

REZONING APPLICATION

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

APPLICANT INFORMATION	PROPERTY OWNER INFORMATION*
NAME: <u>Beazer Homes</u> <small>c/o Andersen, Tate & Carr, PC</small>	NAME: <u>Estate of M. Joyce Ogletree</u> <small>c/o Mary J. Thompson, Executor</small>
ADDRESS: <u>1960 Satellite Blvd., Suite 4000</u>	ADDRESS: <u>5705 Buck Hollow Drive</u>
CITY: <u>Duluth</u>	CITY: <u>Alpharetta</u>
STATE: <u>GA</u> ZIP: <u>30097</u>	STATE: <u>GA</u> ZIP: <u>30005</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:

OWNER'S AGENT
 PROPERTY OWNER
 CONTRACT PURCHASER/Tenant

PRESENT ZONING DISTRICTS(S): _____ ^{O&I/R-75} REQUESTED ZONING DISTRICT: R-60

LAND DISTRICT(S): 6 LAND LOT(S): 127 and 128 ACREAGE: Approx. 30

ADDRESS OF PROPERTY: 50 Bethesda Church Rd., Lilburn, GA

PROPOSED DEVELOPMENT: Single-family residential subdivision

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units <u>81</u>	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): <u>Min. 2,400 sq. ft.</u>	Total Building Sq. Ft. _____
Gross Density: <u>2.75 units per acre</u>	Density: <u>n/a</u>
Net Density: <u>Approx. 2.75 units per acre</u>	

PLEASE ATTACH A LETTER OF INTENT EXPLAINING WHAT IS PROPOSED

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RZR '16013

MAY 05 2016

Legal Description – Parcel 1

ALL THAT TRACT OR PARCEL OF land lying and being in Land Lot 128, 6th District, Gwinnett County, Georgia, being more particularly described as follows:

BEGINNING at the southwesternmost point of the mitered intersection of the southeasterly right of way of Bethesda Church Road (right of way varies) with the southwesterly right of way of Ronal Reagan Parkway (right of way varies), that is the **POINT OF BEGINNING**; thence along said mitered intersection North 68°16'29" East a distance of 126.24 feet to a point, which is the northeasternmost point of the mitered intersection of the southeasterly right of way of Bethesda Church Road with the southwesterly right of way of Ronal Reagan Parkway; thence along the right of way of said Ronal Reagan Parkway South 75°10'48" East a distance of 170.39 feet to a point; thence continuing along said right of way 866.26 feet along a curve to the right, said curve having a chord of South 66°17'47" East 862.89 feet and a radius of 2834.79 feet to a point; thence continuing along said right of way South 58°09'02" East a distance of 328.33 feet to a point; thence continuing along said right of way thence South 56°42'06" East a distance of 256.16 feet to a point; thence continuing along said right of way South 35°23'07" West a distance of 25.00 feet to a point; thence continuing along said right of way South 54°30'45" East a distance of 39.18 feet to a point located in the centerline of Fork Creek; thence along the centerline of said creek the following courses and distances: South 36°31'39" West a distance of 30.59 feet to a point; thence South 19°05'19" West a distance of 39.31 feet to a point; thence South 01°54'29" West a distance of 52.33 feet to a point; thence South 34°15'58" East a distance of 21.93 feet to a point; thence South 57°12'58" East a distance of 45.76 feet to a point; thence South 50°10'12" East a distance of 26.64 feet to a point; thence leaving said centerline of Fork Creek South 40°52'30" West a distance of 874.98 feet to a point; thence South 45°19'50" West a distance of 154.12 feet to a point located on the Land Lot Line common to Land Lots 127 and 128; thence along said Land Lot Line North 30°00'39" West a distance of 670.24 feet to a point; thence continuing along said Land Lot Line North 30°05'02" West a distance of 913.19 feet to a point; thence continuing along said Land Lot Line North 29°29'28" West a distance of 305.99 feet to a point located on the southeastern right of way of Bethesda Church Road; thence leaving said Land Lot Line and along said right of way North 31°44'29" East a distance of 9.18 feet to a point, being the **POINT OF BEGINNING**. Said tract contains 28.535 Acres.

