

**REZONING APPLICATION**

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

APPLICANT INFORMATION	OWNER INFORMATION*
NAME: Ashton Communities, LLC	NAME: Ewing, Billy W. & Brenda D.
ADDRESS: 1550 N Brown Road, Suite 125	ADDRESS: 1492 Highpoint Rd
CITY: Lawrenceville	CITY: Snellville
STATE: Georgia ZIP: 30043	STATE: Georgia ZIP: 30078
PHONE: 770.232.0000	PHONE: 770.232.0000
CONTACT PERSON: Shane Lanham PHONE: 770.232.0000	
CONTACT'S E-MAIL: slanham@mptlawfirm.com	

APPLICANT IS THE:	
<input type="checkbox"/> OWNER'S AGENT	<input type="checkbox"/> PROPERTY OWNER <input checked="" type="checkbox"/> CONTRACT PURCHASER
PRESENT ZONING DISTRICTS(S): R-100 REQUESTED ZONING DISTRICT: R-75	
LAND DISTRICT(S): 6 LAND LOT(S): 69 ACREAGE: +/- 7.78	
ADDRESS OF PROPERTY: 1500 Block Highpoint Road	
PROPOSED DEVELOPMENT: Single-family residential subdivision	

RESIDENTIAL DEVELOPMENT	NON-RESIDENTIAL DEVELOPMENT
No. of Lots/Dwelling Units: 23	No. of Buildings/Lots: _____
Dwelling Unit Size (Sq. Ft.): 2,200+	Total Building Sq. Ft. _____
Gross Density: 2.96	Density: _____
Net Density: 2.96	

**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 69 OF THE 6TH DISTRICT OF GWINNETT COUNTY, GEORGIA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF HIGHPOINT ROAD; THENCE ALONG SAID RIGHT-OF-WAY LINE OF HIGHPOINT ROAD, FOLLOWING THE ARC OF A CURVE TO THE RIGHT, 91.65 FEET (SAID CURVE BEING SUBTENDED BY A RADIUS OF 676.20 FEET, WITH A CHORD BEARING OF NORTH 03 DEGREES 57 MINUTES 39 SECONDS WEST, WITH A CHORD LENGTH OF 91.58 FEET TO A POINT; THENCE NORTH 00 DEGREES 15 MINUTES 44 SECONDS WEST A DISTANCE OF 24.46 FEET TO A POINT; THENCE NORTH 00 DEGREES 23 MINUTES 03 SECONDS WEST A DISTANCE OF 82.41 FEET TO A POINT; THENCE NORTH 00 DEGREES 11 MINUTES 48 SECONDS EAST A DISTANCE OF 266.20 FEET TO A POINT; THENCE NORTH 00 DEGREES 17 MINUTES 38 SECONDS WEST A DISTANCE OF 109.51 FEET TO A POINT; THENCE NORTH 00 DEGREES 40 MINUTES 12 SECONDS WEST A DISTANCE OF 203.83 FEET TO AN IRON PIN SET; THENCE NORTH 02 DEGREES 26 MINUTES 28 SECONDS WEST 6.97 FEET TO AN IRON PIN FOUND (1/2" REBAR); THENCE LEAVING SAID RIGHT-OF-WAY LINE NORTH 60 DEGREES 49 MINUTES 04 SECONDS EAST A DISTANCE OF 236.21 FEET TO A POINT; THENCE SOUTH 19 DEGREES 33 MINUTES 11 SECONDS EAST A DISTANCE OF 15.35 FEET TO AN IRON PIN FOUND (1/2" REBAR); THENCE SOUTH 29 DEGREES 55 MINUTES 14 SECONDS EAST A DISTANCE OF 749.38 FEET TO A POINT; THENCE SOUTH 30 DEGREES 41 MINUTES 04 SECONDS EAST A DISTANCE OF 22.23 FEET TO AN IRON PIN FOUND (3/4" OPEN TOP PIPE); THENCE SOUTH 60 DEGREES 09 MINUTES 26 SECONDS WEST A DISTANCE OF 270.80 FEET TO AN IRON PIN FOUND (3/4" OPEN TOP PIPE); THENCE SOUTH 76 DEGREES 53 MINUTES 30 SECONDS WEST A DISTANCE OF 361.72 FEET TO THE RIGHT-OF-WAY LINE OF HIGHPOINT ROAD AND THE POINT OF BEGINNING.

