REZONING APPLICATION

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Mahaffey Pickens Tucker, LLP	NAME: Beatrice S. Whitehead
ADDRESS: 1550 N Brown Rd, Ste 125	ADDRESS: 1550 N Brown Rd, Ste 125
CITY: Lawrenceville	CITY: Lawrenceville
STATE: Georgia ZIP: 30043	STATE: Georgia ZIP: 30043
PHONE: 770.232.0000	PHONE: 770.232.0000

CONTACT PERSON: Shane Lanham or Jeff Mahaffey PHONE: 770.232.0000

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

APPLICANT IS THE:

☐ OWNER'S AGENT ☐ PROPERTY OWNER ☒ CONTRACT PURCHASER

PRESENT ZONING DISTRICTS(S): R100 REQUESTED ZONING DISTRICT: R-TH

LAND DISTRICT(S): 5 LAND LOT(S): 17 ACREAGE: 22.46

ADDRESS OF PROPERTY: 587 Paden Drive, Lawrenceville

PROPOSED DEVELOPMENT: Single-family residential townhomes

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: 107	No. of Buildings/Lots: N/A
Dwelling Unit Size (Sq. Ft.): 1,800sf	Total Building Sq. Ft. N/A
Gross Density: 4.76 units/acre	Density: N/A
Net Density: 5.07 units/acre	

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 in Land Lot 17 of the 5th Land District, Gwinnett County, Georgia, containing 22.457 acres, and being more particularly described according to a composite plat for C. R. Cole prepared by Cole Investments, Inc. dated October 24, 1995, and being more particularly described as follows:

BEGINNING at a point on the southwest right-of-way line of Paden Drive a distance of 162.51 feet southeasterly, as measured along the southwest right-of-way line of Paden Drive (having an 80-foot right of way) from the point where the southwest right-of-way line of Paden Drive is intersected by the land district line common to Land Lot 2 of the 7th District and Land Lot 17 of the 5th District; thence run along the southwest right-of-way line of Paden Drive, South 50 degrees 45 minutes East 291.69 feet to a point; thence continuing along said right-of-way line in a southeasterly direction a distance of 106.05 feet, along an arc having a radius of 278.31 feet, to a point on said right-of-way line; thence continuing along said right-of-way line South 28 degrees 55 minutes East 191.03 feet to a point; thence run South 61 degrees 08 minutes West 178.50 feet to a point; thence run South 60 degrees 30 minutes West 1466.9 feet to a point; thence run North 28 degrees 51 minutes West 542.4 feet to a point; thence run North 61 degrees 16 minutes East 210 feet to a point; thence run South 55 degrees 23 minutes 30 seconds East 67.14 feet to a point; thence run South 61 degrees 16 minutes West 40 feet to a point; thence run South 28 degrees 51 minutes East 363 feet to a point; thence run North 61 degrees 16 minutes East 120 feet to a point; thence run North 28 degrees 51 minutes West 363 feet to a point; thence run South 61 degrees 16 minutes West 10.32 feet to a point; thence run North 37 degrees 18 minutes 30 seconds West 242.70 feet to a point on the district line common to Land Lot 2 of the 7th District and Land Lot 17 of the 5th District; thence run along said district line, North 61 degrees 16 minutes East 303.20 feet to a point; thence run along said district line, North 60 degrees 20 minutes East 512.73 feet to a point on said district line; thence run South 48 degrees 37 minutes 35 seconds East 161.94 feet to a point; thence run North 60 degrees 20 minutes East 371.44 feet to a point on the southwest right-of-way line of Paden Drive, being the point of beginning.