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RZR '16 013

Legal Description – Parcel 2

ALL THAT TRACT OR PARCEL OF land lying and being in Land Lot 127, 6th District, Gwinnett County, Georgia, being more particularly described as follows:

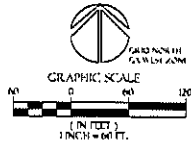
BEGINNING at the southwesternmost point of the mitered intersection of the southeasterly right of way of Bethesda Church Road (right of way varies) with the southwesterly right of way of Ronal Reagan Parkway (right of way varies); thence along the southeasterly right of way of Bethesda Church Road South $31^{\circ}44'29''$ West a distance of 9.18 feet to a point located on the intersection of said right of way with Land Lot Line common to Land Lots 127 and 128, that is the **POINT OF BEGINNING**; thence leaving said right of way and along said Land Lot Line South $29^{\circ}29'28''$ East a distance of 305.99 feet to a point; thence leaving said Land Lot Line North $86^{\circ}29'19''$ West a distance of 304.43 feet to a point located on the southeastern right of way of Bethesda Church Road; thence along said right of way North $31^{\circ}44'29''$ East a distance of 291.26 feet to a point, being the **POINT OF BEGINNING**. Said tract contains 0.897 Acres.

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RZR '16013



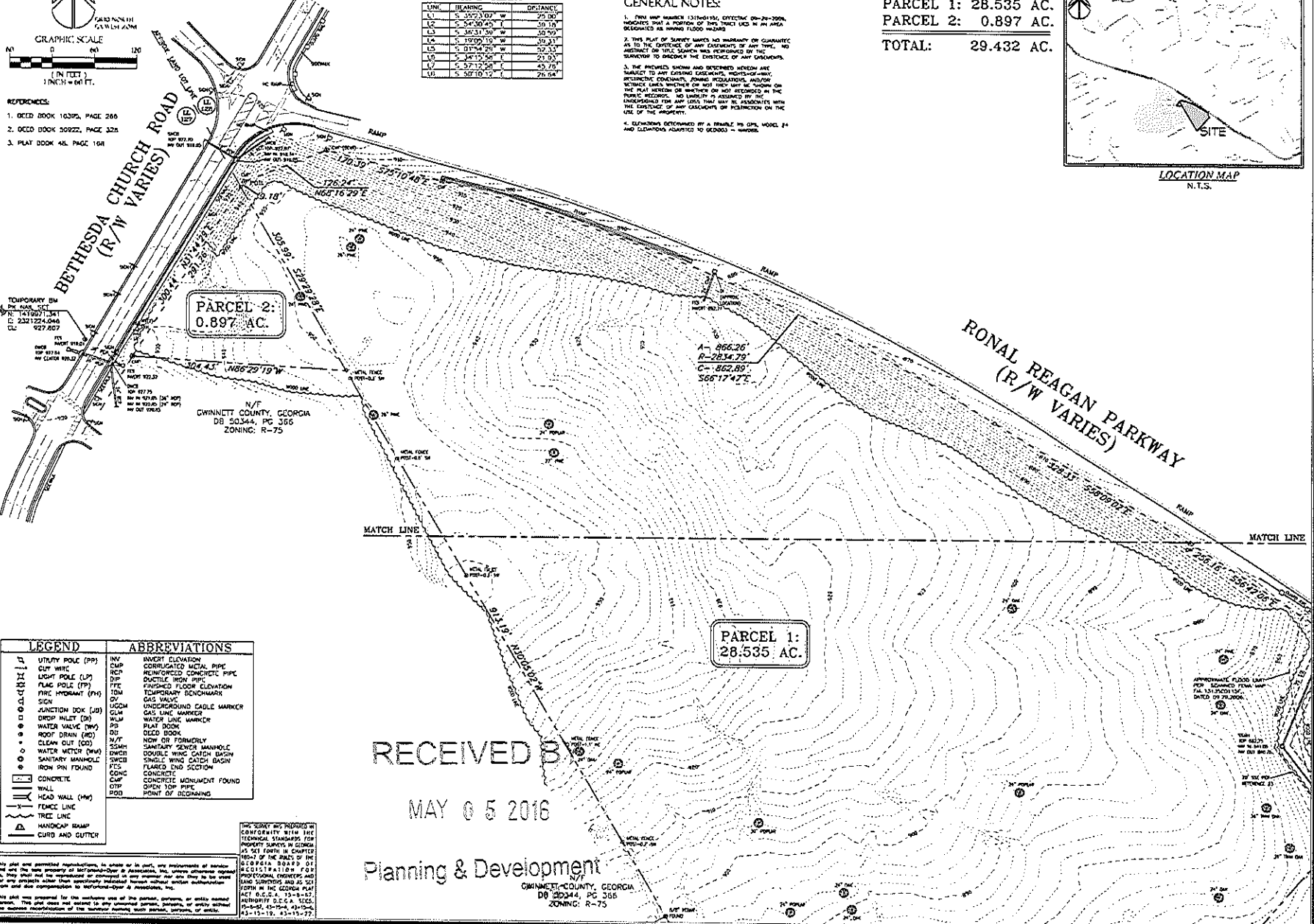
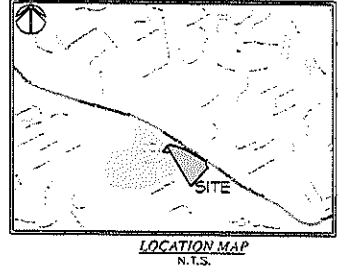
- REFERENCES:
1. DEED BOOK 10395, PAGE 288
 2. DEED BOOK 59222, PAGE 325
 3. PLAY BOOK 48, PAGE 104

