

REZONING APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>Satilla Capital Partners</u> <small>c/o Andersen, Tate & Carr, PC</small>	NAME: <u>ACM Satilla LN V, LLC</u>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>1718 Peachtree St., NW</u>
CITY: <u>Duluth</u>	CITY: <u>Suite 276, Atlanta</u>
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: <u>GA</u> ZIP: <u>30318</u>
Enterprise - PHONE: <u>(770) 822-0900</u>	PHONE: <u>(770) 822-0900</u>
CONTACT PERSON: <u>Marian C. Adeimy, Attorney</u> PHONE: <u>(678) 518-6855</u>	
CONTACT'S E-MAIL: <u>madeimy@atclawfirm.com</u>	

APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input checked="" type="checkbox"/> PROPERTY OWNER
<input type="checkbox"/> CONTRACT PURCHASER/Tenant	
PRESENT ZONING DISTRICTS(S): <u>RA-200</u> REQUESTED ZONING DISTRICT: <u>C-2</u>	
LAND DISTRICT(S): <u>7</u> LAND LOT(S): <u>143</u> ACREAGE: <u>7 acres</u>	
ADDRESS OF PROPERTY: <u>2368 Brown Rd. and Gravel Springs Rd.</u>	
PROPOSED DEVELOPMENT: <u>Senior Personal Congregate Care and/or Assisted Living</u>	

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units _____	No. of Buildings/Lots: <u>1 (max. 3 story building)</u>
Dwelling Unit Size (Sq. Ft.): _____	Total Building Sq. Ft. <u>150,000</u>
Gross Density: _____	Density: <u>21,428.57 sq. ft./acre</u>
Net Density: _____	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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Legal Description: Tract 4

All that tract or parcel of land lying and being in Land Lot 143, 7th District, Gwinnett County, Georgia and being more particularly described as follows:

Beginning at a rock found that the Land Lot Corner common with Land Lots 136, 137, 142 & 143, aforementioned district, thence North 32°48'48" West, a distance of 678.21 feet to an iron pin found (1/2" rebar) on the southwestern right-of-way of Gravel Springs Road, a.k.a. State Route 324 (R/W Varies) and the ***True Point of Beginning***; thence leaving said right-of-way and along the property now or formerly belonging to Gary D. Brown & Cecil Breedlove South 00°10'27" East, a distance of 319.06 feet to an iron pin found (3/4" open top pipe); thence along the property now or formerly belonging to Jerry Brown & Barbara Brown South 13°49'51" West, a distance of 259.88 feet to an iron pin found (1" open top pipe); thence along the properties now or formerly belonging to Su-Tzu Huang and ACM Satilla LN V, LLC North 71°18'33" West, a distance of 520.43 feet to a point; thence into the property now or formerly belonging to Ronald Cropper, William C. Cropper, Nancy Evans & Cathy Cropper North 13°17'45" West, a distance of 153.85 feet to a point; thence North 31°42'15" East, a distance of 553.07 feet to a point on the southwestern right-of-way of said Gravel Springs Road; thence along said right-of-way 67.49 feet along the arc of a curve to the right having a radius of 6608.36 feet and a chord bearing and distance of South 57°02'41" East 67.49 feet to a concrete monument found; thence South 33°14'52" West, a distance of 13.00 feet to a concrete monument found; thence South 56°01'19" East, a distance of 300.70 feet to the ***True Point of Beginning***.

Said tract contains 7.000 acres.

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OWNER
ACM SATILLA LN V, LLC
1720 Peachtree St., NW Suite 405
Atlanta, GA 30309
c/o Macallan Real Estate
Heath Milligan
404-647-4999
heath@macallanre.com

Rochester
& Associates, Inc.