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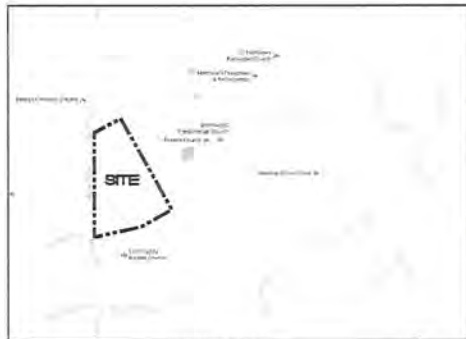
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PARCEL 6-069-028: 2.14 ACRES  
 PARCEL 6-069-003: 5.64 ACRES  
 7.78 ACRES TOTAL AREA  
 7.78 ACRES TO BE REZONED  
 EXISTING ZONING R-100  
 PROPOSED ZONING R-75

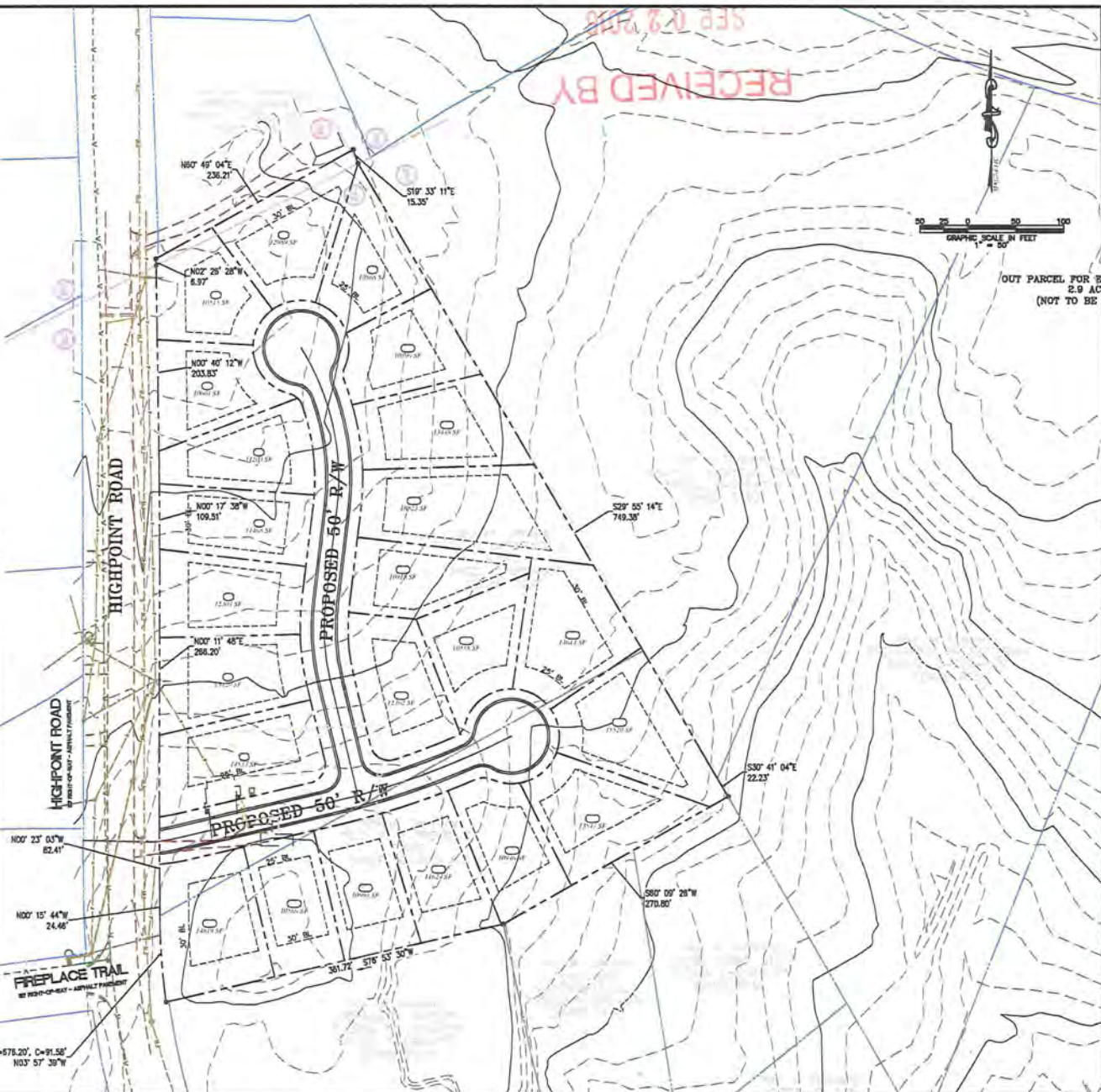
**General Notes:**

1. Total area of property: 7.78 acres  
 7.78 acres to be rezoned for proposed S/D to be rezoned.
2. Existing property zoning: R-100,  
 proposed property zoning: R-75.
3. Total number of lots: 23 lots
4. Gross density: 2.96 lots/acre  
 Net density: 2.96 lots/acre
5. Proposed minimum dwelling size is 2,200 square feet of heated floor space for one story building and 2,400 square feet of heated floor space for two story buildings.
6. Minimum lot size: 10,500 square feet
7. setbacks: Front = 25 feet  
 Rear = 30 feet  
 Side = 10 feet
8. Maximum building height = 35 feet.
9. Water service to be provided by Gwinnett County.
10. Sanitary sewer service to be provided by gravity flow.
11. All utilities to be located underground.
12. All streets are to be public streets.
13. This property does not lie within a 100 year flood plain per community panel number 13135C0128F dated September 29, 2006.
14. There are no historical, cultural or archeological features on this property.
15. There are no significant wildlife habitats or scenic vista identified by the Georgia Department of Natural Resources.



**OWNER:**  
 ASHTON COMMUNITIES, LLC.  
 2000 ASHTON DRIVE  
 PO BOX 1444  
 SUDBURY, GA 30080  
 IN OR CONTACT - BETAN ASHTONITE - 404-825-2028

**ENGINEER/SURVEYOR:**  
 OCMULGEE INC.  
 101 BULL STREET  
 PERRY, GA 31069  
 (478) 224-7070 PHONE  
 (478) 224-7072 FAX



**Ocmulgee, Inc.**  
 SURVEYORS & ENGINEERS & CONSULTANTS & LANDSCAPES  
 101 BULL STREET  
 PERRY, GEORGIA 31069  
 (478) 224-7070

DATE	BY	FOR
08/11/08	JAC	ASHTON
08/11/08	JAC	ASHTON
08/11/08	JAC	ASHTON
08/11/08	JAC	ASHTON
08/11/08	JAC	ASHTON

**LHA HOMES LLC**

CONCEPTUAL LAYOUT FOR:  
 7.78 ACRE TRACT  
 HIGHPOINT ROAD  
 GWINNETT COUNTY, GEORGIA

SHEET NO.  
**C-1.1**

**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



**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. The proposed development is adjacent to property zoned R-100 and R-75 and is consistent with the character of surrounding development.
- (B) No, the proposed Rezoning Application will not adversely affect the existing use or usability of any of the nearby properties.