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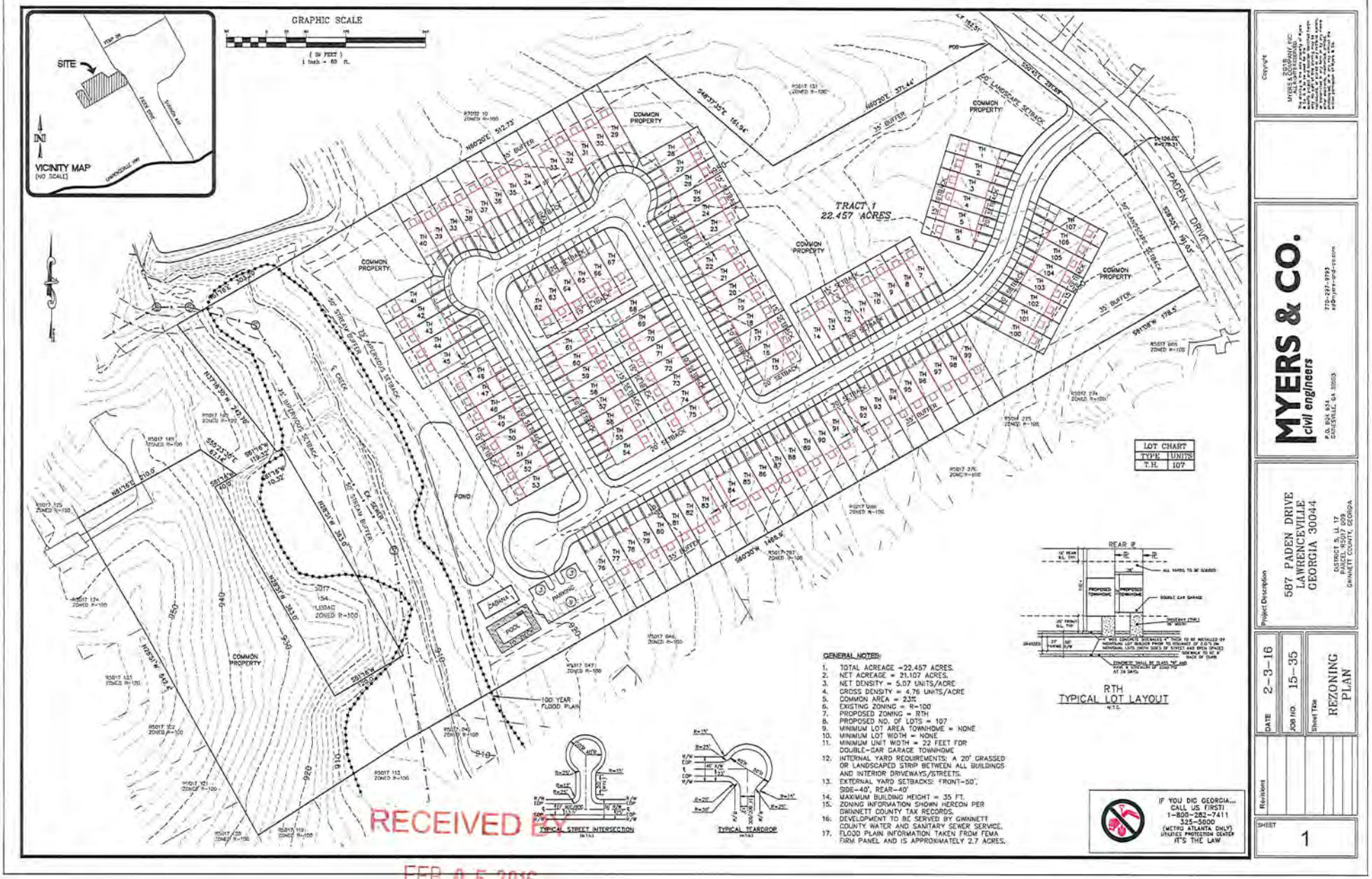

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MYERS & CO.
civil engineers
P.O. BOX 654
LOGANVILLE, GA 30053
770-237-9733
mike@myers-grp-co.com

Project Description
587 PADEN DRIVE
LAWRENCEVILLE
GEORGIA 30044
DISTRICT 5, LL 17
PARCEL #5017 009
GWINNETT COUNTY, GEORGIA