425 Oak Street N.W. • Gainesville, Georgia 30501
(770) 718-0600 (770) 718-9090 Fax • www.rochester-assoc.com

GRAVEL SPRINGS ROAD TRACT
7.1 ACRE TRACT

NO.		DATE	REVISIONS
			RECEPTION

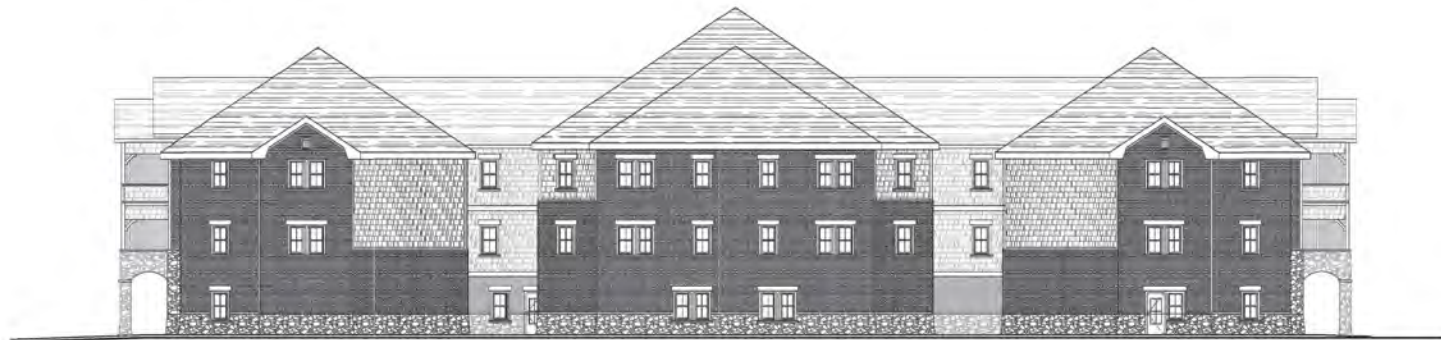
ANY CHANGES OR ALTERATIONS MADE TO THESE CONSTRUCTION DRAWINGS WITHOUT THE WRITTEN APPROVAL OF ROCHESSE & ASSOCIATES, INC. VIOLATES THE U.S. PATENT RIGHTS OF ROCHESSE & ASSOCIATES, INC. AND ANY LIABILITY ASSOCIATED WITH ANY PRODUCT OR SERVICE PROVIDED BY ROCHESSE & ASSOCIATES, INC. SHALL BE THE SOLE RESPONSIBILITY OF THE USER FOR VIOLATION OF ANY CHANGES.



SHEET
OF



North Building Elevation



East Building Elevation



South Building Elevation

Scale: $\frac{3}{32}'' = 1'-0''$
 10' 0' 10' 20'



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"

SATILLA – BROWN AND GRAVEL SPRINGS ROAD
APPLICANT'S RESPONSES IN SUPPORT OF REZONING

- 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 proposed residential and senior-targeted development is consistent with the nearby residential uses, and provides an appropriate transition between the subject property and I-85 as well as the future Sugarloaf Parkway extension. The proposed residential uses will support the nearby Mall of Georgia, and are consistent with the 2030 Unified Plan.

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

No. A majority of the subject property was also previously zoned R-TH, R-ZT and R-60, consistent with the requested use, and these zoning requests are compatible with the existing uses and usability of the adjacent and nearby property.

- C) WHETHER THE PROPERTY TO BE AFFECTED BY THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS HAS A REASONABLE ECONOMIC USE AS CURRENTLY ZONED AND CONDITIONED:

No. Due to the existing rural zoning, conditions and restrictions, the subject property does not have reasonable economic use as currently zoned, and has remained vacant and undeveloped.