- (C) In light of the size, location, layout, topography, and natural features of the property and in conjunction with the nature of surrounding development, the Applicant submits that the subject Property does not have reasonable economic use as currently zoned.
- (D) No, the proposed Rezoning Application will not result in an excessive or burdensome use of the infrastructure systems.
- (E) Yes, the proposed Rezoning Application is in conformity with the policy and intent of the Gwinnett County 2030 Unified Plan.
- (F) Applicant submits that the character of surrounding development provides additional supporting grounds for approval of the proposed rezoning.

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Matthew P. Benson  
Gerald Davidson, Jr.\*  
Brian T. Easley  
Kelly O. Faber  
Christopher D. Holbrook  
Joshua P. Johnson

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

**LETTER OF INTENT FOR REZONING APPLICATION**  
**OF ASHTON COMMUNITIES, LLC**

Mahaffey Pickens Tucker, LLP submits this rezoning application (the "Application") on behalf of Ashton Communities, LLC (the "Applicant") for the purpose of rezoning an approximately 7.78 acre tract situated along Highpoint Road near its intersection with Oak Road in southern Gwinnett County west of the City of Snellville (the "Property"). As set forth below, the Applicant is proposing to rezone the Property from the R-100 zoning classification to the R-75 zoning classification.

The Applicant proposes to develop an attractive single-family residential community comprised of 23 detached homes. The proposed development would have a net density of approximately 2.96 units per acre which is below the maximum density of 3.0 units per acre prescribed for the R-75 zoning classification in the Gwinnett County Unified Development Ordinance. The proposed community would consist of homes at a size, quality, and price point commensurate with or exceeding homes in nearby communities. The homes on the subject Property would be constructed with front facades of primarily brick or stacked stone with the balance being the same, cedar plank, or fiber-cement siding. Homes in the proposed community would be a minimum of 2,200 square feet for one-story homes and 2,400 square feet for two-story homes.