LINE CHART

LINE	BEARING	DISTANCE
L1	S 35°23'07" W	25.00'
L2	S 24°30'45" E	59.75'
L3	S 18°11'50" W	32.00'
L4	S 19°00'19" W	39.33'
L5	S 01°44'29" W	92.33'
L6	S 24°53'54" E	21.00'
L7	S 57°12'58" E	43.70'
L8	S 58°10'12" E	25.04'

- GENERAL NOTES:**
1. THIS MAP NUMBER IS 131804180, EFFECTIVE 08-24-2008, INDICATES THAT A PORTION OF THIS TRACT LIES IN AN AREA DESIGNATED AS HAVING FLOOD HAZARDS.
 2. THIS PLAN OF SURVEY MAKES NO WARRANTY OR GUARANTEE AS TO THE EXISTENCE OF ANY EASEMENTS OF ANY TYPE. NO ABSTRACT OR TITLE SEARCH WAS PERFORMED BY THE SURVEYOR TO DETERMINE THE EXISTENCE OF ANY EASEMENTS.
 3. THE PROVIDED SHOWN AND DETACHED WIREMANS ARE SUBJECT TO ANY EXISTING EASEMENTS, RIGHTS-OF-WAY, EASEMENTS, EASEMENTS, POWER, TELEPHONE, CABLE, TELEVISION, OR OTHER UTILITIES. THE SURVEYOR HAS CONDUCTED VISUAL INSPECTIONS AND HAS NOTED THE PRESENCE OF ANY SUCH UTILITIES. NO LIABILITY IS ASSUMED BY THE SURVEYOR FOR ANY LOSS THAT MAY BE INCURRED BY THE USER OF THE PROPERTY.
 4. ELEVATIONS DETERMINED BY A TRIMBLE 560 GPS MODEL 24 AND ELEVATIONS ADJUSTED TO GEOIDAL - MAMERS.

PARCEL 1: 28.535 AC.
 PARCEL 2: 0.897 AC.
 TOTAL: 29.432 AC.



LEGEND	ABBREVIATIONS
UTILITY POLE (PP)	BNV BENCHMARK ELEVATION
CUP WIRE	CSR CORRUGATED METAL PIPE
LIGHT POLE (LP)	RCR REINFORCED CONCRETE PIPE
FLAG POLE (FP)	DIP DUCTILE IRON PIPE
FINE HYDRANT (FH)	FPE FINISHED FLOOR ELEVATION
SIGN	TDN TEMPORARY BENCHMARK
JUNCTION BOX (JB)	OV GAS VALVE
GRIP HOLEY (GH)	UCGM UNDERGROUND CABLE MARKER
WATER VALVE (WV)	GLM GAS LINE MARKER
ROOF DRAIN (RD)	WLM WATER LINE MARKER
CLEAN OUT (CO)	PLD PLAY BOOK
WATER METER (WM)	DEED BOOK
SANITARY MANHOLE	N/F NOW OR FORMERLY
IRON PIN FOUND	SMH SANITARY SINKER MANHOLE
CONCRETE	EMER DOUBLE WING CATCH BASIN
WALL	SWCB SINGLE WING CATCH BASIN
HEAD WALL (HW)	FLR FLARED END SECTION
FENCE LINE	CONC CONCRETE
TREE LINE	CMP CONCRETE MONUMENT FOUND
HANDICAP RAMP	OTR SHOR TOP PIPE
CURB AND GUTTER	POD POINT OF BEGINNING