- D) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS WILL RESULT IN A USE WHICH WILL OR COULD CAUSE AN EXCESSIVE OR BURDENSOME USE OF EXISTING STREETS, TRANSPORTATION FACILITIES, UTILITIES, OR SCHOOLS:

No. This property is located in an area with public water and sewer availability, and direct access to two major thoroughfares and the interstate. The property owners previously invested over \$450,000 to connect sewer to the subject property, which required them to bore under I-85. The development is consistent with the Unified Plan and prior precedent, which supports similar residential development in this mostly residential corridor. The proposed community will not cause excessive use of existing streets, transportation facilities or utilities.

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- E) WHETHER THE REQUESTED REZONING, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS IS IN CONFORMITY WITH THE POLICY AND INTENT OF THE LAND USE PLAN:

Yes. 2030 Unified Plan identifies the subject property as an appropriate location for Emerging/Existing and similar residential and commercial uses, especially along the I-85 corridor, and the proposed development will confirm with the existing and nearby residential uses, many of which are more intense than the proposed development.

- 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, SPECIAL USE PERMIT, AND/OR CHANGE IN CONDITIONS.

Yes. The requested rezoning is absolutely necessary to enable the Applicant to develop the property so as to allow for a feasible economic use based on the property's location to the I-85 interchange; due to the proposed interchange improvement and Sugarloaf extension adjacent to the subject property; due to its proximity to the Mall of Georgia; and given the existing and future land uses in the area.

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ANDERSEN | TATE | CARR

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

June 30, 2016

VIA HAND DELIVERY AND E-MAIL

Gwinnett County
Department of Planning and Development
Attn: Kathy Holland, Development Director
446 West Crogan Street
Lawrenceville, GA 30046-2440

RE: Letter of Intent in Support of Rezoning for Satilla Capital Partners (the "Applicant") and ACM Satilla LN V, LLC (the 'Property Owner') for the property located at: Parcel ID No. R7143-010, R7143 034, R7136-010 and R6127 063, located near the corner of Brown Rd. and Gravel Springs Rd., also known as 2368 Brown Rd. (the "Subject Property")

Dear Ms. Holland and Planning Department:

On behalf of the Applicant and Property Owner, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., hereby submit this Letter in Support of the related Applications for Rezoning. The Applicant hereby submits three applications for rezoning the Subject Property from RA-200 to R-60, R-TH, and C-2 (for a senior retirement or personal congregate care). The Applicant and Property Owner are working closing with carefully selected builders in order to create three consistent, quality residential and senior-targeted developments.

I. Background

The Applicant seeks to create quality, residential and senior developments, consistent with the existing communities in the area. The Subject Property is zoned RA-200 as part of the remaining rural zoning district that once encompassed much of the Mall of Georgia and Gravel Springs property. In the last twenty (20) years, the area has seen commercial and residential growth around the Mall and along the I-85 corridor. Nearby property is also similarly zoned for more intense commercial, multi-family, R-ZT and R-60 uses.

Much of the Subject Property is surrounded by and lies immediately adjacent to I-85, Highway 324 and the future Sugarloaf Parkway extension. In 2020, a new interchange with I-85 will be completed at Highway 324/Gravel Springs Road which will allow for increased accessibility. Accordingly, the Subject Property will provide

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appropriate, transitional senior and residential uses, while having access to major highways.

The proposed combination of uses for these three separate developments will result in an area where seniors can age in place, while remaining in close proximity to the Mall, I-85, hospitals, and nearby activity centers.

II. Requests for Rezoning

The proposed development will include single-family, townhomes, senior-targeted homes, and senior retirement or personal congregate care. The three developments include over 58 acres of natural open space, approximately 50% of the overall property.

The C-2, senior retirement or personal congregate care development will be a maximum of three (3) stories with approximately 125 units, and is intended to support seniors who are seeking to downsize and simplify their lifestyle, for those who wish to live near family members, and may also include nursing and memory care.

Single-family homes are expected to be a minimum of 2,000 square feet with senior-targeted floor-plans and options. Townhomes will be 22 to 26 ft. wide, with a minimum of 1,500 sq.