DATE 2-3-16
JOB NO. 15-35
Sheet Title REZONING PLAN
Revisions
SHEET 1

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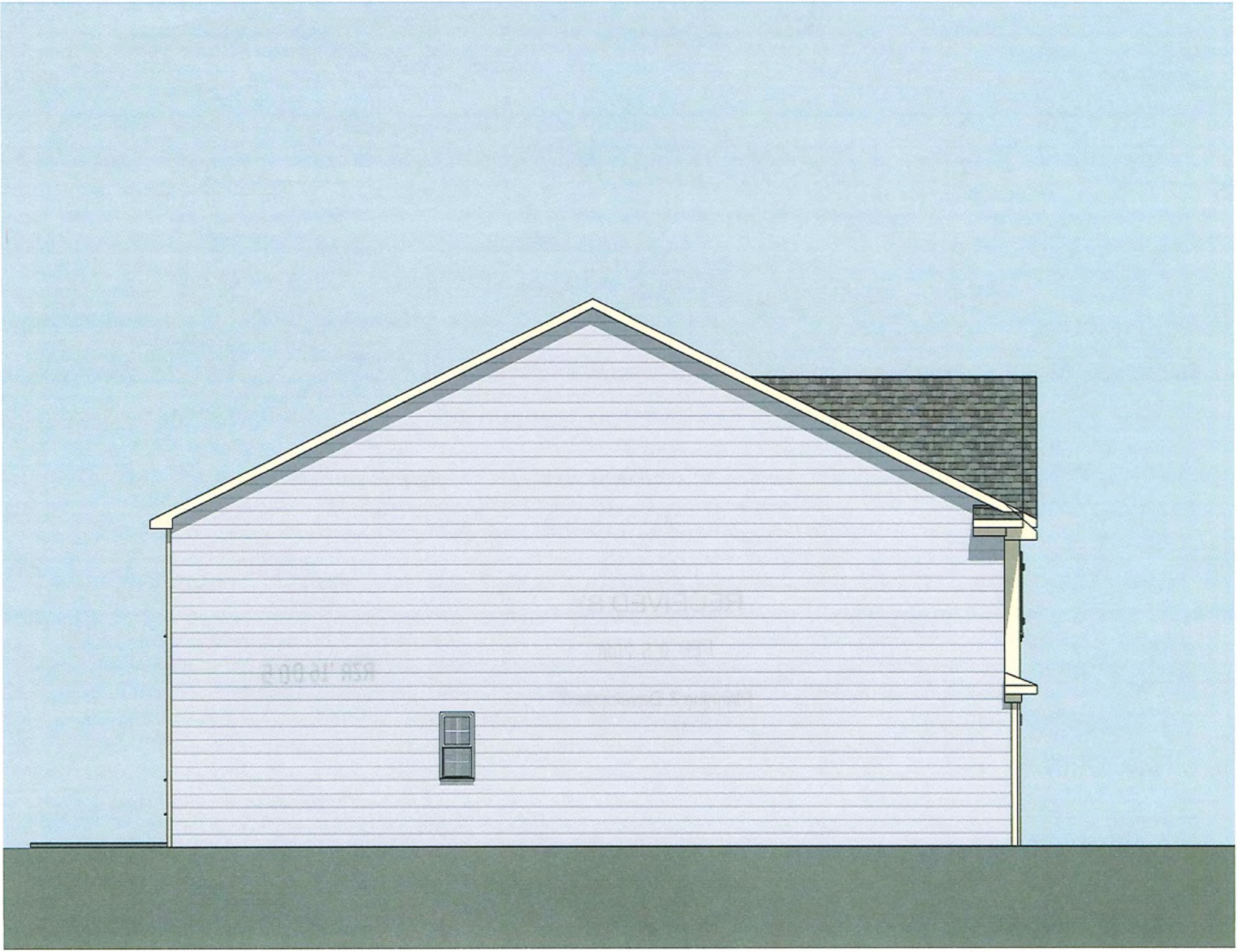