This plan was prepared for the work shown on the parcel, portions, or entire parcel herein. This plan does not represent any unrecorded claims, interests, or other matters. The surveyor's responsibility is to the client and not to the public. The surveyor's liability is limited to the amount of the fee paid for the survey. This plan is not to be used for any other purpose without the express permission of the surveyor. The surveyor's name and address shall be printed on this plan.

GEORGIA SURVEYORS ASSOCIATION

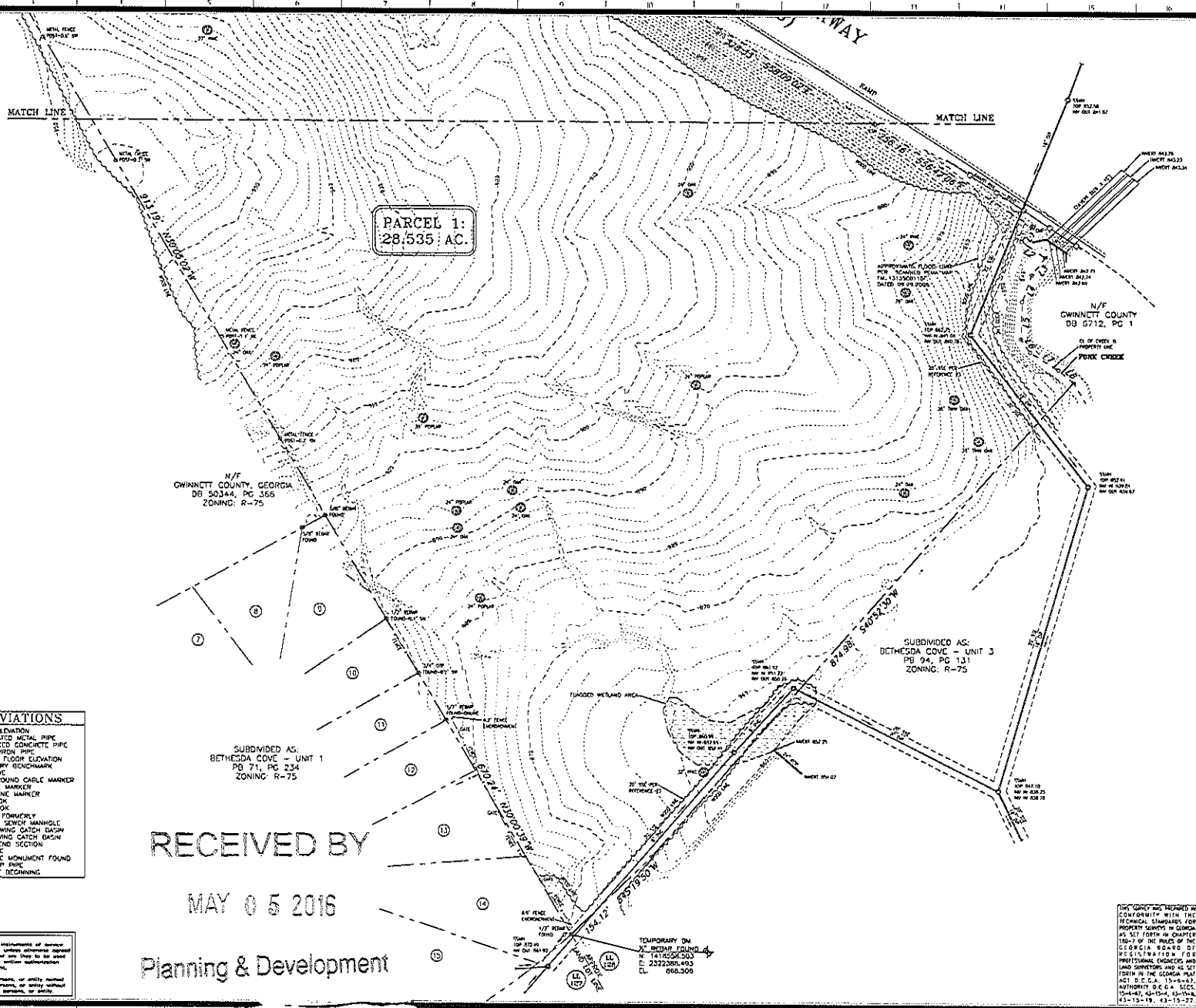
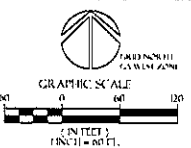
MDA