Over 50% of the overall property will remain and be preserved as natural, open space for future trail and park options. In addition, the single-family and townhome communities will include a pool, cabana and tennis courts as amenities. All residential homes and townhomes will have a two-car garage, and will be built with quality materials with mixed-architectural elevations. A master association and covenants will be formed to govern and enforce covenants, and to maintain all common areas, landscaping, and amenities.

The proposed zoning and site plan is entirely consistent with similarly developed, residential communities in the immediate area, many of which are zoned C-2, RM-10, R-TH, R-60 or RZT. As outlined in the 2030 Unified Plan and Future Development Map, the Subject Property and surrounding areas are designated as *Existing/Emerging Suburban and Regional Mixed Use*, consistently found to be appropriate for senior and residential communities. Quality homes and senior development will help raise property values and support the nearby commercial development. Finally, with the addition of the new interchange at I-85, substantial commercial development is expected to occur on properties that neighbor the Subject Property.

Given their proximity and location to I-85, the proposed uses are less intense than the multi-family, commercial and industrial uses which are nearby and arguably appropriate for this Property. Additionally, the proposed developments will result in a

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quality mixture of uses, while providing an appropriate transitional zoning and buffer between I-85, the future Sugarloaf Parkway extension, and nearby residential uses. Finally, the site was designed in order to work with the existing land, open space and topography, while and minimizing any potential impact on neighboring properties.

III. Constitutional Objections

The portions of the Gwinnett County Unified Development Ordinance, as amended, (the "UDO") which classify or condition the Subject 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 Subject 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 Subject 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 and/or variances 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 Applicant's and Property Owner's requested rezoning request and related variances, with only such additional conditions as agreed to by the Applicant, so as to permit the only feasible economic use of the Subject 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 Subject Property subject to conditions which are different from the requested variances and conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Property Owner's utilization of the Subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Subject Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions as set forth hereinabove.

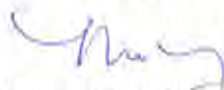
IV. Conclusion

The Applicant respectfully requests that the Gwinnett County Board of Commissioners, Planning Commission and Planning staff recommend and approve the Applicant's rezoning request, with conditions agreeable to the Applicant, in order to allow for a viable, quality and economic use.

The Applicant and its representatives welcome the opportunity to meet with the Gwinnett County Board of Commissioners, Planning Commissioners, community members, and staff to answer any questions.

Respectfully submitted this 30th day of June, 2016.

ANDERSEN, TATE & CARR, PC



Marian C. Adeimy
Attorney for Applicant/Property Owner

Enclosures:
Rezoning Application and exhibits
2682225_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.

Mary 6/30/16
Signature of Applicant Date

Marian C. Adeimy, Attorney

Type or Print Name and Title

Marci E. Thomas 6-30-16
Signature of Notary Public Date



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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

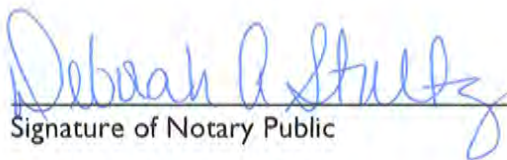
6/29/16

Date

By Authorized Agent for Property Owners as attached hereto.

ACM Satilla LN V, LLC

Type or Print Name and Title



Signature of Notary Public

6-29-16

Date



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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.

 6/30/16 Marian C. Adeimy, Attorney
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

 6/30/16 Marian C. Adeimy, Attorney
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE DATE TYPE OR PRINT NAME AND TITLE

 6-30-16
SIGNATURE OF NOTARY PUBLIC DATE



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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C-2

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 - 143 - 010
District Land Lot Parcel
(Parcel 7143-034 on second sheet)

Mary
Signature of Applicant

7/1/16
Date

Marian C. Adeimy, Attorney for Satilla Capital Partners and ACM Satilla LN V, LLC
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)

C. Roney
NAME

Senior TSA
TITLE

7/1/16
DATE

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