The subject Property is adjacent to land zoned R-100 and R-75. In addition to established neighborhoods, included within nearby property zoned R-100 are several churches including

Sugarloaf Office || 1550 North Brown Road, Suite 125, Lawrenceville, Georgia 30043  
NorthPoint Office || 11175 Cicero Drive, Suite 100, Alpharetta, Georgia 30022  
TELEPHONE 770 232 0000  
FACSIMILE 678 518 6880  
www.mptlawfirm.com

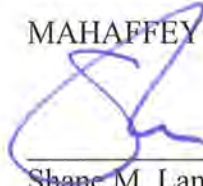
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Brookwood Presbyterian, Berean Christian Church, and Community Baptist Church. Approval of the Application would allow continued development and growth in the area while preserving its established single-family residential character. The Applicant submits that the density and architectural character of the proposed development is compatible with these existing uses. As an in-fill development, the proposed development is compatible with the policies of the 2030 Unified Plan.

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 Application filed herewith. The Applicant respectfully requests your approval of this Application.

Respectfully submitted this 1st day of September, 2016.

MAHAFFEY PICKENS TUCKER, LLP



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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-75 classification 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 Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

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A refusal by the Gwinnett County Board of Commissioners to rezone the Property to the R-75 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-75 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 1st day of September, 2016.

Respectfully submitted,

MAHAFFEY PICKENS TUCKER, LLP



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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.

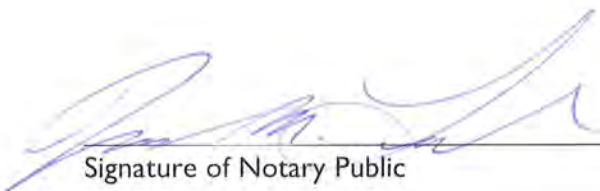


Signature of Applicant

8/25/16  
Date

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title



Signature of Notary Public

8/25/16  
Date



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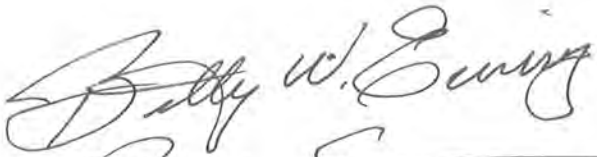
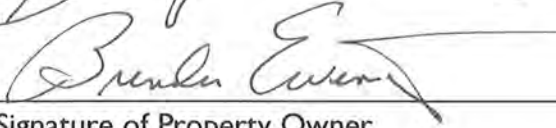
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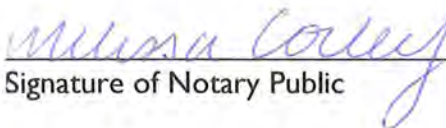
**REZONING PROPERTY OWNER'S CERTIFICATION**

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.

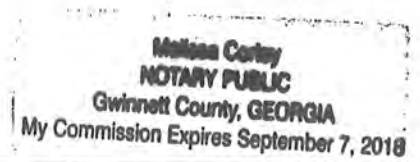
  
  
Signature of Property Owner

06-22-2016  
Date

Billy + Brenda Ewing Owners  
Type or Print Name and Title

  
Signature of Notary Public

6/22/16  
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.

SIGNATURE OF APPLICANT                      DATE                      TYPE OR PRINT NAME AND TITLE

                      8/25/16                      Shane M. Lanham, Attorney for Applicant

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

                      8/25/16                      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    Mahaffey Pickens Tucker, LLP  
YOUR NAME

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

NAME AND OFFICIAL 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
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
Charlotte Nash	\$1000	03/08/2016

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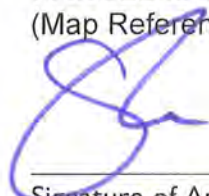
Updated 04/29/2016

**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:**                      6                      - 069                      - 003  
(Map Reference Number)                      District                      Land Lot                      Parcel



Signature of Applicant

8/25/16

Date

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title

**TAX COMMISSIONERS USE ONLY**

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)



NAME

Deidre Pitts

Tax Service Associate II

TITLE

8/26/16

DATE

2016 taxes will be due 10/15/16

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**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                      - 069                      - 268  
(Map Reference Number)                      District                      Land Lot                      Parcel

Signature of Applicant

Date

Shane Lanham, Attorney for the Applicant

Type or Print Name and Title

**TAX COMMISSIONERS USE ONLY**

(PAYMENT OF ALL PROPERTY TAXES BILLED TO DATE FOR THE ABOVE REFERENCED PARCEL HAVE BEEN VERIFIED AS PAID CURRENT AND CONFIRMED BY THE SIGNATURE BELOW)

NAME                      TITLE

DATE

\* 2016 taxes will be due 10/15/16

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