BEAZER HOMES CORP. (EXCERPT/BETHESDA CHURCH)

BOUNDARY & TOPOGRAPHIC SURVEY

SHEET 1 OF 2

RZR '16013




LEGEND	ABBREVIATIONS
Utility Pole (UP)	HW INVERT ELEVATION
CUP WIRE	CMR CORRUGATED METAL PIPE
Light Pole (LP)	RCR REINFORCED CONCRETE PIPE
FLWC POLE (FLWC)	DIP DUCTILE IRON PIPE
FIRE HYDRANT (FH)	FEE FINISHED FLOOR ELEVATION
SGN	TMV TEMPORARY BENCHMARK
JUNCTION BOX (JB)	GV GAS VALVE
DROP INLET (DI)	UGL UNDERGROUND CARBON MARKER
WATER VALVE (WV)	GLM GAS LINE MARKER
ROOF DRAIN (RD)	WLM WATER LINE MARKER
CLEAN OUT (CO)	PLR PLAT BOOK
WATER WITCH (WW)	DEB DEED BOOK
SANITARY MANHOLE	N/F NOW OR FORMERLY
IRON PIN FOUND	SMH SANITARY SINKER MANHOLE
CONCRETE	OWC DOUBLE WIND CATCH BASIN
WALL	SWC SINGLE WIND CATCH BASIN
HEAD WALL (HW)	FLS FLAGGED TPO SECTION
FENCE LINE	CONC CONCRETE MONUMENT FOUND
TRICE LINE	OTF OPEN TOP PIPE
HEADROAD RAMP	POB POINT OF BEGINNING
CURB AND GUTTER	

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THIS OFFICE HAS REVIEWED THIS SURVEY AND IS IN SUBstantial COMPLIANCE WITH THE REQUIREMENTS OF THE GEORGIA SURVEYING ACT AS SET FORTH IN CHAPTER 126-7 OF THE RULES OF THE GEORGIA BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA SURVEYING ACT, O.C.G.A. TITLE 43, CHAPTER 126-7, AND AS SET FORTH IN THE GEORGIA SURVEYING ACT, O.C.G.A. TITLE 43, CHAPTER 126-7, AND AS SET FORTH IN THE GEORGIA SURVEYING ACT, O.C.G.A. TITLE 43, CHAPTER 126-7.



MDA
MICHIGAN DESIGN ASSOCIATES, INC.
10000 GRAND AVENUE, SUITE 100
ANN ARBOR, MI 48106-1500
PH: 734.769.1000
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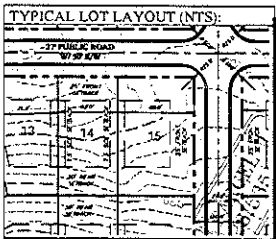
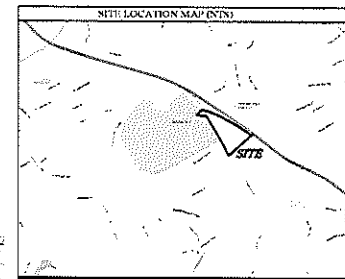
DATE	BY	CHECKED	APPROVED	TITLE

BEAZER JAMES CORP.
(C/O CLERK/BETHESDA CHURCH)