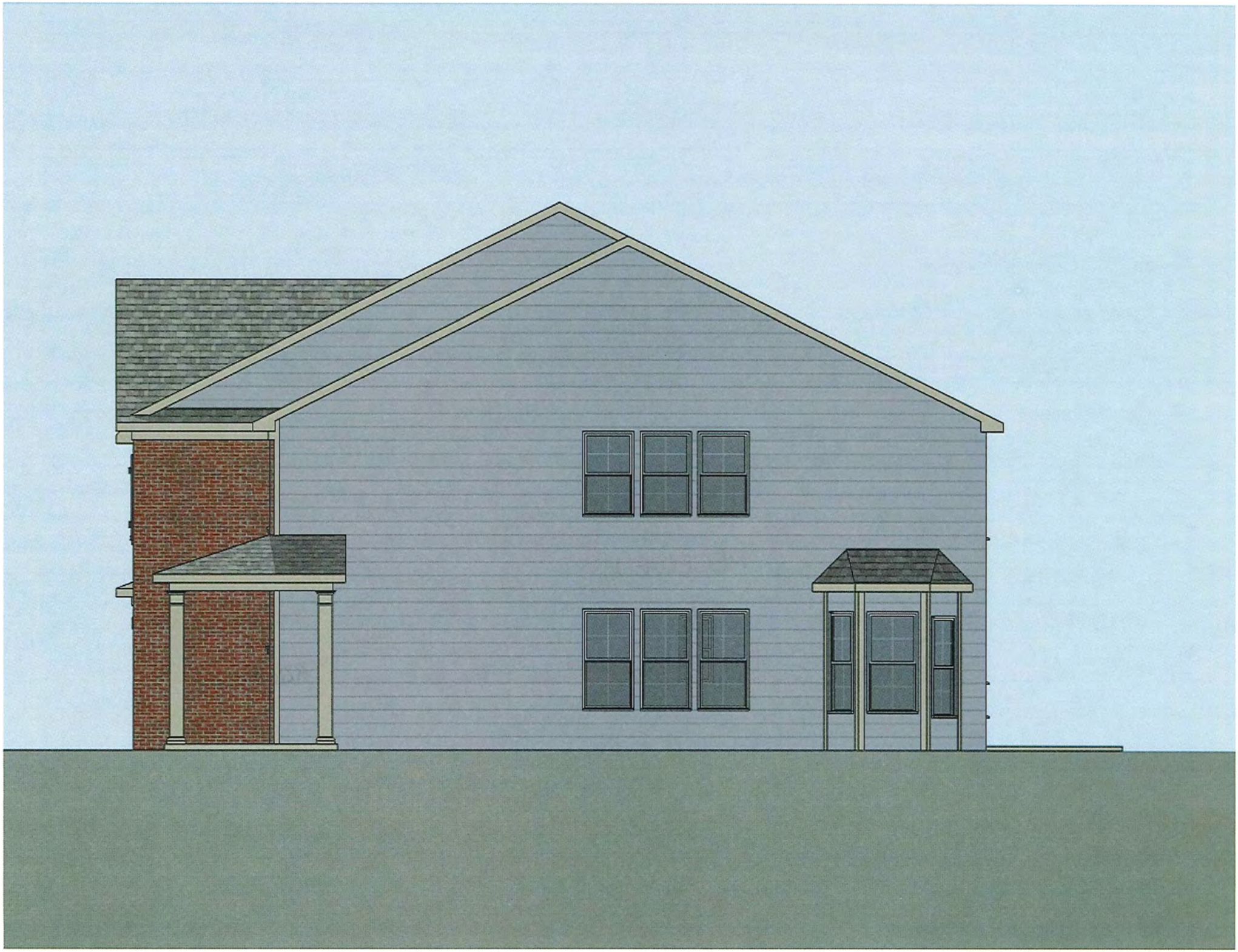

REZONING APPLICANT'S RESPONSE

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:

Please see attached

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

Please see attached

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

Please see 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:

Please see attached

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

Please see attached

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

Please see attached

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

(A) Yes, the proposed Rezoning Application will permit a use that is suitable in view of the use and development of adjacent and nearby property.

(B) No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties.

(C) Due to the size, location, layout and dimensions of the subject property, the Applicant submits that the property does not have reasonable economic use as currently zoned.

(D) No, the proposed rezoning will not result in an excessive or burdensome use of the infrastructure systems. Recent and continuing improvements to the transportation network in the area allow and contemplate developments of this nature.

(E) Yes, the proposed Rezoning Application is in conformity with the policy and intent of the Gwinnett County Land Use Plan.

(F) Applicant submits that the subject property's proximity to commercially and similarly-zoned property provides additional support of this Application.

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Mahaffey Pickens Tucker, LLP
ATTORNEYS AT LAW

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Alissa L. Cummo
Brian T. Easley
Kelly O. Faber
Amanda F. Henningsen
Christopher D. Holbrook
Joshua P. Johnson
Gerald Davidson, Jr.*

Shane M. Lanham
Austen T. Mabe
Jeffrey R. Mahaffey
Steven A. Pickens
Andrew D. Stancil
Kenneth W. Stroud
R. Lee Tucker, Jr.
*Of Counsel

LETTER OF INTENT FOR REZONING APPLICATION OF MAHAFFEY PICKENS TUCKER, LLP

Mahaffey Pickens Tucker, LLP (the "Applicant") submits this Letter of Intent and attached Rezoning Application for the purpose of rezoning to the R-TH zoning classification an approximate 22.46 acre tract (the "Property") situated along Paden Drive north of its intersection with Lawrenceville Highway (a.k.a. U.S. Route 29). The Property is currently zoned R-100.

