtgSurvey.com

REZONING APPLICANT'S RESPONSE

STANDARDS GOVERNING THE EXERCISE OF THE ZONING POWER

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

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

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

Attached.

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

Attached.

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

Attached.

(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:

Attached.

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

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 REZONING:

Attached.

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EXHIBIT "B" - RESPONSES IN SUPPORT OF REZONING (MCGINNIS FERRY RD)

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

Yes. The requested M-1 zoning and commercial use is consistent with the nearby uses, and provides an appropriate use in light of the future right-of-way plans and given the property's location at an interchange with I-85, adjacent to an existing industrial office park, and McGinnis Ferry, a major mixed-use and commercial thoroughfare.

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

No. Nearby property consists of similar or more intense commercial and industrial uses. The property provides an appropriate transitional zoning along I-85 while completing the existing industrial office park, and accordingly, the zoning request is compatible with the existing uses and usability of the adjacent and nearby property.

C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the property's location and existing zoning, conditions and restrictions, for low density residential uses based on the area's history, the subject property does not have reasonable economic use as currently zoned and conditioned, and has remained vacant and undeveloped.

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

No. This property is located in an area with access to public water and sewer, and direct access to two major thoroughfares, highways and interstate. The development is consistent with the Unified Plan, which supports similar industrial and commercial uses in this corridor. Gwinnett County precedent has historically approved similar uses as being appropriate for property located near an existing industrial park and major interchanges like I-85. The proposed development will not cause excessive use of existing streets, transportation facilities or utilities.

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

Yes. The 2030 Unified Plan identifies the subject property and similar I-85 interchanges as appropriate locations for more intense, non-residential uses.

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

Yes. The application for rezoning to M-1 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the immediate vicinity, and alternate, less intense uses are not feasible for the subject property given its location and surrounding uses.

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ANDERSEN | TATE | CARR

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Marian C. Adeimy
Direct Phone: (678) 518-6855

Direct Fax: (770) 236-9702
Email: madeimy@atclawfirm.com

May 5, 2016

VIA HAND DELIVERY AND E-MAIL
Gwinnett County
Department of Planning and Development
Attn: Kathy Holland and Jeffrey West
446 West Crogan Street
Lawrenceville, GA 30046-2440

RE: Letter of Intent in Support of Rezoning for Nancy G. Lail and Stephanie Humphrey (collectively, the "Applicant") for the property located at 2984 McGinnis Ferry Road (the "Property")

Dear Ms. Holland, Mr. West and Planning Department:

The Applicant submits this Rezoning Application and Letter of Intent on behalf of the Property Owner and Applicant Nancy G. Lail and Stephanie Humphrey (collectively, the "Applicant") through their attorney, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., for the rezoning of the property known as 2984 McGinnis Ferry Road (hereinafter, the "Property"), being approximately 3.3 acres, for an office and industrial development consistent with those uses in the immediate vicinity.

I. Request for Rezoning

The Property is currently zoned for single-family residential, based on its historically residential use, which is no longer a viable or appropriate use. Like many properties in the area, the Property is now located at a major interchange at McGinnis Ferry and I-85, and backs up to an existing industrial office park. The Property is last parcel before reaching McGinnis Ferry Road, and is appropriate for the completion of the existing office park and related industrial/warehouse uses, while providing a fitting stopping point for that development. The Property is also the subject of a future SPLOST and transportation project which includes the improvement of the bridge over I-85, and has no other reasonable economic use as currently zoned.

The 2030 Unified Plan identifies the subject property and similar I-85 interchanges as appropriate locations for more intense, non-residential uses. The application for rezoning to M-1 is absolutely necessary so as to allow for a feasible economic use consistent with similar uses in the immediate vicinity, and alternate, less intense uses are not feasible for the subject property given its location and surrounding uses.

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The Property remained undeveloped during the economic downturn, but has since become appropriate for commercial uses like those in the immediate area, like the industrial and office uses found at similar interchanges along Satellite Blvd., McGinnis Ferry Road, and I-85. The proposed use will serve as an economic driver for the area, and redevelop the property from its existing, non-economic use.

II. Constitutional Objections

The portions of the Gwinnett County Unified Development Ordinance, as amended, (the "UDO") which classify or condition the Property into any more or less intensive zoning classification and/or zoning conditions other than as requested by the Applicant and property owner are and would be unconstitutional in that they would destroy the Applicant's and Property Owner's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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

The Property is presently suitable for development subject only to the approval of the requested rezoning, as requested and amended by the Applicant, and is not economically suitable for development under its present zoning and development classification, conditions, regulations, and restrictions due to its location, shape, size, surrounding development, and other factors. A denial of the requested rezoning 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, Paragraphs I and II of the Constitution of the State of Georgia of 1983 and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to approve the Property Owner's requested rezoning request, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Property, would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution.

Any zoning designation, condition, or variance related to the Property subject to conditions which are different from the requested variances and conditions by which the

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Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Property Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

III. Conclusion

The Applicant respectfully requests that the Gwinnett County Board of Commissioners, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, to allow the property owner and Applicant a viable, quality and economic use of the Property. The Applicant and its representatives welcome the opportunity to meet with the Gwinnett County Board of Commissioners, Planning Commissioners, and staff to answer any questions.

Respectfully submitted this 5th day of May, 2016,

ANDERSEN, TATE & CARR, PC

Marian C. Adeimy
Attorney for Applicant

Enclosures
(Application and Exhibits)

2637771_1.DOCX

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REZONING APPLICANT'S CERTIFICATION

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

Signature of Applicant — Date: 5/5/16

Marian C. Adeimy, Attorney

Type or Print Name and Title

Signature of Notary Public — Date: 5/5/16 — Notary Seal

NICKOLE L BAKER
NOTARY
EXPIRES
GEORGIA
OCT. 14, 2017
PUBLIC
GWINNETT COUNTY

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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.

Mary 5/5/16

Signature of Property Owner Date

By Authorized Agent for Property Owners as attached hereto.

Marian Adeimy, Attorney for Property owner

Type or Print Name and Title

NICKOLE L BAKER NOTARY EXPIRES GEORGIA OCT. 14, 2017 PUBLIC GWINNETT COUNTY

5/5/16

Signature of Notary Public Date 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.

	5/5/16	Marian C. Adeimy, Attorney
SIGNATURE OF APPLICANT	DATE	TYPE OR PRINT NAME AND TITLE
	5/5/16	Marian C. Adeimy, Attorney
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	5/5/16	
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

NICKOLE L BAKER NOTARY PUBLIC GEORGIA GWINNETT COUNTY EXPIRES OCT. 14, 2017

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

☒ YES ☐ NO Andersen, Tate & Carr, P.C. (See attached exhibit.)

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

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE CONTRIBUTION WAS MADE
Charlotte Nash Commission Chairwoman	$1,000	March 2016
Jace Brooks, District 1 Commissioner	$80.69 $750 $500	April 2, 2015 May 2015 March 2016
John Heard, District 4 Commissioner	$1,000 $150 $200	January 9, 2014 May 5, 2014 March 26, 2014
Lynette Howard, District 2 Commissioner	$1,000	March 19, 2014
Tommy Hunter, District 3 Commissioner	$750 $500	March 5, 2015 January 27, 2016

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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: (Map Reference Number) 7 - 152 - 007
District - Land Lot - Parcel

Signature of Applicant — Date 5/5/16

Marian C. Adeimy, Attorney
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)

Cordrick Roney — NAME
Sr. TSA — TITLE

5/5/16
DATE

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