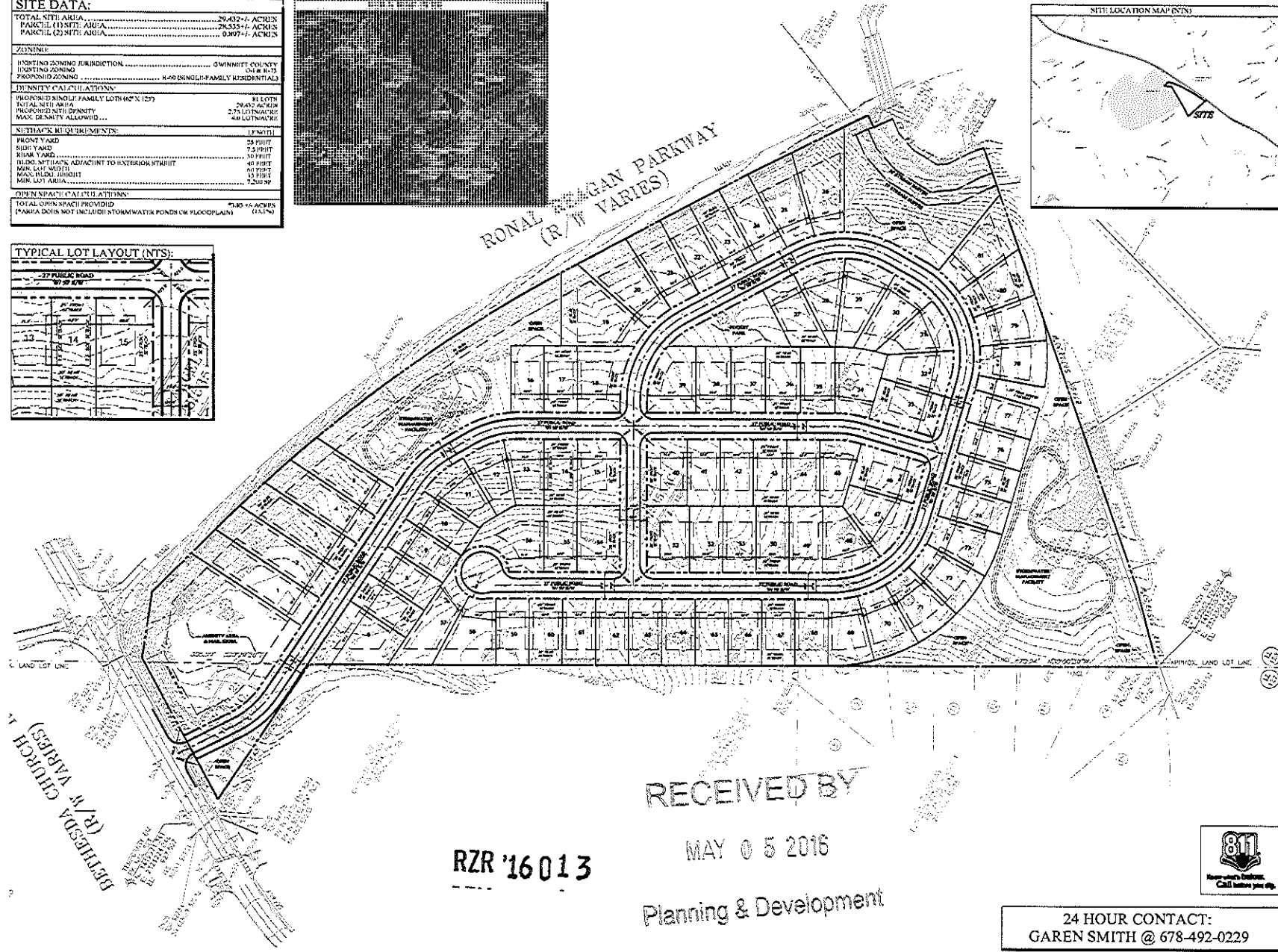
BOUNDARY & TOPOGRAPHIC SURVEY

SHEET 1 OF 2

SITE DATA:	
TOTAL SITE AREA	29,432 +/- ACRES
PARCEL (1) SITE AREA	29,535 +/- ACRES
PARCEL (2) SITE AREA	0,907 +/- ACRES
ZONING:	
HISTORIC ZONING JURISDICTION	OWNERSHIP COUNTY
EXISTING ZONING	CU # R-12
PROPOSED ZONING	R-99 SINGLE-FAMILY RESIDENTIAL
DENSITY CALCULATIONS:	
PROPOSED SINGLE-FAMILY LOTS (62' X 123')	81 LOTS
TOTAL SITE AREA	29,432 ACRES
PROPOSED DENSITY	2.75 LOTS/ACRE
MAX. DENSITY ALLOWED...	4.0 LOTS/ACRE
SETBACK REQUIREMENTS: (F2017)	
FRONT YARD	25 FEET
REAR YARD	7.5 FEET
KIDNEY YARD	10 FEET
BUILDING ADJACENT TO INTERIOR STREET	40 FEET
MIN. LOT WIDTH	60 FEET
MAX. BLDG. HEIGHT	13 FEET
MIN. LOT AREA	7,200 SF
OPEN SPACE CALCULATIONS:	
TOTAL OPEN SPACE PROVIDED	91.83 +/- ACRES
(PARKS DOES NOT INCLUDE STORMWATER PONDS OR FLOODPLAIN)	(13.1%)