The Applicant proposes to develop a single-family residential community, including 107 attached residential townhomes. The proposed development would have a net density of approximately 5.07 units/acre, which is below the maximum allowed density of 8.0 units per acre prescribed for the R-TH zoning classification in the Gwinnett County Unified Development Ordinance (the "UDO"). The proposed single-family community would consist of homes at a size, quality, and price-point commensurate with or exceeding homes in the surrounding area. The proposed townhomes would include double-car garages as well as other attractive architectural elements. The building materials would consist of brick, stacked stone, or cement or shake siding. The proposed development would also contain a pool and cabana amenities for residents as well as approximately 1.3 acres of common green space at the rear of the property.

In addition to the thirty-five foot buffers required by the UDO, adjacent R-100 uses are further buffered from the proposed development by the extensive green space provided at the

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rear of the site. In effect, this common green space creates a buffer that is over five hundred feet in width.

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

Respectfully submitted this 5th day of February, 2016.

MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham
Attorneys for Applicant

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JUSTIFICATION FOR REZONING APPLICATION

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

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

The Property is presently suitable for development under the R-TH classification with as requested by the Applicant, and is not economically suitable for development under the present R-100 zoning classification of Gwinnett County. A denial of this Application would constitute an arbitrary and capricious act by the Gwinnett County Board of Commissioners without any rational basis therefore, constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983, and the

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Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the R-TH classification with such 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 of the United States. Any rezoning of the subject Property to the R-TH classification, subject to conditions which are different from the conditions by which the Applicant may amend its application, to the extent such different conditions would have the effect of further restricting the Applicant's and the Owner's utilization of the subject Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to an unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

Accordingly, the Applicant respectfully requests that the rezoning application submitted by the Applicant relative to the Property be granted and that the Property be rezoned to the zoning classification as shown on the respective application.

This 5th day of February, 2016.

Respectfully submitted,
MAHAFFEY PICKENS TUCKER, LLP

Shane M. Lanham
Attorneys for Applicant

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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: 2/3/16

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title

Signature of Notary Public — Date: 2-3-16 — Notary Seal

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

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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.

Beatrice S. Whitehead — 02/02/2016

Signature of Property Owner Beatrice S. Whitehead
f/k/a Beatrice C. Southard, Executrix
Estate of Charlie R. Cole — Date

Type or Print Name and Title Beatrice S. Whitehead
f/k/a Beatrice C. Southard, Executrix
Estate of Charlie R. Cole

Signature of Notary Public — 2/2/16 Date — Notary Seal

Katherine Karn NOTARY PUBLIC GWINNETT COUNTY, GA EXPIRES SEPT 22, 2019

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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
	2/3/16	Shane M. Lanham, Attorney for Applicant
SIGNATURE OF APPLICANT'S ATTORNEY OR REPRESENTATIVE	DATE	TYPE OR PRINT NAME AND TITLE
	2-3-16	
SIGNATURE OF NOTARY PUBLIC	DATE	NOTARY SEAL

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

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

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

[X] YES [ ] NO Mahaffey Pickens Tucker, LLP

YOUR NAME

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

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

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

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

MAHAFFEY PICKENS TUCKER, LLP

NAME AND OFFICIAL POSITION OF GOVERNMENT OFFICIAL	CONTRIBUTIONS	DATE
Lynette Howard	$1000	03/21/2014
Tommy Hunter	$1000	03/05/2015
Jace Brooks	$1000	03/05/2015
John Heard	$1000	03/31/2015
Jace Brooks	$1000	09/29/2015
Tommy Hunter	$1000	01/27/2016

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Updated 02/03/2016

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) 5 (District) - 017 (Land Lot) - 009 (Parcel)

Signature of Applicant — Date: 2/3/16

Shane Lanham, Attorney for the Applicant
Type or Print Name and Title

PLEASE TAKE THIS FORM TO THE TAX COMMISSIONERS OFFICE AT THE GWINNETT JUSTICE AND ADMINISTRATION CENTER, 75 LANGLEY DRIVE, FOR THEIR APPROVAL BELOW.

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)

Robin Bell — NAME
TSA 1 — TITLE
2-2-2016 — DATE

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