RONALD WAGAN PARKWAY
(R/W VARIES)



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OGLETREE
A MASTER-PLANNED RESIDENTIAL DEVELOPMENT

IN CONSULTATION WITH:
BEAUFORT COUNTY
645 SHELBOURNE
SUITE A
AUFERLEE, SOUTH CAROLINA 29528
PHONE: 703-781-3450
OR 803-687-9200
WWW.OGLETREE.COM

PLANNERS AND ENGINEERS COLLABORATIVE
THE PROVIDE SOLUTIONS™
SITE PLANNING, LANDSCAPE ARCHITECTURE & CIVIL ENGINEERING & LAND SURVEYING
500 EQUANIMITY COURT, FLORENCE, SOUTH CAROLINA 29505
PHONE: 803-671-3450
WWW.PAECOL.COM

REVISIONS:

NO.	DATE	BY	DESCRIPTION

MASTER REZONING
PLAN w/ TOPO

SCALE: 1" = 80'
DATE: APRIL 1, 2016
PROJECT: 11102.00B

THIS SCALE IS ONLY VALID IF COUNTER SIGNED AND DATED WITH AN ORIGINAL SIGNATURE.

811
Non-emergency
Call before you dig.

Z2
SHEET

24 HOUR CONTACT:
GAREN SMITH @ 678-492-0229

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"

BEAZER HOMES – BETHESDA CHURCH 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 subject property is currently subject to a more intense zoning, and the requested R-60 single-family use is consistent with the nearby residential uses, provide an appropriate transition to Ronald Reagan Parkway, and is 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 O&I while surrounded by residential uses, and accordingly, the zoning request is a less intense zoning and 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 zoning, conditions and restrictions, 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, 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, highways and interstate. The development is consistent with the Unified Plan, which supports similar residential development in this mostly residential corridor. Gwinnett County precedent has historically approved residential uses as appropriate for property located adjacent to a community park. The proposed community will not cause excessive use of existing streets, transportation facilities or utilities.

- 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 Uses and the proposed development will confirm with the existing and nearby 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, 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 values and land uses in the area.

ANDERSEN TATE CARR

ANDERSEN, TATE & CARR, P.C.
ONE SUGARLOAF CENTRE
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Marian C. Adeimy
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May 5, 2016

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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

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RZR '16013

RE: Letter of Intent in Support of Rezoning for Beazer Homes (the "Applicant") for the property located at Parcel ID No. R6128-267 and R6127 063, and known as 50 Bethesda Church Road (the "Property")

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

On behalf of the Property Owner, the Estate of Martha Joyce B. Ogletree, by her Executrix (the "Property Owner") and the Applicant, Beazer Homes, by and through its contract purchaser and representatives, Andersen, Tate & Carr, PC and Marian C. Adeimy, Esq., the Applicant and Property Owners hereby submit this **Application for Rezoning** and, if needed, related variances, as this Application may be amended, for the property known as Parcel ID No. R6128-267 and R6127 063, and known as 50 Bethesda Church Road (hereinafter, the "Property"), being approximately 30 acres, for the development of approximately 81 quality, single-family homes.

I. Request for Rezoning

Beazer Homes is a respected, Atlanta-based builder with years of experience in developing and building quality residential communities like the one proposed. The Property currently includes mixed zoning designations as OI, Office-Institutional, and R-75 for single-family residential. The Applicant seeks to rezone the Property from O&I and R-75 to R-60, in order to allow for the proposed development at approximately 2.7 lots per acre, well under the 4 lots per acre threshold, with almost 4 acres of open space.

Like similar Beazer communities in Gwinnett County, the homes are expected to sell in the high \$300's to low \$400's, with a minimum of 2,400 square feet with two car garages and quality materials with mixed-architectural elevations. The site includes almost four (4) acres of open space, and an amenity center consisting of a pool, cabana, mail kiosk, and nature trail to connect the community with the adjacent park. The Property remained

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undeveloped during the economic downturn, but has since become appropriate for a single-family subdivision consistent with the quality, neighborhoods in the area, as well as being located adjacent to Bethesda Park, a County and neighborhood amenity.

As outlined in the 2030 Unified Plan and Future Development Map, the Property is designated as Existing/Emerging Suburban and appropriate for a single-family community like the one proposed. Moreover, the Comprehensive Land Use Plan also identifies this part of Gwinnett County as being appropriate for single-family homes which will help raise property values and support area-businesses.

The proposed zoning and site plan is entirely consistent with similarly, developed, residential communities in the immediate area, many of which are zoned R-60 or RZT, including Brentwood Gates, Riverstone, Winnsong Chase, Bridge Walk communities, and but less intense than the multi-family uses which are arguably appropriate for this Property, like the Park156 Apartments located across the street from the subject Property. Instead, the proposed single-family development makes use of a long-vacant infill site with inconsistent mixed-zoning districts, while providing an appropriate transition and buffer between Ronald Reagan Parkway, the park and nearby residential uses.

The site was designed in order to work with the existing land and topography, and is consistent with the neighboring subdivisions, while and minimizing any potential impact on neighboring properties. As contemplated by the Unified Plan, the proposed use will generate far less traffic than the potential commercial and office uses, while creating a transitional, residential environment consistent with the park and neighborhoods in the area. A master association and covenants will be formed as a condition of zoning, to govern and maintain all common areas, landscaping, amenities, and the like.

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 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 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 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.

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RZR '16 013

Amended Letter of Intent
Beazer – Bethesda Church Road
May 5, 2016
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Respectfully submitted this 5th day of May, 2016.

ANDERSEN, TATE & CARR, PC



Marian C. Adelmy
Attorney for Applicant

Enclosures
(Amended Application and Site Plan Exhibits)

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RZR '16013

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.

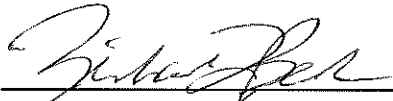

Signature of Applicant

5/5/16

Date

Marian C. Adeimy, Attorney

Type or Print Name and Title


Signature of Notary Public

5/5/16
Date



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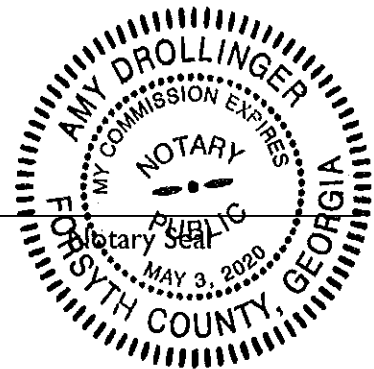
REZONING PROPERTY OWNER'S CERTIFICATION

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.

Mary J Thompson 5-4-16
Signature of Property Owner Date

Mary J Thompson - Executor Joyce Ogletree Estate
Type or Print Name and Title

[Signature] 5/4/16
Signature of Notary Public Date



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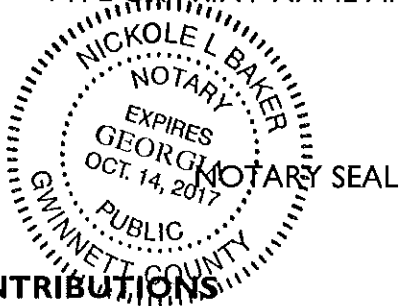
CONFLICT OF INTEREST CERTIFICATION FOR REZONING

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.

Marian C. Adeimy 5/5/16 Marian C. Adeimy, Attorney
SIGNATURE OF APPLICANT DATE TYPE OR PRINT NAME AND TITLE

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

Nickole L. Baker 5/5/16
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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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 - 127 - 063
(Map Reference Number) District Land Lot Parcel

Mary 5/5/16
Signature of Applicant Date
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 Sr. TSA
NAME TITLE
5/5/16
DATE

RECEIVED BY

MAY 05 2016

VERIFICATION OF CURRENT PAID PROPERTY TAXES FOR REZONING

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

PARCEL I.D. NUMBER: 6 - 128 - 267
(Map Reference Number) District Land Lot Parcel

Mary 5/5/16
Signature of Applicant Date
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 Remy Sr. TSA
NAME TITLE
5-5/16
DATE

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